

COUNCIL AGENDA

Monday, May 4, 2020



In-person attendance at public meetings is currently prohibited per the Washington Governor's Proclamation No. 20-28 through May 4, 2020. Ellensburg City Council meetings are broadcast on Charter/Spectrum Channel 191 and available to livestream on Ellensburg Community Television at ectv2.com.

Please Note: Public comment is not accepted during this meeting.

GUIDELINES FOR PUBLIC PARTICIPATION

AUDIENCE COMMENTS:

PURPOSE

Allow the public to address the City Council on subjects that are not scheduled for Public Hearing at this particular meeting. Comments must concern the City's business or a matter over which Council has control

PROCEDURE FOR PARTICIPATION

- ◆ When recognized, approach the microphone provided on the right side of the room.
- ◆ Please state your name, address, and whether you are representing only yourself or others.
- ◆ Each speaker's comments are to be limited to 3 MINUTES.
- ◆ Submit written comments to the City Clerk.
- ◆ Speakers are cautioned not to make comments of a personal, impertinent or derogatory nature.
- ◆ Speakers may not identify themselves as candidates for elective public office or make any statements which assist or discuss the campaign of a candidate for elective office, or discuss or campaign for or against a ballot proposition (unless the ballot proposition is being considered as part of the City Council agenda item).

Please note: City Council Rules provide that no action will be taken by the Council at the meeting at which a subject is first introduced during the citizen comment period. You may wish to concisely state your concern and request placement of your matter on a future agenda.

PUBLIC HEARINGS:

PURPOSE

- ◆ Allow the public to provide input/testimony to the City Council on a particular subject scheduled for Public Hearing.
- ◆ Council will consider all testimony, respond to any questions, and take action after the public hearing is closed.

PROCEDURE FOR PARTICIPATION

- ◆ When recognized, approach the microphone provided on the right side of the room.
- ◆ Please state your name, address, and whether you are representing only yourself or others.
- ◆ Please limit your comments to 5 MINUTES.
- ◆ Submit written comments to the City Clerk.

CONSENT AGENDA

Members of the audience may request items be removed from the consent agenda by asking for recognition and making the request during Agenda Approval. Items will not be removed from the consent agenda unless your request is confirmed by a councilmember.

AGENDA ITEMS

If you wish to have an item placed on a Council agenda, a written request should be delivered to the City Manager's Office prior to noon on the Monday preceding the Council meeting. Assistance will be provided in preparing a request if you wish to contact the City Clerk at 925-8614.

AMERICANS WITH DISABILITIES ACT

The City of Ellensburg strives to make our services, programs, and activities readily accessible and usable by individuals with disabilities. Reasonable accommodations will be made upon request. Please furnish the ADA Coordinator with your request in sufficient time for the City to provide a reasonable accommodation. A Request for Accommodation form may be obtained on the first floor of City Hall or by calling the City of Ellensburg ADA Coordinator at 962-7222.

**CITY OF ELLENSBURG
COUNCIL AGENDA
Monday, May 4, 2020
7:00 PM - Regular Meeting**

1. Call to Order and Roll Call

2. Proclamations

2.A National Public Works Week - May 17-23, 2020 5
[2020 Public Works Week proclamation](#)

2.B Arbor Day Proclamation 6
[2020 Arbor Day Proclamation](#)

3. Awards and Recognitions

4. Approval of Agenda

5. Consent Agenda

Items listed below have been distributed to Councilmembers in advance for study and will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Agenda at the request of a Councilmember or at the request of a member of the public with concurrence of a Councilmember. Requests to remove items should be made under Item 4 Approval of Agenda.

5.A [Approval of Lease Agreement with FISH Community Food Bank for the Community Garden FISH Community Garden Lease 2020 Exhibit A to FISH Lease](#) 7

5.B [Authorize staff to execute an Interlocal Agreement with Ellensburg School District and Authorize a Supplemental Budget Adjustment for the Cora St. Sewer Replacement ESD Interlocal Agreement](#) 18

5.C Approve May 4, 2020 Voucher Listing 25
[Voucher Page 5-4-20](#)

6. Petitions, Protests, and Communications

6.A COVID-19 Update

7. Citizen Comment on Non-agenda Issues

8. Business Requiring Public Hearings

9. Introduction and Adoption of Ordinances and Resolutions

10. Unfinished Business

11. New Business

12. Miscellaneous

12.A Manager's Report

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[5-4-20 MANAGERS REPORT](#)

12.B Councilmember Reports

13. Executive Session

14. Adjournment

Proclamation

WHEREAS, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of Washington; and

WHEREAS, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are maintenance and operations personnel, engineers, managers and employees from state and local governments and the private sector, who are responsible for rebuilding, improving and protecting our nation's transportation, utilities and solid waste systems, public buildings and other structures and facilities essential for our citizens; and

WHEREAS, it is in the public interest for the citizens, civic leaders and children of the state of Washington to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and

WHEREAS, the year 2020 marks the 60th annual National Public Works Week sponsored by the American Public Works Association..

