CITY COUNCIL STUDY SESSION
TUESDAY, APRIL 7, 2014
LOCATION: BAINBRIDGE ISLAND CITY HALL
280 MADISON AVENUE NORTH, BAINBRIDGE ISLAND, WA 98110

1. 7:00 PM CALL TO ORDER / ROLL CALL

2. 7:05 PM ACCEPTANCE OR MODIFICATION OF AGENDA / CONFLICT OF INTEREST DISCLOSURE

3. 7:10 PM CITY MANAGER'S REPORT
Comprehensive Plan/Navigate Bainbridge Update

4. 7:15 PM PRESENTATIONS

A. 7:15 PM National Poetry Month Reading

B. 7:20 PM Proclamation Declaring April 9, 2015 as Team 4915 Spartronics Day

Documents: 040715 Spartronics DayProclamation Agenda Bill.docx, 040715 Spartronics Day Proclamation 2015.Docx

C. 7:25 PM Proclamation Declaring April 12-18, 2015 as National Volunteer Week on Bainbridge Island

Documents: 040715 Volunteer Week Proclamation Agenda Bill.docx, 040715 National Volunteer Week Proclamation 2015.Docx

D. 7:30 PM 2014 Annual Report of Public Farmland Management

Documents: 040715 Annual Report Agenda Bill.docx, 040715 Friends Of The Farms Annual Report 2014.Docx, 040715 Friends Of The Farms Public Farmland Actuals 2014.Xlsx

5. 7:45 PM STAFF INTENSIVE

A. 7:45 PM Historic Preservation Commission: Historic Summer Beach Homes Grant Opportunity

Documents: 040715 HPC Grant Opportunity Agenda Bill.docx, 040715 HPC Grant Application FY16.Docx, 040715 HPC Grant Manual FY16 Edited.pdf

B. 7:55 PM Proposed Updates to Master Lease for City-Owned Farmland (Exhibit B: Policies and Practices and Exhibit D: Capital Projects and Management Tasks)

Documents: 040715 Friends Of The Farms Master Lease.pdf

C. 8:10 PM Review Current Food Truck Regulations and Food Service in Industrial Zones

Documents: 040715 Food Trucks And Food Service Agenda Bill.docx, 040715 Food Truck And Service Memorandum.docx, 040715 Food Section Of Use Table Attachment A.pdf, 040715 Food Trucks Public Comment Attachment B.pdf

D. 8:25 PM Public Works Contracts

Documents: 040715 PW Contracts Agenda Bill.docx

1. Valley, Logg and Gertie Johnson Drainage Project Budget Amendment

Documents: 040715 Valley, Logg And Gertie Johnson Drainage Agenda Bill.docx, 040715 Valley, Logg, Gertie Johnson Sources And Use.pdf

2. Cave Avenue and Knechtel Way Overlay Project Final Change Order

Documents: 040715 Cave Knechtel Way Change Order No. 2 Final.docx, 040715 Cave Knechtel Way Change Order No. 2 Final.pdf

E. 8:35 PM Sound to Olympic Trail Phase 2 Supplemental Agreement No. 3

Documents: 040715 Sound To Olympics Trail Ph2 Supplemental Agree. No. 2 Agenda Bill.docx, 040715 STO Trail Ph2 Supplemental Agreement No. 2.Pdf

F. 8:50 PM Road Reconstruction Projects Planning

Documents: 040715 Road Reconstruction Projects Planning

Discussion Agenda Bill.docx, 040715 2015 Roads Preservation Presentation.pdf

6. 9:10 PM COUNCIL DISCUSSION

A. 9:10 PM Police Oversight Proposal

Documents: 040715 Police Oversight Proposal Agenda Bill.docx, 040715 Police Oversight Proposal.pdf

7. 9:25 PM COMMITTEE REPORTS

A. Utility Advisory Committee March 23, 2015 Notes

Documents: 040715 UAC Notes March 23, 2015.Pdf

B. Puget Sound Regional Council (PSRC) Growth Management Policy Board Meeting Notes – April 2, 2015

Documents: 040715 040215 PSRC Meeting Notes.docx

8. 9:30 PM REVIEW OF UPCOMING COUNCIL MEETING AGENDAS

Documents: 040715 Review Upcoming Council Meeting Agendas.pdf

9. 9:35 PM FOR THE GOOD OF THE ORDER

10. 9:40 PM ADJOURNMENT

Times listed on this agenda are appropriate. Public Comment may be limited to allow time for Council to deliberate.

Americans with Disabilities Act (ADA) accommodations provided upon request. Those requiring special accommodations, please contact the City Clerk at 206-842-2545 (cityclerk@bainbridgewa.gov) by Noon of the day preceding the meeting.

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION

Subject: Proclamation Declaring April 9, 2015 as *Team 4915 Spartronics Day*	Date: April 7, 2015
Agenda Item: Presentations	Bill No.: 15-065
Proposed By: Mayor Blair	Referral(s):

DESCRIPTION/SUMMARY

Action Item:

Consideration of a proclamation declaring April 9, 2015 as *Team 4915 Spartronics Day*.

RECOMMENDED ACTION

Motion:

I move that the City Council authorize the Mayor to sign the proclamation declaring April 9, 2015 as *Team 4915 Spartronics Day*.

DRAFT

PROCLAMATION

WHEREAS, regardless of age, or involvement in the school system and affiliated programs, dedicated citizens across Bainbridge Island have volunteered countless hours and rallied behind the expansion of STEM (Science, Technology, Engineering and Math) programs; and

WHEREAS, in 2013, Bainbridge Island High School physics teacher, Enrique Chee, founded *Team 4915 Spartronics* of Bainbridge Island, Washington; and

WHEREAS, the creation of Bainbridge's FIRST Robotics Competition (FRC) team was met with immediate enthusiasm and immense turnout during their preliminary year of operation; and

WHEREAS, *Team 4915 Spartronics* hit the ground running in its rookie year placing in the top five percent of high school teams in the World during the World Championships; and

WHEREAS, *Team 4915 Spartronics* recently won the highest honor they were eligible for, the Engineering Inspiration Award; and

WHEREAS, April 9, 2015 (4-9-15) has dual significance as being the permanent number assigned to *Team 4915 Spartronics* by US FIRST, the organizing nonprofit body for our community robotics team as well as it being a date which will happen only once in this century;

NOW, THEREFORE, I, Anne S. Blair, Mayor of the City of Bainbridge Island, do hereby proclaim April 9, 2015 as

TEAM 4915 SPARTRONICS DAY ON BAINBRIDGE ISLAND

to symbolize the City's support of STEM education, to focus attention on the positive impact *Team 4915 Spartronics* has had in our community and to raise awareness for much needed funding.

SIGNED this 7th day of April 2015.

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Anne S. Blair, Mayor

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION

Subject: Proclamation Declaring April 12-18, 2015 as *National Volunteer Week* on Bainbridge Island	Date: April 7, 2015
Agenda Item: Presentations	Bill No.: 15-066
Proposed By**:** Mayor Blair	Referral(s):

DESCRIPTION/SUMMARY

Action Item:

Consideration of a proclamation declaring April 12-18, 2015 as *National Volunteer Week* on Bainbridge Island.

History:

The City of Bainbridge Island and Bainbridge Community Foundation will once again be co-hosting the Bainbridge Island Volunteer Celebration as part of National Volunteer Week. This year's celebration is focused on the theme of *Celebrating a Lifetime of Service* and will take place on Thursday, April 16, 2015 from 5:00-7:00 pm in the Bainbridge High School Commons. The celebration will be the culmination of a week of activities including two free trainings being offered at City Hall on Legal Tools for Effective Volunteer Programs and Engaging Volunteers Across Generations. The community is encouraged to attend and celebrate the amazing work being accomplished by volunteers across the island.

Leading up to volunteer week, the community will be asked to wear a button to show support for volunteers in our community. Buttons will be free of charge and available at City Hall, the Bainbridge Community Foundation, and at various locations across the island. A third grader at Wilkes Elementary designed this year's button. The button designer and five finalists will be recognized at the Volunteer Celebration on April 16, 2015.

RECOMMENDED ACTION

Motion:

I move that the City Council authorize the Mayor to sign proclamation declaring April 12-18, 2015 as *National Volunteer Week* on Bainbridge Island.

PROCLAMATION

WHEREAS, Bainbridge Island has, per capita, the highest rate of volunteerism of any comparable City in the country; and

WHEREAS, the individuals, groups and government that together form our community are at the center of our social life; and

WHEREAS, the volunteers in a community can inspire, equip and mobilize others to take action that changes the world; and

WHEREAS, the giving of oneself in service to others empowers the giver and the recipient; and

WHEREAS, experience teaches us that effective government requires and benefits greatly by volunteer support and involvement; and

WHEREAS, experience also teaches us that government alone cannot solve all of our social problems, nor can it reasonably energize all of the many organizations and activities that combine to build a vibrant community; and

WHEREAS, our Island's volunteer force is a great treasure; and

WHEREAS, volunteers are vital to our future as a caring and productive community and nation; and

WHEREAS, during the week of April 12-18, 2015 all over the nation, volunteers will be recognized for their commitment to service by the observation of National Volunteer Week;

NOW, THEREFORE, I, Anne S. Blair, Mayor of the City of Bainbridge Island, do hereby proclaim April 12-18, 2015 as

NATIONAL VOLUNTEER WEEK ON BAINBRIDGE ISLAND

and on behalf of our City thank my fellow Islanders for their generous and effective volunteer efforts on behalf of our community, and urge them to continue to volunteer in any and all ways possible. To honor our volunteers, we are partnering with the Bainbridge Community Foundation to host a volunteer appreciation event at the Bainbridge High School Commons, April 16th from 5:00 to 7:00 pm. By volunteering and recognizing those who serve, we can come together to make a difference.

SIGNED this 7th day of April 2015.

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Anne S. Blair, Mayor

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: 2014 Annual Report of Public Farmland Management	Date: April 7, 2015
Agenda Item: Presentations	Bill No.: 15-067
Proposed By: Executive	Referral(s):

BUDGET INFORMATION		
Department: Executive	Fund:	Munis Contract #
Expenditure Req: none	Budgeted? ☐ Yes ☐ No	Budget Amend. Req? ☐ Yes ☐ No

REFERRALS/REVIEW		
City Manager ☐ Yes ☐ No ☒ N/A	Legal ☐ Yes ☐ No ☒ N/A	Finance ☐ Yes ☐ No ☒ N/A

DESCRIPTION/SUMMARY

Action Item:

To receive a briefing from Friends of the Farms (FOF) on their activities related to the City-owned farmland.

History:

In 2011, the City entered into a master lease with FOF for management of roughly 60 acres of public farmland at five sites. A main task under the lease is FOF management of subleases to individual farmers for use of the public farmland. FOF also manages other collateral activity on these properties.

The master lease stipulates that FOF will provide the City with an annual report on:

a. Quantification of produce and products from designated leased properties.

b. Identification of farmer sublessees by parcel, acreage utilized and lease rates.

c. Summary of financial management (calendar year basis) including but not limited to: expense by parcel and payee; income by parcel; operating revenues and expenses of the management organization; grants sought/awarded, etc.

d. Schedule and status for farm related capital improvements, if any.

e. Description of farm-related activities, including but not limited to: educational programs, community outreach, work-parties, and public events.

f. Description of farm and farm-related activities demonstrating compliance with the Goals, Policies and Practices and other requirements of this Lease, and where appropriate, reporting and an explanation of instances where the Goals, Policies and Practices and other requirements of this Lease may not have been met.

The 2014 Annual Report and Financial Summary provided by FOF are attached.

RECOMMENDED ACTION:

Information.

FRIENDS OF THE FARMS
2014 Annual Report
City of Bainbridge Island and Friends of the Farms Master Lease and Management Agreement
Duration of the Lease- 2012-2042

Friends of the Farms
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Bainbridge Island, WA 98110
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https://twitter.com/islandfarms

Staff and Board of Directors

Wendy Tyner-Executive Director
Ginny Brewer- President
Bobbie Morgan- Immediate Past President
Bart Berg- Past President-Bart Berg Landscape LLC
Becca Hansen- Vice President, Hansen Robert Studio
John Milberg- Treasurer, Pacific Life Insurance, retired
Omie Kerr- Secretary
Ryan Montella- Farm Associate
Karen Selvar- Bainbridge Island Farms
Brian MacWhorter- Butler Green Farms
Dave Shorett – Shorett Law
Emeritus
Ryan Vancil- Past President- Vancil Law Office

1.0 Introduction

Friends of the Farms is a 501 (c) 3 non-profit corporation in Bainbridge Island, Washington founded in 2001 with its mission to preserve and enhance local farming. By connecting with the community and farmers, Friends of the Farms manages and provides long term leases to commercial farmers on public farmland, offers affordable housing to new farmers, and protects critical farmland. By working to sustain local farming, provide agricultural education, and offer volunteer farmland stewardship, Friends of the Farms ensures farmland conservation while increasing locally grown food production.

Background Information. On December 9, 2011, Friends of the Farms signed an agreement with the City of Bainbridge Island (City) titled, "City of Bainbridge Island and Friends of the Farms Master Lease and Management Agreement" (Master Lease). The term of the Master Lease is 30 years, commencing on the first day of January, 2012, and terminating on the first day of January, 2042. The properties described in the Master Lease include 60.83 acres of City-owned agricultural land being leased by the City to Friends of the Farms in furtherance of the City's public purposes. While this public holding of agricultural land is a valuable community asset, it was recognized shortly after its acquisition that farmers cannot invest in their farming operations without guarantees to long-term access to the land they are cultivating. To this end, the general Master Lease responsibility of Friends of the Farms was intended to provide various management services for the City's 60.83 acres of public farmland and structures including negotiating and managing sub-lease agreements with farmers in order to provide long-term farm planning stability for those leasehold farmers.

Contents of the Annual Report

Pursuant to Section 3.11 of the Master Lease, Friends of the Farms is required to provide the City with an annual written report. This report is to include at least the following information:

- Quantification of produce and products from designated leased properties.
- Identification of farmer subleases by parcel, acreage utilized and lease rates.
- Summary of financial management (calendar year basis) including but not limited to: expense by parcel and payee; income by parcel; operating revenues and expenses of the management organization; grants sought/awarded, etc.
- Schedule and status for farm related capital improvements, if any.
- Description of use and activities, including but not limited to: farm related activities, educational programs, community outreach, farm stewardship volunteer work parties, and public events.
- Description of farm and farm-related activities demonstrating compliance with the Goals, Policies and Practices and other requirements of the Master Lease and, where appropriate, reporting and an explanation of instances where the Goals, Policies and Practices and other requirements of the Master Lease may not have been met.

In addition to the above required information, this report provides a summary of Friends of the Farms' process in recruiting and selecting land, monitoring leasehold farmers and negotiating new subleases with those farmers.

2.0 Property Overview

The property described in the Master Lease includes 60.83 acres of City-owned agricultural land. The current sub-leases are comprised of six separate properties. The name, location, and size of these lands are summarized in Table 1. Additional information for each property is included in Exhibit B of the Master Lease, City Farmland Goals, Policies and Practices.

Table 1. Summary of City-owned Agricultural Land

Agricultural Property Name	Location	Size (acres)
Suyematsu and Bentryn Family Farms	9229 NE Day Road- Northeast Section	14.76
Suyematsu and Bentryn Family Farms	9229 NE Day Road- Northwest Section	11.21
Morales Farm	8862 NE Lovgreen Road- Northeast corner of Highway 305 and Lovgreen	4.74
Crawford Property	Accessed either from Suyematsu and Bentryn Family Farms or Lovgreen Road, between Bentryn property (private) to the north and Lempriere property (private) to the south	2.3
M&E Farm	Accessed from Charles Road; between Crawford to the west and Bentryn property (private) to the north	13.34
Johnson Farm	Johnsonville Lane off of Fletcher Bay Road, approximately ½ mile south of High School Road	14.51
TOTAL ACREAGE		**60.83**

3.0 Farmer Recruitment, Selection, and Sub-Lease Negotiation Process

Background information.

In 2013, Friends of the Farms completed the first round of sub-lease process for eight subleases on Suyematsu and Bentryn Family Farms West and Morales. Public farmland that was conducive for farming with minimum enhancements were only considered.

All known commercial farmers (31) at the time, and the public were notified through the local newspaper and through email of the application process and deadlines. They received additional email notification, with subsequent emails updating the prospective applicants of resources and application deadline reminders. Interested applicants had 45 days to respond with a completed application and business plan (see Attachment 1, Farmer Application and evaluation criteria). Farmers were assisted in the development of business plans by Elaine Jones, Certified Business Advisor, with the WSU Small Business Development Center.

Two competing applications were received for Johnson Farm and four applications were received for Suyematsu and Bentryn Family Farms East. All of the applications were received by the deadline, 5:00 pm on March 18, 2013. An ad hoc committee comprised of Friends of the Farms' Board members and staff evaluated the applications using an evaluation process that was used in 2012. The evaluation process included criteria from the Master Lease, farmer interviews and site visits. The ad hoc committee's recommendations were approved by the Board of Directors to enter into sublease negotiations with five of the six applicants. All five applicants entered into sublease negotiations with Ryan Vancil, Vancil Law LLC, past president of Friends of the Farms and land use attorney providing pro bono legal services to Friends of the Farms. Each farmer sublease negotiations used the same template. It was adjusted to reflect the specifics of each farmer's location, lease rate, and duration.

After the sublease agreements had been successfully negotiated, all five leases were approved by the Friends of the Farms' Board at a Board meeting on May 2, 2013.

Prior to the passing of Akio Suyematsu on July 31, 2012, the Suyematsu Property was purchased by the City of Bainbridge Island and was held in a Life Estate for Mr. Suyematsu. Upon his death, Friends of the Farms assumed the role of management, initiating the negotiation of eight sub-leases with five different farmers. Sub-leases were applied for and approved for negotiations for Suyematsu and Bentryn Family Farms East.

Table 2. Summary of Farmer Sub-Leases

Since 2012, public farmland has increased from almost 12 acres to 20.5 acres of farmland leases or approved for a lease. Lease terms range from 5-25 years. Lease rates range from $172/acre/year to $334/acre/year plus utilities, based on its value that was created by USDA formula. The name, location, acreage, lease rate, and duration of the nine farmer sub-leases are provided below:

Name	Location Parcel Number	Acreage	Lease Rate (acre/year)	Duration (years)
Laughing Crow Farm Betsey Wittick	Day Road – Bentyrn West 102502-1-063-2005	0.5	$334	25
Bainbridge Island Vineyard Betsey Wittick	Day Road – Bentyrn West 102502-1-063-2005	2.82	$334	25
Bainbridge Island Farms Karen Selvar	Day Road – Bentryn West 102502-1-063-2005	4.0	$334	25
Butler Green Farms Brian MacWhorter	Day Road – Bentryn West 102502-1-063-2005	2.0	$334	25
Butler Green Farms Brian MacWhorter	Morales Farm 102502-1-062-2006	1.0	$290	25
Perennial Vintners Mike Lempriere	Morales Farm 102502-1-062-2006	.62	$290	25
Perennial Vintners Mike Lempriere	Day Road – Bentryn West 102502-1-063-2005	.23	$290	25
John Chang's Garden John Chang	Morales Farm 102502-1-062-2006	.64	$290	12
Heyday Farm	Johnson Farm 282502-2-064-2002	1.6	$170	12

4.0 Farm Productivity

Thirteen row crops, one perennial crop (raspberries), and five wine grape varieties were grown on Suyematsu and Bentryn West and Morales Farm in the 2014 growing season. Over 126,000 pounds of produce including fifteen tons of wine grapes were grown, a 50% increase of grapes from the past year. A summary of 2014 farm productivity is provided in Table 3.

Table 3. Summary of 2014 Farm Productivity

All of the commercial farmers practice organic farming techniques. Bainbridge Island Farms grows certified organic strawberries and pumpkins and all of Butler Green Farm products are certified organic. Laughing Crow Farms became certified organic in 2014. John Chang's Garden operates as a commercial operation. He donated 100% of the harvest to HelpLine House. As part of the three phases to enhance Johnson Farm's soil, Heyday is in Phase 3. They planted a cover crop for soil enhancement in year 2 and strawberries in year 3. The crop production and location vary each year. Farmers use and own additional land, rotating their crops.

Name	Location	Produce	Quantity
Laughing Crow Farm Betsey Wittick	Day Road – Bentyrn West	• Onions • Cabbage and Broccoli • Carrots • Sweet Potatoes • Potatoes	• 3000 • 100 • 200 • 100 • 600
		Total quantity	4000 pounds
Bainbridge Island Vineyards Betsey Wittick	Day Road – Bentyrn West	• Siegerrebe • Madelaine Angeviene • Pinot Gris • Mueller Thurgau	• 4500 • 12000 • 2500 • 8700
		Total quantity	27,700 pounds
Bainbridge Island Farms Karen Selvar	Day Road – Bentryn West	• Sweet corn- 100 b • Raspberries • Pumpkins • Winter squash	• 7000 • 4500 • 30 tons • 1 tons
		Total quantity	73,500 pounds
Butler Green Farms Brian MacWhorter	Day Road – Bentryn West	• Sweet corn-50 b • Squash • Beans • Peas • Greens • Broccoli • Beets • Carrots • Garlic	• 3500 • 1250 • 850 • 450 • 750 • 325 • 625 • 480 • 80
		Total quantity	**8310 pounds**

Butler Green Farms Brian MacWhorter	Morales Farm	• Tomatoes • Strawberries • Carrots • Greens	• 2200 • 425 • 225 • 425
		3275	**3275 pounds**
Perennial Vintners Mike Lempriere	Morales Farm	• Melon de Bourgogne	• 2921
		Total quantity	**2921 pounds**
Perennial Vintners Mike Lempriere	Day Road – Bentryn West	• Mueller Thurgau • Madeleine Angevine	• 2274 • 1233
		Total quantity	**3507 pounds**
John Chang's Garden John Chang	Morales Farm	Corn- 248 ears Kale- 500 bunches Winter Squash Brussel Sprouts-150 stalks Broccoli- 70 heads Lettuce-335 heads Mizuna- 61 bunches Arugula- 128 bunches Endive- 60 heads	280 1120 560 33 106 34 62 128 6
		Total quantity	**2329**
Heyday Farm	Johnson Farm	Green crop	n/a
TOTAL QUANTITY			**125,572**

5.0 Projects Committee

Friends of the Farms monitors the farmer subleases and oversees farm-related capital improvements on all six public farmland properties. The Projects committee gathers input from leasehold farmers through the Site Committee Process (section 6), Kitsap Conservation District, neighborhood stewards, Friends of the Farms' Board members and staff, and community members who develop a list of priority capital improvement and maintenance projects. The project list is developed annually by the Projects Committee and approved by the Friends of the Farms' Board of Directors. The prioritized project list is included in the Proposed Exhibit D each year. Associated tasks may diverge from the approved list as available resources and/or site conditions affect the needs throughout the year.

Capital improvement and maintenance projects were completed by contracted professionals, and volunteers at monthly Saturday stewardship events. Participation ranged from 10 to 20 volunteers per event. Friends of the Farms provided volunteers with a complimentary farm-fresh lunch of locally sourced and prepared food, provided and prepared by Carol Rolph of Paulsen Farms. Nearly 500 volunteers totaling 3,500 volunteer hours were logged on public farmlands in 2014. Additionally, Friends of the Farms coordinated with Sustainable Bainbridge to remove Scotch broom at Johnson Farm.

6.0 Site Committee

As required in Article 3.10, Friends of the Farms established a Site Committee to monitor the properties and the farmer subleases. Friends of the Farms developed policy and a process to manage the farmland. (September 10, 2013) The first meeting took place on November 24, 2013. The checklist included Agricultural Best Practices, including:

- Monitor Goals, Policies and Practices from Lease Exhibit B
- Identify and document issues of concerns with recommended resolutions
- Identify and document capital improvements/maintenance measures to be addressed; participate in developing a Capital Improvement Plan

The recommendations generated were used to develop the 2014 Proposed Capital Improvements and Legal/Planning issues in Exhibit D. (See attached)

7.0 Goals, Policies and Practices

Friends of the Farms manages public farmlands consistent with the Goals, Policies and Practices and other requirements of the Master Lease. In 2014, Morgan Smith, Assistant Deputy Director from The City of Bainbridge Island, Wendy Tyner, Executive Director of Friends of the Farms and Ryan Vancil, Vancil Law, met to revise the existing Goals, Policies and Practices. The Goals, Policies and Practices were used to provide direction for Friends of the Farms and the City of Bainbridge Island to care for the land.

8.0 Comprehensive Master Farm Plan

The Master Lease requires Friends of the Farms to develop an overall Farm Management Plan for managing the 60.84 acres of public farmland to be submitted to the City for its approval. The Farm Management Plan is to be informed by the Capital Projects and Management Task List (Exhibit D of the Master Lease). Friends of the Farms initiated the planning process in 2013. Chairs, Ginny Brewer, Board President and Becca Hanson, Vice President interviewed twenty key stakeholders from the community. They gathered information from individuals who shared their vision of the land, its heritage and its future potential for agricultural purposes. Preliminary recommendations revealed that public farmland needs protection in perpetuity in order to preserve its heritage and to ensure for future local food production. Other recommendations included:

1. Cultivate as much land as feasible for additional food production
2. Develop a plan for an intentional “tiny house” community that is aligned with the existing development rights
3. Create a centralized location for farm storage, equipment, composting and repairs
4. Develop additional agricultural educational opportunities for all ages
5. Construct additional trails for public use to provide to sensitive ecosystem

6. Increase public awareness and tourism through a newly designed interpretive area
7. Restore the Suyematsu structures for historic preservation
8. Protect the buffers and Manzanita Creek headwaters and wildlife

The planning process was built upon existing farm leases. The plan will incorporate the Goals, Policies and Practices and relevant elements of the conservation plan for each farmland property.

9.0 Completed 2014 Farm-Related Capital Improvements and Accomplishments

Suyematsu Estate

- **Transfer of Suyematsu Property to the City of Bainbridge Island.** Friends of the Farms, the City of Bainbridge Island, the Suyematsu Estate and the Suyematsu and Bentryn Family Farms Estate worked together to transfer the estate to the City during probate. At the time of the completing the site inspection of the property in December, 2013, the underground fuel tanks and the compost inventory are still undergoing specific review.
    - **Piles-** the Kitsap Department of Health met with nearby commercial farmers, Kitsap Conservation District and Friends of the Farms throughout the year to review the piles on the property. In late December, they provided a specific set of recommendations to the farmer to adhere to within a one year timeline.

Suyematsu East and Bentryn West

- **Farm related improvements**
    - Irrigation system repairs and enhancements (valve boxes, well/pump houses, etc.)
    - Regular monitoring of storm water
    - Repaired and installed new fencing along Day Road
    - Laid gravel
- **Land Stewardship**
    - Ongoing maintenance – removed invasive species, repaired and installed new fencing
- **Structural Improvements**
    - Assessed roof conditions on all structures
    - Assessed the historic barn's future use and protection
    - Cleared all debris from the barn interior
    - Secured recommendations from the City inspector, City structural engineer, a private engineer, an historic barn restoration specialist to determine ways to preserve the barn
- **Suyematsu Barn Historic Registry-** Working in partnership with the Historic Preservation Commission, the Suyematsu Barn was listed on the Historic Barn Registry awarded by the Governor's Advisory Council on Historic Preservation and the WA State Department of Archaeology and Historic Preservation. This is a pivotal time for the City of Bainbridge Island as it is the first publicly owned barn to be registered on Bainbridge Island.

Johnson Farm

Since 2013, Johnson Farm underwent a major transformation that had been a priority of Friends of the Farms for years. The improvements to the historic structures while enhancing the property were provided by revenue earned from sub-leases, grants written by Friends of the Farms, in-kind support and volunteer help. While Johnson Farm is intended to be used for commercial farming, the improvements have created a more accessible and welcoming farm for the public to access for light recreation.

Craig Skipton- Heyday Farms Farm Manager

- **Agricultural land improvements.** Prior to 2013, Johnson Farm was not sought after by growers primarily due to its directional aspect (facing north) and lack of water access. Heyday Farm agreed to farm 1.6 acres for 5 years with the goal to farm more land in the future. As the sub-lessee, Heyday divided their project into 3 phases. Now in Phase 3, they conducted a professional evaluation of soil following Best Management Practices, enriched the soil, removed invasive species, trimmed trees and bushes, installed fencing, installed a significant irrigation system, and planted a cover crop, corn and strawberries. As a result of their enhancements, the land is more aesthetically pleasing to the public.

- **Structural Improvements.** Through a partnership with Bainbridge Island School District, the Adult Services Special Education Program became one of fifteen p-patch member. A temporary 10x10 green house was placed near the p-patch for all community members to use. This has created a greater sense of community among p-patch members, as it is shared by all.

- **Land Stewardship**- The Volunteer Stewardship Program mobilized volunteers to remove Himalayan blackberries, grade the trails and add new chippings to the multi-use trail system. Bart Berg, Project Manager, also organized work parties for road repair and graveling, orchard pruning, fence repair and intensive land preparation for Harvest Fair. Through a partnership with Sustainable Bainbridge, there were two additional events held to aggressively remove

Scotch broom on the east hillside and lower parking lot. The P-Patch members volunteered their time to manage the 14 p-patches. The nearby Neighborhood Stewards provided over 150 hours of ongoing security and maintenance, including mowing, trimming, and additional access road and trail repair. Our community is fortunate to have the neighborhood stewards who voluntarily oversee the use of the land, assuring the land retains its historic farm character

Morales Farm

- **Land Stewardship-** Bart Berg, Volunteer Project Manager, mobilized volunteers to maintain and enhance Morales Farm. They repaired gates, mowed grassy areas, maintained the Kitsap Conservation District rain garden and removed invasive species of Himalayan blackberry and Scotch Broom that was invasive to the riparian zone, the grapes and row crops.
- **P- Patch-** In its second year, there are eight new community p-patches for the community. Land that could not be used by commercial farmers was developed for p-patches.
- **Morales Farmhouse-** The 1954 renovated Farm House was occupied by interns, apprentices and new farmers throughout the year. The house was renovated to Silver LEED Standards by Friends of the Farms in 2012 creating a sustainable home for 3 people. There were no significant structural problems in 2014.

M & E Farm

- **Land Preparation-** The property continues to be cleared of invasive species and old and overgrown trees in preparation of future agricultural use.
- **Trail Construction-** Friends of the Farms built an additional .33 miles of new trail linking M & E to Vista Drive public access trail via the existing 10 foot trail easement through Bentryn private property. This trail allows for public access from Wilkes Elementary School to Lovgreen Road totaling 1.5 miles of public trails on public farmland. An additional trail was also constructed which connects M & E Farm with Grace Episcopal Church.
- **RoW-** The City of Bainbridge Island confirmed there is an RoW to the east of Crawford leading south to Lovgreen west of Morales Farm. This was critical information to assure direct access to the land.

Crawford Property

- **Land Preparation-** Friends of the Farms met with the City of Bainbridge Island to learn about the City tree ordinance as plans will be developed to prepare the land for farming as instructed through the purchase using Open Space Funds. No action has occurred to develop the farm infrastructure at this time.
- **RoW-** The City of Bainbridge Island confirmed there is an RoW to the east of Crawford leading south to Lovgreen west of Morales Farm. This was critical information to assure direct access to the land.

10.0 Financial Summary

Per the Master Lease agreement, Friends of the Farms acts as the fiscal agent for all earned revenue from public farmland use. (See attached). In 2014, earned income came from farmland leases, farmhouse tenant rent and event donations totaling $13,732.89. An additional $7,450 was raised through private foundations. All improvements and enhancements made to the land's infrastructure, to the land, housing, or to the structures, including utilities were paid using this revenue. Similar to 2013, Friends of the Farms invested more resources than projected including additional administrative time, in-kind Project Management and Legal Services.

Expenses included rental equipment, supplies, food and beverages for volunteers, dumping fees, house repairs and maintenance, pump and irrigation repairs, utilities and wifi.

