

**City Of Woodland
City Council Meeting Agenda Summary Sheet**

Agenda Item: Authorize mayor to sign agreement with Walt's Meats for improvements to Lift Station #9.	Agenda Item #: <u>Action (E)</u> For Agenda of: <u>February 4, 2013</u> Department: <u>Public Works</u> Date Submitted: <u>January 30, 2012</u>
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Cost of Item: <u>\$51,600 Design, Construction TBD</u> Amount Budgeted: <u>\$0</u> Unexpended Balance: <u>\$0</u>	BARS #: <u>402 000 000 535 50 41 00</u> Description: <u>Sewer – Professional Services</u>
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Department Supervisor Approval: Public Works Department /s/ *Bart Stupp*

The Public Works Committee approved forwarding this to City Council with pass recommendation 3-0 at January 8, 2013 Meeting.

Committee Recommendation: _____

Agenda Item Supporting Narrative (list attachments, supporting documents):

- 1) January 8, 2013 Public Works Committee Meeting Notes.
- 2) Proposed Agreement between City of Woodland and Walt's Meats.
- 3) Memo from Attorney Eling regarding agreement.
- 4) Design Proposal from Kennedy Jenks for design of improvements.

Summary Statement/Department Recommendation:

The existing agreement between Walt's Meats and the City of Woodland limits the daily sewage flow from Walt's Meats at 45,000 gallons per day. This limit is also part of Walt's NPDES Permit with the Department of Ecology. Due to expansion of their facilities Walt's Meats would like to expand their daily discharge to around 70,000 gallons a day.

Staff reviewed existing sanitary sewer system operations and looked at what affect the increase would have on our system. Our treatment plant has sufficient capacity to serve the extra flow and lift stations 2, 3, and 4 have adequate capacity but Lift Station #9 and some of the piping just downstream of it need upgrades to handle the increase in flows.

Under the proposed agreement Walt's Meats would pay for all costs to design and construct improvements to Lift Station #9 and some downstream piping to improve the capacity of the lift station. System controls would also be upgraded to better coordinate pumping between Lift Station #9, Lift Station #14, and the Walt's Meats Lift Station. This will improve operations and reduce the number of alarms that occur at Lift Station #9 requiring action by Public Works Staff.

The increase in capacity at Lift Station #9 would not only benefit Walt's Meats, but it will also provide capacity for growth if additional land is annexed south of our current City Limits.

Staff recommends approving the agreement with Walt's Meats for improvements to Lift Station #9.

MEMORANDUM

Date: January 9, 2013
From: Bart Stepp, PE, Public Works Director
To: City of Woodland Public Works Committee
Cc: Mayor of Woodland
Subject: Public Works Committee Meeting of January 8, 2013
Enclosure: Agenda for Public Works Committee Meeting of January 9, 2013

The City of Woodland Public Works Committee met on January 8, 2013 at 5:00 PM.

Those in attendance:

Al Swindell, City Councilmember
Scott Perry, City Councilmember
Marshall Allen, City Councilmember
Bart Stepp, Public Works Director

Attached agenda was discussed.

Following actions were agreed to:

1. *The Committee voted 3-0 to workshop with full City Council the issue of whether to continue fluoridation of our water system.* Public notice with an agenda has already been provided for the January 14th workshop so PW Director will work with Mayor to get this item on the agenda for the next workshop. It was also recommended to ask residents if they want their water fluoridated as part of a citywide survey.
2. *The Committee voted 3-0 to forward the agreement with Walt's Meats for the Lift Station #9 Improvements to City Council with a recommendation of approval.* This will be sent to City Council for approval at the January 22nd 2013 Meeting.
3. *The Committee voted 3-0 to forward to City Council with a recommendation of approval the Scott Reconnection Project Rural County Funds Application.* This will be sent to City Council for approval at the January 22nd 2013 Meeting.
4. *The Committee voted 3-0 to forward the Scott Reconnection Alternatives Analysis Report to City Council with a recommendation of approval.* This will be sent to City Council for approval at the 1/22/13 Meeting.
5. PW Director discussed the street parking concern on Heritage and Howard Way expressed by American Paper and Lifeport management. It was agreed that staff will proceed with striping and signing the east side of Howard and the south side of Heritage for no parking but continue to allow parking on the other side of the street.

The meeting adjourned at 5:50 PM.