NOW, THEREFORE, the City Council and the City of Ellensburg do hereby designate the week of May 17-23, 2020 as "**National Public Works Week**"; we urge all our citizens to join with representatives of the American Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our public works professionals, maintenance and operations personnel, engineers, managers and employees and to recognize the substantial contributions they make to protecting our national health, safety, and quality of life.

Signed this 4th day of May, 2020

Mayor

City Clerk



Whereas, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

Whereas, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

Whereas, Arbor Day is now observed throughout the nation and the world, and

Whereas, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and

Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

Whereas, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal.

Now, Therefore, I, _____, Mayor of the City of _____, do hereby proclaim _____ as

Arbor Day

In the City of _____, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

Further, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Dated this _____ day of _____
Mayor _____



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: May 4, 2020

Item Title/Agenda Subject: Approval of Lease Agreement with FISH Community Food Bank for the Community Garden

Submitted by: John Akers City Manager Department

Recommended Action or Motion: Consider the lease agreement and authorize the City Manager to execute it on the City's behalf.

Background/Summary: In April of 2019 the City granted a one year agreement extension with Elmview to continue operation of the community garden on City owned property south of the public library. The property was acquired by the City to meet parking requirements associated with the library expansion project and the parking is currently served on the north portion of the acquired parcel leaving the balance of the property for other uses. The 2019 agreement provided for renewal with the requirement that requests for renewal be provided to the City before January 30, 2020. Elmview is no longer interested in operating the Community Garden but the FISH Community Food Bank would like to enter into a lease agreement to continue the operation and a lease agreement has been prepared for Council's consideration.

Previous Council Action: Council previously authorized a lease agreement with Elmview for the operation and maintenance of the community garden.

Analysis: The City entered into a one year lease extension with Elmview in 2019 for the purpose of making surplus, unused property available to Elmview to operate a community garden. Allowing Elmview to manage the property as a community garden has benefitted the City by eliminating the requirement for ongoing maintenance in the form of litter and weed control. The previous arrangement with Elmview resulted in beneficial use of the property and continuing the arrangement with FISH Community Food Bank will assist in the ongoing maintenance of the property and further benefit the FISH program and mission.

The property encompassed by the garden was included among the properties made available for affordable housing. HopeSource submitted a project request and has been working towards a project on this site. However, it is unlikely the HopeSource project will advance ahead of the termination of the proposed agreement. Staff recommends extending the opportunity to lease the property and operate the Community Garden to FISH Community Food Bank for one year with an opportunity for annual renewal. Future renewal will be evaluated against the need to vacate the property for an affordable housing project.

Financial Impact:

The only fiscal impact associated with this agreement is for the provision of water to the garden. The total utility expense associated with the garden has been: 2017 - \$790.08; 2018 - \$752.84; and 2019 - \$843.91. The amount budgeted in 2020 for the community garden utilities is \$1,000.00.

Attachments:

[FISH Community Garden Lease 2020](#)
[Exhibit A to FISH Lease](#)

**LEASE BETWEEN THE CITY OF ELLENSBURG
AND FISH COMMUNITY FOOD BANK**

This is a LEASE AGREEMENT (“Lease”) made between the City of Ellensburg, Washington, a municipal corporation (“Lessor” or “City”), and Friends in Service to Humans Community Food Bank, of Ellensburg, Washington, a non-profit corporation, (“Lessee” or “FISH”), for the purpose of establishing a Community Garden.

WHEREAS, the City of Ellensburg owns land parcels adjacent to the Ellensburg City Library parking lot located at or near the intersection of N. Pine Street and E. 1st Avenue, Ellensburg, Washington, and more particularly described below; and

WHEREAS, Elmview has previously operated a community garden on the reference parcels under a lease agreement which terminated April 30, 2020 and FISH is willing to take over the community garden program; and

WHEREAS, Elmview has provided ongoing maintenance in the form of litter and weed control and FISH will continue and provide ongoing maintenance; and

WHEREAS, local production of food can improve nutrition for City residents especially those who have inadequate gardening space, while enhancing household food budgets; and

WHEREAS, native plant gardens provide beauty, wildlife and bird habitat, and educational opportunities; and