In addition to the added expenses, Friends of the Farms estimates an additional FTE 1.0 is required to properly manage public farmland. Additional expenses that Friends of the Farms covered for 2014 were:

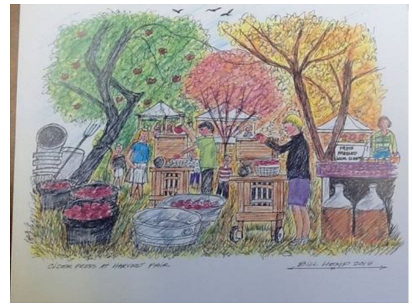
Essential Work- Project Management, Farmland Management Plan and Legal Fees-	**$75,000.00**
In-kind support- debris removal, trail materials, fencing	**$10,000.00**
Volunteer work- Land Stewardship, Communications, Board Policy making-	**Priceless**

Total-$98,732.89 and the additional community investment

11.0 Public Farmland Use

Public Farmland is used extensively throughout the year. In addition to farmers using the land to harvest **125,572** pounds of food, the land is made available to the community in many ways through the efforts of Friends of the Farms:

- **Farm housing-** There are seven individuals who received Friends of the Farms scholarships to live twelve months in the Morales or the Suyematsu Farmhouse. All applicants qualify by working with a commercial farmer as an intern or apprentice or have become a new farmer. They are responsible for working at least .75 on the farm and volunteer 4 hours a month to Friends of the Farms. Russell Lawson lived on public farmland for three years. Beginning as an intern and mentored by a commercial farmer, he has his own business, Patchwork Gardens, and runs his business primarily at Cottingham Farms. While he was living at Morales, he was able to work alongside other commercial farmers and started his business raising mushrooms and growing row crops. This has grown to be a successful program. Aspiring farmers seek out Bainbridge Island from around the nation to work under a commercial farmer where they can live affordably.
- **Harvest Fair-**Friends of the Farms produces Harvest Fair each year at Johnson Farm. In its 28th year, Johnson Farm was transformed into a "day on the farm" with 4,000 people in attendance. The fair was a festive day that included sheep shearing, apple cider pressing, a pie contest, live home-grown music, local food and business vendors who are required to provide locally sourced items, the famous "land slide", pony rides, non-profit organization vendor exhibits, tractor pulls, carriage rides and farm demonstrations. Harvest Fair continues to attract people from Seattle and Kitsap County who stay overnight to attend Harvest Fair and enjoy our city.



Bill Hemp, Artist

- **Annual Meeting-** The public is invited to the organization's annual business meeting to elect new Board members and officers, learn about Friends of the Farms and to participate in a grape cane bonfire, a maypole and very down-home local luck-of-the-pot dinner with local wine and music. Bart Berg was awarded the Akio Suyematsu Award.
- **Farmland Stewardship**- There are volunteer opportunities for all ages throughout the year. Work parties that are held on the second Saturday of each month reach the core of a person's heart. The work parties are held at various public farmlands to help maintain and enhance the properties. The participants are treated to a locally sourced farm fresh meal as our way to give thanks. The community reaps the benefits through their work of invasive species removal, trail construction, general maintenance, and fence and irrigation repair.
- **Recreation**- As a designated riparian wildlife corridor with over 55 bird species, an apple orchard, and two ponds, Johnson Farm is open to the public year round for passive recreational use, and currently supports 15 community P-patch gardens.
- **Cycle Cross-** The Gear Grinders High School Mountain Bike Club sponsored a 1 mile loop of trail competition at Johnson Farm for 200 participants. The event attracted all ages from Seattle and Kitsap County.
- **Bike for Pie-** One of the most attractive events is to witness the bike participants who stop at Suyematsu and Bentryn Family Farms to enjoy sweet and savory pies en route to their next destination.
- **Partner Organizations-**We work closely with Bainbridge Island Land Trust, Bainbridge Island Metropolitan Park and Recreation District, Historic Preservation Commission, Bainbridge Island, Historical Museum, EduCulture, Kitsap Conservation District (KCD), WSU Extension, WA Wildlife Recreation Coalition, PCC, American Farmland Trust, Young Farmers Coalition of Washington, Washington Farm and Food Network, the Trust for Public Land, realtors, restaurants and the Chamber of Commerce. It is through collaboration and partnerships that enable Friends of the Farms to create public farmland experiences that benefit the community.
- **Commercial farmers-** Commercial farmers use the land for their business. They also offer seasonal events to the public that include farm stand sales, raspberry u-pick, and pumpkin patch festivities. Together, the farmers value and embrace agricultural education. Three of the farmers recruit and teach farm interns about farming practices.
- **Education-**Suyematsu and Bentryn Family Farms and Morales are used extensively for educational purposes. The EduCulture Project, a program of Global Source Education, provides students live on-the-ground-experiences on local farms that cultivate stewardship, citizenship and sustainability. Through a collaboration involving farms, schools, and the community, this initiative has been enhancing classroom curricula, nurturing school gardens, and enriching school lunches, while preserving local sustainable agriculture, and growing future generations of Bainbridge farmers. 2014 was the ninth year of the EduCulture Project, with dedicated farm-to-

school partnerships with Wilkes Elementary, Ordway Elementary, and Island Co-op Preschool. Students visited public farmland, learned from commercial farmer leaseholders, and planted, tended, and harvested a variety of crops including potatoes, sweet and ornamental corn, and sugar pie pumpkins. With the trails constructed by Friends of the Farms near Vista Lane, students from Wilkes were able to arrive more safely from Wilkes instead of walking on Day Road.

12.0 Proposed 2015 Farm-Related Capital Improvements- Friends of the Farms' Board of Directors approved a 2015 Proposed Exhibit D for capital projects on March 12, 2015. (See attachment)

13.0 The Future of Farming on Bainbridge Island

Friends of the Farms held its annual Board of Directors' retreat in January, 2015. The priorities that resonated with the Board were to preserve and steward farmland while creating a sustainable model for farmers to develop viable farming businesses. The City, Friends of the Farms, the farmers, the tenants and those who access public farmland have a strong partnership with shared values. Friends of the Farms acknowledges the City of Bainbridge Island for adhering to the current Comprehensive Plan to preserve farmland. We look forward to another successful and bountiful year.

Friends of the Farms 15th Anniversary will be celebrated in 2016. We anticipate increased regional media acknowledgment that will showcase the City of Bainbridge Island's efforts and commitment to a sustainable model that preserves farmland, supports commercial and new farmers, and increases the amount of local food production that is accessible to the community.

Submitted by

Wendy Tyner

Wendy Tyner
Executive Director
March 13, 2015

1:25 PM
03/10/15
Cash Basis

Friends of the Farms
Income Expense
January through December 2014

(Public Farmland Management)

	Farmland Preservation	Day Rd	Johnson	Morales	TOTAL
Income					
EARNED INCOME					
Lease / Rents					
Rent	0.00	1,600.00	0.00	7,034.53	8,634.53
Lease	0.00	4,380.36	225.00	493.00	5,098.36
Total Lease / Rents	0.00	5,980.36	225.00	7,527.53	13,732.89
Interest Income	0.00	0.00	0.00	0.00	0.00
Merchandise	0.00	0.00	0.00	0.00	0.00
Total EARNED INCOME	0.00	5,980.36	225.00	7,527.53	13,732.89
CONTRIBUTED INCOME					
In-Kind Donation	0.00	0.00	0.00	0.00	0.00
Gross Receipts	0.00	0.00	100.00	0.00	100.00
Major Donor (>500)	0.00	0.00	0.00	0.00	0.00
Appeals (<499)	0.00	0.00	0.00	0.00	0.00
Corporate	0.00	0.00	0.00	0.00	0.00
Foundations	0.00	7,450.00	0.00	0.00	7,450.00
Total CONTRIBUTED INCOME	0.00	7,450.00	100.00	0.00	7,550.00
Total Income	0.00	13,430.36	325.00	7,527.53	21,282.89
Expense					
Bank Fees	0.00	0.00	0.00	0.00	0.00
Board & Committee	0.00	0.00	0.00	0.00	0.00
Computer Expense					0.00
Tech Support	0.00	0.00	0.00	0.00	0.00
Software	0.00	0.00	0.00	0.00	0.00
Total Computer Expense	0.00	0.00	0.00	0.00	0.00
Dues & Subscriptions	0.00	0.00	0.00	0.00	0.00
Equipment Rental	231.01	0.00	0.00	0.00	231.01
Food & Beverage	780.00	0.00	45.00	0.00	825.00
Honoraria/Awards	0.00	0.00	0.00	0.00	0.00
Insurance	0.00	0.00	0.00	0.00	0.00
Licenses	0.00	0.00	0.00	0.00	0.00
Marketing	0.00	0.00	0.00	0.00	0.00
Payroll					0.00
Taxes	0.00	0.00	0.00	0.00	0.00
Wages	202.20	2,686.07	65.00	65.00	3,018.27
Total Payroll	202.20	2,686.07	65.00	1,505.51	3,018.27
Permits & Fees	0.00	0.00	0.00	0.00	0.00
Postage	0.00	0.00	0.00	0.00	0.00
Printing	0.00	0.00	0.00	0.00	0.00
Professional Services					
Misc	0.00	945.54	0.00	0.00	945.54
Contract Services	0.00	4,288.07	0.00	200.00	4,488.07
Accounting	0.00	0.00	0.00	0.00	0.00
Total Professional Services	0.00	5,233.61	0.00	200.00	5,433.61
Rent	0.00	0.00	0.00	0.00	0.00
Supplies	0.00	157.26	85.84	99.48	342.58
Telephone	0.00	0.00	0.00	0.00	0.00
Travel					
Mileage / Fuel	0.00	0.00	0.00	0.00	0.00
Tolls & Parking	0.00	0.00	0.00	0.00	0.00
Total Travel	0.00	0.00	0.00	0.00	0.00
Utilities					
Cable	0.00	302.44	0.00	603.23	905.67
Water	0.00	444.35	0.00	945.12	1,389.47
Electricity	0.00	55.95	334.87	1,793.97	2,184.79
Total Utilities	0.00	802.74	334.87	3,342.32	4,479.93
Total Expense	1,213.21	8,879.68	530.71	5,147.31	14,330.40
Net Income	**-1,213.21**	**4,550.68**	**-205.71**	**2,380.22**	**6,952.49**

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: Historic Preservation Commission: Historic Summer Beach Homes Grant Opportunity	Date: April 7, 2015
Agenda Item: Staff Intensive	Bill No.: 15-050
Proposed By: Historic Preservation Commission	Referral(s):

BUDGET INFORMATION		
Department: Planning	Fund:	Munis Contract #
Expenditure Req: None	Budgeted? Yes ☐ ☒ No	Budget Amend. Req? ☐ Yes ☒ No

REFERRALS/REVIEW		
	Recommendation:	
City Manager ☒ Yes ☐ No ☐ N/A	Legal ☐ Yes ☐ No ☒ N/A	Finance ☐ Yes ☐ No ☒ N/A

DESCRIPTION/SUMMARY

Action Item:

Consider request to apply for a $20,000 ($12,000 grant fund, $8,000 City match) grant, administered by the Washington State Department of Archaeology and Historic Preservation (DAHP) to create a context statement for summer beach homes on the Island and to create a summer beach home exhibit.

History:

These grants are made on a competitive basis and are made annually only to Certified Local Governments ("CLG"). As a CLG, Bainbridge Island is eligible to apply for the grant. The aim of the grant is to encourage, develop and maintain local preservation efforts. This year there is a special emphasis on projects that serve under-represented communities.

The funds will be used to :

1) Create a Historic Context Statement to:

- Identify the time periods, locations and development patterns of summer beach homes
- Identify the architectural styles and character-defining features representative of summer beach homes
- Sample and inventory remaining, representative historic summer beach homes
- Identify opportunities for preservation of these remaining resources

2) Create a Summer Beach Homes Exhibit to:

- Raise public awareness of this development pattern
- Raise the public's appreciation of this piece of our Island's history
- Correlate the Island's summer home development pattern to that which occurred around the Puget Sound

Historic Context Statements are those patterns or trends in history by which a specific occurrence is understood and its meaning (and ultimately its significance) within history is made clear. Summer beach home developments reflect settlement patterns that are an important piece of our Island history, which is currently being threatened by demolition. The first wave of summer home developments occurred in the early 1900's, with a wave in the 1920's and the last surge in the 1950's. Many of the homes have been repaired, renovated and removed over the years to make way for larger, waterfront homes. This statement will provide the history of these development patterns and identify opportunities for preservation.

The deadline for this grant application is April 24, 2015.

RECOMMENDED ACTION

Motion:

I move that the City Council forward the Historic Preservation Commission's request to apply for a $20,000 ($12,000 from DAHP, $8,000 match from the City) grant from the DAHP to the April 14, 2015 consent agenda.

CERTIFIED LOCAL GOVERNMENT FY16 GRANT APPLICATION

DUE IN OFFICE THURSDAY, APRIL 24, 2015 BY 4:00 PM

I. APPLICANT

(Please carefully review the "Application Instructions" before beginning work)

A. **Name of Local Government**

B. **Address**

City	**State**	**Zip code**

C. **Contact Person for Grant**

D. **Telephone Number for Contact Person**

E. **Email Address for Contact Person**

F. **Grant Amount Requested**

$

H. **Total Project Cost**

$

II. PROJECT SUMMARY *(Use only the space provided – description section follows)*

☐ A. Survey & Inventory

- Reconnaissance Level — # of new or updated forms:____________
- Intensive Level

☐ B. National Register Nominations

☐ C. Preservation Planning

☐ D. Educational and Interpretive Programs

☐ E. Special Projects

IV. PROJECT DESCRIPTION *(Use only the space provided)*

Organize your description in the following order (see instructions for more info):

a. ***Introduction (includes local government goals & objectives)***
b. ***Project Description***
c. ***Statement of Need***
d. ***Project Objectives***

IV. PROJECT DESCRIPTION *(Continued)*

V. SCHEDULE FOR PROJECT COMPLETION

List each proposed grant activity separately estimating the start and completion dates. This should be a complete listing of all potential activities associated with the grant including the ***two*** draft submittal dates of Friday May 2, 2016 for the first draft and Friday July 15, 2016 for the second draft. Final projects must be turned in by Wednesday, August 31, 2016. A start date and completion date are not sufficient for the Schedule of Project Completion.

WORK TO BE ACCOMPLISHED	Estimated Starting Date	Estimated Completion Date

VI. PROJECT BUDGET

ELEMENT / OBJECT

Indirect % (*Include justification for indirect %)				

Total Element / Object:				

GOODS & SERVICES

Contract Services	***Federal Dollars***	***Hard Match***	***Soft Match***	***Total***

Materials / Supplies / Equipment				

Travel				

Other				

Total Goods & Services:				

	Federal Dollars	***Hard Match***	***Soft Match***	***Total Project Cost***
Total Funding Request				

VII. CHECKLIST – Due by April 24, 2015

To assure that your grant proposal is complete, please check off that you have included the following:

- ☐ Five completed copies of the application ***(One of the five copies must be an unstapled, ONE-SIDED copy of the application along with the three original attachments with signature – the four additional copies should NOT include the signature attachments).***

- ☐ ***One **digital copy** of your application emailed to Kim Gant at kim.gant@dahp.wa.gov ***

- ☐ Written documentation for federally approved indirect cost rate, if applicable.

- ☐ Written justification for volunteer rates, if applicable.

- ☐ **One** signed original Statement of Understanding for Grant Management Requirements (Attachment 1) – ***not stapled to the application***.

- ☐ **One** signed original Assurance of Compliance with the U.S. Department of the Interior Regulations under Title VI of the Civil Rights Act of 1964 (Attachment 2) – ***not stapled to the application.***

- ☐ **One** signed original Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Form (Attachment 3) – ***not stapled to the application.***

WASHINGTON STATE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

HISTORIC PRESERVATION FUND GRANT MANUAL AND APPLICATION

Federal Fiscal Year 2016

October 1, 2015 – September 30, 2016

APPLICATIONS DUE at DAHP APRIL 24, 2015 by 4pm

TABLE OF CONTENTS

INTRODUCTION

History of the Program

When Congress passed the National Historic Preservation Act in 1966, it provided funding for historic preservation. This law created a program of matching grants to the states and created the National Register of Historic Places, administered by the National Park Service, U.S. Department of the Interior. To provide a regular source of revenue, the law established the Historic Preservation Fund (HPF) in the U.S. Treasury with proceeds derived from the federal leasing of offshore oil drilling sites. A portion of these proceeds are distributed to State Historic Preservation Officers/Offices (SHPO) on an annual basis.

In Washington, responsibility for the state's role in the program is delegated to the Department of Archaeology and Historic Preservation (DAHP). The state applies for and has received federal preservation grants every year since the program has been in existence.

States use the funds for the historic preservation activities specified in federal laws and regulations. Among these are conducting surveys to identify historically, architecturally, archaeologically, and culturally significant resources; nominating eligible resources to the National Register of Historic Places; and carrying out a program of comprehensive historic preservation planning. Because these activities are also intended to meet local historic preservation needs, SHPOs are authorized to award a minimum 10% of their annual grant from the Historic Preservation Fund to grantees interested in participating in the state programs through the Certified Local Government Program. The 10% pass through grant funds are awarded on a competitive basis.

The Certified Local Government Program (CLG) helps local governments toward preserving Washington's irreplaceable historic and cultural resources as assets for the future. This unique nationwide program of financial and technical assistance was established by the National Historic Preservation Act as amended. In Washington, the CLG program is implemented and administered by the DAHP.

Local governments that establish a historic preservation program meeting federal and state standards are eligible to apply to the SHPO for certification. A local government that receives such certification is known as a "Certified Local Government" or "CLG."

Responsibilities of a CLG include maintaining a historic preservation commission, surveying local historic properties, listing properties on a local register of historic places, enforcing state or local preservation laws, and providing for public participation in the historic preservation process.

Obtaining status as a CLG may help a local government encourage, develop, and maintain its local preservation efforts in coordination with local land use planning. In addition, CLG's may apply for special grants from the SHPO; receive recognition for their preservation expertise by local, state, and federal agencies; obtain technical assistance and training from the SHPO; participate in the review of nominations to the National Register of Historic Places; participate in the national historic preservation assistance network; regularly exchange information with the SHPO; and participate in statewide preservation programs and planning.

Many local units of government use the Historic Preservation Fund grants to conduct architectural, historical or archaeological surveys to accumulate data for comprehensive planning. Frequently, their motivation is to identify significant districts and individual properties to aid in complying with federal and state historic preservation regulations and planning requirements. Some municipalities conduct prehistoric or historic surveys and/or sponsor the preparation of National Register historic district nominations in order to enable property owners to take advantage of the federal tax credits and/or state Special Tax Valuation program that can result from National Register listing. CLGs also use grant funds to develop design guidelines for locally designated resources and historic districts. HPF grants can also be used for planning activities such as preparation of a comprehensive plan preservation element or historic property management plan. Other communities use the grant funds to educate property owners about historic preservation through brochures, web sites, school curriculum development and walking tours.

PROCESS FOR AWARDING HISTORIC PRESERVATION FUND GRANTS

1) **Historic Preservation Fund (HPF) grants are competitively awarded.**
The grant application process is initiated by the distribution of the application information to Certified Local Governments (CLGs) across the state. Each CLG in good standing is afforded the opportunity to apply for the HPF grant funds. Grant applications are reviewed by DAHP staff and then by an independent committee, the Grants Advisory Committee (GAC). The GAC is made up of at least one member of the Washington State Advisory Council on Historic Preservation as well as professionals in historic preservation or a closely related field. HPF applicants may present their projects at a meeting of the GAC. The committee then evaluates the applications and develops a list of projects recommended for funding. The SHPO makes the final selections after reviewing both staff and GAC recommendations. Notice of awards will be sent to applicants at the conclusion of the review period.

2) **Standards Applicable to Subgrantees.**
It is essential that applicants be responsible and capable of successfully administering sometimes complex grant and contractual agreements. To qualify a subgrantee as responsible, the SHPO must be assured that a subgrantee will have access to appropriate technical and financial management assistance in order to meet and maintain, for the period of the grant award, the following standards as they relate to the scope of a particular project:

1. Have adequate financial resources for performance, the necessary experience, organization, technical qualifications, and facilities; or a firm commitment, arrangement, or ability to obtain such (including proposed sub agreements);

2. Be able to comply with the proposed or required completion schedule for the project;

3. Have a satisfactory record of integrity, judgment, and performance, especially with prior performance on grants and contracts;

4. Have an adequate accounting system and auditing procedures to provide effective accountability and control of property, funds, and assets sufficient to meet project needs and audit requirements (see Attachment 1 for signature);

5. Abide by federal procurement standards in compliance with those described in Appendix 5;

6. Maintain a property management system for the acquisition, maintenance, safeguarding, and disposition of property;

7. Conform with the debarment requirements (see Attachment 3 for signature);

8. Conform with the civil rights, equal employment opportunity, and labor law requirements of federal grants (see Attachment 2 for signature); and

9. Be otherwise qualified and eligible to receive a grant award under applicable laws and regulations.

3) **Program Priorities for Funding.** The following program area priorities have been established for FY 2016 HPF grants. All priorities are related to the goals listed in the Washington State Preservation Plan 2014-2019. **Applications that include one of these projects will receive 10 bonus points in the grant scoring process.**

1. Survey proposals or register nomination of resources of under-represented communities such as African American, Asian, or Latino.
2. Projects or studies that demonstrate the sustainable qualities of historic preservation. This could be a study of a specific building, a workshop, or other medium as long as sustainability and its connection to historic preservation is the focus.
3. Develop messaging and marketing materials around historic preservation, specifically targeting design professionals, property owners, real estate agents, and private developers focusing on economic benefits, tax incentives, and market advantages.
4. Develop historic context statements to aid in planning activities.
5. Complete a study to demonstrate the effects of register listing on property values
6. Web-based heritage tourism materials, such as a mobile application tour of historic resources.

4) **Criteria for Evaluation.** All projects will be evaluated in accordance with the criteria indicated below and effectiveness with which they are addressed.

1. **Project Description (30 Points)**
    - Are the goals and objectives of the local government's preservation program included in the application?
    - Does the project description accurately describe the methodology that will be employed to achieve the desired objectives?
    - Is the impact of the project described clearly?
    - Will the outcomes and/or products provide tangible results?
    - Can this project serve as a model for other communities in the state?
    - Does the application adequately explain the role of any consultants that will be hired? Are their roles/responsibilities appropriate for the task?

2. **Statement of Need (20 Points)**
    - Does the application accurately describe the problem the proposed project will solve or the need it will meet in relation to

- the goals and objectives of the local government's preservation program?
- Are there any threats to cultural resources that the project responds to?
- Is there evidence of responsiveness to broader community needs or issues?
- Is there evidence that opportunities will be missed if funding is not available?
- Does the applicant demonstrate a clear understanding of preservation needs?

3. **Project Objectives (20 Points)**
    - Does the project description accurately describe clear and measurable objectives?
    - Are the objectives quantifiable?
    - Is the project part of an overall community, governmental or organizational plan? Does the application specifically address the State's Preservation Plan and identify the goal(s) the project relates to?
    - Does the project involve the application or development of new preservation methods, tools or technologies that have potential for broad applications beyond the specific project?
    - Will new partnerships be formed or new audiences reached as a result of the project?

4. **Schedule for Project Completion (15 Points)**
    - Is the "Schedule for Project Completion" adequately filled out?
    - Do the activities included directly relate to the stated objectives and project description? Are there key steps missing from the schedule?
    - Is the schedule well thought out? Are all dates included on the schedule within the grant period of October 1, 2015 to September 30, 2016?
    - Does the Schedule include two draft submittal dates of Monday May 2 and Friday July 15, 2016?
    - Does the Schedule include the final product submittal of August 31, 2015?
    - Does the project seem likely to be completed in a timely fashion and succeed in its goals?

5. **Budget and Cost Effectiveness (10 Points)**
    - Has the proposed project budget sheet been submitted clearly and accurately?
    - Are contractor fees/staff salaries reasonable and appropriate?
    - Is the budget consistent with the planned objectives?
    - Are the costs reasonable compared with the products?

6. **Overall Quality of Application (5 Points)**
    - Is the application free of spelling and punctuation errors?
    - Are all required materials included?

- Is the application clear and concise? Is it detailed enough to make an appropriate evaluation of the proposed project?

5) **Annual HPF Apportionment and Match Requirements.** The National Historic Preservation Act requires the annual apportionment to the State Historic Preservation Office to be matched (60/40) by non-federal funds with the one exception of Community Development Block Grant funds which may be used as match (HPF Grants Manual 1997, Chapter 14, L 2 b). This applies both to the Department of Archaeology and Historic Preservation and its sub grantees. Currently, DAHP matches its annual HPF grant through state general funds as well as through match provided by pass-through grants to local governments. ***For FY16 CLG's should plan to provide a minimum 40% match to requested federal grant funds of total project costs. If funding becomes available, the CLG match requirement may be waived.**

6) **Grant Period.** The grant period is twelve months, from October 1 to September 30. **For FY16, the product due date will be Friday, August 31, 2016 and all reimbursement requests must be in by September 30, 2016.**

The Contracting Process

Once the Grants Advisory Committee has made its recommendation to the State Historic Preservation Officer, it is the SHPO's responsibility to select the grant projects that will be funded for the following grant cycle. The decision will be finalized in June 2015 and notifications are made to award recipients immediately following the decision. This begins the contracting process.

The next step at DAHP is for the Certified Local Government Coordinator to develop a Scope of Work and budget based on the grant application for the subgrantee's approval. Once the Scope of Work and budget have been agreed upon, the contract is developed. When the contract is completed, four (4) copies are sent to the subgrantee for signature**. All four copies should be carefully reviewed then signed by an individual authorized by the jurisdiction to execute such documents. Once signed, all four copies must be returned to DAHP.** The Grants Manager will then secure the SHPO's signature on the contracts and send the subgrantee a final completed copy.

Note that contracts for grant projects including production of a publication (i.e plans, brochures, curriculum, videos, etc.) will require text acknowledging Federal funding and non-discrimination clause. The required text will be provided by DAHP.

It is our goal to have all contracts complete by September for projects beginning on October 1.

Instructions for Completing the HPF Grant Application

General Instructions
Before completing the Certified Local Government Grant application, please read the application instructions with care. The sections introduced by Roman numerals in the application instructions correspond to the sections introduced by Roman numerals in the Certified Local Government Grant application.

- Provide all information on the application form.
- Use only 11 or 12 point font on your application.
- **Submit five copies (one copy unstapled, one sided) of your application no later than 4:00 pm, Friday, April 24, 2015.**
- **Submit an electronic version of your application by email by Friday, April 24, 2015.**

I. Applicant
Name of Local Government
This is the name of the qualified municipality applying for the HPF grant.

Contact Person
This should be the individual most knowledgeable about the application and who will be available for questions and discussions about the grant.

Grant Amount Requested
This is the total amount of federal money being requested from the Department of Archaeology and Historic Preservation.

Matching Funds
Match may be cash, in-kind contributions or a combination of the two. Total all matching funds and enter that amount in the space provided. Remember that HPF grants cannot be matched with other federal monies.

Total Project Cost
This is the sum total of the project including federal money requested and matching funds.

II. Project Summary
Concisely summarize the project for which you are requesting funds. This is essentially an abstract and will be used when DAHP creates your Scope of Work should you receive an award.

III. Grant Category
Check the grant category that best describes the type of work for which you are requesting funds. You may check more than one category.

IV. Project Description (please see the "criteria for evaluation" section on page 4)
This is the most important section of the grant application. It is the section to which grant reviewers pay the most attention. It is the applicant's only opportunity to convince DAHP staff reviewers of the merit of the proposed project. While the applicant does have an opportunity to present the project to the Grants Advisory Committee in person, the project description section of the application will inevitably be instrumental in the GAC member's opinion for grant selection. Using the two pages provided, address each of the following points clearly and in as much detail as possible.

Introduction
- Briefly describe the goals and objectives of the local government's existing historic preservation program.

Specific Project Discussion
- Clearly describe the activities to be conducted to achieve the desired objectives. State the reason for selection of activities. Present a reasonable scope of activities that can be conducted within the time frame and resources of the program. Will the product be able to serve as a model for other communities? Are future phases anticipated? If you are subcontracting for consultant services, explain the consultant's role and how they will be selected. There must be an open competitive process for hiring consultants.
- For survey projects, identify the methodology by identifying the type of survey (architectural, historical, archaeo-logical), the level of documentation to be produced (intensive or reconnaissance) and the estimated number of historic properties to be surveyed.
- For National Register nominations, state the type of nomination (individual, district, thematic, multiple resource), estimated number of nominations to be prepared and estimated number of contributing pro-perties to be contained in the nominations.

For multiple resource nominations, at least one National Register nomination must accompany the context statement.

- For educational projects, clearly describe the product and anticipated benefits to the public.

- List all work products that will be submitted to DAHP.

- Note: All publications (plans, brochures, videos, etc.) produced as a result of HPF grant activities must include Federal disclaimer language. Required language will be provided by DAHP.

Project Statement and Needs Assessment

- Based on the goals and objectives of the local government's preservation program, specifically describe what problem the proposed project will solve or what need it will meet. Does the project respond to broader community needs or issues? Are there any threats to cultural resources that the project responds to? If full funding of the project is not possible, will the project be able to proceed? If so, what aspect of the proposal will not be accomplished?

Project Objectives

- Describe clear, measurable objectives that are attainable within the funding period. Describe their impact and expected tangible results. Are there any innovative aspects of the project? Are there any opportunities that might be missed if the project is not funded?

V. Schedule for Project Completion

Use Section V to provide an accurate and detailed schedule of activities and documentation of when specific work products will be submitted to DAHP. Applicant should allow time for review of draft work products by DAHP staff (generally 15 days). **Take into account the probability that DAHP will have substantive comments that may require revision by the consultant.** Schedule must include the dates of **May 2, 2016 and July 15, 2016** as the ***two*** draft submittal dates for the project. The FY16 grants will also have a **product due date of August 31, 2016** which must be included on the schedule sheet. All **reimbursement requests must be received by DAHP no later than Friday, September 30, 2016**. Grant recipients should feel free to submit draft products to DAHP throughout the grant period.

VI. Project Budget

While DAHP recognizes that proposed budgets are estimates, these projections should be as accurate as possible since project costs and budgets are carefully reviewed during the evaluation process and are the basis of the final budget developed for the contract.

Provide a detailed proposed budget by the following categories: "Element/Object" which may include the salaries of local government employees, indirect costs, and volunteer services; "Goods & Services" which includes contract services such as consultant fees, contractor fees, and materials such as copies, photography, printing costs, construction materials, computer equipment, software, etc. Fees budgeted for consultants/contractors should be reasonable and appropriate yet competitive in order to attain a good product. Appropriate fees or rates should be vetted as part of the application process.

Please see Appendix 1 of this manual for a Sample Project Budget.

The following categories are located on the Project Budget sheet:

<u>Element/Object</u>

Salaries: List by title or position the employee who will be contributing time to the project. Note the rate of pay per hour, number of hours and total dollar amount. Time must be documented by time sheets, payroll records or other DAHP approved method. General supervision not directly related to the project is not allowable as time contributed to the project.

Volunteer time should be valued at $20.25/hour unless a higher rate is documented and is approved in writing by DAHP. All volunteer services must be substantiated by time sheets that are assigned by both the volunteer and his/her supervisor. Such records must show the actual hours worked, the rate of pay and the specific duties performed. The records should also indicate the basis for determining the rate of the volunteer's contribution and such documentation must be available for audit. A written justification of volunteer rates must accompany the grant application. If a volunteer is a professional and is performing professional duties for the project, then their normal rate of pay will be accepted.

Indirect %: Indirect costs may not be included unless the applicant has a federally approved rate. Written supporting documentation must be included with the application. For FY16, only use this category if you plan to use federal funds to pay part of the indirect rate.

Goods & Services

Consultant and Contract Services: Consultants may not be pre-selected by the applicant because federal regulations require an open selection process. The applicant should list by function (e.g., archaeologist, historic architect, architectural historian, preservation specialist, etc.) any contractors who will be associated with the project. Show the estimated total amount of money you plan to budget for each consultant. Note: professional hourly rates are capped by the National Park Service each Federal fiscal year, for FY 2016, the cap is set at **$82.49/hour** (subject to change) yet should still be reasonable and competitive to attract qualified and appropriate personnel. For contract services such as printers, sign makers, etc., submit bids from more than two prospective vendors.

Materials/Supplies/Equipment: List major items or categories (e.g., office supplies, film, maps, etc.) and cost per category. List use or purchase of equipment. Include rental costs if applicable. Any article with a unit cost of $5000 or more requires prior written approval from DAHP. Attach a letter from DAHP approving purchase of equipment, if applicable.

Travel: The mileage rate charged to the project should be the applicant's usual rate but may not exceed the current state rate of 57.5 cents per mile. Indicate the total number of miles, cost per mile and total estimated cost for travel.

Other: Any other costs necessary to the project. Any items under this category must be described. No project funds can be used to pay the salary, travel or other expenses of any grantee, personnel or agent acting on behalf of the grantee to engage in any activity designed to influence legislation or appropriations pending before the United States Congress or the Washington State Legislature.

Hard and Soft Match

Hard match is a cash contribution from the local government. Hard match can be in the form of staff salaries or any other expenditure that requires the payment for services by the local government. Cash equals new dollars brought to the project. Hard matches are encouraged and are considered favorably in the review process. Identify the amount of cash used to match the grant and the source (e.g., Community Development Block Grant). Note: federal grant funds are not allowable as match with the exception of Community Development Block Grants funds (HPF Grants Manual 1997, Chapter 14, L 2 b). Soft match consists of all donated goods and services used in the course of the grant completion.