CITY OF WOODLAND, WASHINGTON

AGREEMENT BY AND BETWEEN THE CITY OF WOODLAND AND WALT'S WHOLESALE MEATS, FOR SEWER SYSTEM IMPROVEMENTS TO SERVE THE EXPANSION OF WALT'S MEATS FACILITY

Recitals

WHEREAS, RCW 36.70B.170(1) authorizes the execution of a development agreement between a local government and a person having ownership or control of real property as part of a proposed annexation or service agreement; and

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern and vest the development, use and mitigation of the development of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, for the purposes of this development agreement "development standards" includes, but is not limited to, all of the standards listed in RCW 36.70B.170(3); and

WHEREAS, this Development Agreement by and between the City of Woodland and Walt's Wholesale Meats relates to the manufacturing facility located at 350 S Pekin Road.

NOW, THEREFORE, the parties hereto agree as follows:

Section 1: *The Project*. The Project is an upgrade to the City's sewer collection system to allow an increase in the amount of sewage flow the City can take from the Walt's Wholesale Meats Facility located at 350 S Pekin Road. The Project consists of two main parts. The first part is an upgrade to Lift Station #9 that will include new pumps, power upgrade, and other improvements. The second part consists of installing a CIPP (Cast-In-Place-Pipe) liner in some existing sewer mains located along Lake Street and between Lake and Dunham Streets. Walt's Wholesale Meats and the City of Woodland agree that the design standards determined by Kennedy Jenks Consultants or its successor shall constitute the "development standards" for the Project.

The design and construction management of the Lift Station #9 Upgrade will be completed by Kennedy Jenks Consultants per the proposal attached as Exhibit A. The design and construction management of the sewer main improvements will be done by the City of Woodland. Construction costs will be based on the lowest responsive, responsible bids received by the City per State of Washington public works bidding laws.

Section 2: *The Subject Property*. All of the work will occur within City of Woodland Right-of-Way or existing City easements.

Section 3: *Exhibits to this Agreement are as follows*: Exhibit A – Proposal from Kennedy Jenks for design and construction management services for Lift Station #9 upgrades.

Section 4: *Parties to Development Agreement*. The parties to this agreement are:

- a) The "City" is the City of Woodland, PO Box 9, Woodland, WA 98674

- b) The "Developer" is Walt's Wholesale Meats, a private enterprise located at 350 S. Pekin Road, Woodland, WA 98674

Section 5: *Term of Agreement*. This agreement shall commence upon the effective date of the adoption of this agreement by the City, and shall continue in force for a period of 1 year unless extended or terminated as provided herein. Following the expiration of the term or extension thereof, or if sooner terminated, this Agreement shall have no force and effect, subject however, to post-termination obligations of the Developer.

Section 6: *Financing of Public Facilities*. Developer acknowledges and agrees that it shall pay for all costs associated with The Project needed to serve an expansion of the Walt's Wholesale Meats Facility.

Section 7: *Default*.

- a) Subject to extensions of time by mutual consent in writing, failure or delay by either party not released from this Agreement, to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) days notice in writing, specifying the nature of the alleged default and the manner in which said default may be cured. During this thirty (30) day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings.
- b) After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement. In addition, the City may decide to file an action to enforce the City's Codes, and to obtain penalties and costs as provided in the Woodland Municipal Code for violations of this Agreement and the Code.

Section 8: *Termination*. This Agreement shall expire and/or terminate as provided below:

- a) This Agreement shall expire and be of no further force and effect if The Project contemplated in this Agreement and all of the approvals issued by the City for The Project are not substantially underway prior to expiration of such approvals.
- b) This Agreement shall terminate upon the expiration of the term identified in Section 5 and all of the Developer's obligations in connection therewith are satisfied as determined by the City. Upon termination of this Agreement, the City shall record a notice of such termination in a form satisfactory to the City Attorney that the Agreement has been terminated.

Section 9: *Amendment to Agreement: Effect of Agreement on Future Actions*. This Agreement may be amended by mutual consent of all of the parties, provided that any such amendment shall follow the process established by law for the adoption of a development agreement (see RCW 36.70B.200).

Section 10: *Notices*. Notices, demands, correspondence to the City and Developer shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated in Section 4. Notice to the City shall be to the attention of both the Public Works

Director and the City Attorney. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 11: *Reimbursement for Agreement Expenses of the City.* The Developer agrees to reimburse the City for actual expenses incurred for The Project. These include consultant fees, contractor costs, and any other costs associated with The Project. Upon payment of all expenses, the Developer may request written acknowledgement of all costs. Such payment of costs shall be paid, at the latest, within thirty (30) days from the City's presentation of a written statement of charges to the Developer.