WHEREAS, gardening is a healthy, wholesome and educational activity suitable for people of all ages and abilities, and can add to the social fabric of Ellensburg; and

WHEREAS, local gardening would be beneficial use of unused or underused City parcels that are located near households without adequate land for gardening; and

WHEREAS, FISH is an existing Ellensburg-based non-profit organization which exists to serve members of our community who are hungry and in need of resources that will help them have a better quality of life and is willing and able to manage a Community Garden;

NOW THEREFORE, in consideration of the mutual promises set forth in this agreement, the parties agree as follows:

1 PARCEL, TERM AND RENT

- 1.1 Grant of Lease. City leases to FISH the approximately 21,780 square foot area within the unused parcels identified as Parcel 937033 ("Lot 3A") and Parcel 617033 ("Lot 5") bounded by N. Pine Street and E. 1st Avenue (collectively referred to as "the Unused Parcels") as shown in Exhibit A.
- 1.2 Use. FISH will use the Unused Parcels for the sole purpose of operating a Community Garden with plots to be assigned by FISH to members of the public.
- 1.3 Term. The term of this Lease is one (1) year, starting on May 1, 2020 and ending on April 30, 2021. This Lease will terminate upon the expiration of this term unless earlier terminated by either party as described in Section 3.
- 1.4 Renewal. This Lease may be renewed for an additional year subject to mutual agreement of the parties and continued availability of the property. FISH shall provide written notice to the City of its desire to renew the lease no later than January 31, 2021.
- 1.5 Purpose and Consideration. The parties acknowledge that the Community Garden is a public amenity and that FISH will maintain the Community Garden as an aesthetic asset for the citizens of Ellensburg. To the extent feasible, produce grown at the Community Garden will be donated to organizations serving those members of the community in need of food who are unable to satisfy their own needs because of lack of resources such as the FISH Community Food Bank. On the date that this Lease is signed FISH will pay the City one dollar (\$1) in rent.
- 1.6 Utilities. City will pay for the reasonable water usage for the Community Garden during the period of the lease. FISH will use reasonable efforts to ensure there is no undue wastage of water, and that its use will be similar to comparable community gardens in the area.
- 1.7 Transfer and Assignment. Without prior written approval from City, FISH may not

assign, mortgage, pledge, encumber, or otherwise transfer this Lease, or sublet or allow the Unused Parcels or any part of the Unused Parcels to be used or occupied by others, except by persons maintaining a plot and who are party to the gardener agreement contemplated by Section 2.8 below. Any request from FISH to transfer this Lease may be denied by City for any reason whatsoever. Any attempted transfer in contravention of this Section 1.7 is void and is a default under this Lease.

2 OPERATION AND MAINTENANCE

- 2.1 Parcel As-Is. FISH acknowledges that City makes no representations, warranties, promises or guarantees of any kind to FISH, including, without limitation, any representations about the quality, condition, or suitability of the identified property for use as a community garden. In deciding to enter this Lease, FISH has made its own independent evaluation of the suitability of the Unused Parcels for a community garden.
- 2.2 Hours of Operation. Gardeners may be in the garden from sunrise to sunset.
- 2.3 Chemical Applications. FISH may allow gardeners to use or apply fertilizers, pesticides, herbicides, or rodenticides only if they are labeled “organic.”
- 2.4 Composting. Only garden waste can be composted; FISH shall not allow kitchen waste products (meat scraps, kitchen oils, or bread) to be composted. Trimmings and garden refuse not being used as compost must be removed from the Community Garden area.
- 2.5 Water Spigot. FISH shall take reasonably appropriate measures to ensure water obtained from the spigot located on the property is used only by persons using plots for purposes allowed under this Lease. Any damage or destruction of the water spigot due to the negligence of gardeners using the community garden shall be the sole responsibility of FISH to repair or replace.
- 2.6 No City Responsibilities. FISH has sole responsibility for the planning, setup, management, and carrying out of operations on the Unused Parcels, including, without limitation, obtaining any permits required for operating a community garden. Except as specifically required in this Lease, City has no current or future obligation to make any alterations, improvements or repairs of any kind on the property, or to provide any services or any other support whatsoever.
- 2.7 Comply with Laws. FISH will use and operate the property in compliance with all applicable zoning, environmental, and other laws and regulations.
- 2.8 Garden Rules. FISH will operate the garden in accordance with a set of garden

rules that it shall develop and submit to the City for approval prior to adoption. FISH will require all persons to whom it licenses plots to enter into a gardener agreement and waiver of liability form acceptable to City.