The values of donated services, equipment and material are allowable costs when these expenses are identified in project records as not having been donated by the federal government, not having been purchased with federal funds and not having been included as donations comprising all or part of the share under any other federally assisted project.

Values assigned to donated material may not exceed current market values at the time the donation is assigned to the project. Similarly, the value of loaned equipment and donated office space may not exceed fair market rental value. Grant recipients must maintain documentation of their reasoning for determining current market values. Grantees must also maintain records to support their reimbursement claims as to the actual use of donated equipment (e.g., number of hours, miles or other measurement factor and records showing the age of the equipment and the source of acquisition).

For questions about how to complete the project budget, please contact Loren Doolittle, Grants Manager, at 360-586-3072.

VII. Checklist

A checklist for submission is part of the application. Please use it to make sure that the application is complete.

CERTIFIED LOCAL GOVERNMENT GRANT APPLICATION

DUE IN OFFICE FRIDAY, APRIL 24TH 2015 BY 4:00 PM

(also send electronic copy to CLG Coordinator)

I. APPLICANT

(Please carefully review the "Application Instructions" before beginning work)

A. **Name of Local Government**

B. **Address**

City	State	Zip code

C. **Contact Person for Grant**

D. **Telephone Number for Contact Person**

E. **Email Address for Contact Person**

F. **Grant Amount Requested** (60% of Project Total)

$

G. **Match Amount** (40% of Project Total)

$

H. **Total Project Cost**

$

II. PROJECT SUMMARY *(Use only the space provided – description section follows)*

III. GRANT CATEGORY *(check those that are appropriate)*

☐ A. Survey & Inventory

☐ Reconnaissance Level		# of new or updated forms:____________
☐ Intensive Level		

☐ B. National Register Nominations

☐ C. Preservation Planning

☐ D. Educational and Interpretive Programs

☐ E. Special Projects

IV. PROJECT DESCRIPTION *(Use only the space provided)*

Organize your description in the following order (see instructions for more info):

- ***a. Introduction (includes local government goals & objectives)***
- ***b. Project Description***
- ***c. Statement of Need***
- ***d. Project Objectives***

IV. PROJECT DESCRIPTION *(Continued)*

V. SCHEDULE FOR PROJECT COMPLETION

List each proposed grant activity separately estimating the start and completion dates. This should be a complete listing of all potential activities associated with the grant including the ***two*** draft submittal dates of **May 2, 2016 and July 15, 2016**. **This year's grant products are due on Wednesday, August 31, 2016**. A start date and completion date are not sufficient for the Schedule of Project Completion.

WORK TO BE ACCOMPLISHED	Estimated Starting Date	Estimated Completion Date

VI. PROJECT BUDGET

ELEMENT / OBJECT

Salaries *(include each position- volunteer or staff – and attach hourly wage justification if needed)*	***Federal Dollars*** *(CLG grant requested)*	***Hard Match*** *(Local government cash match)*	***Soft Match*** *(Donated goods and services)*	***Total***

Indirect % (**Include justification for indirect %*)				

Total Element / Object:				

GOODS & SERVICES

Contract Services	***Federal Dollars*** *(CLG grant requested)*	***Hard Match*** *(Local government cash match)*	***Soft Match*** *(Donated goods and services)*	***Total***

Materials / Supplies / Equipment				

Travel				

Other				

Total Goods & Services:				

	Federal Dollars	***Hard Match***	***Soft Match***	***Total Project Cost***
Total Funding Request				

VII. CHECKLIST

To assure that your grant proposal is complete, please check off that you have included the following:

- ☐ Five completed copies of the application ***(One of the five copies must be an unstapled, ONE-SIDED copy of the application along with the three original attachments with signature – <u>the four additional copies should NOT include the signature attachments</u>)***.

- ☐ ***One **digital copy** of your application emailed to Kim Gant at kim.gant@dahp.wa.gov ***

- ☐ Written documentation for federally approved indirect cost rate, if applicable.

- ☐ Written justification for volunteer rates, if applicable.

- ☐ **One** signed original Statement of Understanding for Grant Management Requirements (Attachment 1) – ***not stapled to the application***.

- ☐ **One** signed original Assurance of Compliance with the U.S. Department of the Interior Regulations under Title VI of the Civil Rights Act of 1964 (Attachment 2) – ***not stapled to the application.***

- ☐ **One** signed original Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Form (Attachment 3) – ***not stapled to the application.***

GRANT COMPLETION

Grant Project Timeline

The grant period for Historic Preservation Fund grants runs on the federal fiscal year from October 1 to September 30. Federal Fiscal Year 2016 begins on October 1, 2015. ***Final grant projects are due on* WEDNESDAY, August 31, 2016**. ***DAHP requires two draft submittal dates for FY16 grant projects – May 2 and July 15, 2016.*** These draft submittals are extremely important since they are DAHP's official opportunity to comment on the project. DAHP is afforded a 30-day review period to comment on your draft. DAHP will attempt to comment on every project, however, if you do not hear from us within 30-days, it is assumed that we do not have any comment on your draft and you may proceed with your project. The change involving two draft submittals has occurred as a result of several late submittals of grant products and last minute contract amendments for time extensions. With the May submittal, we are hoping to identify problems earlier in the grant period to avoid delays and missed deadlines at the end of the project. All contract amendments must be requested at least 60 days prior to the end date of the contract. You are encouraged to check in with DAHP often during the grant cycle for guidance concerning your project.

As stated above, the **final grant product is due on WEDNESDAY, August 31, 2016**. This is a change from earlier policy when grant products were due on September 30. Due to deadlines to provide end-of-year reports to the National Park Service, DAHP is pulling the product and reimbursement submissions back by a month. Once the product submission occurs, it is distributed to the appropriate Program Manager at DAHP for review of the final project. The Program Manager will compare the submitted product with the Scope of Work from the subgrantee's contract. It is with the Program Manager's signed "Subgrant Payment Approval Checklist" that reimbursement may occur. After product submission on August 31, 2016, grantees will have the next 30 days to gather and submit reimbursement materials to DAHP. **Project completion reports <u>must</u> be received at DAHP by September 30, 2016**. Submittal of your request for reimbursement on the State's A-19 Invoice Voucher Form (see below) with all necessary documentation optimally should be submitted to DAHP as soon as possible after project completion. The sooner you're a-19 is submitted to DAHP the sooner your jurisdiction will be reimbursed for grant expenditures. **Note that reimbursement requests must be submitted to DAHP no later than November 15, 2016. Requests received after this date will <u>not</u> be reimbursed.** Again, earlier submittals are allowable and encouraged. This allows for the Grants Manager to review the items submitted and contact the subgrantee for any additional information or paperwork required for reimbursement.

Documentation Required for Reimbursement

The process of submitting documentation for grant reimbursement is often confusing, complicated, and frustrating for subgrantees. By including this section, it is our hope that some of the mystery involved will be lessened. We have included a checklist at the end of this section to guide you in completing the reimbursement paperwork.

It is worth noting that your project budget as stated in your contract will be the guiding document when DAHP is processing your submittals for reimbursement. It is extremely important that all of your reported expenses relate directly back to that budget. If you anticipate a change within a budgeted category of more than 15%, a contract amendment must be submitted.

A. **A-19 Invoice Voucher Form.** Your invoice to DAHP should be submitted on the state A-19 form. There is a hard copy of the A-19 form attached to your contract, or feel free to download an electronic version from our website under the Certified Local Government section at http://www.dahp.wa.gov/certified-local-government-grants. The A-19 form must include an original signature from someone in your agency authorized to make billings. The A-19 form must be dated no later than November 15, 2016 but early submittal is strongly recommended to avoid delays in receiving your reimbursement. Think of the A-19 form as your table of contents for the rest of your reimbursement paperwork. Everything on the A-19 form must be detailed in your supporting documentation.

B. **Timesheets.** If you and/or other local government staff charged time to the project in direct fulfillment of the project, you must provide copies of all of the timesheets documenting time you charged to the grant. The timesheets must be signed by you and whoever reviews and signs your timesheets (supervisor, personnel officer, etc.). The timesheets must clearly identify the month, date, and the hours spent on the project for which time is charged. You must also identify the hourly pay rate (including benefits) of each employee charging time to the grant so that expenditures can be verified. Be sure to take into account changes in pay rate that may have occurred during the term of the contract. Finally, be sure that the work performed is within the contract period of October 1, 2015 to September 30, 2016. Any expenditures of time beyond those dates cannot be reimbursed.

C. **Consultants.** Please provide copies of invoice vouchers from consultants. The invoice vouchers should clearly identify the time period during which the work was performed and the hourly rate at which work is charged, again so that expenditures can be verified. Remember that DAHP can only reimburse wages at not more than an hourly rate as directed by the National Park Service each federal fiscal year. For fiscal year 2016 grants, the rate is $82.49/hour. The invoices from your consultant(s) must include their signature and must also be within the contract time period.

D. **Other Expenditures.** Please provide copies of invoice vouchers and/or receipts for other expenditures related to the project (i.e. paper, printing, film, film development, etc.). These expenditures must be identified in your project budget to be allowable for reimbursement. Again, the expenditures must be within the contract period in order to be reimbursed.

E. **<u>Proof of Payment.</u>** For staff time, consultant fees, and other expenditures, please provide documentation that payment was indeed made. This typically includes documentation from your accounting office such as computer printouts or warrants.

F. **<u>Procurement Documentation.</u>** Please include proof of a competitive process for procuring consulting, construction and contract services. This can be fulfilled through completion of Attachment 7 of your contract or by providing copies of advertisements and other documents associated with the procurement process. For consultants performing historic preservation activities such as surveys or National Register nominations, please submit a copy of their resume, vitae, or other description that documents that they meet the Secretary of the Interior's Professional Qualification Standards of 1983. The consultant should have been approved as meeting the Secretary's Professional Standards before the project began. For contract services, such as printing, please include bids from two or more suppliers.

G. **<u>Volunteer Services.</u>** To document volunteer services that are used as project match, please use Attachment 5a found in your contract. The Report of Services form needs to be completed for each volunteer with original signatures from both the volunteer (must sign both 5a and 5b) and the person supervising the volunteer's work. The wage rate for the volunteer activities must also be identified and justified. For example, if an archaeologist who sits on the local historic preservation commission volunteers his time as an archaeologist for the grant project and his typical hourly wage is $50, then the hourly wage shown as a volunteer should be $50/hour. However, if that archaeologist is volunteering to stuff envelopes for a mailing, the hourly wage should reflect what one could reasonably expect to make stuffing envelopes. The form should also identify the month, date, and number of hours worked. Again, this is used to document and verify the value of volunteer services and contributed match.

H. **<u>Mileage.</u>** Please submit mileage logs to document miles driven in support of the project. Allowable mileage reimbursement rate is 57.5 cents/mile. Only mileage driven during the contract period is reimbursable.

I. **Publications.** Note that activities that include production of a publication (i.e. preservation plan, curriculum, brochures, videos, etc.) must include text that acknowledges Federal assistance and a non-discrimination clause. Sample language will be found in the contract. Failure to include the required text will jeopardize your reimbursement for grant related expenditures.

Remember to use the project budget from your contract as a guide to the documentation you will need at reimbursement time. Make sure that everything is signed and dated and ALWAYS within the contract period. Use the checklist that follows as a guide to your completion report.

If there are questions, don't hesitate to contact DAHP's Grants Manager, Loren Doolittle at 360-586-3072.

Grant Completion Checklist

☐ **A-19 form**
- Is it filled out correctly and completed with an original signature?

☐ **Timesheets**
- Have they been signed by you or other government staff working on the project **and** whoever reviews timesheets in your jurisdiction?
- Do they clearly identify the day, month, and hours spent on the grant project?
- Have you identified the hourly rate (including benefits) at which the work is being charged?
- Was the work completed during the contract period (October 1, 2015 to September 30, 2016)?

☐ **Consultant Services**
- Have you enclosed the invoice voucher from the consultant?
- Does the invoice voucher clearly indicate the time period in which the work was performed?
- Is the hourly rate evident (DAHP can reimburse only up to the allowable Federally approved rate of $82.49/hr)
- Has the invoice been signed by the consultant?
- Was the work performed during the contract period?

☐ **Other Expenditures**
- Were these expenditures identified in your original project budget?
- Were these expenditures within the contract period?
- Have you included copies of all receipts/invoices? Are they clearly identified?

☐ **Proof of Payment**
- Have you included documentation that shows payment was indeed made for each of the above categories?

☐ **Procurement Documentation**
- Have you included documentation that shows you used a competitive process to hire a consultant?
- Did you include a copy of the professional consultant's resume, vitae or other description that shows they meet professional qualification standards for historic preservation?

☐ **Volunteer Services**
- Has each volunteer completed a "Report of Services" (Attachment 5A) form?
- Are there original signatures on the "Report of Services" form from both the volunteer and the volunteer's supervisor?
- Is the wage rate identified and justified (Attachment 5B)?
- Is the month, day and hours worked identified on the form?
- Was the work performed during the contract period?

☐ **Mileage**
- Have you submitted mileage logs showing the miles driven were in support of the project?
- Was the mileage driven during the contract period?
- DAHP can reimburse only up to the allowable federally approved rate (57.5 cents).

☐ **Other**

ATTACHMENTS

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ATTACHMENT 1

STATEMENT OF UNDERSTANDING FOR GRANT MANAGEMENT REQUIREMENTS

- CLGs receiving HPF grant assistance must fulfill the terms of their grant agreement with the state and adhere to all requirements of the National Register Programs Manual. This requirement includes compliance with Title VI of the Civil Rights Act of 1964, 78 Stat. 241, as amended, which provides that no person on the grounds of age, race, color, or national origin shall be excluded from participation in, be denied the benefits of, or be subject to discrimination under any activity receiving Federal financial assistance.

- Local financial management systems shall be in accordance with the standards specified in OMB Circular A-128, "Standards for Grantee Financial Management Systems."

- Indirect costs may be charged as part of the CLG grant only if the CLG subgrantee meets the requirements of the manual. Unless the CLG has a current indirect cost rate approved by the cognizant federal agency, only direct costs may be charged.

- Grant recipients must maintain auditable financial records in accordance with the General Accounting Office's Standards for Audit of Governmental Organizations, Programs, Activities, and Functions.

- The CLG subgrantee will provide, with request for reimbursement, documentation to support billings (time sheets, front and back canceled checks, etc.) for federal and non-federal share claimed.

- Repayment will be made to the SHPO organization if terms and conditions of the subgrant agreement are not followed or costs claimed are disallowed following audit.

____
CLG

____
SIGNATURE OF APPLICANT

____
TITLE

____
DATE

ATTACHMENT 2

U. S. DEPARTMENT OF THE INTERIOR
CIVIL RIGHTS ASSURANCE

As the authorized representative of the applicant, I certify that the applicant agrees that, as a condition to receiving any Federal financial assistance from the Department of the Interior, it will comply with all Federal laws relating to nondiscrimination. These laws include, but are not limited to: (a) Title VI of Civil Rights Act of 1964 (42 U.S.C. 2000d-1), which prohibits discrimination on the basis of race, color, or national origin; (b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicap; (c) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et. seq*.), which prohibits discrimination on the basis of age; and applicable regulatory requirements to the end that no person in the United States shall, on the grounds of race, color, national origin, handicap or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the applicant. THE APPLICANT HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE shall apply to all aspects of the applicant's operations including those parts that have not received or benefited from Federal financial assistance.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is sued for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applicants for Federal financial assistance which were approved before such date.

The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of the assurance. This assurance is binding on the Applicant, its successors, transferees, assignees, and subrecipients and the person whose signature appears below who is authorized to sign this assurance on behalf of the Applicant.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT/ORGANIZATION	DATE SUBMITTED
APPLICANT/ORGANIZATION MAILING ADDRESS	BUREAU OR OFFICE EXTENDING ASSISTANCE

DI-1350
(REV 6/91)

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ATTACHMENT 3

U.S. Department of the Interior

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 43 CFR Part 12, Section 12.500, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations are included in the proposal package. For further assistance in obtaining a copy of the regulations, contact the U.S. Department of the Interior, Acquisition and Assistance Division, Office of Acquisition and Property Management, 18th and C Streets, N.W., Washington, D.C. 20240.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON NEXT PAGE)

(1) The prospective lower tier participant certifies, by submission of this proposal that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

____

Name and Title of Authorized Representative

____

Signature Date

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered and erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (Tel.#).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

APPENDICES

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APPENDIX 1

ELEMENT / OBJECT

Salaries *(include each position- volunteer or staff – and attach hourly wage justification)*	***Federal Dollars*** *(CLG grant requested)*	***Hard Match*** *(Local government cash match)*	***Soft Match*** *(Donated goods and services)*	***Total***
Preservation Planner		**111 hrs / $32.45/hr $3601.95**		**$3601.95**
Planning Department Assistant		**10 hrs/$12/hr $120**		**$120.00**
GIS Analyst		**15hrs/$30.23/hr $453.45**		**$453.45**
Preservation Commissioners			**300hrs/$10/hr $3000**	**$3000.00**

Indirect % (**Include justification for indirect %)*				

Total Element/Object:		**$4175.40**	**$3000.00**	**$7175.40**

GOODS & SERVICES

Contract Services	***Federal Dollars*** *(CLG grant requested)*	***Hard Match*** *(Local government cash match)*	***Soft Match*** *(Donated goods and services)*	***Total***
Preservation Associates, Inc.	**$10,000**			**$10,000**

Materials/Supplies/Equipment				
Copies			**1500 @ $.15/per $225.00**	**$225.00**
Room Rental			**$250.00**	**$250.00**

Travel				
Mileage			**322 miles – 40.5/per mile $130.41**	**$130.41**
National Trust Conference	**$1641.80**			**$1641.80**

Other				

Total Goods & Services:	**$11,641.80**		**$605.41**	**$12,247.21**

	Federal Dollars 60%	Hard Match 40%*	Soft Match	***Total Match***	***Total Project Cost – 100%***
Total Funding Request	***$11,641.80***	$4175.40	$3605.41	***$7780.81***	***$19,422.61***

**The local government share must equal at least 40% of the total project cost. The 40% can be made up of a combination of hard and soft match.*

APPENDIX 2

Standards for Allowability of Costs

A. Purpose and Applicability.

This Chapter provides standards for determining the allowability of selected items of cost in accordance with Office of Management and Budget Circulars A-87 and A-122. It also includes additional cost items specific to the Historic Preservation Fund program. Subgrantees that are educational institutions shall be governed by Circular A-21 and the HPF-specific items in this Chapter. Note that certain listed costs are allowable (Section B), other costs are allowable with the prior written approval of NPS (Section C), and other costs are unallowable (Section D). The costs not specifically addressed in the Circulars are preceded by an asterisk.

These standards will apply irrespective of whether a particular item of cost is treated as a direct or an indirect cost, or as part of either the Federal or nonfederal matching share of grant assistance. This listing of cost items is not all inclusive. Failure to mention a particular item of cost in these standards is not intended to imply that it is either allowable or unallowable, rather a determination of allowability in each case will be based on the treatment of standards provided for similar or related items of cost. The allowability of the selected items of cost is subject to the policies and principles stated in "Cost Principles," particularly Section C.

B. Allowable Costs.

1. Accounting Costs. The cost of establishing and maintaining accounting and other fiscal information systems is allowable.

2. *Acquisition Costs. Acquisition costs incurred to obtain title or to purchase a preservation easement on a property individually in the National Register of Historic Places, or a contributing property in a National Register District, are allowable when the acquisition complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties and with Section L of Chapter 6 (of the Historic Preservation Fund Grants Manual). Appraisal costs incurred to obtain an appraisal of the property's current fair market value by a licensed appraiser, title search and recordation fees, property surveys, title insurance, legal fees, broker's commissions, and purchase price for an amount equal to or less than the appraised value are allowable for an acquisition of real property that meets the requirements of Chapter 6 (of the Historic Preservation Fund Grants Manual). The boundary of the HPF acquisition project must not exceed the boundaries described in the National Register nomination. (Costs such as annual property taxes, escrow fees, and loan interest or points are not allowable costs.)

3. *Administrative Costs. Under Section 102 (e) of the National Historic Preservation Act as amended, the total direct administrative costs and any state indirect costs charged for carrying out state projects may not exceed 25% of the aggregate costs. See Chapter 7, Exhibit 7-B (of the Historic Preservation Fund Grants Manual), and Chapter 12, Section F4 (of the Historic Preservation Fund Grants Manual) for guidance.

4. Advertising and Public Relations Costs. Advertising media include newspapers, magazines, radio and television programs, direct mail, exhibits, and the like.

a. Allowable advertising costs are those which are solely for: recruitment of personnel necessary for the grant program; the procurement of goods and services required for the performance of the HPF grant agreement; and notices required by Federal or State regulations pertaining to the HPF program.

b. Public relations costs are allowable when: (1) specifically required by the Federal award and then only as a direct cost; (2) incurred to communicate with the public and press pertaining to specific activities or accomplishments that result from performance of the Federal award and then only as a direct cost; or (3) necessary to conduct general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of Federal contract/grant awards, financial matters, etc. (Also see Public Information Costs, Section B.36 below)

5. Advisory Councils. Costs incurred by advisory councils or committees established pursuant to Federal requirements to carry out programs, such as State Review Boards, are allowable. The costs of like organizations, such as local review boards established by "certified local governments" is allowable when provided for in an approved subgrant agreement, and when in compliance with the cost allowability provisions of this Chapter. (See Section B.42)

6. *Appraisals. The cost of necessary appraisals by a licensed appraiser is allowable. (See Chapter 6 Section L of the Historic Preservation Fund Manual).

7. Audit Service. The costs of audits necessary for the administration and management of functions related to grant programs are allowable, provided that the audits were performed in accordance with the requirements of the Single Agency Audit Act and of OMB circular A-133 implementing it (see Chapter 23 of the Historic Preservation Fund Grants Manual). Generally, the percentage of costs charged to Federal awards for a single audit shall not exceed the percentage derived by dividing Federal funds expended by total funds expended by the recipient or subrecipient (including program matching funds) during the fiscal year. The percentage may be exceeded only if appropriate documentation demonstrates higher actual costs. Other audit costs are allowable if specifically approved by the awarding or cognizant agency as a direct cost to an award, or included as an indirect cost in a cost allocation plan or rate.

8. Automatic Electronic Data Processing. The cost of data processing services is allowable (also see Section B.17 regarding equipment).

9. Bonding. Costs of bonding employees and officials are allowable for HPF grantees. In addition, costs of such bonds as bid, performance, payment, advance payment, infringement, and fidelity are allowable if required pursuant to the terms of the HPF award, and if such bonding is in accordance with sound business practice. (See unallowable insurance costs in Section D.22)

10. Budgeting. Costs incurred for the development, preparation, presentation and execution of HPF-assisted program and project budgets are allowable.

11. Communications. Communication costs incurred for telephone calls or service, mail, messenger, and similar communication expenses necessary for and directly related to HPF grant program operations are allowable.

12. Compensation for Personal Services (including Fringe Benefits).

a. General. For state and local governments, compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries and fringe benefits. Such compensation is allowable to the extent that it satisfies the specific requirements of the OMB Cost Principles and that the total compensation for individual employees:

1) Is reasonable for the services rendered, and conforms to the established policy of the governmental unit consistently applied to both Federal and non-Federal activities;
2) Follows an appointment made in accordance with state, local, or Indian tribal government laws and rules and which meets other requirements required by Federal law, where applicable;
3) Is determined and supported as provided in b., below.

b. Reasonableness. Compensation for employees engaged in work on HPF grant-assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the state or local government. In cases where the kinds of employees required for Federal awards are not found in the other activities of the state or local government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

c. Unallowable Costs. Cost which are unallowable under the provisions of this Chapter shall not be allowable solely on the basis that they constitute personal compensation.

d. Fringe Benefits. Allowability is subject to the following considerations: (1) Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave, employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in the OMB Cost Principles, the costs of fringe benefits are allowable to the extent that the benefits are reasonable and are required by law, governmental unit employee agreement, or an established policy of the governmental unit. (2) The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, holidays, court leave, military leave, and other similar benefits, are allowable if: (a) they are provided under established written leave policies; (b) the costs are equitably allocated to all related activities, including Federal awards; (c) the accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the governmental unit. (4) The accrual basis may be only used for those types of leave for which a liability as defined by Generally Accepted Accounting Principles (GAAP) exists when the leave is earned. When a governmental unit uses the accrual basis of accounting, in accordance with GAAP, allowable leave costs are the lesser of the amount accrued or funded. (5) The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in Section B.21); pension plan costs (see subsection e., below); and other similar benefits, whether treated as indirect costs or direct costs, shall be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities.

e. Pension Plan Costs. Pension plan costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the governmental unit. (1) For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries. (2) Pension costs calculated using an actuarial cost-based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after the six-month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant agency may agree to an extension of the six-month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal government and related Federal reimbursement and the governmental unit's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of the contributions to the pension fund. (3) Amounts funded by the governmental unit in excess of the actually determined amount for a fiscal year may be used as the governmental unit's contribution in future periods. (4) When a governmental unit converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion shall be allowable is amortized over a period of years in accordance with GAAP. (5) The Federal government shall receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.

f. Post-retirement Health Benefits. Post-retirement health benefits (PRHB) refers to costs of health insurance or health services not included in a pension plan covered by subsection e., above, for retirees and their spouses, dependents, and survivors. PRHB costs may be computed using a pay-as-you-go method or an actuarial cost method in accordance the established written policies of the governmental unit. (1) For PRHB financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries. (2) PRHB costs calculated using an actuarial cost method recognized by GAAP are allowable if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant agency may agree to an extension of the six-month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal government and related Federal reimbursements and the governmental unit's contributions to the PRHB fund. Adjustments may be made by cash refund, reduction in current year's PRHB costs, or other equitable procedures to compensate the Federal government for the time value of Federal reimbursements in excess of contributions to the PRHB fund. (3) Amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the government's contribution in a future period. (4) When a governmental unit converts to an acceptable actuarial cost method and funds PRHB costs in accordance with this method, the initial unfunded liability attributable to prior years shall be allowable if amortized over a period of years in accordance with GAAP, or, if no such GAAP period exists, over a period negotiated with the cognizant agency. (5) To be allowable in the current year, the PRHB costs must be paid either to: (a) an insurer or other benefit provider as current year costs or premiums, or (b) an insurer or trustee to maintain a trust fund or reserve for the sole purpose of providing post-retirement benefits to retirees and other beneficiaries. (6) the Federal government shall receive an equitable share of any amounts of previously allowed post-retirement benefit costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.

g. Severance Pay. (1) Payments in addition to regular salaries and wages made to workers whose employment is being terminated are allowable to the extent that, in each case, they are required by: (a) law, (b) employer-employee agreement, or (c) established written policy. (2) Severance payments (but not accruals) associated with normal turnover are allowable. (3) Abnormal or mass severance pay will be considered on a case-by-case basis and is allowable only if approved by the cognizant Federal agency.

h. Distribution of Time for Salaries and Wages. Charges to Federal awards for salaries and wages, whether treated as direct or indirect costs, must be based upon payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official(s) of the grantee. No further documentation is required for the salaries and wages of employees who work in a single indirect cost activity. Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first-hand knowledge of the work performed by the employee. Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets standards for personnel activity records (a) through (e) below, unless a statistical sampling system (see below) or other substitute system has been approved by the cognizant Federal agency.

Documentary support for time distribution will be required where employees work on: (a) more than one Federal award, (b) a Federal award and a nonfederal award, (c) an indirect cost activity and a direct cost activity, (d) two or more indirect cost activities which are allocated using different allocation bases, or (e) an unallowable activity and a direct or indirect cost activity. The time distribution method used must account for the total salaried effort of the persons covered. A system which provides for the reporting only of effort applicable to federally sponsored activities is not acceptable. Time should be accounted for in units no longer than working days, and a brief description linking work performed to a specific approved project or activity should be used. (For example, “Consulted with subgrantee’s architect on project XX-0001” would be acceptable; “Grant activities” would not.)

Salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner as those claimed as allowable costs under Federal awards.

Personnel activity reports or equivalent documentation must meet the following standards: (a) they must reflect an after-the-fact distribution of the actual activity of each employee; (b) they must account for the total activity for which each employee is compensated; (c) they must be prepared at least monthly and must coincide with one or more pay periods; and (d) they must be signed by the employee. Note that budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that: (i) the grantee’s system for establishing the estimates produces reasonable approximations of the activity actually performed; (ii) at least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made. Costs charged to Federal awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and (iii) the budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.

Substitute systems for allocating salaries and wages to Federal awards may be used in place of activity reports. These systems are subject to approval if required by the cognizant agency. [See OMB Circular A-87, Item B.11h.(6).]

i. <u>Donated Services</u>. Donated or volunteer services may be furnished to a grantee by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions in Chapter 14 (of the Historic Preservation Fund Grant Manual). The value of donated services used in the performance of a direct cost activity shall, when material in amount, be considered in the determination of the grantee’s indirect costs or rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs. To the extent feasible, donated services will be supported by the same methods used by the grantee to support the allocability of regular personnel services.

j. <u>Nonprofit Organizations</u>. For nonprofit organizations, charges for personal services must comply with the requirements of OMB Circular A-122, Attachment B, Item 6.

k. <u>Educational Institutions</u>. For educational institutions, charges for personal services must comply with the requirements of OMB Circular A-21, Item J.6.

13. <u>Depreciation and Use Allowances</u>.

a. Grantees may be compensated for the use of buildings, capital improvements, and equipment used in grant program operations through use allowances or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. A combination of the two methods may not be used in connection with a single class of fixed assets (e.g. buildings, office equipment, computer equipment, etc.).

b. The computation of depreciation or use allowance shall be based on acquisition cost of the assets involved. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used. The computation of depreciation or use allowances will exclude the cost of any portion of the cost of buildings and equipment borne or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides; and any portion of the cost of buildings or equipment which has been contributed by or for the grantee or its governmental unit in satisfaction of a matching share requirement.

c. Where the depreciation method is followed, adequate property records must be maintained and any generally accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets for all affected federally sponsored programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

d. In lieu of depreciation, a use allowance for buildings and improvements may be computed at an annual rate not exceeding two percent (2%) of the acquisition cost. The use allowance for equipment (excluding items properly capitalized as building cost) will be computed at an annual rate not exceeding 6 2/3 percent (i.e., 6.67 percent) of the acquisition cost of usable equipment.

e. No depreciation or use charge may be allowed on any assets that would be considered as full depreciated, provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the amount of any depreciation previously charged to the government, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges, decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated. Use allowances or depreciation applicable to the asset shall not exceed the total acquisition cost of the asset, or its fair market value at the time of its donation.

f. Charges for use allowances or depreciation must be supported by adequate property records. Physical inventories must be taken at least once every two years (a statistical sampling approach is acceptable) to ensure that assets exist, and are in use. Governmental units will manage equipment in accordance with state laws and procedures. When the depreciation method is followed, records indicating the amount of depreciation taken each period must be maintained.

g. For nonprofit grantees, see OMB Circular A-122, Item 9.

14. Development Costs. Development costs incurred by subgrant, contract or force account as follows are allowable when such work complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties and with the provisions of Section K of Chapter 6 of the Historic Preservation Fund Grants Manual:

a. Costs of exterior work, structural work, and necessary improvements in wiring, plumbing, and other utilities;

b. Costs of interior restoration if the public is to have access to the interior in accordance with public benefit policies.

15. Disbursing Service. The cost of disbursing grant program funds by the Treasurer or other designated officer is allowable.

16. Employee Morale, Health and Welfare Costs. The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and any related expense incurred in accordance with general state, local or Indian tribal government policy, are allowable. Income generated from any of these activities will be offset against expenses. For nonprofit grantees, see OMB Circular A-122, Item 11.

17. Equipment and Other Capital Expenditures. Any article of nonexpendable tangible personal property having a useful life of more than one (1) year and an acquisition cost of $5000 or less is defined as supplies, and is allowable as a direct cost, without specific prior NPS, if necessary for the performance of the HPF grant. (See Section C.2 of this Chapter for prior approval of items costing more than $5000.) When replacing equipment purchased with Federal funds, the grantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement equipment. Capital expenditures which are not charged directly to a Federal award may be recovered through use allowances, or depreciation (See Section B.13).

18. Exhibits. Costs of temporary exhibits relating specifically to HPF grant-assisted program operations, accomplishments, or results are allowable. (See Section D.29 for unallowable exhibition costs).

19. Furnishings. The cost of project furnishings is allowable as part of a development project when such furnishings are original pieces of furniture or permanently attached items that are integral to building construction or documented historic design or reconstruction based upon documented original furnishings. Some rehabilitation projects may involve furnishings when such furnishings are essential to major objectives of the project. (Replicas of furnishings are not eligible for HPF grant assistance.).