Section 12: *Applicable Law and Attorneys' Fees.* This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. If litigation is initiated to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party. Venue for any action shall lie in Cowlitz County Superior Court or the U.S. District Court for Western Washington.

Section 13: *Specific Performance.* The parties specifically agree that damages are not an adequate remedy for breach of this Agreement, and that the parties are entitled to compel specific performance of all material terms of this Agreement by any party in default hereof.

Section 14: *Severability.* If any phrase, provision or section of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of Washington which became effective after the effective date of this Agreement, and either party in good faith determines that such provision or provisions are material to its entering into this Agreement, that party may elect to terminate this Agreement as to all of its obligations remaining unperformed. Notwithstanding language to the contrary, the City reserves the authority to impose new regulations or modify existing regulations applicable to the Project to the extent that such new regulations or modifications are necessary due to a serious threat to public health and safety.

Section 15: *Effect on Previous Agreements:* This Agreement is not intended to supplant or to modify previous agreements between Walt's Meats and the City of Woodland. The parties ratify the terms and conditions of the previous agreements.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates set forth below:

ADOPTED in an Open Public Meeting this _____ day of January, 2013.

DEVELOPER

CITY OF WOODLAND, WASHINGTON

Approved:

By _____

Grover Laseke, Mayor

Its _____

Attest:

Mari E. Ripp, Clerk-Treasurer

Approved as to form only:

William J. Eling, City Attorney

Law Office of William J. Eling

***9401 N.E. Covington Road, No. 102
Vancouver, Washington 98662***

***[360] 260-1189
[360] 213-0770 fax***

TO: Bart Stepp and Woodland Public Works Committee

FROM: William Eling

CC: Grover Laseke, Mayor

RE: Review of Walt's Meats Sewer Expansion Agreement

DATE: January 7, 2013

I have had a chance to review the proposed development agreement. Although RCW 36.70B.170(1) may not be the only legal authority for the agreement, RCW 36.70B.170(1) authorizes development agreements for real property outside city boundaries when they are part of a service agreement. Therefore, as a general matter, I see no particular enforceability issues with the agreement. However, I do believe that the agreement could be improved by some additional language.

1. Development standards: Although "development standards" are more relevant to real property developments than they are to service agreements, the agreement should include as an exhibit whatever development standards that are to be applied to the project, assuming those standards can be ascertained on or before the agreement is signed. [The recitals reference use of the standards listed in RCW 36.70B.170(3), but there is no description in the agreement of the specific standards to be applied except for the general references in Section 1 of the agreement.]

Notwithstanding the above, given that the design work has not been completed, I would recommend adding the following language to the end of the last paragraph of Section 1:

"Walt's Wholesale Meats and the City of Woodland agree that the design standards determined by Kennedy Jenks Consultants or its successor shall constitute the "development standards" for the Project."

2. Reservation of authority: RCW 36.70B.170(4) states that "[a] development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety." I would recommend adding the following to Section 14 of the Agreement:

Bart Stepp
Public Works Committee
January 7, 2013
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“Notwithstanding language to the contrary, the City reserves the authority to impose new regulations or modify existing regulations applicable to the Project to the extent that such new regulations or modifications are necessary due to a serious threat to public health and safety.”

Frankly, given the nature of the Project [construction of infrastructure] and short time frame and that vesting of development rights would not appear to be an issue, I do not see how this provision would ever be triggered. However, the statute makes its inclusion mandatory. Failure to include such language could give third parties a potential opening to challenge the agreement.

3. Public Hearing: RCW 36.70B.200 states that a city can only approve a development agreement “by ordinance or resolution after a public hearing.” Therefore, prior to approval the council must conduct a public hearing during its regularly scheduled meeting. Note that Section 9 allows for the amendment of the development agreement if the RCW 36.70B.200 process is followed. This means that the agreement can only be modified after a public hearing.

4. Consistency: I understand that this agreement has been reviewed for consistency with the previous agreement with Walt's Meats, which included limitation on flow. I would recommend that the Agreement include the following language be added as Section 15.

Section 15. *Effect on Previous Agreements:* This Agreement is not intended to supplant or to modify previous agreements between Walt's Meats and the City of Woodland. The parties ratify the terms and conditions of the previous agreements.