- 2.9 ADA Access. At least one area garden plot must be ADA accessible either through the use of a raised bed adjacent to the existing sidewalk at least 24 to 30 inches in height, or by the provision of large pots or elevated table beds.
- 2.10 Maintenance. FISH has the sole responsibility for the maintenance of all garden plots, including those that are vacant and not in use. FISH will maintain Unused Parcels in order to abide by generally accepted community standards of aesthetics and upkeep. FISH will remove weeds, graffiti, and trash in a timely manner from all areas of the Unused Parcels.
- 2.11 Commercial Enterprise Prohibited. FISH will not undertake or allow the undertaking of any commercial enterprise, including but not limited to sales of produce, on the Unused Parcels. This provision is not intended to prohibit FISH from charging users a reasonable garden plot rental and/or maintenance fee.
- 2.12 No Alteration. FISH may not make or permit any alterations or improvements to the Unused Parcels without City's prior written consent.
- 2.13 Existing Trees. FISH may not undertake, permit to allow the destruction or removal of any existing trees on the Unused Parcels without City's express written consent.

3 TERMINATION

- 3.1 Termination by FISH. This Lease may be terminated by FISH for any reason at any time. Such termination will be effective three month after delivery of written notice by FISH to the City as provided in Section 6.6 below.
- 3.2 Breach by FISH. If FISH breaches any of its duties or obligations under this Lease, City may provide FISH with written notice of the breach. If FISH fails to cure the breach within thirty (30) days after receipt of such notice, City may terminate this Lease by providing written notice, with the termination effective thirty (30) days after delivery of such notice to FISH. City will, in its sole discretion, determine whether there has been a breach of the lease and/or whether the breach has been cured.
- 3.3 Yielding Possession. Upon termination of this Lease, FISH will leave and surrender the property to the City in at least as good order and condition as on the date that this Lease is signed.
- 3.4 Holding Over. If City terminates this Lease, any holding over by FISH after

termination of this Lease without City's express written consent is not a renewal or extension of the Lease and will not give FISH rights in or to the Unused Parcels.

- 3.5 Cumulative Remedies. All of City's rights, powers and remedies under this Lease are cumulative and not alternative and will be in addition to all rights, powers, and remedies given to City at law or in equity. The exercise of any one or more of these rights or remedies will not impair City's right to exercise any other right or remedy including any and all rights and remedies of a landlord under any similar, successor, or related laws.

4 INDEMNITY, HOLD HARMLESS AND WAIVER OF LIABILITY

- 4.1 Indemnification and Hold Harmless. FISH will defend, indemnify, and hold City and City's officials, officers, employees, agents, and assigns (collectively "City Parties") harmless against all claims, liabilities, losses, damages, expenses, and attorneys' fees (together "Losses"), including, without limitation, Losses arising from any death, property damage, or injury of any nature whatsoever that may be suffered or sustained by FISH or any of FISH's licensed gardeners, employees, contractors, family members, guests, or any other person in relationship with FISH or FISH licensed gardeners or persons otherwise participating in or present in the Garden, or any other person or entity (collectively "FISH Parties"), which may arise directly or indirectly from (a) FISH Parties' use or operation of or presence on the Unused Parcels, or (b) any breach by FISH of this Lease, including, without limitation, FISH's failure to enforce garden rules and regulations, except to the extent the Loss is caused by the gross active negligence or willful misconduct of City, or (c) arising from or connected to this Lease. This Section 4.1 will survive any termination of this Lease.
- 4.2 Waiver of Liability. FISH releases and waives all claims against any City Parties with respect to or arising out of (a) any death or any injury of any nature whatsoever that may be suffered or sustained by FISH from any causes whatsoever, except to the extent that such injury or death is caused by the gross active negligence or willful misconduct of City Parties; (b) any loss or damage or injury to any property on or about the Unused Parcels belonging to FISH, except to the extent such injury or damage is to property not covered by insurance carried (or required to be carried) by FISH and is caused by gross active negligence or willful misconduct of City Parties; or (c) the conditions of the property and it is for use as a community garden. Subject to the prior provisions, City shall not be liable for any damage or damages of any nature whatsoever to FISH caused by any damage or inconvenience which may arise through repair, maintenance, or alteration of any part of the property, or by anything done or omitted to be done by FISH Parties or any other person on the property. In addition, City shall not be liable for any Losses for which FISH is required to insure. This Section 4.2 will survive any termination of this Lease.