20. General Conditions for Construction Contracts. This term, used in construction cost estimates, bids, and construction administration documents, refers to provisions by the general contractor of miscellaneous requirements

to other contractors and subcontractors, thereby eliminating the duplication and expense of each trade providing its own temporary facilities. General conditions including, but not limited to, temporary heat, power, lighting, water, sanitary facilities, scaffolding, elevators, walkways and railings, construction office space and storage, as well as cleanup, security, and required insurance, permits, and surety bonds, are allowable when identified as a line item in the project application. (See Section D.9 for contingency costs, and D.22 for insurance costs, which are unallowable.).

21. Indirect Costs. Indirect costs are allowable only in accordance with the applicable indirect cost principles and when based on a current approved or provisional rate awarded by the cognizant Federal agency. (See Chapter 12 of the Historic Preservation Fund Grants Manual; also see Section D.21).

22. Insurance and Indemnification. Costs of hazard and liability insurance to cover personnel or property directly connected with the HPF-assisted program or project site required or approved and maintained pursuant to the grant agreement are allowable during the grant period. Costs of other insurance in connection with the general conduct of activities are allowable if maintained in accordance with sound business practice, except that the types and extent and cost of coverage or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the NPS has specifically required or approved such costs. (See OMB Circular A-87, Item B.25, for the allowability of self-insurance reserves.) For nonprofit grantees, see OMB Circular A-122, Item 18. (Also see Section D.22 for certain unallowable insurance costs.)

23. Interest. Financing costs (including interest) paid or incurred on or after September 1, 1995, associated with the otherwise allowable costs of office building acquisition, construction, or fabrication, reconstruction or remodeling completed on or after October 1, 1980, is allowable, subject to the following conditions: (1) the financing is provided (by other than tax or use fee sources) by a bona fide third party external to the grantee; (2) the assets are used in support of Federal award; (3) earnings on debt service reserve funds or interest earned on borrowed funds pending payment of construction or acquisition costs are used to offset the current period's cost or the capitalized interest, as appropriate. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable; (4) Governmental units will negotiate the amount of allowable interest whenever cash payments (interest, depreciation, use allowances, and contributions) exceed the grantee's cash payments and other contributions attributable to that portion of real property used for Federal awards.

24. Interpretive Signs. The costs of purchasing and installing (but not maintaining) a minimum number of interpretive or informational markers or signs at grant-assisted historic buildings and structures and archeological sites are allowable. (See Section D.24 below.)

25. Labor Relations Costs. For nonprofit grantees, see OMB Circular A-122, Item 20.

26. Landscaping. Costs of landscaping are allowable as follows:

    a. Restoration, rehabilitation, stabilization, or protection of a well-documented historic landscape listed in the National Register of Historic Places either individually, or as a contributing element to a National Register District;

b. Grading for purposes of drainage, building or site safety, and protection of a National Register listed property;

c. Improvements necessary to facilitate access for the disabled to a National Register listed property; or

d. Revegetation to stabilize and protect an archeological site or other National Register property.

(Note: Non-historic features such as parking lots, street paving, street lamps, and benches are not eligible for HPF grant assistance.)

27. Legal Expenses. The cost of legal expenses required in the administration of HPF grant programs is allowable. (Legal expenses for the prosecution of claims against the Federal Government are not allowable.)

28. Maintenance, Operations, and Repair. Costs of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, necessary maintenance, normal repairs and alterations, and the like for office space are allowable to the extent that they: (1) keep the property in efficient operating condition, (2) do not add to the permanent value of property or appreciably prolong its intended life, and (3) are not otherwise included in rental or other charges for space. Costs which add to the permanent value of property or appreciably prolong its intended life shall be treated as capital expenditures (see Section B.17, above and Section C.2, below). However, costs of ongoing maintenance and administration of real property assisted with HPF monies are unallowable (see D.26). For nonprofit grantees, see OMB Circular A-122, Items 22, 38, and 39.

29. Materials and Supplies. The cost of materials and supplies necessary to carry out the HPF grant program is allowable. Purchases made specifically for the grant program should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs.

30. Memberships, Subscriptions, and Professional Activities.

a. Memberships. The cost of the grantee organization's membership in civic, business, technical and professional organizations (dues) is allowable provided: (1) the benefit from the membership is directly related to achieving grant program objectives; (2) the expenditure is for agency membership; (3) the cost of the membership is reasonably related to the value of the services or benefits received; and (4) the expenditure is not for membership in organizations substantially engaged in lobbying.

Note: The Lobbying Disclosure Act of 1995 explicitly defines organizations of state government officials as not being lobbying organizations. Therefore, payment of dues to the National Conference of Historic Preservation Officers is an allowable grant cost. (See Section D.25 for ineligible lobbying costs which cannot be charged to the HPF grant.) For nonprofit grantees, see OMB Circular A-122, Item 21.

b. Reference Material. The cost of the grantee organization's subscriptions to business, technical, and professional periodicals is allowable when necessary to accomplish grant program purposes.

c. Meetings and Conferences. Costs are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the grant program. The costs of meals, transportation, rental of meeting facilities, and other incidental costs are allowable. For nonprofit grantees, see OMB Circular A-122, Item 25.

31. Motor pools. The costs of a service organization which provides automobiles to grantee agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection, and repair services are allowable.

32. Page Charges in Scientific or Professional Journals. Page charges for scientific or professional publications are allowable as a necessary part of grant cost where: the papers report work supported by the HPF grant and acknowledge the grant; the charges are levied impartially on all papers published by the journal, whether by non-Government or by Government authors; and there will be a significant and direct benefit to the achievement of HPF grant program objectives.

33. Plans and Specifications. Costs of architectural plans and specifications, shop drawings, and/or other materials required to document and plan development project work according to the Secretary's Standards for the Treatment of Historic Properties are allowable.

34. Professional and Consultant Service Costs.

a. Costs of professional and consultant services rendered by persons or organizations that are members of a particular profession or possess a special skill, whether or not officers or employees of the grantee, are allowable, subject to the provisions of Chapter 5 of the Historic Preservation Fund Grants Manual and subject to the subsections below, when reasonable in relation to the services rendered, and when not contingent upon recovery of the costs from the Government (i.e., contingent fees are prohibited).

b. Factors to be considered in determining the allowability of costs in a particular case include:1) the nature and scope of the service rendered in relation to the service required; 2) the necessity of contracting for the service, considering the grantee organization's capability in a particular area; 3) the impact of HPF grants on the grantee organization; 4) the qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-government contracts and grants; and 5) the adequacy of the contractual agreement for the service (i.e., description of the service and products to be provided, estimate of time required, rate of compensation, and termination provisions).

Retainer fees supported by evidence of bona fide services available or rendered are allowable.

c. Costs of legal, accounting, and consulting services, and related costs incurred in the prosecution of claims against the Government are unallowable. (See Section D.33.)

d. Written agreements shall be executed between the parties which detail the responsibilities, standards, and fees.

e. Compensation for Consultants. No person employed as a consultant, or by a firm providing consultant services, shall receive more than a reasonable rate of compensation for personal services paid with HPF funds, or when such services are contributed as nonfederal share. This rate shall not exceed the maximum daily rate of compensation in the Federal Civil Service equal to 120 percent of a GS-15, step 10 salary.

When consultant services rates exceed this rate, only the amount up to that rate can be charged to the HPF grant, or be claimed as nonfederal matching share costs. Where consultants are hired at salaries above that rate, the excess costs must be paid outside the historic preservation grant (and nonfederal share).

f. For nonprofit grantees, also see OMB Circular A-122, Item 35.

35. Protective Devices. Costs of burglar and fire alarm systems and other protective devices or protective measures for HPF programs, projects, and records are allowable.

36. Public Information Services Costs. Public information services costs include the costs associated with newsletters, pamphlets, news releases, films, videotapes, and other forms of historic preservation related information services.

a. Allowable costs are those normally incurred to: 1) inform or instruct individuals, groups, or the general public about specific historic preservation activities, accomplishments, and issues that result from performance of the HPF grant; 2) interest individuals and organizations in participating in HPF grant-supported programs of the grantee and the achievement of NPS approved work program objectives; 3) provide necessary stewardship reports to state and local government agencies, contributing organization, and the like; or to 4) disseminate the results of grantee-sponsored activities to preservation professionals, interested organizations, and the general public.

b. Within the foregoing parameters, public information services which (1) are not directly related to historic preservation or NPS approved activities, or (2) are costs related to fundraising appeals are unallowable. Public information costs are allowable as direct costs only. For nonprofit organizations, see OMB Circular A-122, Item 37.

37. Publication and Printing Costs. Costs of printing and reproduction services necessary for grant administration, including but not limited to forms, manuals, the State Comprehensive Historic Preservation Plan, annual subgrant application instructions, and informational literature, are allowable. Publication costs of reports or other media relating to HPF grant program accomplishments or results are allowable when necessary to comply with grant-supported program or project requirements, such as Final Project reports, publications undertaken at the written direction of NPS, as well as other publications necessary for grant-assisted program administration. See Chapter 3, Section D.3 of the Historic Preservation Grant Fund Manual. In addition, for nonprofit organizations, see OMB Circular A-122, Item 38.

38. Recruiting Costs. For nonprofit grantees, see OMB Circular A-122, Item 41.

39. Relocation Assistance. Costs of relocation assistance payments made under the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (43 U.S.C. 4601; see 49 CFR 24), are allowable. See Chapter 20 for details and limits. (In addition, for nonprofit organizations, see OMB Circular A-122, Item 42.)

40. Rental Costs. Rental of office space is allowable, subject to the provisions of Chapter 12, Section C of the Historic Preservation Grant Fund Manual, and OMB Circular A-87, Item B.38. The cost of the office space in privately or publicly owned buildings used for the benefit of the grant program is allowable subject to the following conditions: (1) the total cost of space, in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality; (2) the cost of space procured for grant program usage may not be charged to the program for periods of non-occupancy without authorization of NPS. For nonprofit organizations, see OMB Circular A-122, Item 43.

41. Research. Costs of historical, architectural, and archeological research necessary for project accomplishment are allowable. Purely archival research is unallowable. (See Section D.1. below.)

42. Review Boards. Costs incurred by state review boards or committees established and acting pursuant to NPS requirements are allowable. Members of the state review board may receive subsistence, travel allowances, and compensation while serving on the business of the review board. In accordance with state law, regulations, and practice applicable to persons performing comparable duties and services for the state.

43. Royalties and Other Costs for Use of Patents and Copyrights. See Chapters 16 and 19 of the Historic Preservation Grant Fund Manual. In addition, for nonprofit grantees, refer to OMB Circular A-110 and Circular A-122, Item 44. Payment of royalties is allowable unless patent or copyright is invalid or the Federal Government has a right of royalty-free use (which is a requirement for all grant-assisted publications).

44. Severance Pay. For nonprofit grantees, refer to OMB Circular A-122, Item 45.

45. Signs. Costs of signs acknowledging HPF assistance at construction project sites during the grant period are allowable. [See Chapter 6, Section K.2.b.3]

46. Specialized Service Facilities. For nonprofit grantees, see Circular A-122, Item 46.

47. Taxes. In general, taxes or payments in lieu of taxes which the grantee agency is legally required to pay are allowable. In no case are Federal income taxes an allowable grant cost. In addition, for nonprofit grantees, refer to OMB Circular A-122, Item 47. (Also see Item D.35 for unallowable costs.)

48. Termination Cost. For nonprofit grantees, see OMB Circular A-122, Item 48.

49. Training and Education. The cost of training for employee development is allowable. For nonprofit grantees, see OMB Circular A-122, Item 49.

50. Travel. Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees traveling on official business incident to the HPF grant program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in non-federally sponsored activities. Lodging costs must be documented by a receipt in order to be eligible for reimbursement under the HPF grant.

    The difference in cost between first-class air accommodations and less-than-first-class accommodation is unallowable except when less-than-first-class accommodations are not reasonably available, and the provisions of OMB Circular A-87, Item B.41(c) are met. Foreign travel costs are allowable only with the prior written approval of NPS. (See Section C.4 below.) Notwithstanding the provisions of section D.17, travel costs of officials covered by those subsections, when specifically and directly related to the HPF grant program, are allowable with the prior written authorization of NPS. For nonprofit grantees, see OMB Circular A-122, Item 50. The maximum allowable mileage rate that can be charged to the HPF grant as of November 2001 is 34.5 cents per mile.

C. Costs Allowable with Approval of NPS.

1. Automatic Data Processing. The cost of data processing services for the HPF grant program is allowable. This cost may include rental of equipment or depreciation on grantee-owned equipment. The acquisition of equipment with a unit acquisition cost over $5,000, whether by outright purchase, rental purchase agreement, or other method of purchase, is allowable only upon specific prior approval of NPS. (See Section C.2.)

2. Equipment and Other Capital Expenditures. The cost of facilities, equipment, other capital assets, and repairs or improvements which materially increase the value or useful life of capital assets is allowable when such procurement is specifically justified in writing and specifically approved in writing by NPS. When assets acquired with HPF grant funds are sold, no longer available for use in the NPS-sponsored program, or used for purposes not authorized by the NPS, the NPS equity in any assets with a current fair market value over $5000 will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost after trade-in allowances of the newly acquired assets is allowable. Articles with a unit cost of more than $5000 and a useful life of more than one year are allowable when specifically approved by NPS as a direct cost. (See Section B.17 regarding articles costing less than $5000.)

3. Extended Training. Costs of out-of-service training involving extended periods of time (more than a month of time away from work) is allowable only when specifically authorized in writing by NPS.

4. Foreign Travel. Foreign travel costs are allowable only when the travel has received specific prior written approval from NPS. Each separate foreign trip must be specifically approved and justified on the basis of direct benefits to the HPF grant program. For purposes of this provision, foreign travel is defined as "any travel outside of Canada or any jurisdiction defined as a state by the National Historic Preservation Act, as amended."

5. Moving Historic Structures or Objects. Costs of moving or reconstructing properties are allowable only if the project meets NPS criteria and if the property remains listed in the National Register, either individually listed or as a contributing property to a historic district. The Keeper of the National Register must give prior written approval for the move in accordance with 36 CGR 60.14b. If the Keeper does not concur that the property will remain on the National Register after the move, then no costs of moving the property are eligible for HPF grant assistance (see Chapter 6, Section J.2.c).

6. Overtime. For nonprofit grantees, see OMB Circular A-122, Item 28.

7. Participant Support Costs. For nonprofit grantees, see OMB Circular A-122, Item 30.

8. Preagreement Costs. Costs incurred prior to the effective date of the grant award, whether or not they would have been allowable if incurred after such date, are allowable only with prior written approval of NPS and when specifically provided for in the grant agreement. See additional requirements for nonprofit grantees in OMB Circular A-122, Item 34.

9. Proposal Costs. Costs of preparing proposals for potential Federal Government grant agreements are allowable as direct costs when specifically provided for in the grant agreement. (Proposal costs should normally be treated as indirect costs.)

10. Rearrangements and Alterations. Costs incurred for special rearrangements and alterations of facilities required specifically for the grant program are allowable when specifically approved in writing by NPS. (See Section C.2.)

11. Revolving Fund Costs. The costs of planned financial assistance by a grantee through a revolving fund mechanism are unallowable except with prior written NPS approval (see Chapter 8, Section F.2.h. of the Historic Preservation Fund Grants Manual).

D. Unallowable Costs.

1. Archival Research. Costs of purely archival research are unallowable. Grant-assisted research must directly relate to achieving the purposes of the HPF grant program.

2. Acquisition of Previously Assisted Properties. Costs of an acquisition of real property which has previously received HPF assistance for development (or acquisition) are not allowable during the term of the covenant or preservation agreement.

3. Alcoholic Beverages. Costs of alcoholic beverages are unallowable.

4. Archeological Salvage. Costs of data recovery unrelated to increasing an understanding of a National Register property are unallowable. (See Chapter 6, Section K.4.d. of the Historic Preservation Grants Manual.)

5. Bad Debts. Any losses arising from uncollectible accounts and other claims, and related collection costs are unallowable.

6. Certified Historic Structures. Unless otherwise stipulated by NPS, grantees my not provide HPF development assistance for projects which have been accorded Federal preservation tax benefits for that same work. Similarly, HPF

development grant assistance used for any portion of a building by an owner and/or lessee from obtaining the Federal tax incentives for historic preservation contained in the Internal Revenue Code for that portion of the building.

7. Church-owned Property. Costs of acquiring and/or repairing church-owned property are unallowable because of the Administration's policy on maintaining the separation or church and state. (See Chapter 6, Section D.6 for allowable technical assistance and planning costs.)

8. Conditional Donations. Any donation of real property containing a reversionary provision to the donor which can be exercised during the term of the covenant is not eligible as matching share.

9. Contingencies. Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, or intensity, or with an assurance of their happening, are unallowable. (The term "contingency reserve" excludes self-insurance, pension plan, and post-retirement health benefit reserves computed using acceptable actuarial cost methods; see Section B.12.)

10. Contributions and Donations.

    a. Charitable contributions and donations of grant funds, property, or grant-assisted services are unallowable. For nonprofit grantees, see OMB Circular A-122, Item 8, and see discussion of donations in A-122, Item 10.

    b. The value of services donated by employees or other persons paid with HPF grant funds or other Federal funds is unallowable.

    c. Donated goods (i.e., expendable personal property/supplies and donated use of space) may be furnished to a grantee, subgrantee, or grant-supported contractor. The value of the goods and space is not reimbursable as a direct or indirect cost. However, the value of the donations may be used to meet matching share requirements when determined in accordance with the conditions described in Chapter 14.

11. Curation. Costs of curation or exhibition of artifacts or other materials after the project end date are unallowable.

12. Entertainment. Costs of entertainment, including amusements, social activities, and any costs directly associated with such costs (such as tickets to shows or sporting events, meals, lodging, rentals, transportation, and gratuities) are unallowable. For nonprofit grantees, see OMB Circular A-122, Item 12.

13. Equipment. Equipment and other capital expenditures are unallowable as indirect costs. (See Section B.13, for the allowability of use allowances or depreciation on buildings, capital improvement, and equipment.)

14. Federal Properties. Costs related to federally owned properties are not eligible for HPF assistance. (However, see Chapter 6, Section H.3.i., for allowable costs for surveys on Federal lands.) Note that the Consolidated Rail Corporation is not an instrumentality of the Federal Government and is therefore eligible for grant assistance. (See 45 U.S.C. 741b.)

15. <u>Fines and Penalties</u>. Fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the grantee to comply with, Federal, state, local, or Indian tribal laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the Federal award or written instructions by NPS authorizing in advance such payments. For nonprofit grantees, see OMB Circular A-122, Item 14.

16. <u>Fundraising and Investment Management Costs</u>. Expenses and costs of organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, investment counsel, and similar expenses incurred to raise capital or obtain contributions are unallowable. For nonprofit grantees, see OMB Circular A-122, Item 19 for other unallowable fundraising costs.

17. <u>General Government Expenses</u>. The salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision or the chief executives of a Federally recognized Indian tribal government are considered a cost of general state or local government and are unallowable. For a federally recognized Indian tribal government, only that portion of the salaries and expenses of the office of the chief executive that is a cost of general government is unallowable; the portion of salaries and expenses directly attributable to managing and operating historic preservation programs by the chief tribal executive and his staff is allowable. Salaries and expenses of state legislatures, tribal councils, county supervisor or board, city council, school boards, etc., are unallowable.

18. <u>HABS/HAER Costs for Federal Supervision</u>. Payments of HPF grant funds to Federal officials supervising or otherwise administering HABS/HAER projects are not allowable. See exception for temporary limited employees in Chapter 6, Section E.7 in the Historic Preservation Grants Manual.

19. <u>Honoria</u>. Payments of HPF grant funds for honoraria are not allowable when the primary intent is to confer distinction on, or to symbolize respect, esteem, or admiration for, a recipient. (Payments for services rendered, such as a speaker's fee at a grant-assisted workshop, are allowable.)

20. <u>Idle Facilities and Idle Capacity</u>. For state and local government grantees, the provisions of OMB Circular A-87, Item B.24 are applicable. For nonprofit grantees, the provisions of OMB Circular A-122, Item 16, are applicable.

21. <u>Indirect Costs to Individuals</u>. Indirect costs to individuals under grantee-awarded subgrants and contracts are not allowable. "Overhead" or administrative support costs must be charged on a direct cost basis and documented by appropriate supporting documentation.

22. <u>Insurance and Indemnification</u>. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant agreement. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools which occur in the ordinary course of operations, are allowable. Indemnification includes securing the grantee against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the grantee only to the extent expressly provided for

in the Federal award. Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship are unallowable.

23. Interest and Other Financial Costs. Costs incurred for interest on borrowed capital or the use of a grantee's own funds, however represented, are unallowable, except as specifically provided in Item B.23 of this Chapter, or when authorized by Federal legislation. For nonprofit organizations, costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable, except to acquire capital assets and equipment by purchase or lease agreements on assets acquired after September 29, 1995. (See OMB Circular A-122, Item 19.)

24. Interpretive Expenses. Interpretive expenses, such as staff salaries or maintenance of interpretive devices (with the exception of purchase and installation costs for such devices in accordance with Section B.24 above) are unallowable.

25. Lobbying. The cost of certain activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to HPF grants, contracts, cooperative agreements, and loans shall be governed by 31 U.S.C. 1352 and the provisions of the Common Rule "New Restrictions on Lobbying," published in the *Federal Register* (55 FR 6736) on February 26, 1990, as well as the Office of Management and Budget's "Governmentwide Guidance for New Restrictions on Lobbying" and the associated notices published in the *Federal Register* at 54 FR 52306 (December 20, 1989), at 55 FR 24540 (June 15, 1990), and at 57 FR 1772 (January 15, 1992). The costs associated with activities or any form of communication designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation are unallowable. In addition, all recipients of Federal grant assistance over $100,000 must certify on the DI-2012 Form that they will not use grant funds for lobbying expenses. (See Chapter 7, Exhibit 7-D of the Historic Preservation Fund Grants Manual, for the DI-2012 form.)

    The costs of membership in the National Conference of State Historic Preservation Officers is an allowable cost (see explanation in Chapter 13, Section B.30 of the Historic Preservation Fund Grants Manual).

    a. Lobbying Provisions for Nonprofit Organizations. For nonprofit organizations, notwithstanding other provisions of OMB Circular A-122, costs associated with the following activities are unallowable:

        1) Attempts to influence the outcomes of any Federal, state, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity;

        2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;

        3) Any attempt to influence: the introduction of Federal or state legislation; or the enactment or modification of any pending Federal or state legislation:

(a) through communication with any member or employee of the Congress or state legislature (including efforts to influence State or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto enrolled legislation; or

(b) by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign, letter writing or telephone campaign; or

4) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

b. Exceptions. The following activities are excepted from the provisions detailed above:

1) Providing a technical and factual presentation of information on a topic directly related to the performance of a grant, contract or other agreement through hearing testimony, statements or letters to the Congress or a state legislature, or subdivision, member, or cognizant staff member thereof, in response to a documented request in accordance with the stipulations of OMB Circular A-122, Attachment B, Item 21.b.

2) Any lobbying made unallowable by subsection a.3), above, to influence state legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority or perform the grant, contract, or other agreement.

3) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

c. Indirect Costs.

1) When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures or paragraph B.3 of Attachment A of OMB Circular A-122.

2) Organizations shall submit as part of their annual indirect cost rate proposal a certification that the requirements and standards of this paragraph have been complied with.

3) Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to paragraph B.21 of Attachment A of OMB Circular A-122 complies with the requirements of that Circular.

4) Time logs, calendars, or similar records shall not be required to be created for the purposes of complying with this section

during any particular calendar month when: (1) the employee engages in lobbying, as defined in subsection a. and b. above, 25% or less of the employee's compensated hours of employment during that calendar month, and (2) within the preceding five-year period, the organization has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs. When conditions (1) and (2) above are met, organizations are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions (1) and (2) above are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

26. Maintenance and Administration. Costs of ongoing maintenance and administration of properties following HPF grant assistance are not allowable, in accordance with Section 102(a)(5) of the Act, as amended. This prohibition is not applicable to the National Trust.

27. Meals. Costs of meals for grantee employees, Review Board members (including any other state oversight or advisory boards), or CLG Commission members are unallowable except as per diem when such persons are on travel status in conjunction with activities eligible for HPF assistance.

28. Mitigation Expenses. Costs of mitigation activities performed as a condition or pre-condition for obtaining a Federal permit or license or funding by other Federal programs are not allowable.

29. Museums. Costs of museum exhibits, staff salaries, and other administrative expenses, including maintenance, are unallowable, if they are not directly related to HPF-eligible activities. (See Section B.18.)

30. Nonconformance with Applicable Secretary of the Interior's Standards. Work performed under grants, subgrants, or other contractual arrangements that do not conform to the applicable Secretary's Standards are unallowable costs.

31. Organization Costs. For nonprofit grantees, see OMB Circular A-122, Item 27.

32. Profits and Losses on Disposition of Depreciable Property or Other Capital Assets. For state and local government and Indian tribe grantees, see OMB Circular A-87, Item B.22. For nonprofit grantees, see OMB Circular A-122, Item 36.

33. Prohibition on Compensating Intervenors. Compensation to any person intervening in any proceeding under the Act is unallowable due to the provisions of Section 101(f) of the National Historic Preservation Act. (See Legal Expenses in Section B.27.)

34. Purchase Price. The purchase price of real property is not allowable as an eligible development project cost. (It is an allowable cost for an acquisition project because it is a direct and necessary contribution to achieve acquisition project purposes.)

35. Taxes. Taxes or tax penalties which the organization involved would not have been liable to pay under prudent management are unallowable. This includes

payroll tax penalties or interest paid on late taxes. (See Section B.47 for allowable taxes.)

36. Under-recovery of Cost Under Grant Agreements. Any excess cost not covered by the Federal contribution under one grant agreement is unallowable as a cost under any other Federal agreement. This includes, but is not limited to, the grantee's contributed portion of cost sharing agreements, or any under-recoveries through negotiation of lump sum for, or ceilings on, indirect costs. For nonprofit grantees, see OMB Circular A-122, Item B.22.

APPENDIX 3

OMB CIRCULAR A-87 (REVISED 5/4/95, As Further Amended 8/29/97)

CIRCULAR NO. A-87
Revised

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Cost Principles for State, Local, and Indian Tribal Governments

1. **Purpose**. This Circular establishes principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State and local governments and federally-recognized Indian tribal governments (governmental units).

2. **Authority**. This Circular is issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; the Chief Financial Officers Act of 1990; Reorganization Plan No. 2 of 1970; and Executive Order No. 11541 ("Prescribing the Duties of the Office of Management and Budget and the Domestic Policy Council in the Executive Office of the President").

3. **Background**. An interagency task force was established in 1987 to review existing cost principles for Federal awards to State, local, and Indian tribal governments. The task force studied Inspector General reports and recommendations, solicited suggestions for changes to the Circular from governmental units, and compared for consistency the provisions of other OMB cost principles circulars covering non-profit organizations and universities. A proposed revised Circular reflecting the results of those efforts was issued on October 12, 1988, and August 19, 1993. Extensive comments on the proposed revisions, discussions with interest groups, and related developments were considered in developing this revision.

4. **Rescissions**. This Circular rescinds and supersedes Circular A-87, issued January 15, 1981.

5. **Policy**. This Circular establishes principles and standards to provide a uniform approach for determining costs and to promote effective program delivery, efficiency, and better relationships between governmental units and the Federal Government. The principles are for determining allowable costs only. They are not intended to identify the circumstances or to dictate the extent of Federal and governmental unit participation in the financing of a particular Federal award. Provision for profit or other increment above cost is outside the scope of this Circular.

6. **Definitions**. Definitions of key terms used in this Circular are contained in Attachment A, Section B.

7. **Required Action**. Agencies responsible for administering programs that involve cost reimbursement contracts, grants, and other agreements with governmental units shall issue codified regulations to implement the provisions of this Circular and its Attachments by September 1, 1995.

8. **OMB Responsibilities**. The Office of Management and Budget (OMB) will review agency regulations and implementation of this Circular, and will provide policy interpretations and assistance to insure effective and efficient implementation. Any

exceptions will be subject to approval by OMB. Exceptions will only be made in particular cases where adequate justification is presented.

9. **Information Contact**. Further information concerning this Circular may be obtained by contacting the Office of Federal Financial Management, Financial Standards and Reporting Branch, Office of Management and Budget, Washington, DC 20503, telephone 202-395-3993.

10. **Policy Review Date**. OMB Circular A-87 will have a policy review three years from the date of issuance.

11. **Effective Date**. This Circular is effective as follows:

    - For costs charged indirectly or otherwise covered by the cost allocation plans described in Attachments C, D and E, this revision shall be applied to cost allocation plans and indirect cost proposals submitted or prepared for a governmental unit's fiscal year that begins on or after September 1, 1995.

    - For other costs, this revision shall be applied to all awards or amendments, including continuation or renewal awards, made on or after September 1, 1995.

Attachments

GENERAL PRINCIPLES FOR DETERMINING ALLOWABLE COSTS

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G. Interagency Services

H. Required Certifications

A. Purpose and Scope

1. Objectives. This Attachment establishes principles for determining the allowable costs incurred by State, local, and federally-recognized Indian tribal governments (governmental units) under grants, cost reimbursement contracts, and other agreements with the Federal Government (collectively referred to in this Circular as "Federal awards"). The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal or governmental unit participation in the financing of a particular program or project. The principles are designed to provide that Federal awards bear their fair share of cost recognized under these principles except where restricted or prohibited by law. Provision for profit or other increment above cost is outside the scope of this Circular.

2. Policy guides.

   a. The application of these principles is based on the fundamental premises that:

      (1) Governmental units are responsible for the efficient and effective administration of Federal awards through the application of sound management practices.

      (2) Governmental units assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.

      (3) Each governmental unit, in recognition of its own unique combination of staff, facilities, and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration of Federal awards.

   b. Federal agencies should work with States or localities which wish to test alternative mechanisms for paying costs for administering Federal programs. The Office of Management and Budget (OMB) encourages Federal agencies to test fee-for-service alternatives as a replacement for current cost-reimbursement payment methods in response to the National Performance Review's (NPR) recommendation. The NPR recommended the fee-for-service approach to reduce the burden associated with maintaining systems for charging administrative costs to Federal programs and preparing and approving cost allocation plans. This approach should also increase incentives for administrative efficiencies and improve outcomes.

3. Application.

   a. These principles will be applied by all Federal agencies in determining costs incurred by governmental units under Federal awards (including subawards) except those with (1) publicly-financed educational institutions subject to OMB Circular A-21, "Cost Principles for Educational Institutions," and (2) programs administered by publicly-owned hospitals and other providers of medical care that are subject to requirements promulgated by the sponsoring Federal agencies. However, this Circular does apply to all central service and department/agency costs that are allocated or billed to those educational institutions, hospitals, and other providers of medical care or services by other State and local government departments and agencies.

b. All subawards are subject to those Federal cost principles applicable to the particular organization concerned. Thus, if a subaward is to a governmental unit (other than a college, university or hospital), this Circular shall apply; if a subaward is to a commercial organization, the cost principles applicable to commercial organizations shall apply; if a subaward is to a college or university, Circular A-21 shall apply; if a subaward is to a hospital, the cost principles used by the Federal awarding agency for awards to hospitals shall apply, subject to the provisions of subsection A.3.a. of this Attachment; if a subaward is to some other non-profit organization, Circular A-122, "Cost Principles for Non-Profit Organizations," shall apply.

c. These principles shall be used as a guide in the pricing of fixed price arrangements where costs are used in determining the appropriate price.

d. Where a Federal contract awarded to a governmental unit incorporates a Cost Accounting Standards (CAS) clause, the requirements of that clause shall apply. In such cases, the governmental unit and the cognizant Federal agency shall establish an appropriate advance agreement on how the governmental unit will comply with applicable CAS requirements when estimating, accumulating and reporting costs under CAS-covered contracts. The agreement shall indicate that OMB Circular A-87 requirements will be applied to other Federal awards. In all cases, only one set of records needs to be maintained by the governmental unit.

e. Conditional exemptions.

(1) OMB authorizes conditional exemption from OMB administrative requirements and cost principles circulars for certain Federal programs with statutorily-authorized consolidated planning and consolidated administrative funding, that are identified by a Federal agency and approved by the head of the Executive department or establishment. A Federal agency shall consult with OMB during its consideration of whether to grant such an exemption.

(2) To promote efficiency in State and local program administration, when Federal non-entitlement programs with common purposes have specific statutorily-authorized consolidated planning and consolidated administrative funding and where most of the State agency's resources come from non-Federal sources, Federal agencies may exempt these covered State-administered, non-entitlement grant programs from certain OMB grants management requirements. The

exemptions would be from all but the allocability of costs provisions of OMB Circulars A-87 (Attachment A, subsection C.3), "Cost Principles for State, Local, and Indian Tribal Governments," A-21 (Section C, subpart 4), "Cost Principles for Educational Institutions," and A-122 (Attachment A, subsection A.4), "Cost Principles for Non-Profit Organizations," and from all of the administrative requirements provisions of OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," and the agencies' grants management common rule.