Kennedy/Jenks Consultants

Engineers & Scientists

200 S.W. Market Street, Suite 500
Portland, Oregon 97201-5715
503-295-4911
503-295-4901 (Fax)

6 December 2012

Bart Stepp, P.E.
Public Works Director
City of Woodland
300 E Scott Avenue
P.O. Box 9
Woodland, WA 98674

Subject: Proposal for Professional Engineering Services
City of Woodland
Lift Station 9 review, design and construction services (P12070)

Dear Mr. Stepp:

In accordance with your request, Kennedy/Jenks Consultants (Kennedy/Jenks) is pleased to submit this proposal to the City of Woodland to provide professional engineering services to evaluate improvements to the Lift Station #9 pump and valve vault as well as telemetry improvements with Lift Station #14.

Project Background and Understanding

Lift Station #9, provides transmission of flow from Walt's Wholesale Meats and adjacent residential properties generally south of the pump station and the flows generated from Lift Station 14. These flows subsequently discharge downstream into a gravity discharge manhole and subsequently into Pump Station #2. Walt's Wholesale Meats desires to increase their flow precipitating the need to increase the pumping capacity of Lift Station #9. The City desires to make the following improvements:

1. Upgrade the power at the current pump station from 230 delta phase to a full 230 volt three phase service
2. Upgrade the pumps from their current size (3 Hp) to 5Hp using Flygt self-cleaning pumps
3. Upgrade the discharge and valve vault piping from 4" to 6"; review the valve vault for condition and piping configuration
4. Provide telemetry to the existing Walt's pump station so that Lift Station 14 and Walt's cannot pump simultaneously

Kennedy/Jenks was retained by Walt's Wholesale Meats to update their Industrial Discharge Permit, upgrade the existing lagoon system and coordinate a new agreement for sanitary sewer service with the City of Woodland. The improvements were constructed in 2010.

The current agreement and permit allow the City to accept additional flow. The City has agreed to accept the flow based on the improvement costs being reimbursed by Walt's Wholesale Meats. Walt's has agreed to this requirement.

The City requested that Kennedy/Jenks evaluate the City's proposed improvements.

Scope of Services

Kennedy/Jenks proposes the following Scope of Services for the requested engineering services.

Task 1 – Information Collection and Review

Information would be collected including:

- Power information from Cowlitz PUD including availability of three phase, cost, design,
- Flygt pump review including head conditions, static and dynamic impact, flow characteristics,
- Review existing panel for applicability for larger pump installations
- Walt's discharge including flow based on non-diurnal hour discharge to limit impacts to the downstream facilities,
- Review current City of Woodland sanitary sewer standard plans, details and specification,
- Review condition and usability of existing vault,
- Review locate wire status at the valve vault,
- Kennedy/Jenks will contact City operations staff to discuss current telemetry design and application,
- Determine standard City design documents for a bid package.

Kennedy/Jenks will prepare a brief Letter Report that presents the design concepts and criteria, and provides planning level opinion of probable construction costs for the construction. The Letter Report will also provide information that can be used for permitting. Kennedy/Jenks will submit one PDF copy of the draft Letter Report to the City for review. Following the City's review of the draft, we will incorporate review comments and submit three hard copies and one PDF copy of the final Letter Report.

Deliverable: Design letter report for City review and approval

Task 2 – Design

A conceptual design for the improvements would be developed as well as the necessary information regarding the Cowlitz PUD costs. Design criteria for the facility would be developed. Two drawings would be prepared for the conceptual design including a pump station-valve vault drawing and a site plan with details for the telemetry connections for Walt's.

Preparation of necessary permits including:

- Preparation of a City of Woodland utility or road use permit as required
- Development of a Cowlitz County utility permit if required
- Preparation of an electrical permit if required

Kennedy/Jenks will prepare design for review by the City. Review will be at 90% and 99% level. Final bidding documents will be created with a final opinion of probable construction costs for the construction. Kennedy/Jenks will submit one PDF copy of the interim design level reviews to the City for review. Following the City's review of the draft, we will incorporate review comments and submit three hard copies and one PDF copy of the final Construction documents, draft permits and a final opinion of probable construction cost.

Deliverables: Design, specifications and bid documents; draft permits.