5 INSURANCE

- 5.1 Insurance. FISH agrees to have and maintain for the duration of the Lease, a Commercial General Liability insurance policy insuring FISH to an amount not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage. FISH shall name the City as an additional insured and provide to the City an endorsement evidencing such coverage. Cancellation of liability coverage during the term of this Agreement will constitute a breach and City shall have the option to terminate this Lease immediately.
- 5.2 Evidence of Insurance. On or before City delivers possession of the property to FISH, FISH will provide City with a copy of the insurance policies required by Section 5.1 and a copy of the endorsement naming City as an additional insured.

6 GENERAL PROVISIONS

- 6.1 Entire Agreement. This Lease is the entire agreement between City and FISH and supersedes all prior or contemporaneous written and oral agreements, negotiations, correspondence, course of dealing and communications between City and FISH relating to the same subject matter.
- 6.2 Modification and Severability. This Lease cannot be changed orally. This Lease may be modified only as stated in a writing signed by both City and FISH which states that it is an amendment to this Lease. If any provision in this Lease is held invalid or unenforceable, the other provisions will remain enforceable, and the invalid and unenforceable provision will be considered modified so that it is valid and enforceable to the maximum extent permitted by law.
- 6.3 Waiver. Any waiver of any term of this Lease must be in writing. Failure, neglect, or delay by a party at any time to enforce the provisions of this Lease will not be considered a waiver of that party's rights under this Lease. Any waiver shall not be considered a waiver of any later breach or of the right to enforce any provision of this Lease.
- 6.4 Third-Party Beneficiaries. This Lease is for the exclusive benefit of City and FISH, and not for the benefit of any third party including, without limitation, any gardener, employee, or volunteer of FISH. All City Parties are an express third-party beneficiary of this Lease.
- 6.5 Governing Law; Jurisdiction and Venue. This Lease is governed by Washington state law, FISH consents to the exclusive jurisdiction and venue in Kittitas County, Washington.
- 6.6 Written Notification. Any notice, demand, request, consent, approval or

communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent by first class mail. Any such notice, demand, etc., shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within two business days from the time of mailing if mailed within the State of Washington as provided in this Section.

If to City:
City of Ellensburg
Attn: Director of Parks and Recreation
501 North Anderson Street
Ellensburg, WA 98926

If to FISH Community Food Bank:
FISH Community Food Bank
Attn: Executive Director
804 Elmview Road
Ellensburg, WA 98926

DATED this ____ day of May, 2020.

FISH, LESSEE:

THE CITY OF ELLENSBURG, LESSOR:

By: _____

By: _____
John Akers, City Manager

Printed
Name: _____

Title: _____

ATTEST: _____
Clerk

Approved as to Form:

City Attorney

EXHIBITS

Exhibit A: Map of the Area to be Leased

PART OF BLOCK 21, ELLENSBURG
LOCATED IN THE NORTHEAST QUARTER OF SECTION 2,
TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M.

NOTES:

1. THIS SURVEY WAS PERFORMED USING A TOPCON GTS SERIES TOTAL STATION AND/OR SURVEY GRADE GPS. ACCURACY COMPLES WITH THE REQUIREMENTS SPECIFIED IN WAC 332-130-080 AND 090.
2. THIS SURVEY MAY NOT SHOW ALL EASEMENTS OR IMPROVEMENTS WHICH MAY PERTAIN TO THIS PROPERTY.
3. BASIS OF BEARINGS = WA STATE PLANE COORDINATE SYSTEM (SOUTH ZONE).
4. THE PURPOSE OF THIS SURVEY IS TO DELINEATE THE ADJUSTED PARCEL BOUNDARIES AND PROVIDE NEW DESCRIPTIONS FOR CITY OF ELLENSBURG BOUNDARY LINE ADJUSTMENT P19-094.

LEGAL DESCRIPTIONS

ORIGINAL PARCEL DESCRIPTIONS

LOTS 1, 2 AND 3, BLOCK 21, ELLENSBURG, IN THE COUNTY OF KITTITAS, STATE OF WASHINGTON, AS PER PLAT THEREOF RECORDED IN BOOK 1 OF PLATS, PAGE 1, RECORDS OF SAID COUNTY.

AND

LOT 4, BLOCK 21, ELLENSBURG, IN THE COUNTY OF KITTITAS, STATE OF WASHINGTON, AS PER PLAT THEREOF RECORDED IN BOOK 1 OF PLATS, PAGE 1, RECORDS OF SAID COUNTY.

NEW PARCEL DESCRIPTIONS

PARCEL 1A

LOTS 1 AND 2, BLOCK 21, ELLENSBURG, IN THE COUNTY OF KITTITAS, STATE OF WASHINGTON, AS PER PLAT THEREOF RECORDED IN BOOK 1 OF PLATS, PAGE 1, RECORDS OF SAID COUNTY.