(3) When a Federal agency provides this flexibility, as a prerequisite to a State's exercising this option, a State must adopt its own written fiscal and administrative requirements for expending and accounting for all funds, which are consistent with the provisions of OMB Circular A-87, and extend such policies to all subrecipients. These fiscal and administrative requirements must be sufficiently specific to ensure that: funds are used in compliance with all applicable Federal statutory and regulatory provisions, costs are reasonable and necessary for operating these programs, and funds are not be used for general expenses required to carry out other responsibilities of a State or its subrecipients.

B. **Definitions**

1. "Approval or authorization of the awarding or cognizant Federal agency" means documentation evidencing consent prior to incurring a specific cost. If such costs are specifically identified in a Federal award document, approval of the document constitutes approval of the costs. If the costs are covered by a State/local-wide cost allocation plan or an indirect cost proposal, approval of the plan constitutes the approval.

2. "Award" means grants, cost reimbursement contracts and other agreements between a State, local and Indian tribal government and the Federal Government.

3. "Awarding agency" means (a) with respect to a grant, cooperative agreement, or cost reimbursement contract, the Federal agency, and (b) with respect to a subaward, the party that awarded the subaward.

4. "Central service cost allocation plan" means the documentation identifying, accumulating, and allocating or developing billing rates based on the allowable costs of services provided by a governmental unit on a centralized basis to its departments and agencies. The costs of these services may be allocated or billed to users.

5. "Claim" means a written demand or written assertion by the governmental unit or grantor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of award terms, or other relief arising under or relating to the award. A voucher, invoice or other routine request for payment that is not a dispute when submitted is not a claim. Appeals, such as those filed by a governmental unit in response to questioned audit costs, are not considered claims until a final management decision is

made by the Federal awarding agency.

6. "Cognizant agency" means the Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed under this Circular on behalf of all Federal agencies. OMB publishes a listing of cognizant agencies.

7. "Common Rule" means the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Final Rule" originally issued at 53 FR 8034-8103 (March 11, 1988). Other common rules will be referred to by their specific titles.

8. "Contract" means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to): awards and notices of awards; job orders or task orders issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and, bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301 et seq.

9. "Cost" means an amount as determined on a cash, accrual, or other basis acceptable to the Federal awarding or cognizant agency. It does not include transfers to a general or similar fund.

10. "Cost allocation plan" means central service cost allocation plan, public assistance cost allocation plan, and indirect cost rate proposal. Each of these terms are further defined in this section.

11. "Cost objective" means a function, organizational subdivision, contract, grant, or other activity for which cost data are needed and for which costs are incurred.

12. "Federally-recognized Indian tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any native village as defined in Section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.

13. "Governmental unit" means the entire State, local, or federally-recognized Indian tribal government, including any component thereof. Components of governmental units may function independently of the governmental unit in accordance with the term of the award.

14. "Grantee department or agency" means the component of a State, local, or federally-recognized Indian tribal government which is responsible for the performance or administration of all or some part of a Federal award.

15. "Indirect cost rate proposal" means the documentation prepared by a governmental unit or component thereof to substantiate its request for the establishment of an indirect cost rate as described in Attachment E of this

Circular.

16. "Local government" means a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (whether or not incorporated as a non-profit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

17. "Public assistance cost allocation plan" means a narrative description of the procedures that will be used in identifying, measuring and allocating all administrative costs to all of the programs administered or supervised by State public assistance agencies as described in Attachment D of this Circular.

18. "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments.

C. **Basic Guidelines**

1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:

   a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.

   b. Be allocable to Federal awards under the provisions of this Circular.

   c. Be authorized or not prohibited under State or local laws or regulations.

   d. Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items.

   e. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.

   f. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.

   g. Except as otherwise provided for in this Circular, be determined in accordance with generally accepted accounting principles.

   h. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation.

   i. Be the net of all applicable credits.

   j. Be adequately documented.

2. Reasonable costs. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when governmental units or components are predominately federally- funded. In determining reasonableness of a given cost, consideration shall be given to:

   a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the Federal award.

   b. The restraints or requirements imposed by such factors as: sound business practices; arms length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the Federal award.

   c. Market prices for comparable goods or services.

   d. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large, and the Federal Government.

   e. Significant deviations from the established practices of the governmental unit which may unjustifiably increase the Federal award's cost.

3. Allocable costs.

   a. A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.

   b. All activities which benefit from the governmental unit's indirect cost, including unallowable activities and services donated to the governmental unit by third parties, will receive an appropriate allocation of indirect costs.

   c. Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons. However, this prohibition would not preclude governmental units from shifting costs that are allowable under two or more awards in accordance with existing program agreements.

   d. Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required as described in Attachments C, D, and E.

4. Applicable credits.

   a. Applicable credits refer to those receipts or reduction of expenditure-type transactions that offset or reduce expense items allocable to Federal awards as direct or indirect costs. Examples of such transactions are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the governmental unit relate to allowable costs, they shall be credited to the Federal award either as a cost reduction or cash refund, as appropriate.

b. In some instances, the amounts received from the Federal Government to finance activities or service operations of the governmental unit should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) should be recognized in determining the rates or amounts to be charged to Federal awards. (See Attachment B, item 15, "Depreciation and use allowances," for areas of potential application in the matter of Federal financing of activities.)

D. **Composition of Cost**

1. Total cost. The total cost of Federal awards is comprised of the allowable direct cost of the program, plus its allocable portion of allowable indirect costs, less applicable credits.

2. Classification of costs. There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost. Guidelines for determining direct and indirect costs charged to Federal awards are provided in the sections that follow.

E. **Direct Costs**

1. General. Direct costs are those that can be identified specifically with a particular final cost objective.

2. Application. Typical direct costs chargeable to Federal awards are:

a. Compensation of employees for the time devoted and identified specifically to the performance of those awards.

b. Cost of materials acquired, consumed, or expended specifically for the purpose of those awards.

c. Equipment and other approved capital expenditures.

d. Travel expenses incurred specifically to carry out the award.

3. Minor items. Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where such accounting treatment for that item of cost is consistently applied to all cost objectives.

F. **Indirect Costs**

1. General. Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of

this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs within a governmental unit department or in other agencies providing services to a governmental unit department. Indirect cost pools should be distributed to benefited cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

2. Cost allocation plans and indirect cost proposals. Requirements for development and submission of cost allocation plans and indirect cost rate proposals are contained in Attachments C, D, and E.

3. Limitation on indirect or administrative costs.

   a. In addition to restrictions contained in this Circular, there may be laws that further limit the amount of administrative or indirect cost allowed.

   b. Amounts not recoverable as indirect costs or administrative costs under one Federal award may not be shifted to another Federal award, unless specifically authorized by Federal legislation or regulation.

G. **Interagency Services**. The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro rate share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Attachment C.

H. **Required Certifications**. Each cost allocation plan or indirect cost rate proposal required by Attachments C and E must comply with the following:

1. No proposal to establish a cost allocation plan or an indirect cost rate, whether submitted to a Federal cognizant agency or maintained on file by the governmental unit, shall be acceptable unless such costs have been certified by the governmental unit using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth in Attachments C and E. The certificate must be signed on behalf of the governmental unit by an individual at a level no lower than chief financial officer of the governmental unit that submits the proposal or component covered by the proposal.

2. No cost allocation plan or indirect cost rate shall be approved by the Federal Government unless the plan or rate proposal has been certified. Where it is necessary to establish a cost allocation plan or an indirect cost rate and the governmental unit has not submitted a certified proposal for establishing such a plan or rate in accordance with the requirements, the Federal Government may either disallow all indirect costs or unilaterally establish such a plan or rate. Such a plan or rate may be based upon audited historical data or such other data that have been furnished to the cognizant Federal agency and for which it can be demonstrated that all unallowable costs have been excluded. When a cost allocation plan or indirect cost rate is unilaterally established by the Federal Government because of failure of the governmental unit to submit a certified proposal, the plan or rate established will be set to ensure that potentially unallowable costs will not be reimbursed.

SELECTED ITEMS OF COST

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Sections 1 through 42 provide principles to be applied in establishing the allowability or unallowability of certain items of cost. These principles apply whether a cost is treated as direct or indirect. A cost is allowable for Federal reimbursement only to the extent of benefits received by Federal awards and its conformance with the general policies and principles stated in Attachment A to this Circular. Failure to mention a particular item of cost in these sections is not intended to imply that it is either allowable or unallowable; rather, determination of allowability in each case should be based on the treatment or standards provided for similar or related items of cost.

1. **Accounting**. The cost of establishing and maintaining accounting and other information systems is allowable.

2. **Advertising and public relations costs**.

   a. The term "advertising costs" means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.

   b. The term "public relations" includes community relations and means those activities dedicated to maintaining the image of the governmental unit or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

   c. Advertising costs are allowable only when incurred for the recruitment of personnel, the procurement of goods and services, the disposal of surplus materials, and any other specific purposes necessary to meet the requirements of the Federal award. Advertising costs associated with the disposal of surplus materials are not allowable where all disposal costs are reimbursed based on a standard rate as specified in the grants management common rule.

   d. Public relations costs are allowable when:

      (1) Specifically required by the Federal award and then only as a direct cost;

      (2) Incurred to communicate with the public and press pertaining to specific activities or accomplishments that result from performance of the Federal award and then only as a direct cost; or

      (3) Necessary to conduct general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of Federal contract/grant awards, financial matters, etc.

   e. Unallowable advertising and public relations costs include the following:

      (1) All advertising and public relations costs other than as specified in subsections c. and d.;

      (2) Except as otherwise permitted by these cost principles, costs of conventions, meetings, or other events related to other activities of

the governmental unit including:

(a) Costs of displays, demonstrations, and exhibits;

(b) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and

(c) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;

(3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs; and

(4) Costs of advertising and public relations designed solely to promote the governmental unit.

3. **Advisory councils**. Costs incurred by advisory councils or committees are allowable as a direct cost where authorized by the Federal awarding agency or as an indirect cost where allocable to Federal awards.

4. **Alcoholic beverages**. Costs of alcoholic beverages are unallowable.

5. **Audit services**. The costs of audits are allowable provided that the audits were performed in accordance with the Single Audit Act, as implemented by Circular A-128, "Audits of State and Local Governments." [Note: In June 1997, OMB rescinded Circular A-128 and co-located all audit requirements in a re-titled Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."] Generally, the percentage of costs charged to Federal awards for a single audit shall not exceed the percentage derived by dividing Federal funds expended by total funds expended by the recipient or subrecipient (including program matching funds) during the fiscal year. The percentage may be exceeded only if appropriate documentation demonstrates higher actual costs.

   Other audit costs are allowable if specifically approved by the awarding or cognizant agency as a direct cost to an award or included as an indirect cost in a cost allocation plan or rate.

6. **Automatic electronic data processing**. The cost of data processing services is allowable (but see section 19, Equipment and other capital expenditures).

7. **Bad debts**. Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable unless provided for in Federal program award regulations.

8. **Bonding costs**. Costs of bonding employees and officials are allowable to the extent that such bonding is in accordance with sound business practice.

9. **Budgeting**. Costs incurred for the development, preparation, presentation, and execution of budgets are allowable.

10. **Communications**. Costs of telephone, mail, messenger, and similar communication services are allowable.

11. **Compensation for personnel services**.

a. General. Compensation for personnel services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under Federal awards, including but not necessarily limited to wages, salaries, and fringe benefits. The costs of such compensation are allowable to the extent that they satisfy the specific requirements of this Circular, and that the total compensation for individual employees:

(1) Is reasonable for the services rendered and conforms to the established policy of the governmental unit consistently applied to both Federal and non-Federal activities;

(2) Follows an appointment made in accordance with a governmental unit's laws and rules and meets merit system or other requirements required by Federal law, where applicable; and

(3) Is determined and supported as provided in subsection h.

b. Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the governmental unit. In cases where the kinds of employees required for Federal awards are not found in the other activities of the governmental unit, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

c. Unallowable costs. Costs which are unallowable under other sections of these principles shall not be allowable under this section solely on the basis that they constitute personnel compensation.

d. Fringe benefits.

(1) Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave, employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable to the extent that the benefits are reasonable and are required by law, governmental unit-employee agreement, or an established policy of the governmental unit.

(2) The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, holidays, court leave, military leave, and other similar benefits, are allowable if: (a) they are provided under established written leave policies; (b) the costs are equitably allocated to all related activities, including Federal awards; and, (c) the accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the governmental unit.

(3) When a governmental unit uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment provided they are allocated as a general administrative expense to all activities

of the governmental unit or component.

(4) The accrual basis may be only used for those types of leave for which a liability as defined by Generally Accepted Accounting Principles (GAAP) exists when the leave is earned. When a governmental unit uses the accrual basis of accounting, in accordance with GAAP, allowable leave costs are the lesser of the amount accrued or funded.

(5) The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in section 25, Insurance and indemnification); pension plan costs (see subsection e.); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits, whether treated as indirect costs or as direct costs, shall be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities.

e. Pension plan costs. Pension plan costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the governmental unit.

(1) For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(2) Pension costs calculated using an actuarial cost- based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant agency may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursement and the governmental unit's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the pension fund.

(3) Amounts funded by the governmental unit in excess of the actuarially determined amount for a fiscal year may be used as the governmental unit's contribution in future periods.

(4) When a governmental unit converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion shall be allowable if amortized over a period of years in accordance with GAAP.

(5) The Federal Government shall receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.

f. Post-retirement health benefits. Post-retirement health benefits (PRHB) refers to costs of health insurance or health services not included in a pension plan covered by subsection e. for retirees and their spouses, dependents, and survivors. PRHB costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written polices of the governmental unit.

(1) For PRHB financed on a pay as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(2) PRHB costs calculated using an actuarial cost method recognized by GAAP are allowable if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant agency may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursements and the governmental unit's contributions to the PRHB fund. Adjustments may be made by cash refund, reduction in current year's PRHB costs, or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the PRHB fund.

(3) Amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the government's contribution in a future period.

(4) When a governmental unit converts to an acceptable actuarial cost method and funds PRHB costs in accordance with this method, the initial unfunded liability attributable to prior years shall be allowable if amortized over a period of years in accordance with GAAP, or, if no such GAAP period exists, over a period negotiated with the cognizant agency.

(5) To be allowable in the current year, the PRHB costs must be paid either to:

(a) An insurer or other benefit provider as current year costs or premiums, or

(b) An insurer or trustee to maintain a trust fund or reserve for the sole purpose of providing post-retirement benefits to retirees and other beneficiaries.

(6) The Federal Government shall receive an equitable share of any amounts of previously allowed post-retirement benefit costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.

g. Severance pay.

(1) Payments in addition to regular salaries and wages made to workers whose employment is being terminated are allowable to the extent that, in each case, they are required by (a) law, (b) employer-employee agreement, or (c) established written policy.

(2) Severance payments (but not accruals) associated with normal turnover are allowable. Such payments shall be allocated to all activities of the governmental unit as an indirect cost.

(3) Abnormal or mass severance pay will be considered on a case-by-case basis and is allowable only if approved by the cognizant Federal agency.

h. Support of salaries and wages. These standards regarding time distribution are in addition to the standards for payroll documentation.

(1) Charges to Federal awards for salaries and wages, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official(s) of the governmental unit.

(2) No further documentation is required for the salaries and wages of employees who work in a single indirect cost activity.

(3) Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.

(4) Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5) unless a statistical sampling system (see subsection (6)) or other substitute system has been approved by the cognizant Federal agency. Such documentary support will be required where employees work on:

(a) More than one Federal award,

(b) A Federal award and a non-Federal award,

(c) An indirect cost activity and a direct cost activity,

(d) Two or more indirect activities which are allocated using different allocation bases, or

(e) An unallowable activity and a direct or indirect cost activity.

(5) Personnel activity reports or equivalent documentation must meet the following standards:

(a) They must reflect an after-the-fact distribution of the actual activity of each employee,

(b) They must account for the total activity for which each employee is compensated,

(c) They must be prepared at least monthly and must coincide with one or more pay periods, and

(d) They must be signed by the employee.

(e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that:

(i) The governmental unit's system for establishing the estimates produces reasonable approximations of the activity actually performed;

(ii) At least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made. Costs charged to Federal awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and

(iii) The budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.

(6) Substitute systems for allocating salaries and wages to Federal awards may be used in place of activity reports. These systems are subject to approval if required by the cognizant agency. Such systems may include, but are not limited to, random moment sampling, case counts, or other quantifiable measures of employee effort.

(a) Substitute systems which use sampling methods (primarily for Aid to Families with Dependent Children (AFDC), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

(i) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in subsection (c);

(ii) The entire time period involved must be covered by the sample; and

(iii) The results must be statistically valid and applied to the period being sampled.

(b) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(c) Less than full compliance with the statistical sampling standards noted in subsection (a) may be accepted by the cognizant agency if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the governmental unit will result in lower costs to Federal awards than a system which complies with the standards.

(7) Salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner as those claimed as allowable costs under Federal awards.

i. Donated services.

(1) Donated or volunteer services may be furnished to a governmental unit by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of the Common Rule.

(2) The value of donated services utilized in the performance of a direct cost activity shall, when material in amount, be considered in the determination of the governmental unit's indirect costs or rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs.

(3) To the extent feasible, donated services will be supported by the same methods used by the governmental unit to support the allocability of regular personnel services.

12. **Contingencies**. Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, or intensity, or with an assurance of their happening, are unallowable. The term "contingency reserve" excludes self-insurance reserves (see subsection 25.c.), pension plan reserves (see subsection 11.e.), and post-retirement health and other benefit reserves (see subsection 11.f.) computed using acceptable actuarial cost methods.

13. **Contributions and donations**. Contributions and donations, including cash, property, and services, by governmental units to others, regardless of the recipient, are unallowable.

14. **Defense and prosecution of criminal and civil proceedings, and claims**.

a. The following costs are unallowable for contracts covered by 10 U.S.C. 2324(k), "Allowable costs under defense contracts."

(1) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of false certification brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

(2) Costs incurred by a contractor in connection with any criminal, civil or administrative proceedings commenced by the United States or a State to the extent provided in 10 U.S.C. 2324(k).

b. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal

Government are unallowable.

15. **Depreciation and use allowances**.

a. Depreciation and use allowances are means of allocating the cost of fixed assets to periods benefiting from asset use. Compensation for the use of fixed assets on hand may be made through depreciation or use allowances. A combination of the two methods may not be used in connection with a single class of fixed assets (e.g., buildings, office equipment, computer equipment, etc.) except as provided in subsection g. Except for enterprise funds and internal service funds that are included as part of a State/local cost allocation plan, classes of assets shall be determined on the same basis used for the government-wide financial statements.

b. The computation of depreciation or use allowances shall be based on the acquisition cost of the assets involved. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used. The value of an asset donated to the governmental unit by an unrelated third party shall be its fair market value at the time of donation. Governmental or quasi-governmental organizations located within the same State shall not be considered unrelated third parties for this purpose.

c. The computation of depreciation or use allowances will exclude:

(1) The cost of land;

(2) Any portion of the cost of buildings and equipment borne by or donated by the Federal Government irrespective of where title was originally vested or where it presently resides; and

(3) Any portion of the cost of buildings and equipment contributed by or for the governmental unit, or a related donor organization, in satisfaction of a matching requirement.

d. Where the use allowance method is followed, the use allowance for buildings and improvements (including land improvements, such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition costs. The use allowance for equipment will be computed at an annual rate not exceeding 6 2/3 percent of acquisition cost. When the use allowance method is used for buildings, the entire building must be treated as a single asset; the building's components (e.g., plumbing system, heating and air condition, etc.) cannot be segregated from the building's shell. The two percent limitation, however, need not be applied to equipment which is merely attached or fastened to the building but not permanently fixed to it and which is used as furnishings or decorations or for specialized purposes (e.g., dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, modular furniture, carpeting, etc.). Such equipment will be considered as not being permanently fixed to the building if it can be removed without the destruction of, or need for costly or extensive alterations or repairs, to the building or the equipment. Equipment that meets these criteria will be subject to the 6 2/3 percent equipment use allowance limitation.

e. Where the depreciation method is followed, the period of useful service (useful life) established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment used, historical usage patterns, technological developments, and the renewal and replacement policies of the governmental unit followed for the individual items or classes of assets involved. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight line method of depreciation shall be used. Depreciation methods once used shall not be changed unless approved by the Federal cognizant or awarding agency. When the depreciation method is introduced for application to an asset previously subject to a use allowance, the annual depreciation charge thereon may not exceed the amount that would have resulted had the depreciation method been in effect from the date of acquisition of the asset. The combination of use allowances and depreciation applicable to the asset shall not exceed the total acquisition cost of the asset or fair market value at time of donation.

f. When the depreciation method is used for buildings, a building's shell may be segregated from the major component of the building (e.g., plumbing system, heating, and air conditioning system, etc.) and each major component depreciated over its estimated useful life, or the entire building (i.e., the shell and all components) may be treated as a single asset and depreciated over a single useful life.

g. A reasonable use allowance may be negotiated for any assets that are considered to be fully depreciated, after taking into consideration the amount of depreciation previously charged to the government, the estimated useful life remaining at the time of negotiation, the effect of any increased maintenance charges, decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purpose contemplated.

h. Charges for use allowances or depreciation must be supported by adequate property records. Physical inventories must be taken at least once every two years (a statistical sampling approach is acceptable) to ensure that assets exist, and are in use. Governmental units will manage equipment in accordance with State laws and procedures. When the depreciation method is followed, depreciation records indicating the amount of depreciation taken each period must also be maintained.

16. **Disbursing service**. The cost of disbursing funds by the Treasurer or other designated officer is allowable.

17. **Employee morale, health, and welfare costs**. The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employee counseling services, employee information publications, and any related expenses incurred in accordance with a governmental unit's policy are allowable. Income generated from any of these activities will be offset against expenses.

18. **Entertainment**. Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.

19. **Equipment and other capital expenditures**.

a. As used in this section the following terms have the meanings as set forth below:

(1) "Capital expenditure" means the cost of the asset including the cost to put it in place. Capital expenditure for equipment means the net

invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in, or excluded from, capital expenditure cost in accordance with the governmental unit's regular accounting practices.

(2) "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals the lesser of (a) the capitalization level established by the governmental unit for financial statement purposes, or (b) $5000.

(3) "Other capital assets" mean buildings, land, and improvements to buildings or land that materially increase their value or useful life.

b. Capital expenditures which are not charged directly to a Federal award may be recovered through use allowances or depreciation on buildings, capital improvements, and equipment (see section 15). See also section 38 for allowability of rental costs for buildings and equipment.

c. Capital expenditures for equipment, including replacement equipment, other capital assets, and improvements which materially increase the value or useful life of equipment or other capital assets are allowable as a direct cost when approved by the awarding agency. Federal awarding agencies are authorized at their option to waive or delegate this approval requirement.

d. Items of equipment with an acquisition cost of less than $5000 are considered to be supplies and are allowable as direct costs of Federal awards without specific awarding agency approval.

e. The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by (1) continuing to claim the otherwise allowable use allowances or depreciation charges on the equipment or by (2) amortizing the amount to be written off over a period of years negotiated with the cognizant agency.

f. When replacing equipment purchased in whole or in part with Federal funds, the governmental unit may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

20. **Fines and penalties**. Fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the governmental unit to comply with, Federal, State, local, or Indian tribal laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the Federal award or written instructions by the awarding agency authorizing in advance such payments.

21. **Fund raising and investment management costs**.

a. Costs of organized fund raising, including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable, regardless of the purpose for which the funds will be used.

b. Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable. However, such costs associated with investments covering pension, self-insurance, or other funds which include Federal participation allowed by this Circular are allowable.

c. Fund raising and investment activities shall be allocated an appropriate share of indirect costs under the conditions described in subsection C.3.b. of Attachment A.

22. **Gains and losses on disposition of depreciable property and other capital assets and substantial relocation of Federal programs**.

a.

(1) Gains and losses on the sale, retirement, or other disposition of depreciable property shall be included in the year in which they occur as credits or charges to the asset cost grouping(s) in which the property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate asset cost grouping(s) shall be the difference between the amount realized on the property and the undepreciated basis of the property.

(2) Gains and losses on the disposition of depreciable property shall not be recognized as a separate credit or charge under the following conditions:

(a) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under sections 15 and 19.

(b) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

(c) A loss results from the failure to maintain permissible insurance, except as otherwise provided in subsection 25.d.

(d) Compensation for the use of the property was provided through use allowances in lieu of depreciation.

b. Substantial relocation of Federal awards from a facility where the Federal Government participated in the financing to another facility prior to the expiration of the useful life of the financed facility requires Federal agency approval. The extent of the relocation, the amount of the Federal participation in the financing, and the depreciation charged to date may require negotiation of space charges for Federal awards.

c. Gains or losses of any nature arising from the sale or exchange of property other than the property covered in subsection a., e.g., land or included in the fair market value used in any adjustment resulting from a relocation of Federal awards covered in subsection b. shall be excluded in computing Federal award costs.

23. **General government expenses**.

a. The general costs of government are unallowable (except as provided in section 41). These include:

(1) Salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision or the chief executives of federally-recognized Indian tribal governments;

(2) Salaries and other expenses of State legislatures, tribal councils, or similar local governmental bodies, such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction;

(3) Cost of the judiciary branch of a government;

(4) Cost of prosecutorial activities unless treated as a direct cost to a specific program when authorized by program regulations (however, this does not preclude the allowability of other legal activities of the Attorney General); and

(5) Other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost in program regulations.

b. For federally-recognized Indian tribal governments and Councils Of Governments (COGs), the portion of salaries and expenses directly attributable to managing and operating Federal programs by the chief executive and his staff is allowable.

24. **Idle facilities and idle capacity**.

a. As used in this section the following terms have the meanings set forth below:

(1) "Facilities" means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the governmental unit.

(2) "Idle facilities" means completely unused facilities that are excess to the governmental unit's current needs.

(3) "Idle capacity" means the unused capacity of partially used facilities. It is the difference between (a) that which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays and (b) the extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved.

(4) "Cost of idle facilities or idle capacity" means costs such as maintenance, repair, housing, rent, and other related costs, e.g., insurance, interest, and depreciation or use allowances.

b. The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet fluctuations in workload; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subsection, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities.

c. The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by use on other Federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be considered idle facilities.

25. **Insurance and indemnification**.

a. Costs of insurance required or approved and maintained, pursuant to the Federal award, are allowable.

b. Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(1) Types and extent and cost of coverage are in accordance with the governmental unit's policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the awarding agency has specifically required or approved such costs.

c. Actual losses which could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable, unless expressly provided for in the Federal award or as described below. However, the Federal Government will participate in actual losses of a self insurance fund that are in excess of reserves. Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

d. Contributions to a reserve for certain self-insurance programs including workers compensation, unemployment compensation, and severance pay are allowable subject to the following provisions:

(1) The type of coverage and the extent of coverage and the rates and premiums would have been allowed had insurance (including reinsurance) been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, shall not exceed the discounted present value of the liability. The rate used for discounting the liability must be determined by giving consideration to such factors as the governmental unit's settlement

rate for those liabilities and its investment rate of return.

(2) Earnings or investment income on reserves must be credited to those reserves.

(3) Contributions to reserves must be based on sound actuarial principles using historical experience and reasonable assumptions. Reserve levels must be analyzed and updated at least biennially for each major risk being insured and take into account any reinsurance, coinsurance, etc. Reserve levels related to employee-related coverages will normally be limited to the value of claims (a) submitted and adjudicated but not paid, (b) submitted but not adjudicated, and (c) incurred but not submitted. Reserve levels in excess of the amounts based on the above must be identified and justified in the cost allocation plan or indirect cost rate proposal.

(4) Accounting records, actuarial studies, and cost allocations (or billings) must recognize any significant differences due to types of insured risk and losses generated by the various insured activities or agencies of the governmental unit. If individual departments or agencies of the governmental unit experience significantly different levels of claims for a particular risk, those differences are to be recognized by the use of separate allocations or other techniques resulting in an equitable allocation.

(5) Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund), refunds shall be made to the Federal Government for its share of funds transferred, including earned or imputed interest from the date of transfer.

e. Actual claims paid to or on behalf of employees or former employees for workers' compensation, unemployment compensation, severance pay, and similar employee benefits (e.g., subsection 11.f. for post retirement health benefits), are allowable in the year of payment provided (1) the governmental unit follows a consistent costing policy and (2) they are allocated as a general administrative expense to all activities of the governmental unit.

f. Insurance refunds shall be credited against insurance costs in the year the refund is received.

g. Indemnification includes securing the governmental unit against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the governmental unit only to the extent expressly provided for in the Federal award, except as provided in subsection d.

h. Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship are unallowable.

26. **Interest**.

a. Costs incurred for interest on borrowed capital or the use of a governmental unit's own funds, however represented, are unallowable except as specifically provided in subsection b. or authorized by Federal legislation.

b. Financing costs (including interest) paid or incurred on or after the effective date of this Circular associated with the otherwise allowable costs of building acquisition, construction, or fabrication, reconstruction or remodeling completed on or after October 1, 1980 is allowable, subject to the conditions in (1)-(4). Financing costs (including interest) paid or incurred on or after the effective date of this Circular associated with otherwise allowable costs of equipment is allowable, subject to the conditions in (1)-(4).

(1) The financing is provided (from other than tax or user fee sources) by a bona fide third party external to the governmental unit;

(2) The assets are used in support of Federal awards;

(3) Earnings on debt service reserve funds or interest earned on borrowed funds pending payment of the construction or acquisition costs are used to offset the current period's cost or the capitalized interest, as appropriate. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.

(4) Governmental units will negotiate the amount of allowable interest whenever cash payments (interest, depreciation, use allowances, and contributions) exceed the governmental unit's cash payments and other contributions attributable to that portion of real property used for Federal awards.

27. **Lobbying**. The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to certain grants, contracts, cooperative agreements, and loans shall be governed by the common rule, "New Restrictions on Lobbying" published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget "Government-wide Guidance for New Restrictions on Lobbying" and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), and 57 FR 1772 (January 15, 1992), respectively.

28. **Maintenance, operations, and repairs**. Unless prohibited by law, the cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, necessary maintenance, normal repairs and alterations, and the like are allowable to the extent that they: (1) keep property (including Federal property, unless otherwise provided for) in an efficient operating condition, (2) do not add to the permanent value of property or appreciably prolong its intended life, and (3) are not otherwise included in rental or other charges for space. Costs which add to the permanent value of property or appreciably prolong its intended life shall be treated as capital expenditures (see sections 15 and 19).

29. **Materials and supplies**. The cost of materials and supplies is allowable. Purchases should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing, consistently applied. Incoming transportation charges are a proper part of materials and supply costs.

30. **Memberships, subscriptions, and professional activities**.

a. Costs of the governmental unit's memberships in business, technical, and professional organizations are allowable.

b. Costs of the governmental unit's subscriptions to business, professional, and technical periodicals are allowable.

c. Costs of meetings and conferences where the primary purpose is the dissemination of technical information, including meals, transportation, rental of meeting facilities, and other incidental costs are allowable.

d. Costs of membership in civic and community, social organizations are allowable as a direct cost with the approval of the Federal awarding agency.

e. Costs of membership in organizations substantially engaged in lobbying are unallowable.

31. **Motor pools**. The costs of a service organization which provides automobiles to user governmental units at a mileage or fixed rate and/or provides vehicle maintenance, inspection, and repair services are allowable.

32. **Pre-award costs**. Pre-award costs are those incurred prior to the effective date of the award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the awarding agency.

33. **Professional service costs**.

a. Cost of professional and consultant services rendered by persons or organizations that are members of a particular profession or possess a special skill, whether or not officers or employees of the governmental unit, are allowable, subject to section 14 when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government.

b. Retainer fees supported by evidence of bona fide services available or rendered are allowable.

34. **Proposal costs**. Costs of preparing proposals for potential Federal awards are allowable. Proposal costs should normally be treated as indirect costs and should be allocated to all activities of the governmental unit utilizing the cost allocation plan and indirect cost rate proposal. However, proposal costs may be charged directly to Federal awards with the prior approval of the Federal awarding agency.

35. **Publication and printing costs**. Publication costs, including the costs of printing (including the processes of composition, plate-making, press work, and binding, and the end products produced by such processes), distribution, promotion, mailing, and general handling are allowable.

36. **Rearrangements and alterations**. Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable. Special arrangements and alterations costs incurred specifically for a Federal award are allowable with the prior approval of the Federal awarding agency.

37. **Reconversion costs**. Costs incurred in the restoration or rehabilitation of the governmental unit's facilities to approximately the same condition existing immediately prior to commencement of Federal awards, less costs related to normal wear and tear, are allowable.