Task 3 – Construction Services

Kennedy/Jenks will answer questions during the bidding period. Kennedy/Jenks will provide review of the bids received and provide a recommendation for bid award. Kennedy/Jenks will facilitate a preconstruction conference. Kennedy/Jenks will provide construction services consisting of review and approval of shop drawings and submittals and three (3) periodic on-site inspections. Kennedy/Jenks will review pay requests, change orders and other contractor correspondence and provide the appropriate recommendations to the City. As constructed documents will be provided to the City electronically as PDF's based on mark-ups provided by the contractor.

Task 4 – Project Management and Quality Control

Kennedy/Jenks will provide project management focused on adhering to project budget, maintaining the project schedule requirements, identifying and addressing key issues, and delivering a quality deliverable. Project management will include directing the work of the Kennedy/Jenks team so that the work is accomplished on-time and within budget. This process will include internal review of work progress, assessing against expenditures to execute the work vs. budget. Communications with the City will include periodic telephone calls to discuss current activities and any needs for additional input or information. A project file will be maintained including copies of correspondence, reports, minutes of meetings, and memoranda.

Quality assurance and quality control (QA/QC) are integrated into our project management system from project inception, through execution to final document submission. We use senior experienced staff, familiar with, but not directly involved in the project work, to provide QA/QC review of work products and project deliverables.

Assumptions

The following assumptions are currently included in this Scope of Services:

- The existing wetwell (LS #9) condition is considered to be acceptable; no review or engineering work will be included outside of the pump installation and piping revisions necessary.
- A tee will be installed that has the capability for use as a pig port or as a bypass pumping location
- Design – Two (2) Meetings with the City and one (1) site visit.
- Permitting assistance with Cowlitz County, Cowlitz PUD, Washington L&I or other permitting agencies as determined by the City. All permitting costs will be borne by the City. Permit applications will be submitted by the City.
- The control panel and breaker will be adequate for the new pump installation
- No major design component for the telemetry has been included until review with City staff to determine the complexity involved.

The following assumptions are currently not included in this Scope of Services, but could be added if determined to be appropriate:

- No geotechnical work is provided in this proposal
- No survey or staking work is included in this proposal.
- Advertising for bidding will be performed by the City
- Copies of bid documents will be provided by the City.

Basis of Compensation

We propose that compensation for our services be on a time and expense reimbursement basis in accordance with our standard Schedule of Charges, enclosed with a not to exceed total subject to City approval. Payments shall be made monthly based on invoices, which describe services and list actual costs and expenses.

A summary of the Fee proposal by task is provided below. We will notify you prior to expenditure of 80% of the fee proposal if the need for a fee increase is anticipated.

Task	Fee Proposal
1 – Data Collection and Review	\$4,100
2 – Design & Construction Documents	\$15,600
2a – Electrical (base)	\$5,500
3 – Construction Services	\$11,100
4 – Project Management and QA/QC	\$2,900
Total	\$39,200

Other Tasks	Fee Proposal
5a – Control panel design & CM	\$ 12,400
5b – AutoCAD plans	No additional cost
5c – AutoCAD record drawings	No additional cost
Total for Other Tasks	\$51,600

This fee estimate is based on the Scope of Services previously identified and our Schedule of Charges, dated 1 December 2012, enclosed.

Schedule

Kennedy/Jenks proposes to complete the Scope of Services previously described according to the following schedule:

Project Kickoff – acquisition of information	Within 1 week after Notice To Proceed
City meeting to review findings and discuss design	3 weeks after kickoff
Submit Draft Design Letter Report	2 weeks after meeting
Submit Final Design Letter Report	2 weeks after City approves Draft
90 % plan submittal	3 weeks after final design letter
99% plan submittal	3 weeks after 90 % review response from City
Construction package submittal	2 weeks following City review

Bart Stepp, P.E.
City of Woodland
6 December 2012
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Terms and Conditions

We propose to provide these services under the terms and conditions of the attached Professional Engineering Services Agreement. If this proposal meets with your approval, please sign where noted below and return a copy to our office to serve as our authorization.

If this proposal meets with your approval, please sign where noted below and return a copy to our office to serve as our authorization.

Thank you for considering us for this work. We look forward to working with you again.

Very truly yours,
KENNEDY/JENKS CONSULTANTS, INC.



Chuck McDonald, PE
Project Manager



Heather Stephens, PE
Office Manager

AUTHORIZATION:

CITY OF WOODLAND

By: _____
(Signature)

(Print Name)

Title: _____

Date: _____

Enclosures:

Schedule of Charges dated 1 December 2012