PARCEL 3A

LOTS 3 AND 4, BLOCK 21, ELLENSBURG, IN THE COUNTY OF KITTITAS, STATE OF WASHINGTON, AS PER PLAT THEREOF RECORDED IN BOOK 1 OF PLATS, PAGE 1, RECORDS OF SAID COUNTY.



10/09/2019



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: May 4, 2020

Item Title/Agenda Subject: Authorize staff to execute an Interlocal Agreement with Ellensburg School District and Authorize a Supplemental Budget Adjustment for the Cora St. Sewer Replacement

Submitted by: Derek Mayo Public Works & Utilities

Recommended Action or Motion: Staff recommends Council:

1. Authorize the Mayor to sign and execute the Interlocal Agreement with the Ellensburg School District.
2. Authorize the transfer of \$175,000 in the sewer budget from the Anderson Road Sewer Extension Project to the Cora Street Sewer Replacement Project.
3. Authorize staff to approve up to \$175,000 for the construction of the Cora Street Sewer Replacement.

Background/Summary: The Ellensburg School District (ESD) is finalizing their construction plans for the Mount Stuart Replacement School, the new Elementary School, and the associated required frontage improvements on Cora Street from 15th Ave. north to through the new elementary school site. A 950' portion of the existing sewer main in Cora St. immediately north of 15th Ave. is in need of replacement and upsizing. Staff has worked with ESD to prepare the attached Interlocal Agreement between ESD and the City of Ellensburg. This agreement could then be utilized to have the ESD contractor replace the sewer main in conjunction with their other required frontage improvements on this section of Cora St.

ESD has recently submitted construction plans for their replacement school, new elementary school, and the associated Cora St. improvements. Staff is currently reviewing the submitted plans, with the potential for permit approvals in the near future.

The majority of the sewer main on Cora St. north of 15th Ave. is an 18" main, with the exception of the first 950' of main constructed in 1975 being an 8" main. The City's recent sewer system plan calls for this main to be an 18" diameter main to

accommodate future growth. With the requirement for ESD to construct Cora St. frontage improvements, staff recommends this sewer main replacement be completed prior to or as part of ESD's improvements.

The enclosed agreement could allow the ESD contractor to construct the City's sewer replacement as a part of their frontage improvements project, resulting in financial savings associated with the economy of scale of the larger ESD project.

Previous Council Action: N/A

Analysis: Chapter 39.34 RCW (the "Interlocal Cooperation Act") permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

As previously stated, utilizing this RCW and executing an Interlocal Agreement with ESD would allow for the City to utilize ESD's contractor to construct this needed improvement as part of their project. This agreement would also allow future cooperation between ESD and the City of Ellensburg.

Financial Impact: The Cora St. sewer main replacement is not currently budgeted, but is being advanced in schedule due to the ESD's pending improvements. The 2020 sewer budget currently contains a \$700,000 budget item for a sewer main extension on Anderson Road, which is not anticipated for construction in the immediate future. Staff is requesting \$175,000 of this budget authority be transferred to the Cora St. Sewer replacement project.

Attachments:
[ESD Interlocal Agreement](#)

INTERLOCAL AGREEMENT FOR PROVISION OF SERVICES AND REIMBURSEMENT

BETWEEN

CITY OF ELLENSBURG

AND

ELLENSBURG SCHOOL DISTRICT

This Interlocal Agreement (hereinafter the "Agreement") is made and entered into this _____ day of _____ 2020, by and between Ellensburg School District No. 401, a state municipal corporation, (hereinafter the "District"), and the City of Ellensburg, a political subdivision of the State of Washington (hereinafter the "City").

WHEREAS, the District desires to contract with the City to perform services as described herein including but not limited to, public works, engineering, maintenance and utility services when sufficient District resources are not available to provide such services when allowed by applicable law, and

WHEREAS, the City desires to contract with the District to perform services as described herein including but not limited to, public works, engineering, maintenance and utility services when sufficient City resources are not available to provide such services when allowed by applicable law, and

WHEREAS, Chapter 39.34 RCW (the "Interlocal Cooperation Act") permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, RCW 39.34.080 provides that any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform; and

WHEREAS, this Agreement for cooperative services is authorized by and entered into pursuant to the provisions of the Interlocal Cooperation Act,

NOW, THEREFORE, it is hereby agreed as follows:

1. Purpose: The purpose of this Agreement is to enable the parties to perform such services and accomplish such tasks, including the furnishing of all labor, equipment, materials and supplies necessary for full performance, as may be requested of one party and agreed by the other with regard to public works, engineering, maintenance and utility services. For all services to be performed under this Agreement, the party requesting work to be performed by the other party shall make written application to such party. In each instance, the party whose services are being requested reserves the right to deny or approve the request in its sole discretion and this Agreement imposes no obligation to perform future services. Pursuant to RCW 39.34.080, any contract for such services shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties.