38. **Rental costs**.

a. Subject to the limitations described in subsections b. through d. of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and, the type, life expectancy, condition, and value of the property leased.

b. Rental costs under sale and leaseback arrangements are allowable only up to the amount that would be allowed had the governmental unit continued to own the property.

c. Rental costs under less-than-arms-length leases are allowable only up to the amount that would be allowed had title to the property vested in the governmental unit. For this purpose, less-than-arms-length leases include, but are not limited to, those where:

(1) One party to the lease is able to control or substantially influence the actions of the other;

(2) Both parties are parts of the same governmental unit; or

(3) The governmental unit creates an authority or similar entity to acquire and lease the facilities to the governmental unit and other parties.

d. Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount that would be allowed had the governmental unit purchased the property on the date the lease agreement was executed. This amount would include expenses such as depreciation or use allowance, maintenance, and insurance. The provisions of Financial Accounting Standards Board Statement 13 shall be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in section 26.

39. **Taxes**.

a. Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect Federal programs or changes in tax policies that disproportionately affect Federal programs. This provision becomes effective for taxes paid during the governmental unit's first fiscal year that begins on or after January 1, 1998, and applies thereafter.

b. Gasoline taxes, motor vehicle fees, and other taxes that are in effect user fees for benefits provided to the Federal Government are allowable.

c. This provision does not restrict the authority of Federal agencies to identify taxes where Federal participation is inappropriate. Where the identification of the amount of unallowable taxes would require an inordinate amount of effort, the cognizant agency may accept a reasonable approximation thereof.

40. **Training**. The cost of training provided for employee development is allowable.

41. **Travel costs**.

a. **General**. Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees traveling on official business. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in non-federally-sponsored activities. Notwithstanding the provisions of section 23, travel costs of officials covered by that section, when specifically related to Federal awards, are allowable with the prior approval of a grantor agency.

b. **Lodging and subsistence**. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the governmental unit in its regular operations as a result of the governmental unit's policy. In the absence of a written governmental unit policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57 of Title 5, United States Code "Travel and Subsistence Expenses; Mileage Allowances," or by the Administrator of General Services, or the President (or his designee) pursuant to any provisions of such subchapter shall be used as guidance for travel under Federal awards (41 U.S.C. 420, "Travel Expenses of Government Contractors").

c. **Commercial air travel**. Airfare costs in excess of the customary standard (coach or equivalent) airfare, are unallowable except when such accommodations would: require circuitous routing, require travel during unreasonable hours, excessively prolong travel, greatly increase the duration of the flight, result in increased cost that would offset transportation savings, or offer accommodations not reasonably adequate for the medical needs of the traveler. Where a governmental unit can reasonably demonstrate to the awarding agency either the nonavailability of customary standard airfare or Federal Government contract airfare for individual trips or, on an overall basis, that it is the governmental unit's practice to make routine use of such airfare, specific determinations of nonavailability will generally not be questioned by the Federal Government, unless a pattern of avoidance is detected. However, in order for airfare costs in excess of the customary standard commercial airfare to be allowable, e.g., use of first-class airfare, the governmental unit must justify and document on a case-by-case basis the applicable condition(s) set forth above.

d. **Air travel by other than commercial carrier**. Cost of travel by governmental unit-owned, -leased, or -chartered aircraft, as used in this section, includes the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, interest, insurance, and other related costs. Costs of travel via governmental unit-owned, -leased, or -chartered aircraft are unallowable to the extent they exceed the cost of allowable commercial air travel, as provided for in subsection c.

42. **Underrecovery of costs under Federal agreements**. Any excess costs over the Federal contribution under one award agreement are unallowable under other award agreements.

STATE/LOCAL-WIDE CENTRAL SERVICE COST ALLOCATION PLANS

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A. **General**.

1. Most governmental units provide certain services, such as motor pools, computer centers, purchasing, accounting, etc., to operating agencies on a centralized basis. Since federally-supported awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefited activities on a reasonable and consistent basis. The central service cost allocation plan provides that process. All costs and other data used to distribute the costs included in the plan should be supported by formal accounting and other records that will support the propriety of the costs assigned to Federal awards.

2. Guidelines and illustrations of central service cost allocation plans are provided in a brochure published by the Department of Health and Human Services entitled "A Guide for State and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect

Cost Rates for Grants and Contracts with the Federal Government." A copy of this brochure may be obtained from the Superintendent of Documents, U.S. Government Printing Office.

B. **Definitions**.

1. "Billed central services" means central services that are billed to benefited agencies and/or programs on an individual fee-for-service or similar basis. Typical examples of billed central services include computer services, transportation services, insurance, and fringe benefits.

2. "Allocated central services" means central services that benefit operating agencies but are not billed to the agencies on a fee-for-service or similar basis. These costs are allocated to benefited agencies on some reasonable basis. Examples of such services might include general accounting, personnel administration, purchasing, etc.

3. "Agency or operating agency" means an organizational unit or sub-division within a governmental unit that is responsible for the performance or administration of awards or activities of the governmental unit.

C. **Scope of the Central Service Cost Allocation Plans**. The central service cost allocation plan will include all central service costs that will be claimed (either as a billed or an allocated cost) under Federal awards and will be documented as described in section E. Costs of central services omitted from the plan will not be reimbursed.

D. **Submission Requirements**.

1. Each State will submit a plan to the Department of Health and Human Services for each year in which it claims central service costs under Federal awards. The plan should include (a) a projection of the next year's allocated central service cost (based either on actual costs for the most recently completed year or the budget projection for the coming year), and (b) a reconciliation of actual allocated central service costs to the estimated costs used for either the most recently completed year or the year immediately preceding the most recently completed year.

2. Each local government that has been designated as a "major local government" by the Office of Management and Budget (OMB) is also required to submit a plan to its cognizant agency annually. OMB periodically lists major local governments in the **Federal Register**.

3. All other local governments claiming central service costs must develop a plan in accordance with the requirements described in this Circular and maintain the plan and related supporting documentation for audit. These local governments are not required to submit their plans for Federal approval unless they are specifically requested to do so by the cognizant agency. Where a local government only receives funds as a sub-recipient, the primary recipient will be responsible for negotiating indirect cost rates and/or monitoring the sub-recipient's plan.

4. All central service cost allocation plans will be prepared and, when required, submitted within six months prior to the beginning of each of the governmental unit's fiscal years in which it proposes to claim central service costs. Extensions may be granted by the cognizant agency on a case-by-case

basis.

E. **Documentation Requirements for Submitted Plans**. The documentation requirements described in this section may be modified, expanded, or reduced by the cognizant agency on a case-by-case basis. For example, the requirements may be reduced for those central services which have little or no impact on Federal awards. Conversely, if a review of a plan indicates that certain additional information is needed, and will likely be needed in future years, it may be routinely requested in future plan submissions. Items marked with an asterisk (*) should be submitted only once; subsequent plans should merely indicate any changes since the last plan.

1. General. All proposed plans must be accompanied by the following: an organization chart sufficiently detailed to show operations including the central service activities of the State/local government whether or not they are shown as benefiting from central service functions; a copy of the Comprehensive Annual Financial Report (or a copy of the Executive Budget if budgeted costs are being proposed) to support the allowable costs of each central service activity included in the plan; and, a certification (see subsection 4.) that the plan was prepared in accordance with this Circular, contains only allowable costs, and was prepared in a manner that treated similar costs consistently among the various Federal awards and between Federal and non-Federal awards/activities.

2. Allocated central services. For each allocated central service, the plan must also include the following: a brief description of the service*, an identification of the unit rendering the service and the operating agencies receiving the service, the items of expense included in the cost of the service, the method used to distribute the cost of the service to benefitted agencies, and a summary schedule showing the allocation of each service to the specific benefited agencies. If any self-insurance funds or fringe benefits costs are treated as allocated (rather than billed) central services, documentation discussed in subsections 3.b. and c. shall also be included.

3. Billed services.

   a. General. The information described below shall be provided for all billed central services, including internal service funds, self-insurance funds, and fringe benefit funds.

   b. Internal service funds.

      (1) For each internal service fund or similar activity with an operating budget of $5 million or more, the plan shall include: a brief description of each service; a balance sheet for each fund based on individual accounts contained in the governmental unit's accounting system; a revenue/expenses statement, with revenues broken out by source, e.g., regular billings, interest earned, etc.; a listing of all non-operating transfers (as defined by Generally Accepted Accounting Principles (GAAP)) into and out of the fund; a description of the procedures (methodology) used to charge the costs of each service to users, including how billing rates are determined; a schedule of current rates; and, a schedule comparing total revenues (including imputed revenues) generated by the service to the allowable costs of the service, as determined under this Circular, with an explanation of how variances will be handled.

(2) Revenues shall consist of all revenues generated by the service, including unbilled and uncollected revenues. If some users were not billed for the services (or were not billed at the full rate for that class of users), a schedule showing the full imputed revenues associated with these users shall be provided. Expenses shall be broken out by object cost categories (e.g., salaries, supplies, etc.).

c. Self-insurance funds. For each self-insurance fund, the plan shall include: the fund balance sheet; a statement of revenue and expenses including a summary of billings and claims paid by agency; a listing of all non-operating transfers into and out of the fund; the type(s) of risk(s) covered by the fund (e.g., automobile liability, workers' compensation, etc.); an explanation of how the level of fund contributions are determined, including a copy of the current actuarial report (with the actuarial assumptions used) if the contributions are determined on an actuarial basis; and, a description of the procedures used to charge or allocate fund contributions to benefited activities. Reserve levels in excess of claims (1) submitted and adjudicated but not paid, (2) submitted but not adjudicated, and (3) incurred but not submitted must be identified and explained.

d. Fringe benefits. For fringe benefit costs, the plan shall include: a listing of fringe benefits provided to covered employees, and the overall annual cost of each type of benefit; current fringe benefit policies*; and procedures used to charge or allocate the costs of the benefits to benefited activities. In addition, for pension and post-retirement health insurance plans, the following information shall be provided: the governmental unit's funding policies, e.g., legislative bills, trust agreements, or State-mandated contribution rules, if different from actuarially determined rates; the pension plan's costs accrued for the year; the amount funded, and date(s) of funding; a copy of the current actuarial report (including the actuarial assumptions); the plan trustee's report; and, a schedule from the activity showing the value of the interest cost associated with late funding.

4. Required certification. Each central service cost allocation plan will be accompanied by a certification in the following form:

CERTIFICATE OF COST ALLOCATION PLAN

This is to certify that I have reviewed the cost allocation plan submitted herewith and to the best of my knowledge and belief:

(1) All costs included in this proposal [identify date] to establish cost allocations or billings for [identify period covered by plan] are allowable in accordance with the requirements of OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," and the Federal award(s) to which they apply. Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

(2) All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or causal relationship between the expenses incurred and the awards to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently.

I declare that the foregoing is true and correct.

Governmental Unit: ____________________

Signature: ___________________________

Name of Official: ______________________

Title: ______________________________

Date of Execution: ____________________

F. **Negotiation and Approval of Central Service Plans**.

1. All proposed central service cost allocation plans that are required to be submitted will be reviewed, negotiated, and approved by the Federal cognizant agency on a timely basis. The cognizant agency will review the proposal within six months of receipt of the proposal and either negotiate/approve the proposal or advise the governmental unit of the additional documentation needed to support/evaluate the proposed plan or the changes required to make the proposal acceptable. Once an agreement with the governmental unit has been reached, the agreement will be accepted and used by all Federal agencies, unless prohibited or limited by statute. Where a Federal funding agency has reason to believe that special operating factors affecting its awards necessitate special consideration, the funding agency will, prior to the time the plans are negotiated, notify the cognizant agency.

2. The results of each negotiation shall be formalized in a written agreement between the cognizant agency and the governmental unit. This agreement will be subject to re-opening if the agreement is subsequently found to violate a statute or the information upon which the plan was negotiated is later found to be materially incomplete or inaccurate. The results of the negotiation shall be made available to all Federal agencies for their use.

3. Negotiated cost allocation plans based on a proposal later found to have included costs that: (a) are unallowable (i) as specified by law or regulation, (ii) as identified in Attachment B of this Circular, or (iii) by the terms and conditions of Federal awards, or (b) are unallowable because they are clearly not allocable to Federal awards, shall be adjusted, or a refund shall be made at the option of the Federal cognizant agency. These adjustments or refunds are designed to correct the plans and do not constitute a reopening of the negotiation.

G. **Other Policies**.

1. Billed central service activities. Each billed central service activity must separately account for all revenues (including imputed revenues) generated by the service, expenses incurred to furnish the service, and profit/loss.

2. Working capital reserves. Internal service funds are dependent upon a reasonable level of working capital reserve to operate from one billing cycle to the next. Charges by an internal service activity to provide for the establishment and maintenance of a reasonable level of working capital reserve, in addition to the full recovery of costs, are allowable. A working capital reserve as part of retained earnings of up to 60 days cash expenses for normal operating purposes is considered reasonable. A working capital reserve exceeding 60 days may be approved by the cognizant Federal agency in exceptional cases.

3. Carry-forward adjustments of allocated central service costs. Allocated central service costs are usually negotiated and approved for a future fiscal year on a "fixed with carry-forward" basis. Under this procedure, the fixed amounts for the future year covered by agreement are not subject to adjustment for that year. However, when the actual costs of the year involved become known, the differences between the fixed amounts previously approved and the actual costs will be carried forward and used as an adjustment to the fixed amounts established for a later year. This "carry-forward" procedure applies to all central services whose costs were fixed in the approved plan. However, a carry-forward adjustment is not permitted, for a central service activity that was not included in the approved plan, or for unallowable costs that must be reimbursed immediately.

4. Adjustments of billed central services. Billing rates used to charge Federal awards shall be based on the estimated costs of providing the services, including an estimate of the allocable central service costs. A comparison of the revenue generated by each billed service (including total revenues whether or not billed or collected) to the actual allowable costs of the service will be made at least annually, and an adjustment will be made for the difference between the revenue and the allowable costs. These adjustments will be made through one of the following adjustment methods: (a) a cash refund to the Federal Government for the Federal share of the adjustment, (b) credits to the amounts charged to the individual programs, (c) adjustments to future billing rates, or (d) adjustments to allocated central service costs. Adjustments to allocated central services will not be permitted where the total amount of the adjustment for a particular service (Federal share and non-Federal) share exceeds $500,000.

5. Records retention. All central service cost allocation plans and related documentation used as a basis for claiming costs under Federal awards must be retained for audit in accordance with the records retention requirements contained in the Common Rule.

6. Appeals. If a dispute arises in the negotiation of a plan between the cognizant agency and the governmental unit, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

7. OMB assistance. To the extent that problems are encountered among the Federal agencies and/or governmental units in connection with the negotiation and approval process, OMB will lend assistance, as required, to resolve such problems in a timely manner.

PUBLIC ASSISTANCE COST ALLOCATION PLANS

TABLE OF CONTENTS

A. **General**. Federally-financed programs administered by State public assistance agencies are funded predominately by the Department of Health and Human Services (HHS). In support of its stewardship requirements, HHS has published requirements for the development, documentation, submission, negotiation, and approval of public assistance cost allocation plans in Subpart E of 45 CFR Part 95. All administrative costs (direct and indirect) are normally charged to Federal awards by implementing the public assistance cost allocation plan. This Attachment extends these requirements to all Federal agencies whose programs are administered by a State public assistance agency. Major federally-financed programs typically administered by State public assistance agencies include: Aid to Families with Dependent Children, Medicaid, Food Stamps, Child Support Enforcement, Adoption Assistance and Foster Care, and Social Services Block Grant.

B. **Definitions**.

1. "State public assistance agency" means a State agency administering or supervising the administration of one or more public assistance programs operated by the State as identified in Subpart E of 45 CFR Part 95. For the purpose of this Attachment, these programs include all programs administered by the State public assistance agency.

2. "State public assistance agency costs" means all costs incurred by, or allocable to, the State public assistance agency, except expenditures for financial assistance, medical vendor payments, food stamps, and payments for services and goods provided directly to program recipients.

C. **Policy**. State public assistance agencies will develop, document and implement, and the Federal Government will review, negotiate, and approve, public assistance cost allocation plans in accordance with Subpart E of 45 CFR Part 95. The plan will include all programs administered by the State public assistance agency. Where a letter of approval or disapproval is transmitted to a State public assistance agency in accordance with Subpart E, the letter will apply to all Federal agencies and programs. The remaining sections of this Attachment (except for the requirement for certification) summarize the provisions of Subpart E of 45 CFR Part 95.

D. **Submission, Documentation, and Approval of Public Assistance Cost Allocation Plans**.

1. State public assistance agencies are required to promptly submit amendments to the cost allocation plan to HHS for review and approval.

2. Under the coordination process outlined in subsection E, affected Federal agencies will review all new plans and plan amendments and provide comments, as appropriate, to HHS. The effective date of the plan or plan amendment will be the first day of the quarter following the submission of the plan or amendment, unless another date is specifically approved by HHS. HHS, as the cognizant agency acting on behalf of all affected Federal agencies, will, as necessary, conduct negotiations with the State public assistance agency and will inform the State agency of the action taken on the plan or plan amendment.

E. **Review of Implementation of Approved Plans**.

1. Since public assistance cost allocation plans are of a narrative nature, the review during the plan approval process consists of evaluating the appropriateness of the proposed groupings of costs (cost centers) and the related allocation bases. As such, the Federal Government needs some assurance that the cost allocation plan has been implemented as approved. This is accomplished by reviews by the funding agencies, single audits, or audits conducted by the cognizant audit agency.

2. Where inappropriate charges affecting more than one funding agency are identified, the cognizant HHS cost negotiation office will be advised and will take the lead in resolving the issue(s) as provided for in Subpart E of 45 CFR Part 95.

3. If a dispute arises in the negotiation of a plan or from a disallowance involving two or more funding agencies, the dispute shall be resolved in accordance with the appeals procedures set out in 45 CFR Part 75. Disputes involving only one funding agency will be resolved in accordance with the funding agency's appeal process.

4. To the extent that problems are encountered among the Federal agencies and/or governmental units in connection with the negotiation and approval process, the Office of Management and Budget will lend assistance, as required, to resolve such problems in a timely manner.

F. **Unallowable Costs**. Claims developed under approved cost allocation plans will be based on allowable costs as identified in this Circular. Where unallowable costs have been claimed and reimbursed, they will be refunded to the program that reimbursed the unallowable cost using one of the following methods: (a) a cash refund, (b) offset to a subsequent claim, or (c) credits to the amounts charged to individual awards.

STATE AND LOCAL INDIRECT COST RATE PROPOSALS

TABLE OF CONTENTS

A. **General**.

1. Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned directly to Federal awards and other activities as appropriate, indirect costs are those remaining to be allocated to benefitted cost objectives. A cost may not be allocated to a Federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a Federal award as a direct cost.

2. Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and (b) the costs of central governmental services distributed through the central service cost allocation plan (as described in Attachment C) and not otherwise treated as direct costs.

3. Indirect costs are normally charged to Federal awards by the use of an indirect cost rate. A separate indirect cost rate(s) is usually necessary for each department or agency of the governmental unit claiming indirect costs under Federal awards. Guidelines and illustrations of indirect cost proposals are provided in a brochure published by the Department of Health and Human Services entitled "A Guide for State and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government." A copy of this brochure may be obtained from the Superintendent of Documents, U.S. Government Printing Office.

4. Because of the diverse characteristics and accounting practices of governmental units, the types of costs which may be classified as indirect costs cannot be specified in all situations. However, typical examples of indirect costs may include certain State/local-wide central service costs, general administration of the grantee department or agency, accounting and personnel services performed within the grantee department or agency, depreciation or use allowances on buildings and equipment, the costs of operating and maintaining facilities, etc.

5. This Attachment does not apply to State public assistance agencies. These agencies should refer instead to Attachment D.

B. **Definitions**.

1. "Indirect cost rate proposal" means the documentation prepared by a governmental unit or subdivision thereof to substantiate its request for the establishment of an indirect cost rate.

2. "Indirect cost rate" is a device for determining in a reasonable manner the proportion of indirect costs each program should bear. It is the ratio (expressed as a percentage) of the indirect costs to a direct cost base.

3. "Indirect cost pool" is the accumulated costs that jointly benefit two or more programs or other cost objectives.

4. "Base" means the accumulated direct costs (normally either total direct salaries and wages or total direct costs exclusive of any extraordinary or distorting expenditures) used to distribute indirect costs to individual Federal awards. The direct cost base selected should result in each award bearing a fair share of the indirect costs in reasonable relation to the benefits received from the costs.

5. "Predetermined rate" means an indirect cost rate, applicable to a specified current or future period, usually the governmental unit's fiscal year. This rate is based on an estimate of the costs to be incurred during the period. Except under very unusual circumstances, a predetermined rate is not subject to adjustment. (Because of legal constraints, predetermined rates are not permitted for Federal contracts; they may, however, be used for grants or cooperative agreements.) Predetermined rates may not be used by governmental units that have not submitted and negotiated the rate with the

cognizant agency. In view of the potential advantages offered by this procedure, negotiation of predetermined rates for indirect costs for a period of two to four years should be the norm in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting periods.

6. "Fixed rate" means an indirect cost rate which has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual, allowable costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.

7. "Provisional rate" means a temporary indirect cost rate applicable to a specified period which is used for funding, interim reimbursement, and reporting indirect costs on Federal awards pending the establishment of a "final" rate for that period.

8. "Final rate" means an indirect cost rate applicable to a specified past period which is based on the actual allowable costs of the period. A final audited rate is not subject to adjustment.

9. "Base period" for the allocation of indirect costs is the period in which such costs are incurred and accumulated for allocation to activities performed in that period. The base period normally should coincide with the governmental unit's fiscal year, but in any event, shall be so selected as to avoid inequities in the allocation of costs.

C. **Allocation of Indirect Costs and Determination of Indirect Cost Rates**.

1. General.

   a. Where a governmental unit's department or agency has only one major function, or where all its major functions benefit from the indirect costs to approximately the same degree, the allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures as described in subsection 2.

   b. Where a governmental unit's department or agency has several major functions which benefit from its indirect costs in varying degrees, the allocation of indirect costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefitted functions by means of a base which best measures the relative degree of benefit. The indirect costs allocated to each function are then distributed to individual awards and other activities included in that function by means of an indirect cost rate(s).

   c. Specific methods for allocating indirect costs and computing indirect cost rates along with the conditions under which each method should be used are described in subsections 2, 3 and 4.

2. Simplified method.

   a. Where a grantee agency's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by (1) classifying the grantee agency's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to individual Federal awards. The rate should be expressed as the percentage which the total amount of allowable indirect costs bears to the base selected. This method should also be used where a governmental unit's department or agency has only one major function encompassing a number of individual projects or activities, and may be used where the level of Federal awards to that department or agency is relatively small.

b. Both the direct costs and the indirect costs shall exclude capital expenditures and unallowable costs. However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

c. The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

3. Multiple allocation base method.

a. Where a grantee agency's indirect costs benefit its major functions in varying degrees, such costs shall be accumulated into separate cost groupings. Each grouping shall then be allocated individually to benefited functions by means of a base which best measures the relative benefits.

b. The cost groupings should be established so as to permit the allocation of each grouping on the basis of benefits provided to the major functions. Each grouping should constitute a pool of expenses that are of like character in terms of the functions they benefit and in terms of the allocation base which best measures the relative benefits provided to each function. The number of separate groupings should be held within practical limits, taking into consideration the materiality of the amounts involved and the degree of precision needed.

c. Actual conditions must be taken into account in selecting the base to be used in allocating the expenses in each grouping to benefited functions. When an allocation can be made by assignment of a cost grouping directly to the function benefited, the allocation shall be made in that manner. When the expenses in a grouping are more general in nature, the allocation should be made through the use of a selected base which produces results that are equitable to both the Federal Government and the governmental unit. In general, any cost element or related factor associated with the governmental unit's activities is potentially adaptable for use as an allocation base provided that: (1) it can readily be expressed in terms of dollars or other quantitative measures (total direct costs, direct salaries and wages, staff hours applied, square feet used, hours of usage, number of documents processed, population served, and the like), and (2) it is common to the benefited functions during the base period.

d. Except where a special indirect cost rate(s) is required in accordance with subsection 4, the separate groupings of indirect costs allocated to each major function shall be aggregated and treated as a common pool for that function. The costs in the common pool shall then be distributed to individual Federal awards included in that function by use of a single indirect cost rate.

e. The distribution base used in computing the indirect cost rate for each function may be (1) total direct costs (excluding capital expenditures and other distorting items such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution. An indirect cost rate should be developed for each separate indirect cost pool developed. The rate in each case should be stated as the percentage relationship between the particular indirect cost pool and the distribution base identified with that pool.

4. Special indirect cost rates.

a. In some instances, a single indirect cost rate for all activities of a grantee department or agency or for each major function of the agency may not be appropriate. It may not take into account those different factors which may substantially affect the indirect costs applicable to a particular program or group of programs. The factors may include the physical location of the work, the level of administrative support required, the nature of the facilities or other resources employed, the organizational arrangements used, or any combination thereof. When a particular award is carried out in an environment which appears to generate a significantly different level of indirect costs, provisions should be made for a separate indirect cost pool applicable to that award. The separate indirect cost pool should be developed during the course of the regular allocation process, and the separate indirect cost rate resulting therefrom should be used, provided that: (1) the rate differs significantly from the rate which would have been developed under subsections 2. and 3., and (2) the award to which the rate would apply is material in amount.

b. Although this Circular adopts the concept of the full allocation of indirect costs, there are some Federal statutes which restrict the reimbursement of certain indirect costs. Where such restrictions exist, it may be necessary to develop a special rate for the affected award. Where a "restricted rate" is required, the procedure for developing a non-restricted rate will be used except for the additional step of the elimination from the indirect cost pool those costs for which the law prohibits reimbursement.

D. **Submission and Documentation of Proposals**.

1. Submission of indirect cost rate proposals.

a. All departments or agencies of the governmental unit desiring to claim indirect costs under Federal awards must prepare an indirect cost rate proposal and related documentation to support those costs. The proposal and related documentation must be retained for audit in accordance with the records retention requirements contained in the Common Rule.

b. A governmental unit for which a cognizant agency assignment has been specifically designated must submit its indirect cost rate proposal to its cognizant agency. The Office of Management and Budget (OMB) will periodically publish lists of governmental units identifying the appropriate Federal cognizant agencies. The cognizant agency for all governmental units or agencies not identified by OMB will be determined based on the Federal agency providing the largest amount of Federal funds. In these cases, a governmental unit must develop an indirect cost proposal in accordance with the requirements of this Circular and maintain the proposal and related supporting documentation for audit. These governmental units are not required to submit their proposals unless they are specifically requested to do so by the cognizant agency. Where a local government only receives funds as a sub-recipient, the primary recipient will be responsible for negotiating and/or monitoring the sub-recipient's plan.

c. Each Indian tribal government desiring reimbursement of indirect costs must submit its indirect cost proposal to the Department of the Interior (its cognizant Federal agency).

d. Indirect cost proposals must be developed (and, when required, submitted) within six months after the close of the governmental unit's fiscal year, unless an exception is approved by the cognizant Federal agency. If the proposed central service cost allocation plan for the same period has not been approved by that time, the indirect cost proposal may be prepared including an amount for central services that is based on the latest federally-approved central service cost allocation plan. The difference between these central service amounts and the amounts ultimately approved will be compensated for by an adjustment in a subsequent period.

2. Documentation of proposals. The following shall be included with each indirect cost proposal:

a. The rates proposed, including subsidiary work sheets and other relevant data, cross referenced and reconciled to the financial data noted in subsection b. Allocated central service costs will be supported by the summary table included in the approved central service cost allocation plan. This summary table is not required to be submitted with the indirect cost proposal if the central service cost allocation plan for the same fiscal year has been approved by the cognizant agency and is available to the funding agency.

b. A copy of the financial data (financial statements, comprehensive annual financial report, executive budgets, accounting reports, etc.) upon which the rate is based. Adjustments resulting from the use of unaudited data will be recognized, where appropriate, by the Federal cognizant agency in a subsequent proposal.

c. The approximate amount of direct base costs incurred under Federal awards. These costs should be broken out between salaries and wages and other direct costs.

d. A chart showing the organizational structure of the agency during the period for which the proposal applies, along with a functional statement(s) noting the duties and/or responsibilities of all units that comprise the agency. (Once this is submitted, only revisions need be submitted with subsequent proposals.)

3. Required certification. Each indirect cost rate proposal shall be accompanied by a certification in the following form:

CERTIFICATE OF INDIRECT COSTS

This is to certify that I have reviewed the indirect cost rate proposal submitted herewith and to the best of my knowledge and belief:

(1) All costs included in this proposal [identify date] to establish billing or final indirect costs rates for [identify period covered by rate] are allowable in accordance with the requirements of the Federal award(s) to which they apply and OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments." Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

(2) All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the Federal Government will be notified of any accounting changes that would affect the predetermined rate.

I declare that the foregoing is true and correct.

Governmental Unit: ________________________

Signature: ________________________

Name of Official: ________________________

Title: _________________________

Date of Execution: _________________________

E. **Negotiation and Approval of Rates**.

1. Indirect cost rates will be reviewed, negotiated, and approved by the cognizant Federal agency on a timely basis. Once a rate has been agreed upon, it will be accepted and used by all Federal agencies unless prohibited or limited by statute. Where a Federal funding agency has reason to believe that special operating factors affecting its awards necessitate special indirect cost rates, the funding agency will, prior to the time the rates are negotiated, notify the cognizant Federal agency.

2. The use of predetermined rates, if allowed, is encouraged where the cognizant agency has reasonable assurance based on past experience and reliable projection of the grantee agency's costs, that the rate is not likely to exceed a rate based on actual costs. Long-term agreements utilizing predetermined rates extending over two or more years are encouraged, where appropriate.

3. The results of each negotiation shall be formalized in a written agreement between the cognizant agency and the governmental unit. This agreement will be subject to re-opening if the agreement is subsequently found to violate

a statute, or the information upon which the plan was negotiated is later found to be materially incomplete or inaccurate. The agreed upon rates shall be made available to all Federal agencies for their use.

4. Refunds shall be made if proposals are later found to have included costs that (a) are unallowable (i) as specified by law or regulation, (ii) as identified in Attachment B of this Circular, or (iii) by the terms and conditions of Federal awards, or (b) are unallowable because they are clearly not allocable to Federal awards. These adjustments or refunds will be made regardless of the type of rate negotiated (predetermined, final, fixed, or provisional).

F. **Other Policies**.

1. Fringe benefit rates. If overall fringe benefit rates are not approved for the governmental unit as part of the central service cost allocation plan, these rates will be reviewed, negotiated and approved for individual grantee agencies during the indirect cost negotiation process. In these cases, a proposed fringe benefit rate computation should accompany the indirect cost proposal. If fringe benefit rates are not used at the grantee agency level (i.e., the agency specifically identifies fringe benefit costs to individual employees), the governmental unit should so advise the cognizant agency.

2. Billed services provided by the grantee agency. In some cases, governmental units provide and bill for services similar to those covered by central service cost allocation plans (e.g., computer centers). Where this occurs, the governmental unit should be guided by the requirements in Attachment C relating to the development of billing rates and documentation requirements, and should advise the cognizant agency of any billed services. Reviews of these types of services (including reviews of costing/billing methodology, profits or losses, etc.) will be made on a case-by-case basis as warranted by the circumstances involved.

3. Indirect cost allocations not using rates. In certain situations, a governmental unit, because of the nature of its awards, may be required to develop a cost allocation plan that distributes indirect (and, in some cases, direct) costs to the specific funding sources. In these cases, a narrative cost allocation methodology should be developed, documented, maintained for audit, or submitted, as appropriate, to the cognizant agency for review, negotiation, and approval.

4. Appeals. If a dispute arises in a negotiation of an indirect cost rate (or other rate) between the cognizant agency and the governmental unit, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

5. Collection of unallowable costs and erroneous payments. Costs specifically identified as unallowable and charged to Federal awards either directly or indirectly will be refunded (including interest chargeable in accordance with applicable Federal agency regulations).

6. OMB assistance. To the extent that problems are encountered among the Federal agencies and/or governmental units in connection with the negotiation and approval process, OMB will lend assistance, as required, to resolve such problems in a timely manner.

APPENDIX 4

CIRCULAR NO. A-122
Revised
TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Cost Principles for Non-Profit Organizations

1. **Purpose**. This Circular establishes principles for determining costs of grants, contracts and other agreements with non-profit organizations. It does not apply to colleges and universities which are covered by Office of Management and Budget (OMB) Circular A-21, "Cost Principles for Educational Institutions"; State, local, and federally-recognized Indian tribal governments which are covered by OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments"; or hospitals. The principles are designed to provide that the Federal Government bear its fair share of costs except where restricted or prohibited by law. The principles do not attempt to prescribe the extent of cost sharing or matching on grants, contracts, or other agreements. However, such cost sharing or matching shall not be accomplished through arbitrary limitations on individual cost elements by Federal agencies. Provision for profit or other increment above cost is outside the scope of this Circular.