2. Administration:

A. No new or separate legal or administrative entity is created to administer the provisions of this Agreement. This Agreement shall be administered by the Executive Director of Business Services of the District and the Director of the City's Public Works and Utilities Department.

B. When a party agrees to perform services for the other party under this Agreement, the parties will agree in a writing as to the services to be performed, a fixed or not-to-exceed cost for the services, and any requirements (technical or otherwise) applicable to the scope of services.

C. When a party performs services for the other party under this Agreement, the party performing services will ensure that a written agreement exists with any third-party contractors or consultants engaged to perform the services, which agreement(s) will include, at a minimum, provisions that require the provision of insurance (to include the protection of the requesting party as an additional insured on applicable policies, if reasonably possible), indemnity (to include the indemnification of the requesting party to the same extent as the performing party, if reasonably possible), safety, protection of the property of the requesting party, changes in the work (such that they are implemented only in writing), payment and performance bonds, and any other provisions required by applicable law.

3. Compensation and Method of Payment:

A. The party requesting services agrees to reimburse the performing party for the fair and reasonable cost of performing the requested services.

B. When the cost of requested services is not agreed in advance, or when it is to be based on the actual cost of services to be performed up to a not-to-exceed some amount, it will be based upon the actual cost of labor, equipment rental, engineering, materials and supplies used to perform the requested services, plus all indirect costs. In addition, the total costs shall include an agreed amount for administrative costs incurred by the party performing services for invoicing and processing billings for such services.

C. The party performing the services shall submit to the party receiving the services an invoice of the costs within thirty (30) days after completion of the services. Within thirty (30) days after receipt of such invoice, the receiving party shall pay the amount of the invoice.

4. Maintenance of Records: Each party hereto agrees to maintain books, records and documents to accurately track all direct and indirect costs related to the performance of services under this Agreement. Each party or its designated representative(s) may examine and copy (including electronically copy) the other party's books and records to verify the accuracy of invoices. Such records shall also be open to inspection by the State Auditor's Office and as required by law. Each party's fiscal management system shall include the capability to provide accurate and complete disclosure of all costs invoiced under this Agreement.

5. Indemnification:

A. The District shall indemnify, defend and hold harmless the City, its agents, employees and officers from any and all liability arising out of the negligent performance of this Agreement by the District, whether by act or omission of the District's agents, employees or officers, to the proportionate extent of the District's negligence.

B. The City shall indemnify, defend and hold harmless the District, its agents, employees and officers from any and all liability arising out of the negligent performance of this Agreement by the City, whether by act or omission of the City's agents, employees or officers, to the proportionate extent of the City's negligence.

6. Insurance: Each party agrees to procure and maintain in full force and effect for the duration of this Agreement public liability and property damage insurance or self-insurance with liability limits of not less than \$1,000,000. To the extent additional insurance coverage is necessary for any particular category of services, the parties agree to cooperate to ensure such insurance coverage is in place prior to performance of the services.

7. Assignment: This Agreement cannot be assigned, transferred or any portion subcontracted by either party hereto without the prior written consent of the other party.

8. Future Support: Neither party to this Agreement makes any commitment to future support and assumes no obligation for future support of any activity contracted for herein, except as may be expressly set forth in this Agreement.

9. Compliance with Laws: Each party hereto, in its performance of this Agreement, agrees to comply with all applicable local, State, and Federal laws and ordinances, including the obligations that govern the bidding and selection of contractors and consultants. This includes, without limitation, all provisions of the Interlocal Cooperation Act.

10. Relationship of the Parties:

A. No agent, employee or representative of the District shall be deemed to be an agent, employee or representative of the City for any purpose, and the employees of the District are not entitled to any of the wages or benefits the City provides to City employees. No agent, employee or representative of the City shall be deemed to be an agent, employee or representative of the District for any purpose, and the employees of the City are not entitled to any of the wages or benefits the District provides to District employees.

B. In the performance of the work herein contemplated, the party performing the work is an independent contractor with the authority to control and direct the performance of the details of the work; however, the work contemplated herein shall be subject to the general rights of inspection and review of the party requesting the work be done, to secure the satisfactory completion thereof.