2. **Supersession**. This Circular supersedes cost principles issued by individual agencies for non-profit organizations.

3. **Applicability**.

   a. These principles shall be used by all Federal agencies in determining the costs of work performed by non-profit organizations under grants, cooperative agreements, cost reimbursement contracts, and other contracts in which costs are used in pricing, administration, or settlement. All of these instruments are hereafter referred to as awards. The principles do not apply to awards under which an organization is not required to account to the Federal Government for actual costs incurred.

   b. All cost reimbursement subawards (subgrants, subcontracts, etc.) are subject to those Federal cost principles applicable to the particular organization concerned. Thus, if a subaward is to a non-profit organization, this Circular shall apply; if a subaward is to a commercial organization, the cost principles applicable to commercial concerns shall apply; if a subaward is to a college or university, Circular A-21 shall apply; if a subaward is to a State, local, or federally-recognized Indian tribal government, Circular A-87 shall apply.

4. **Definitions**.

   a. **Non-profit organization** means any corporation, trust, association, cooperative, or other organization which:

      (1) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

      (2) is not organized primarily for profit; and

      (3) uses its net proceeds to maintain, improve, and/or expand its operations. For this purpose, the term "non-profit organization" excludes (i) colleges and universities; (ii) hospitals; (iii) State, local, and federally-recognized Indian tribal governments; and (iv)

those non-profit organizations which are excluded from coverage of this Circular in accordance with paragraph 5.

b. **Prior approval** means securing the awarding agency's permission in advance to incur cost for those items that are designated as requiring prior approval by the Circular. Generally this permission will be in writing. Where an item of cost requiring prior approval is specified in the budget of an award, approval of the budget constitutes approval of that cost.

5. **Exclusion of some non-profit organizations**. Some non-profit organizations, because of their size and nature of operations, can be considered to be similar to commercial concerns for purpose of applicability of cost principles. Such non-profit organizations shall operate under Federal cost principles applicable to commercial concerns. A listing of these organizations is contained in Attachment C. Other organizations may be added from time to time.

6. **Responsibilities**. Agencies responsible for administering programs that involve awards to non-profit organizations shall implement the provisions of this Circular. Upon request, implementing instruction shall be furnished to OMB. Agencies shall designate a liaison official to serve as the agency representative on matters relating to the implementation of this Circular. The name and title of such representative shall be furnished to OMB within 30 days of the date of this Circular.

7. **Attachments**. The principles and related policy guides are set forth in the following Attachments:

   Attachment A - General Principles
   Attachment B - Selected Items of Cost
   Attachment C - Non-Profit Organizations Not Subject To This Circular

8. **Requests for exceptions**. OMB may grant exceptions to the requirements of this Circular when permissible under existing law. However, in the interest of achieving maximum uniformity, exceptions will be permitted only in highly unusual circumstances.

9. **Effective Date**. The provisions of this Circular are effective immediately. Implementation shall be phased in by incorporating the provisions into new awards made after the start of the organization's next fiscal year. For existing awards, the new principles may be applied if an organization and the cognizant Federal agency agree. Earlier implementation, or a delay in implementation of individual provisions, is also permitted by mutual agreement between an organization and the cognizant Federal agency.

10. **Inquiries**. Further information concerning this Circular may be obtained by contacting the Office of Federal Financial Management, OMB, Washington, DC 20503, telephone (202) 395-3993.

GENERAL PRINCIPLES
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GENERAL PRINCIPLES

A. **Basic Considerations**

1. **Composition of total costs**. The total cost of an award is the sum of the allowable direct and allocable indirect costs less any applicable credits.

2. **Factors affecting allowability of costs**. To be allowable under an award, costs must meet the following general criteria:

   a. Be reasonable for the performance of the award and be allocable thereto under these principles.

   b. Conform to any limitations or exclusions set forth in these principles or in the award as to types or amount of cost items.

   c. Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the organization.

   d. Be accorded consistent treatment.

   e. Be determined in accordance with generally accepted accounting principles (GAAP).

   f. Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period.

   g. Be adequately documented.

3. **Reasonable costs**. A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with organizations or separate divisions thereof which receive the preponderance of their support from awards made by Federal agencies. In determining the reasonableness of a given cost, consideration shall be given to:

   a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the award.

   b. The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and State laws and regulations, and terms and conditions of the award.

   c. Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees, and clients, the public at large, and the Federal Government.

d. Significant deviations from the established practices of the organization which may unjustifiably increase the award costs.

4. **Allocable costs**.

a. A cost is allocable to a particular cost objective, such as a grant, contract, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a Federal award if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:

(1) Is incurred specifically for the award.

(2) Benefits both the award and other work and can be distributed in reasonable proportion to the benefits received, or

(3) Is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown.

b. Any cost allocable to a particular award or other cost objective under these principles may not be shifted to other Federal awards to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms of the award.

5. **Applicable credits**.

a. The term applicable credits refers to those receipts, or reduction of expenditures which operate to offset or reduce expense items that are allocable to awards as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing or received by the organization relate to allowable cost, they shall be credited to the Federal Government either as a cost reduction or cash refund, as appropriate.

b. In some instances, the amounts received from the Federal Government to finance organizational activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the organization in determining the rates or amounts to be charged to Federal awards for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds.

c. For rules covering program income (i.e., gross income earned from federally-supported activities) see Sec. __.24 of Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations."

6. **Advance understandings**. Under any given award, the reasonableness and allocability of certain items of costs may be difficult to determine. This is particularly true in connection with organizations that receive a preponderance of their support from Federal agencies. In order to avoid subsequent disallowance or dispute based on unreasonableness or

nonallocability, it is often desirable to seek a written agreement with the cognizant or awarding agency in advance of the incurrence of special or unusual costs. The absence of an advance agreement on any element of cost will not, in itself, affect the reasonableness or allocability of that element.

7. **Conditional exemptions**.

a. OMB authorizes conditional exemption from OMB administrative requirements and cost principles circulars for certain Federal programs with statutorily-authorized consolidated planning and consolidated administrative funding, that are identified by a Federal agency and approved by the head of the Executive department or establishment. A Federal agency shall consult with OMB during its consideration of whether to grant such an exemption.

b. To promote efficiency in State and local program administration, when Federal non-entitlement programs with common purposes have specific statutorily-authorized consolidated planning and consolidated administrative funding and where most of the State agency's resources come from non-Federal sources, Federal agencies may exempt these covered State-administered, non-entitlement grant programs from certain OMB grants management requirements. The exemptions would be from all but the allocability of costs provisions of OMB Circulars A-87 (Attachment A, subsection C.3), "Cost Principles for State, Local, and Indian Tribal Governments," A-21 (Section C, subpart 4), "Cost Principles for Educational Institutions," and A-122 (Attachment A, subsection A.4), "Cost Principles for Non-Profit Organizations," and from all of the administrative requirements provisions of OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," and the agencies' grants management common rule.

c. When a Federal agency provides this flexibility, as a prerequisite to a State's exercising this option, a State must adopt its own written fiscal and administrative requirements for expending and accounting for all funds, which are consistent with the provisions of OMB Circular A-87, and extend such policies to all subrecipients. These fiscal and administrative requirements must be sufficiently specific to ensure that: funds are used in compliance with all applicable Federal statutory and regulatory provisions, costs are reasonable and necessary for operating these programs, and funds are not be used for general expenses required to carry out other responsibilities of a State or its subrecipients.

B. **Direct Costs**

1. Direct costs are those that can be identified specifically with a particular final cost objective, i.e., a particular award, project, service, or other direct activity of an organization. However, a cost may not be assigned to an award as a direct cost if any other cost incurred for the same purpose, in like circumstance, has been allocated to an award as an indirect cost. Costs identified specifically with awards are direct costs of the awards and are to be assigned directly thereto. Costs identified specifically with other final cost objectives of the organization are direct costs of those cost objectives and are not to be assigned to other awards directly or indirectly.

2. Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where the accounting treatment for such cost is consistently applied to all final cost objectives.

3. The cost of certain activities are not allowable as charges to Federal awards (see, for example, fundraising costs in **paragraph 23 of Attachment B**). However, even though these costs are unallowable for purposes of computing charges to Federal awards, they nonetheless must be treated as direct costs for purposes of determining indirect cost rates and be allocated their share of the organization's indirect costs if they represent activities which (1) include the salaries of personnel, (2) occupy space, and (3) benefit from the organization's indirect costs.

4. The costs of activities performed primarily as a service to members, clients, or the general public when significant and necessary to the organization's mission must be treated as direct costs whether or not allowable and be allocated an equitable share of indirect costs. Some examples of these types of activities include:

    a. Maintenance of membership rolls, subscriptions, publications, and related functions.

    b. Providing services and information to members, legislative or administrative bodies, or the public.

    c. Promotion, lobbying, and other forms of public relations.

    d. Meetings and conferences except those held to conduct the general administration of the organization.

    e. Maintenance, protection, and investment of special funds not used in operation of the organization.

    f. Administration of group benefits on behalf of members or clients, including life and hospital insurance, annuity or retirement plans, financial aid, etc.

C. Indirect Costs

1. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. Direct cost of minor amounts may be treated as indirect costs under the conditions described in **subparagraph B.2**. After direct costs have been determined and assigned directly to awards or other work as appropriate, indirect costs are those remaining to be allocated to benefiting cost objectives. A cost may not be allocated to an award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to an award as a direct cost.

2. Because of the diverse characteristics and accounting practices of non-profit organizations, it is not possible to specify the types of cost which may be classified as indirect cost in all situations. However, typical examples of indirect cost for many non-profit organizations may include depreciation or use allowances on buildings and equipment, the costs of operating and maintaining facilities, and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration,

and accounting.

3. Indirect costs shall be classified within two broad categories: "Facilities" and "Administration." "Facilities" is defined as depreciation and use allowances on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses. "Administration" is defined as general administration and general expenses such as the director's office, accounting, personnel, library expenses and all other types of expenditures not listed specifically under one of the subcategories of "Facilities" (including cross allocations from other pools, where applicable). See indirect cost rate reporting requirements in **subparagraphs D.2.e and D.3.g.**

D. **Allocation of Indirect Costs and Determination of Indirect Cost Rates**

1. **General**.

a. Where a non-profit organization has only one major function, or where all its major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures, as described in **subparagraph 2**.

b. Where an organization has several major functions which benefit from its indirect costs in varying degrees, allocation of indirect costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefiting functions by means of a base which best measures the relative degree of benefit. The indirect costs allocated to each function are then distributed to individual awards and other activities included in that function by means of an indirect cost rate(s).

c. The determination of what constitutes an organization's major functions will depend on its purpose in being; the types of services it renders to the public, its clients, and its members; and the amount of effort it devotes to such activities as fundraising, public information and membership activities.

d. Specific methods for allocating indirect costs and computing indirect cost rates along with the conditions under which each method should be used are described in **subparagraphs 2 through 5.**

e. The base period for the allocation of indirect costs is the period in which such costs are incurred and accumulated for allocation to work performed in that period. The base period normally should coincide with the organization's fiscal year but, in any event, shall be so selected as to avoid inequities in the allocation of the costs.

2. **Simplified allocation method**.

a. Where an organization's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by (i) separating the organization's total costs for the base period as either direct or indirect, and (ii) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to individual awards. The rate should be expressed as the percentage which the total amount of allowable indirect costs bears to the base selected. This method should also be used where an organization has only one major function encompassing a number of individual projects or activities, and may be used where the level of Federal awards to an organization is relatively small.

b. Both the direct costs and the indirect costs shall exclude capital expenditures and unallowable costs. However, unallowable costs which represent activities must be included in the direct costs under the conditions described in **subparagraph B.3**.

c. The distribution base may be total direct costs (excluding capital expenditures and other distorting items, such as major subcontracts or subgrants), direct salaries and wages, or other base which results in an equitable distribution. The distribution base shall generally exclude participant support costs as defined in **paragraph 34 of Attachment B**.

d. Except where a special rate(s) is required in accordance with **subparagraph 5**, the indirect cost rate developed under the above principles is applicable to all awards at the organization. If a special rate(s) is required, appropriate modifications shall be made in order to develop the special rate(s).

e. For an organization that receives more than $10 million in Federal funding of direct costs in a fiscal year, a breakout of the indirect cost component into two broad categories, Facilities and Administration as defined in **subparagraph C.3**, is required. The rate in each case shall be stated as the percentage which the amount of the particular indirect cost category (i.e., Facilities or Administration) is of the distribution base identified with that category.

3. **Multiple allocation base method**

a. General. Where an organization's indirect costs benefit its major functions in varying degrees, indirect costs shall be accumulated into separate cost groupings, as described in **subparagraph b**. Each grouping shall then be allocated individually to benefitting functions by means of a base which best measures the relative benefits. The default allocation bases by cost pool are described in **subparagraph c**.

b. Identification of indirect costs. Cost groupings shall be established so as to permit the allocation of each grouping on the basis of benefits provided to the major functions. Each grouping shall constitute a pool of expenses that are of like character in terms of functions they benefit and in terms of the allocation base which best measures the relative benefits provided to each function. The groupings are classified within the two broad categories: "Facilities" and "Administration," as described in **subparagraph C.3**. The indirect cost pools are defined as follows:

(1) Depreciation and use allowances. The expenses under this heading are the portion of the costs of the organization's buildings, capital improvements to land and buildings, and equipment which are computed in accordance with **paragraph**

11 of Attachment B ("Depreciation and use allowances").

(2) Interest. Interest on debt associated with certain buildings, equipment and capital improvements are computed in accordance with **paragraph 23 of Attachment B** ("Interest, fundraising, and investment management costs").

(3) Operation and maintenance expenses. The expenses under this heading are those that have been incurred for the administration, operation, maintenance, preservation, and protection of the organization's physical plant. They include expenses normally incurred for such items as: janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture and equipment; care of grounds; maintenance and operation of buildings and other plant facilities; security; earthquake and disaster preparedness; environmental safety; hazardous waste disposal; property, liability and other insurance relating to property; space and capital leasing; facility planning and management; and, central receiving. The operation and maintenance expenses category shall also include its allocable share of fringe benefit costs, depreciation and use allowances, and interest costs.

(4) General administration and general expenses. The expenses under this heading are those that have been incurred for the overall general executive and administrative offices of the organization and other expenses of a general nature which do not relate solely to any major function of the organization. This category shall also include its allocable share of fringe benefit costs, operation and maintenance expense, depreciation and use allowances, and interest costs. Examples of this category include central offices, such as the director's office, the office of finance, business services, budget and planning, personnel, safety and risk management, general counsel, management information systems, and library costs.

In developing this cost pool, special care should be exercised to ensure that costs incurred for the same purpose in like circumstances are treated consistently as either direct or indirect costs. For example, salaries of technical staff, project supplies, project publication, telephone toll charges, computer costs, travel costs, and specialized services costs shall be treated as direct costs wherever identifiable to a particular program. The salaries and wages of administrative and pooled clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate where a major project or activity explicitly requires and budgets for administrative or clerical services and other individuals involved can be identified with the program or activity. Items such as office supplies, postage, local telephone costs, periodicals and memberships should normally be treated as indirect costs.

c. Allocation bases. Actual conditions shall be taken into account in selecting the base to be used in allocating the expenses in each grouping to benefiting functions. The essential consideration in selecting a method or a base is that it is the one best suited for assigning the pool of costs to cost objectives in accordance with benefits derived; a traceable cause and effect relationship; or logic and reason, where neither the cause nor the effect of the relationship is determinable. When an allocation can be made by assignment of a cost grouping directly to the function benefited, the allocation shall be made in that manner. When the expenses in a cost grouping are more general in nature, the allocation shall be made through the use of a selected base which produces results that are equitable to both the Federal Government and the organization. The distribution shall be made in accordance with the bases described herein unless it can be demonstrated that the use of a different base would result in a more equitable allocation of the costs, or that a more readily available base would not increase the costs charged to sponsored awards. The results of special cost studies (such as an engineering utility study) shall not be used to determine and allocate the indirect costs to sponsored awards.

(1) Depreciation and use allowances. Depreciation and use allowances expenses shall be allocated in the following manner:

(a) Depreciation or use allowances on buildings used exclusively in the conduct of a single function, and on capital improvements and equipment used in such buildings, shall be assigned to that function.

(b) Depreciation or use allowances on buildings used for more than one function, and on capital improvements and equipment used in such buildings, shall be allocated to the individual functions performed in each building on the basis of usable square feet of space, excluding common areas, such as hallways, stairwells, and restrooms.

(c) Depreciation or use allowances on buildings, capital improvements and equipment related space (e.g., individual rooms, and laboratories) used jointly by more than one function (as determined by the users of the space) shall be treated as follows. The cost of each jointly used unit of space shall be allocated to the benefiting functions on the basis of:

(i) the employees and other users on a full-time equivalent (FTE) basis or salaries and wages of those individual functions benefiting from the use of that space; or

(ii) organization-wide employee FTEs or salaries and wages applicable to the benefiting functions of the organization.

(d) Depreciation or use allowances on certain capital improvements to land, such as paved parking areas, fences, sidewalks, and the like, not included in the cost of buildings, shall be allocated to user categories on a FTE basis and distributed to major functions in proportion to the salaries and wages of all employees applicable to the functions.

(2) Interest. Interest costs shall be allocated in the same manner as the depreciation or use allowances on the buildings, equipment and capital equipment to which the interest relates.

(3) Operation and maintenance expenses. Operation and maintenance expenses shall be allocated in the same manner as the depreciation and use allowances.

(4) General administration and general expenses. General administration and general expenses shall be allocated to benefiting functions based on modified total direct costs (MTDC), as described in **subparagraph D.3.f.** The expenses included in this category could be grouped first according to major functions of the organization to which they render services or provide benefits. The aggregate expenses of each group shall then be allocated to benefiting functions based on MTDC.

d. Order of distribution.

(1) Indirect cost categories consisting of depreciation and use allowances, interest, operation and maintenance, and general administration and general expenses shall be allocated in that order to the remaining indirect cost categories as well as to the major functions of the organization. Other cost categories could be allocated in the order determined to be most appropriate by the organization. When cross allocation of costs is made as provided in **subparagraph (2)**, this order of allocation does not apply.

(2) Normally, an indirect cost category will be considered closed once it has been allocated to other cost objectives, and costs shall not be subsequently allocated to it. However, a cross allocation of costs between two or more indirect costs categories could be used if such allocation will result in a more equitable allocation of costs. If a cross allocation is used, an appropriate modification to the composition of the indirect cost categories is required.

e. Application of indirect cost rate or rates. Except where a special indirect cost rate(s) is required in accordance with **subparagraph D.5**, the separate groupings of indirect costs allocated to each major function shall be aggregated and treated as a common pool for that function. The costs in the common pool shall then be distributed to individual awards included in that function by use of a single indirect cost rate.

f. Distribution basis. Indirect costs shall be distributed to applicable sponsored awards and other benefiting activities within each major function on the basis of MTDC. MTDC consists of all salaries and wages, fringe benefits, materials and supplies, services, travel, and subgrants and subcontracts up to the first $25,000 of each subgrant or subcontract (regardless of the period covered by the subgrant or subcontract). Equipment, capital expenditures, charges for patient care, rental costs and the portion in excess of $25,000 shall be excluded from MTDC. Participant support costs shall generally be excluded from MTDC. Other items may only be excluded when the

Federal cost cognizant agency determines that an exclusion is necessary to avoid a serious inequity in the distribution of indirect costs.

g. Individual Rate Components. An indirect cost rate shall be determined for each separate indirect cost pool developed. The rate in each case shall be stated as the percentage which the amount of the particular indirect cost pool is of the distribution base identified with that pool. Each indirect cost rate negotiation or determination agreement shall include development of the rate for each indirect cost pool as well as the overall indirect cost rate. The indirect cost pools shall be classified within two broad categories: "Facilities" and "Administration," as described in **subparagraph C.3**.

4. **Direct allocation method**.

a. Some non-profit organizations treat all costs as direct costs except general administration and general expenses. These organizations generally separate their costs into three basic categories: (i) General administration and general expenses, (ii) fundraising, and (iii) other direct functions (including projects performed under Federal awards). Joint costs, such as depreciation, rental costs, operation and maintenance of facilities, telephone expenses, and the like are prorated individually as direct costs to each category and to each award or other activity using a base most appropriate to the particular cost being prorated.

b. This method is acceptable, provided each joint cost is prorated using a base which accurately measures the benefits provided to each award or other activity. The bases must be established in accordance with reasonable criteria, and be supported by current data. This method is compatible with the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations issued jointly by the National Health Council, Inc., the National Assembly of Voluntary Health and Social Welfare Organizations, and the United Way of America.

c. Under this method, indirect costs consist exclusively of general administration and general expenses. In all other respects, the organization's indirect cost rates shall be computed in the same manner as that described in **subparagraph 2**.

5. **Special indirect cost rates**. In some instances, a single indirect cost rate for all activities of an organization or for each major function of the organization may not be appropriate, since it would not take into account those different factors which may substantially affect the indirect costs applicable to a particular segment of work. For this purpose, a particular segment of work may be that performed under a single award or it may consist of work under a group of awards performed in a common environment. These factors may include the physical location of the work, the level of administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. When a particular segment of work is performed in an environment which appears to generate a significantly different level of indirect costs, provisions should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular allocation process,

and the separate indirect cost rate resulting therefrom should be used, provided it is determined that (i) the rate differs significantly from that which would have been obtained under **subparagraphs 2, 3, and 4**, and (ii) the volume of work to which the rate would apply is material.

E. **Negotiation and Approval of Indirect Cost Rates**

1. **Definitions**. As used in this section, the following terms have the meanings set forth below:

a. **Cognizant agency** means the Federal agency responsible for negotiating and approving indirect cost rates for a non-profit organization on behalf of all Federal agencies.

b. **Predetermined rate** means an indirect cost rate, applicable to a specified current or future period, usually the organization's fiscal year. The rate is based on an estimate of the costs to be incurred during the period. A predetermined rate is not subject to adjustment.

c. **Fixed rate** means an indirect cost rate which has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.

d. **Final rate** means an indirect cost rate applicable to a specified past period which is based on the actual costs of the period. A final rate is not subject to adjustment.

e. **Provisional rate** or billing rate means a temporary indirect cost rate applicable to a specified period which is used for funding, interim reimbursement, and reporting indirect costs on awards pending the establishment of a final rate for the period.

f. **Indirect cost proposal** means the documentation prepared by an organization to substantiate its claim for the reimbursement of indirect costs. This proposal provides the basis for the review and negotiation leading to the establishment of an organization's indirect cost rate.

g. **Cost objective** means a function, organizational subdivision, contract, grant, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, projects, jobs and capitalized projects.

2. **Negotiation and approval of rates**.

a. Unless different arrangements are agreed to by the agencies concerned, the Federal agency with the largest dollar value of awards with an organization will be designated as the cognizant agency for the negotiation and approval of the indirect cost rates and, where necessary, other rates such as fringe benefit and computer charge-out rates. Once an agency is assigned cognizance for a particular non-profit organization, the assignment will not be changed unless there is a major long-term shift in the dollar volume of the Federal awards to the organization. All concerned Federal agencies shall be given the opportunity to participate in the negotiation process but, after a rate has been agreed upon, it will be accepted by all Federal agencies.

When a Federal agency has reason to believe that special operating factors affecting its awards necessitate special indirect cost rates in accordance with **subparagraph D.5**, it will, prior to the time the rates are negotiated, notify the cognizant agency.

b. A non-profit organization which has not previously established an indirect cost rate with a Federal agency shall submit its initial indirect cost proposal immediately after the organization is advised that an award will be made and, in no event, later than three months after the effective date of the award.

c. Organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency within six months after the close of each fiscal year.

d. A predetermined rate may be negotiated for use on awards where there is reasonable assurance, based on past experience and reliable projection of the organization's costs, that the rate is not likely to exceed a rate based on the organization's actual costs.

e. Fixed rates may be negotiated where predetermined rates are not considered appropriate. A fixed rate, however, shall not be negotiated if (i) all or a substantial portion of the organization's awards are expected to expire before the carry-forward adjustment can be made; (ii) the mix of Federal and non-Federal work at the organization is too erratic to permit an equitable carry-forward adjustment; or (iii) the organization's operations fluctuate significantly from year to year.

f. Provisional and final rates shall be negotiated where neither predetermined nor fixed rates are appropriate.

g. The results of each negotiation shall be formalized in a written agreement between the cognizant agency and the non-profit organization. The cognizant agency shall distribute copies of the agreement to all concerned Federal agencies.

h. If a dispute arises in a negotiation of an indirect cost rate between the cognizant agency and the non-profit organization, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

i. To the extent that problems are encountered among the Federal agencies in connection with the negotiation and approval process, OMB will lend assistance as required to resolve such problems in a timely manner.

SELECTED ITEMS OF COST
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ATTACHMENT B
Circular No. A-122

SELECTED ITEMS OF COST

Paragraphs 1 through 56 provide principles to be applied in establishing the allowability of certain items of cost. These principles apply whether a cost is treated as direct or indirect. Failure to mention a particular item of cost is not intended to imply that it is unallowable; rather, determination as to allowability in each case should be based on the treatment or principles provided for similar or related items of cost.

1. **Advertising and public relations costs**.

a. The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.

b. The term public relations includes community relations and means those activities dedicated to maintaining the image of the organization or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

c. The only allowable advertising costs are those which are solely for:

(1) The recruitment of personnel required for the performance by the organization of obligations arising under a sponsored award, when considered in conjunction with all other recruitment costs, as set forth in **paragraph 44** ("Recruiting costs");

(2) The procurement of goods and services for the performance of a sponsored award;

(3) The disposal of scrap or surplus materials acquired in the performance of a sponsored award except when organizations are reimbursed for disposal costs at a predetermined amount in accordance with OMB Circular A-110, Sec.___.34, "Equipment"; or

(4) Other specific purposes necessary to meet the requirements of the sponsored award.

d. The only allowable public relations costs are:

(1) Costs specifically required by sponsored awards;

(2) Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of sponsored awards (these costs are considered necessary as part of the outreach effort for the sponsored awards); or

(3) Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of contract/grant awards, financial matters, etc.

e. Costs identified in **subparagraphs c and d** if incurred for more than one sponsored award or for both sponsored work and other work of the organization, are allowable to the extent that the principles in **paragraphs B** ("Direct Costs") and **C** ("Indirect Costs") **of Attachment A** are observed.

f. Unallowable advertising and public relations costs include the following:

(1) All advertising and public relations costs other than as specified in **subparagraphs c, d, and e**;

(2) Costs of meetings or other events related to fund raising or other organizational activities including:

(i) Costs of displays, demonstrations, and exhibits;

(ii) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and

(iii) Salaries and wages of employees or cost of services engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;

(3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs;

(4) Costs of advertising and public relations designed solely to promote the organization.

2. **Alcoholic beverages**. Costs of alcoholic beverages are unallowable.

3. **Bad debts**. Bad debts, including losses (whether actual or estimated) arising from uncollectible accounts and other claims, related collection costs, and related legal costs, are unallowable.

4. **Bid and proposal costs**. (reserved)

5. **Bonding costs**.

a. Bonding costs arise when the Federal Government requires assurance against financial loss to itself or others by reason of the act or default of the organization. They arise also in instances where the organization requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

b. Costs of bonding required pursuant to the terms of the award are allowable.

c. Costs of bonding required by the organization in the general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

6. **Communication costs**. Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, postage and the like are allowable.

7. **Compensation for personal services**.

a. **Definition**. Compensation for personal services includes all compensation paid currently or accrued by the organization for services of employees rendered during the period of the award (except as otherwise provided in **subparagraph h**). It includes, but is not limited to, salaries, wages, director's and executive committee member's fees, incentive awards, fringe benefits, pension plan costs, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost of living differentials.

b. **Allowability**. Except as otherwise specifically provided in this paragraph, the costs of such compensation are allowable to the extent that:

(1) Total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the organization consistently applied to both Federal and non-Federal activities; and

(2) Charges to awards whether treated as direct or indirect costs are determined and supported as required in this paragraph.

c. **Reasonableness**.

(1) When the organization is predominantly engaged in activities other than those sponsored by the Federal Government, compensation for employees on federally-sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the organization's other activities.

(2) When the organization is predominantly engaged in federally-sponsored activities and in cases where the kind of employees required for the Federal activities are not found in the organization's other activities, compensation for employees on federally-sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the organization competes for the kind of employees involved.

d. **Special considerations in determining allowability**. Certain conditions require special consideration and possible limitations in determining costs under Federal awards where amounts or types of compensation appear unreasonable. Among such conditions are the following:

(1) Compensation to members of non-profit organizations, trustees, directors, associates, officers, or the immediate families thereof. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs.

(2) Any change in an organization's compensation policy resulting in a substantial increase in the organization's level of compensation, particularly when it was concurrent with an increase in the ratio of Federal awards to other activities of the organization or any change in

the treatment of allowability of specific types of compensation due to changes in Federal policy.

e. **Unallowable costs**. Costs which are unallowable under other paragraphs of this Attachment shall not be allowable under this paragraph solely on the basis that they constitute personal compensation.

f. **Fringe benefits**.

(1) Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as vacation leave, sick leave, military leave, and the like, are allowable, provided such costs are absorbed by all organization activities in proportion to the relative amount of time or effort actually devoted to each.

(2) Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, pension plan costs (see **subparagraph h**), and the like, are allowable, provided such benefits are granted in accordance with established written organization policies. Such benefits whether treated as indirect costs or as direct costs, shall be distributed to particular awards and other activities in a manner consistent with the pattern of benefits accruing to the individuals or group of employees whose salaries and wages are chargeable to such awards and other activities.

(3) (a) Provisions for a reserve under a self-insurance program for unemployment compensation or workers' compensation are allowable to the extent that the provisions represent reasonable estimates of the liabilities for such compensation, and the types of coverage, extent of coverage, and rates and premiums would have been allowable had insurance been purchased to cover the risks. However, provisions for self-insured liabilities which do not become payable for more than one year after the provision is made shall not exceed the present value of the liability.

(b) Where an organization follows a consistent policy of expensing actual payments to, or on behalf of, employees or former employees for unemployment compensation or workers' compensation, such payments are allowable in the year of payment with the prior approval of the awarding agency, provided they are allocated to all activities of the organization.

(4) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation. The costs of such insurance when the organization is named as beneficiary are unallowable.

g. **Organization-furnished automobiles**. That portion of the cost of organization-furnished automobiles that relates to personal use by employees (including transportation to and from work) is unallowable as fringe benefit or indirect costs regardless of whether the cost is reported as taxable income to the employees. These costs are allowable as direct costs to sponsored award when necessary for the performance of the sponsored award and approved by awarding agencies.

h. **Pension plan costs**.

(1) Costs of the organization's pension plan which are incurred in accordance with the established policies of the organization are allowable, provided:

(a) Such policies meet the test of reasonableness;

(b) The methods of cost allocation are not discriminatory;

(c) The cost assigned to each fiscal year is determined in accordance with generally accepted accounting principles (GAAP), as prescribed in Accounting Principles Board Opinion No. 8 issued by the American Institute of Certified Public Accountants; and

(d) The costs assigned to a given fiscal year are funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 days after each quarter of the year to which such costs are assignable are unallowable.

(2) Pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act (ERISA) of 1974 (Pub. L. 93-406) are allowable. Late payment charges on such premiums are unallowable.

(3) Excise taxes on accumulated funding deficiencies and other penalties imposed under ERISA are unallowable.

i. **Incentive compensation**. Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the organization and the employees before the services were rendered, or pursuant to an established plan followed by the organization so consistently as to imply, in effect, an agreement to make such payment.

j. **Overtime, extra-pay shift, and multi-shift premiums**. See **paragraph 32**.

k. **Severance pay**. See **paragraph 49**.

l. **Training and education costs**. See **paragraph 53**.

m. **Support of salaries and wages**.

(1) Charges to awards for salaries and wages, whether treated as direct costs or indirect costs, will be based on documented payrolls approved by a responsible official(s) of the organization. The distribution of salaries and wages to awards must be supported by personnel activity reports, as prescribed in **subparagraph (2)**, except when a substitute system has been approved in writing by the cognizant agency. (See **subparagraph E.2 of Attachment A**.)

(2) Reports reflecting the distribution of activity of each employee must be maintained for all staff members (professionals and nonprofessionals) whose compensation is charged, in whole or in part, directly to awards. In addition, in order to support the allocation of indirect costs, such reports must also be maintained for other employees whose work involves two or more functions or activities if a distribution of their compensation between such functions or activities is needed in the determination of the organization's indirect cost rate(s) (e.g., an employee engaged part-time in indirect cost activities and part-time in a direct function). Reports maintained by non-profit organizations to satisfy these requirements must meet the following standards:

(a) The reports must reflect an *after-the-fact* determination of the actual activity of each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to awards.