11. Disputes: If a dispute arises between the parties concerning this Agreement, the Executive Director of Business Services of the District and the Director of the City's Public Works and Utilities Department shall attempt to resolve the dispute by informal negotiation. If informal negotiation is unsuccessful, the dispute shall be referred to the District's Superintendent and the City Manager for resolution through formal negotiation. If not resolved by the Superintendent and City Manager within (30) days of referral, the dispute shall be referred to mediation before a mutually-agreeable mediator. Mediation shall occur within sixty (60) days of referral of the dispute to mediation. If not resolved by mediation, either party may pursue court action under paragraph 12 below.

12. Jurisdiction: Any legal dispute between the parties to this Agreement shall be governed by the laws of the State of Washington, and any action to enforce this Agreement shall be brought in Kittitas County, Washington.

13. Modification: The provisions of this Agreement may be modified or amended only by written mutual consent of the parties.

14. Waiver: A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

15. Severability: If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

16. Duration and Termination: This Agreement shall commence and be effective on the date first shown above, and remain in full force and effect until terminated by agreement of the parties, or by written notice of termination given by one party to the other at least thirty (30) days prior to the date of such termination. Either party may terminate this Agreement with or without cause at any time in its sole discretion with or without cause. The requesting party shall be responsible for charges for all work performed by the performing party through the date the termination notice is received. This Agreement imposes no obligation for either party to perform future work or services for the other party in the absence of future agreement by both parties as to scope, cost, and other relevant terms related to scopes of work.

17. Filing and Publication: This Agreement shall be filed with the Kittitas County Auditor and/or shall be published on the City and the District websites, as required by RCW 39.34.040.

18. Property: No real or personal property shall be acquired, held, or disposed of pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

ELLENSBURG SCHOOL DISTRICT

Jinger Haberer, Superintendent

CITY OF ELLENSBURG

Bruce Tabb, Mayor

Attest:

Clerk

Approved as to form:

Approved as to form:

City Attorney

VOUCHER APPROVAL

I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED, OR THAT ANY ADVANCE PAYMENT IS DUE AND PAYABLE PURSUANT TO A CONTRACT OR IS AVAILABLE AS AN OPTION FOR FULL OR PARTIAL FULFILLMENT OF A CONTRACTUAL OBLIGATION, AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF ELLENSBURG, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIM.


AUDITING OFFICER 4/24/2020
DATE

CLAIMS VOUCHERS AUDITED AND CERTIFIED BY THE AUDITING OFFICER HAVE BEEN RECORDED ON THE ATTACHED LISTING, WHICH HAS BEEN MADE AVAILABLE TO THE COUNCIL AS OF THIS **4TH DAY OF MAY 2020**. THE COUNCIL, BY A VOTE, HAS APPROVED FOR PAYMENT THE VOUCHERS INCLUDED IN THE ABOVE LIST AND FURTHER DESCRIBED AS FOLLOWS:

Claims Fund				Total Amounts
Check #'s	148445	TO	148606	\$ 827,908.39
EFT #'s	4158	TO	4182	\$ 818,201.41

Payroll Fund				Total Amounts
Check #'s	95147	TO	95152	\$ 9,581.86
Direct Deposits	55689	TO	55882	\$ 367,842.90

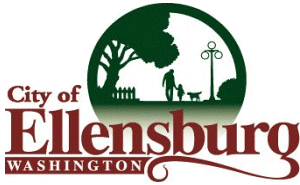
COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

ATTEST: _____
CITY CLERK



MANAGER'S REPORT

DATE: May 4, 2020
TO: Ellensburg City Council
FROM: John Akers, City Manager

1. 2020 Touch-a-Truck Event Canceled.

Starting in 2008, the City's Public Works Department hosted the first Touch-a-Truck event in celebration of National Public Works Week. The event, with just four pieces of equipment staged on Fourth Avenue, between Pine and Pearl Streets, was attended by approximately 50 people. This annual event, now staged at Rotary Park, has grown to include close to 40 vehicles, boats, helicopters, equipment and booths from seven divisions in the Public Works and Utilities Department, the Police, Parks and Recreation and Library Departments, and over ten other governmental and private agencies. Last year's event, which was held on the last day of school, saw an attendance of over 500 children.

The 2020 Touch-a-Truck event was scheduled for Friday, June 12, which would have coincided with the last day of school for the Ellensburg School District. Due to the current COVID-19 crisis, Governor Inslee's Stay Home Stay Healthy declaration, the current need to create social distancing and the known safety issues with creating crowds, and the uncertainty of the restrictions, which may still be in place in June, the Public Works and Utilities staff has decided to cancel the 2020 Touch-a-Truck event.