(b) Each report must account for the total activity for which employees are compensated and which is required in fulfillment of their obligations to the organization.

(c) The reports must be signed by the individual employee, or by a responsible supervisory official having first hand knowledge of the activities performed by the employee, that the distribution of activity represents a reasonable estimate of the actual work performed by the employee during the periods covered by the reports.

(d) The reports must be prepared at least monthly and must coincide with one or more pay periods.

(3) Charges for the salaries and wages of nonprofessional employees, in addition to the supporting documentation described in **subparagraphs (1) and (2)**, must also be supported by records indicating the total number of hours worked each day maintained in conformance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR Part 506). For this purpose, the term "nonprofessional employee" shall have the same meaning as "nonexempt employee," under FLSA.

(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on awards must be supported in the same manner as salaries and wages claimed for reimbursement from awarding agencies.

8. **Contingency provisions**. Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable. The term "contingency reserve" excludes self-insurance reserves (see **subparagraphs 7.f (3) and 22.a(2)(d)**; pension funds (see **subparagraph 7.h**); and reserves for normal severance pay (see **subparagraph 49.b(1)**)).

9. **Contributions**. Contributions and donations by the organization to others are unallowable.

10. **Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringement**.

a. **Definitions**.

(1) Conviction, as used herein, means a judgment or a conviction of a criminal offense by any court of competent jurisdiction, whether entered upon as a verdict or a plea, including a conviction due to a plea of *nolo contendere*.

(2) Costs include, but are not limited to, administrative and clerical expenses; the cost of legal services, whether performed by in-house or private counsel; and the costs of the services of accountants, consultants, or others retained by the organization to assist it; costs of employees, officers and trustees, and any similar costs incurred before, during, and after commencement of a judicial or administrative proceeding that bears a direct relationship to the proceedings.

(3) Fraud, as used herein, means (i) acts of fraud corruption or attempts to defraud the Federal Government or to corrupt its agents, (ii) acts that constitute a cause for debarment or suspension (as specified in agency regulations), and (iii) acts which violate the False Claims Act, 31 U.S.C., sections 3729-3731, or the Anti-Kickback Act, 41 U.S.C., sections 50 and 54.

(4) Penalty does not include restitution, reimbursement, or compensatory damages.

(5) Proceeding includes an investigation.

b. (1) Except as otherwise described herein, costs incurred in connection with any criminal, civil or administrative proceeding (including filing of a false certification) commenced by the Federal Government, or a State, local or foreign government, are not allowable if the proceeding: (1) relates to a violation of, or failure to comply with, a Federal, State, local or foreign statute or regulation by the organization (including its agents and employees), and (2) results in any of the following dispositions:

(a) In a criminal proceeding, a conviction.

(b) In a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of organizational liability.

(c) In the case of any civil or administrative proceeding, the imposition of a monetary penalty.

(d) A final decision by an appropriate Federal official to debar or suspend the organization, to rescind or void an award, or to terminate an award for default by reason of a violation or failure to comply with a law or regulation.

(e) A disposition by consent or compromise, if the action could have resulted in any of the dispositions described in (a), (b), (c) or (d).

(2) If more than one proceeding involves the same alleged misconduct, the costs of all such proceedings shall be unallowable if any one of

them results in one of the dispositions shown in **subparagraph b.(1)**.

c. If a proceeding referred to in **subparagraph b** is commenced by the Federal Government and is resolved by consent or compromise pursuant to an agreement entered into by the organization and the Federal Government, then the costs incurred by the organization in connection with such proceedings that are otherwise not allowable under **subparagraph b** may be allowed to the extent specifically provided in such agreement.

d. If a proceeding referred to in **subparagraph b** is commenced by a State, local or foreign government, the authorized Federal official may allow the costs incurred by the organization for such proceedings, if such authorized official determines that the costs were incurred as a result of (1) a specific term or condition of a federally-sponsored award, or (2) specific written direction of an authorized official of the sponsoring agency.

e. Costs incurred in connection with proceedings described in **subparagraph b**, but which are not made unallowable by that subparagraph, may be allowed by the Federal Government, but only to the extent that:

(1) The costs are reasonable in relation to the activities required to deal with the proceeding and the underlying cause of action;

(2) Payment of the costs incurred, as allowable and allocable costs, is not prohibited by any other provision(s) of the sponsored award;

(3) The costs are not otherwise recovered from the Federal Government or a third party, either directly as a result of the proceeding or otherwise; and,

(4) The percentage of costs allowed does not exceed the percentage determined by an authorized Federal official to be appropriate, considering the complexity of the litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate. Such percentage shall not exceed 80 percent. However, if an agreement reached under **subparagraph c** has explicitly considered this 80 percent limitation and permitted a higher percentage, then the full amount of costs resulting from that agreement shall be allowable.

f. Costs incurred by the organization in connection with the defense of suits brought by its employees or ex-employees under section 2 of the Major Fraud Act of 1988 (Pub. L. 100-700), including the cost of all relief necessary to make such employee whole, where the organization was found liable or settled, are unallowable.

g. Costs of legal, accounting, and consultant services, and related costs, incurred in connection with defense against Federal Government claims or appeals, antitrust suits, or the prosecution of claims or appeals against the Federal Government, are unallowable.

h. Costs of legal, accounting, and consultant services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the sponsored awards.

i. Costs which may be unallowable under this paragraph, including directly associated costs, shall be segregated and accounted for by the organization separately. During the pendency of any proceeding covered by **subparagraphs b and f**, the Federal Government shall generally withhold payment of such costs. However, if in the best interests of the Federal Government, the Federal Government may provide for conditional payment upon provision of adequate security, or other adequate assurance, and agreements by the organization to repay all unallowable costs, plus interest, if the costs are subsequently determined to be unallowable.

11. **Depreciation and use allowances**.

a. Compensation for the use of buildings, other capital improvements, and equipment on hand may be made through use allowances or depreciation. However, except as provided in **subparagraph f**, a combination of the two methods may not be used in connection with a single class of fixed assets (e.g., buildings, office equipment, computer equipment, etc.).

b. The computation of use allowances or depreciation shall be based on the acquisition cost of the assets involved. The acquisition cost of an asset donated to the organization by a third party shall be its fair market value at the time of the donation.

c. The computation of use allowances or depreciation will exclude:

(1) The cost of land;

(2) Any portion of the cost of buildings and equipment borne by or donated by the Federal Government irrespective of where title was originally vested or where it presently resides; and

(3) Any portion of the cost of buildings and equipment contributed by or for the organization in satisfaction of a statutory matching requirement.

d. Where the use allowance method is followed, the use allowance for buildings and improvement (including land improvements, such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost. When the use allowance method is used for buildings, the entire building must be treated as a single asset; the building's components (e.g., plumbing system, heating and air conditioning, etc.) cannot be segregated from the building's shell. The two percent limitation, however, need not be applied to equipment which is merely attached or fastened to the building but not permanently fixed to it and which is used as furnishings or decorations or for specialized purposes (e.g., dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, carpeting, etc.). Such equipment will be considered as not being permanently fixed to the building if it can be removed without the need for costly or extensive alterations or repairs to the building or the equipment. Equipment that meets these criteria will be subject to the six and two-thirds percent equipment use allowance limitation.

e. Where depreciation method is followed, the period of useful service (useful life) established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular program area, and the renewal and replacement policies followed for the individual items or classes of assets involved. The method of depreciation used to assign the cost of an asset (or group of assets) to accounting periods shall reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater or lesser in the early portions of its useful life than in the later portions, the straight-line method shall be presumed to be the appropriate method. Depreciation methods once used shall not be changed unless approved in advance by the cognizant Federal agency. When the depreciation method is introduced for application to assets previously subject to a use allowance, the combination of use allowances and depreciation applicable to such assets must not exceed the total acquisition cost of the assets. When the depreciation method is used for buildings, a building's shell may be segregated from each building component (e.g., plumbing system, heating, and air conditioning system, etc.) and each item depreciated over its estimated useful life; or the entire building (i.e., the shell and all components) may be treated as a single asset and depreciated over a single useful life.

f. When the depreciation method is used for a particular class of assets, no depreciation may be allowed on any such assets that, under **subparagraph e**, would be viewed as fully depreciated. However, a reasonable use allowance may be negotiated for such assets if warranted after taking into consideration the amount of depreciation previously charged to the Federal Government, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purpose contemplated.

g. Charges for use allowances or depreciation must be supported by adequate property records and physical inventories must be taken at least once every two years (a statistical sampling basis is acceptable) to ensure that assets exist and are usable and needed. When the depreciation method is followed, adequate depreciation records indicating the amount of depreciation taken each period must also be maintained.

12. **Donations**.

a. **Services received**.

(1) Donated or volunteer services may be furnished to an organization by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or indirect cost.

(2) The value of donated services utilized in the performance of a direct cost activity shall be considered in the determination of the organization's indirect cost rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs when the following circumstances exist:

(a) The aggregate value of the services is material;

(b) The services are supported by a significant amount of the indirect costs incurred by the organization;

(c) The direct cost activity is not pursued primarily for the benefit of the Federal Government,

(3) In those instances where there is no basis for determining the fair market value of the services rendered, the recipient and the cognizant agency shall negotiate an appropriate allocation of indirect cost to the services.

(4) Where donated services directly benefit a project supported by an award, the indirect costs allocated to the services will be considered as a part of the total costs of the project. Such indirect costs may be reimbursed under the award or used to meet cost sharing or matching requirements.

(5) The value of the donated services may be used to meet cost sharing or matching requirements under conditions described in Sec.__.23 of Circular A-110. Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

(6) Fair market value of donated services shall be computed as follows:

(a) **Rates for volunteer services**. Rates for volunteers shall be consistent with those regular rates paid for similar work in other activities of the organization. In cases where the kinds of skills involved are not found in other activities of the organization, the rates used shall be consistent with those paid for similar work in the labor market in which the organization competes for such skills.

(b) **Services donated by other organizations**. When an employer donates the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and indirect costs), provided the services are in the same skill for which the employee is normally paid. If the services are not in the same skill for which the employee is normally paid, fair market value shall be computed in accordance with **subparagraph (a)**.

b. **Goods and space**.

(1) Donated goods; i.e., expendable personal property/supplies, and donated use of space may be furnished to an organization. The value of the goods and space is not reimbursable either as a direct or indirect cost.

(2) The value of the donations may be used to meet cost sharing or matching share requirements under the conditions described in Sec.__.23 of Circular A-110. The value of the donations shall be determined in accordance with Sec.__.23 of Circular A-110. Where donations are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

13. **Employee morale, health, and welfare costs and credits**. The costs of house publications, health or first-aid clinics, and/or infirmaries, recreational activities, employees' counseling services, and other expenses incurred in accordance with the organization's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance are allowable. Such costs will be equitably apportioned to all activities of the organization. Income generated from any of these activities will be credited to

the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

14. **Entertainment costs**. Costs of amusement, diversion, social activities, ceremonials, and costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities are unallowable (but see **paragraphs 13 and 30**).

15. **Equipment and other capital expenditures**.

a. As used in this paragraph, the following terms have the meanings set forth below:

(1) "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5000. The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable use allowances or depreciation on the equipment, or by amortizing the amount to be written off over a period of years as negotiated with the Federal cognizant agency.

(2) **Acquisition cost** means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.

(3) **Special purpose equipment** means equipment which is usable only for research, medical, scientific, or technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.

(4) **General purpose equipment** means equipment which is usable for other than research, medical, scientific, or technical activities, whether or not special modifications are needed to make them suitable for a particular purpose. Examples of general purpose equipment include office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment.

b. (1) Capital expenditures for general purpose equipment are unallowable as a direct cost except with the prior approval of the awarding agency.

(2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of $5000 or more have the prior approval of awarding agency.

c. Capital expenditures for land or buildings are unallowable as a direct cost except with the prior approval of the awarding agency.

d. Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior approval of the awarding agency.

e. Equipment and other capital expenditures are unallowable as indirect costs. However, see **paragraph 11** for allowability of use allowances or depreciation on buildings, capital improvements, and equipment. Also, see **paragraph 46** for allowability of rental costs for land, buildings, and equipment.

16. **Fines and penalties**. Costs of fines and penalties resulting from violations of, or failure of the organization to comply with Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of an award or instructions in writing from the awarding agency.

17. **Fringe benefits**. See **subparagraph 7.f**.

18. **Goods or services for personal use**. Costs of goods or services for personal use of the organization's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.

19. **Housing and personal living expenses**.

a. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent, etc.), housing allowances and personal living expenses for/of the organization's officers are unallowable as fringe benefit or indirect costs regardless of whether the cost is reported as taxable income to the employees. These costs are allowable as direct costs to sponsored award when necessary for the performance of the sponsored award and approved by awarding agencies.

b. The term "officers" includes current and past officers and employees.

20. **Idle facilities and idle capacity**.

a. As used in this paragraph, the following terms have the meanings set forth below:

(1) **Facilities** means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the organization.

(2) **Idle facilities** means completely unused facilities that are excess to the organization's current needs.

(3) **Idle capacity** means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays, and the extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.

(4) **Costs of idle facilities or idle capacity** means costs such as maintenance, repair, housing, rent, and other related costs, e.g., property taxes, insurance, and depreciation or use allowances.

b. The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet fluctuations in workload; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subparagraph, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending upon the initiative taken to use, lease, or dispose of such facilities (but see **subparagraphs 48.b and d**).

c. The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be idle facilities.

21. **Independent research and development**. [Reserved]

22. **Insurance and indemnification**.

a. Insurance includes insurance which the organization is required to carry, or which is approved, under the terms of the award and any other insurance which the organization maintains in connection with the general conduct of its operations. This paragraph does not apply to insurance which represents fringe benefits for employees (see **subparagraphs 7.f and 7.h(2)**).

(1) Costs of insurance required or approved, and maintained, pursuant to the award are allowable.

(2) Costs of other insurance maintained by the organization in connection with the general conduct of its operations are allowable subject to the following limitations:

(a) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances.

(b) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of management fees.

(c) Costs of insurance or of any provisions for a reserve covering the risk of loss or damage to Federal property are allowable only to the extent that the organization is liable for such loss or damage.

(d) Provisions for a reserve under a self-insurance program are allowable to the extent that types of coverage, extent of coverage, rates, and premiums would have been allowed had insurance been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, shall not exceed the present value of the liability.

(e) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation (see **subparagraph 7.f(4)**). The cost of such insurance when the organization is identified as the beneficiary is unallowable.

(f) Insurance against defects. Costs of insurance with respect to any costs incurred to correct defects in the organization's materials or workmanship are unallowable.

(g) Medical liability (malpractice) insurance. Medical liability insurance is an allowable cost of Federal research programs only to the extent that the Federal research programs involve human subjects or training of participants in research techniques. Medical liability insurance costs shall be treated as a direct cost and shall be assigned to individual projects based on the manner in which the insurer allocates the risk to the population covered by the insurance.

(3) Actual losses which could have been covered by permissible insurance (through the purchase of insurance or a self-insurance program) are unallowable unless expressly provided for in the award, except:

(a) Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice are allowable.

(b) Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of supplies, which occur in the ordinary course of operations, are allowable.

b. Indemnification includes securing the organization against liabilities to third persons and any other loss or damage, not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the organization only to the extent expressly provided in the award.

23. **Interest, fundraising, and investment management costs**.

a. **Interest**.

(1) Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable. However, interest on debt incurred after the effective date of this revision to acquire or replace capital assets (including renovations, alterations, equipment, land, and capital assets acquired through capital leases), acquired after the effective date of this revision and used in support of sponsored agreements is allowable, provided that:

(a) For facilities acquisitions (excluding renovations and alterations) costing over $10 million where the Federal Government's reimbursement is expected to equal or exceed 40 percent of an asset's cost, the non-profit organization prepares, prior to the acquisition or replacement of the capital asset(s), a justification that demonstrates the need for the facility in the conduct of federally-sponsored activities. Upon request, the needs justification must be provided to the Federal agency with cost cognizance authority as a prerequisite to the continued allowability of interest on debt and depreciation related to the facility. The needs justification for the acquisition of a facility should include, at a minimum, the following:

A statement of purpose and justification for facility acquisition or replacement

A statement as to why current facilities are not adequate

A statement of planned future use of the facility

A description of the financing agreement to be arranged for the facility

A summary of the building contract with estimated cost information and statement of source and use of funds

A schedule of planned occupancy dates

(b) For facilities costing over $500,000, the non-profit organization prepares, prior to the acquisition or replacement of the facility, a lease/purchase analysis in accordance with the provisions of Sec. __.30 through __.37 of Circular A-110, which shows that a financed purchase or capital lease is less costly to the organization than other leasing alternatives, on a net present value basis. Discount rates used should be equal to the non-profit organization's anticipated interest rates and should be no higher than the fair market rate available to the non-profit organization from an unrelated ("arm's length") third-party. The lease/purchase analysis shall include a comparison of the net present value of the projected total cost comparisons of both alternatives over the period the asset is expected to be used by the non-profit organization. The cost comparisons associated with purchasing the facility shall include the estimated purchase price, anticipated operating and maintenance costs (including property taxes, if applicable) not included in the debt financing, less any estimated asset salvage value at the end of the period defined above. The cost comparison for a capital lease shall include the estimated total lease payments, any estimated bargain purchase option, operating and maintenance costs, and taxes not included in the capital leasing arrangement, less any estimated credits due under the lease at the end of the period defined above. Projected operating lease costs shall be based on the anticipated cost of leasing comparable facilities at fair market rates under rental agreements that would be renewed or reestablished over the period defined above, and any expected maintenance costs and allowable property taxes to be borne by the non-profit organization directly or as part of the lease arrangement.

(c) The actual interest cost claimed is predicated upon interest rates that are no higher than the fair market rate available to the non-profit organization from an unrelated ("arm's length") third party.

(d) Investment earnings, including interest income, on bond or loan principal, pending payment of the construction or acquisition costs, are used to offset allowable interest cost. Arbitrage earnings reportable to the Internal Revenue Service are not required to be offset against allowable interest costs.

(e) Reimbursements are limited to the least costly alternative based on the total cost analysis required under **subparagraph (b)**. For example, if an operating lease is determined to be less costly than purchasing through debt financing, then reimbursement is limited to the amount determined if leasing had been used. In all cases where a lease/purchase analysis is performed, Federal reimbursement shall be based upon the least expensive alternative.

(f) Non-profit organizations are also subject to the following conditions:

(i) Interest on debt incurred to finance or refinance assets acquired before or reacquired after the effective date of this Circular is not allowable.

(ii) For debt arrangements over $1 million, unless the non-profit organization makes an initial equity contribution to the asset purchase of 25 percent or more, non-profit organizations shall reduce claims for interest expense by an amount equal to imputed interest earnings on excess cash flow, which is to be calculated as follows. Annually, non-profit organizations shall prepare a cumulative (from the inception of the project) report of monthly cash flows that includes inflows and outflows, regardless of the funding source. Inflows consist of depreciation expense, amortization of capitalized construction interest, and annual interest expense. For cash flow calculations, the annual inflow figures shall be divided by the number of months in the year (usually 12) that the building is in service for monthly amounts. Outflows consist of initial equity contributions, debt principal payments (less the pro rata share attributable to the unallowable costs of land) and interest payments. Where cumulative inflows exceed cumulative outflows, interest shall be calculated on the excess inflows for that period and be treated as a reduction to allowable interest expense. The rate of interest to be used to compute earnings on excess cash flows shall be the three month Treasury Bill closing rate as of the last business day of that month.

(iii) Substantial relocation of federally-sponsored activities from a facility financed by indebtedness, the cost of which was funded in whole or part through Federal reimbursements, to another facility prior to the expiration of a period of 20 years requires notice to the Federal cognizant agency. The extent of the relocation, the amount of the Federal participation in the financing, and the depreciation and interest charged to date may require negotiation and/or downward adjustments of replacement space charged to Federal programs in the future.

(iv) The allowable costs to acquire facilities and equipment are limited to a fair market value available to the non-profit organization from an unrelated ("arm's length") third party.

(2) For non-profit organizations subject to "full coverage"' under the Cost Accounting Standards (CAS) as defined at 48 CFR 9903.201, the interest allowability provisions of **subparagraph a** do not apply. Instead, these organizations' sponsored agreements are subject to CAS 414 (48 CFR 9903.414), cost of money as an element of the cost of facilities capital, and CAS 417 (48 CFR 9903.417), cost of money as an element of the cost of capital assets under construction.

(3) The following definitions are to be used for purposes of **paragraph 23**:

(a) **Re-acquired assets** means assets held by the non-profit organization prior to the effective date of this revision that have again come to be held by the organization, whether through repurchase or refinancing. It does not include assets acquired to replace older assets.

(b) **Initial equity contribution** means the amount or value of contributions made by non-Federal entities for the acquisition of the asset or prior to occupancy of facilities.

(c) **Asset costs** means the capitalizable costs of an asset, including construction costs, acquisition costs, and other such costs capitalized in accordance with GAAP.

b. Costs of organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable.

c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

d. Fundraising and investment activities shall be allocated an appropriate share of indirect costs under the conditions described in **subparagraph B.3 of Attachment A**.

24. **Labor relations costs**. Costs incurred in maintaining satisfactory relations between the organization and its employees, including costs of labor management committees, employee publications, and other related activities are allowable.

25. **Lobbying**.

a. Notwithstanding other provisions of this Circular, costs associated with the following activities are unallowable:

(1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity;

(2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;

(3) Any attempt to influence: (i) The introduction of Federal or State legislation; or (ii) the enactment or modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State legislature (including efforts to influence State or local officials to engage in similar lobbying activity), or with any Government official or employee in connection with a decision to sign or veto enrolled legislation;

(4) Any attempt to influence: (i) The introduction of Federal or State legislation; or (ii) the enactment or modification of any pending Federal or State legislation by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign; or

(5) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

b. The following activities are excepted from the coverage of **subparagraph a**:

(1) Providing a technical and factual presentation of information on a topic directly related to the performance of a grant, contract or other agreement through hearing testimony, statements or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof, in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the recipient member, legislative body or subdivision, or a cognizant staff member thereof; provided such information is readily obtainable and can be readily put in deliverable form; and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearing.

(2) Any lobbying made unallowable by **subparagraph a(3)** to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the grant, contract, or other agreement.

(3) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

c. (1) When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures of **subparagraph B.3 of Attachment A**.

(2) Organizations shall submit, as part of the annual indirect cost rate proposal, a certification that the requirements and standards of this paragraph have been complied with.

(3) Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to **paragraph 25** complies with the requirements of this Circular.

(4) Time logs, calendars, or similar records shall not be required to be created for purposes of complying with this paragraph during any particular calendar month when: (1) the employee engages in lobbying (as defined in **subparagraphs (a) and (b)**) 25 percent or less of the employee's compensated hours of employment during that calendar month, and (2) within the preceding five-year period, the organization has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs. When conditions **(1) and (2)** are met, organizations are not required to establish records to support the allowabliliy of claimed costs in addition to records already required or maintained. Also, when conditions **(1) and (2**) are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

(5) Agencies shall establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of **paragraph 25**. Any such advance resolution shall be binding in any subsequent settlements, audits or investigations with respect to that grant or contract for purposes of interpretation of this Circular; provided, however, that this shall not be construed to prevent a contractor or grantee from contesting the lawfulness of such a determination.

26. **Losses on other awards**. Any excess of costs over income on any award is unallowable as a cost of any other award. This includes, but is not limited to, the organization's contributed portion by reason of cost sharing agreements or any under-recoveries through negotiation of lump sums for, or ceilings on, indirect costs.

27. **Maintenance and repair costs**. Costs incurred for necessary maintenance, repair, or upkeep of buildings and equipment (including Federal property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life shall be treated as capital expenditures (see **paragraph 15**).

28. **Materials and supplies**. The costs of materials and supplies necessary to carry out an award are allowable. Such costs should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the organization. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming

transportation charges may be a proper part of material cost. Materials and supplies charged as a direct cost should include only the materials and supplies actually used for the performance of the contract or grant, and due credit should be given for any excess materials or supplies retained, or returned to vendors.

29. **Meetings and conferences**.

a. Costs associated with the conduct of meetings and conferences include the cost of renting facilities, meals, speakers' fees, and the like. But see **paragraph 14**, Entertainment costs, and **paragraph 34**, Participant support costs.

b. To the extent that these costs are identifiable with a particular cost objective, they should be charged to that objective (see **paragraph B of Attachment A**). These costs are allowable, provided that they meet the general tests of allowability, shown in **paragraph A of Attachment A** to this Circular.

c. Costs of meetings and conferences held to conduct the general administration of the organization are allowable.

30. **Memberships, subscriptions, and professional activity costs**.

a. Costs of the organization's membership in business, technical, and professional organizations are allowable.

b. Costs of the organization's subscriptions to business, professional, and technical periodicals are allowable.

c. Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

d. Costs of membership in any civic or community organization are allowable with prior approval by Federal cognizant agency.

e. Costs of membership in any country club or social or dining club or organization are unallowable.

31. **Organization costs**. Expenditures, such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselors, whether or not employees of the organization, in connection with establishment or reorganization of an organization, are unallowable except with prior approval of the awarding agency.

32. **Overtime, extra-pay shift, and multi-shift premiums**. Premiums for overtime, extra-pay shifts, and multi-shift work are allowable only with the prior approval of the awarding agency except:

a. When necessary to cope with emergencies, such as those resulting from accidents, natural disasters, breakdowns of equipment, or occasional operational bottlenecks of a sporadic nature.

b. When employees are performing indirect functions, such as administration, maintenance, or accounting.

c. In the performance of tests, laboratory procedures, or other similar operations which are continuous in nature and cannot reasonably be interrupted or otherwise completed.

d. When lower overall cost to the Federal Government will result.

33. **Page charges in professional journals**. Page charges for professional journal publications are allowable as a necessary part of research costs, where:

a. The research papers report work supported by the Federal Government; and

b. The charges are levied impartially on all research papers published by the journal, whether or not by federally-sponsored authors.

34. **Participant support costs**. Participant support costs are direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia, or training projects. These costs are allowable with the prior approval of the awarding agency.

35. **Patent costs**.

a. Costs of (i) preparing disclosures, reports, and other documents required by the award and of searching the art to the extent necessary to make such disclosures, (ii) preparing documents and any other patent costs in connection with the filing and prosecution of a United States patent application where title or royalty-free license is required by the Federal Government to be conveyed to the Federal Government, and (iii) general counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee agreements are allowable (but see **paragraph 39**).

b. Cost of preparing disclosures, reports, and other documents and of searching the art to the extent necessary to make disclosures, if not required by the award, are unallowable. Costs in connection with (i) filing and prosecuting any foreign patent application, or (ii) any United States patent application, where the award does not require conveying title or a royalty-free license to the Federal Government, are unallowable (also see **paragraph 47**).

36. **Pension plans**. See **subparagraph 7.h.**

37. **Plant security costs**. Necessary expenses incurred to comply with Federal security requirements or for facilities protection, including wages, uniforms, and equipment of personnel are allowable.

38. **Pre-award costs**. Pre-award costs are those incurred prior to the effective date of the award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the awarding agency.

39. **Professional service costs**.

a. Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the organization, are allowable, subject to

subparagraphs b and c when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government.

b. In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:

(1) The nature and scope of the service rendered in relation to the service required.

(2) The necessity of contracting for the service, considering the organization's capability in the particular area.

(3) The past pattern of such costs, particularly in the years prior to Federal awards.

(4) The impact of Federal awards on the organization's business (i.e., what new problems have arisen).

(5) Whether the proportion of Federal work to the organization's total business is such as to influence the organization in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Federal grants and contracts.

(6) Whether the service can be performed more economically by direct employment rather than contracting.

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-Federal awards.

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

c. In addition to the factors in **subparagraph b**, retainer fees to be allowable must be supported by evidence of bona fide services available or rendered.

40. **Profits and losses on disposition of depreciable property or other capital assets**.

a. (1) Gains and losses on sale, retirement, or other disposition of depreciable property shall be included in the year in which they occur as credits or charges to cost grouping(s) in which the depreciation applicable to such property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate cost grouping(s) shall be the difference between the amount realized on the property and the undepreciated basis of the property.

(2) Gains and losses on the disposition of depreciable property shall not be recognized as a separate credit or charge under the following conditions:

(a) The gain or loss is processed through a depreciation reserve account and is reflected in the depreciation allowable under **paragraph 11**.

(b) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

(c) A loss results from the failure to maintain permissible insurance, except as otherwise provided in **subparagraph 22.a(3)**.

(d) Compensation for the use of the property was provided through use allowances in lieu of depreciation in accordance with **paragraph 11**.

(e) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions shall be considered on a case-by-case basis.

b. Gains or losses of any nature arising from the sale or exchange of property other than the property covered in **subparagraph a** shall be excluded in computing award costs.

41. **Publication and printing costs**.

a. Publication costs include the costs of printing (including the processes of composition, plate-making, press work, binding, and the end products produced by such processes), distribution, promotion, mailing, and general handling.

b. If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all benefiting activities of the organization.

c. Publication and printing costs are unallowable as direct costs except with the prior approval of the awarding agency.

d. The cost of page charges in journals is addressed **paragraph 33**.

42. **Rearrangement and alteration costs**. Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable with the prior approval of the awarding agency.

43. **Reconversion costs**. Costs incurred in the restoration or rehabilitation of the organization's facilities to approximately the same condition existing immediately prior to commencement of Federal awards, fair wear and tear excepted, are allowable.

44. **Recruiting costs**.

a. Subject to **subparagraphs b, c, and d**, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to a well-managed recruitment program. Where the organization uses employment agencies, costs that are not in excess of standard commercial rates for such services are allowable.

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal organizational practices in this respect), are unallowable.

c. Costs of help wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel from other organizations that do not meet the test of reasonableness or do not conform with the established practices of the organization, are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within twelve months after being hired, the organization will be required to refund or credit such relocation costs to the Federal Government.

45. **Relocation costs**.

a. Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) of an existing employee or upon recruitment of a new employee. Relocation costs are allowable, subject to the limitation described in **subparagraphs b, c, and d**, provided that:

(1) The move is for the benefit of the employer.

(2) Reimbursement to the employee is in accordance with an established written policy consistently followed by the employer.

(3) The reimbursement does not exceed the employee's actual (or reasonably estimated) expenses.

b. Allowable relocation costs for current employees are limited to the following:

(1) The costs of transportation of the employee, members of his immediate family and his household, and personal effects to the new location.

(2) The costs of finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period, up to maximum period of 30 days, including advance trip time.

(3) Closing costs, such as brokerage, legal, and appraisal fees, incident to the disposition of the employee's former home. These costs, together with those described in **(4)**, are limited to 8 per cent of the sales price of the employee's former home.

(4) The continuing costs of ownership of the vacant former home after the settlement or lease date of the employee's new permanent home, such as maintenance of buildings and grounds (exclusive of fixing up expenses), utilities, taxes, and property insurance.

(5) Other necessary and reasonable expenses normally incident to relocation, such as the costs of canceling an unexpired lease, disconnecting and reinstalling household appliances, and purchasing insurance against loss of or damages to personal property. The cost of canceling an unexpired lease is limited to three times the monthly rental.

c. Allowable relocation costs for new employees are limited to those described in **(1) and (2) of subparagraph b**. When relocation costs incurred incident to the recruitment of new employees have been allowed either as a direct or indirect cost and the employee resigns for reasons within his control within 12 months after hire, the organization shall refund or credit the Federal Government for its share of the cost. However, the costs of travel to an overseas location shall be considered travel costs in accordance with **paragraph 55** and not relocation costs for the purpose of this paragraph if dependents are not permitted at the location for any reason and the costs do not include costs of transporting household goods.

d. The following costs related to relocation are unallowable:

(1) Fees and other costs associated with acquiring a new home.

(2) A loss on the sale of a former home.

(3) Continuing mortgage principal and interest payments on a home being sold.

(4) Income taxes paid by an employee related to reimbursed relocation costs.

46. **Rental costs**.

a. Subject to the limitations described in **subparagraphs b through d**, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased.

b. Rental costs under sale and leaseback arrangements are allowable only up to the amount that would be allowed had the organization continued to own the property.

c. Rental costs under less-than-arms-length leases are allowable only up to the amount that would be allowed had title to the property vested in the organization. For this purpose, a less-than-arms-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between (i) divisions of an organization; (ii) organizations under common control through common officers, directors, or members; and (iii) an organization and a director, trustee, officer, or key employee of the organization or his immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.

d. Rental costs under leases which are required to be treated as capital leases under GAAP, are allowable only up to the amount that would be allowed had the organization purchased the property on the date the lease agreement was executed, i.e., to the amount that minimally would pay for depreciation or use allowances, maintenance, taxes, and insurance. Interest costs related to capitalized leases are allowable to the extent they meet criteria in

subparagraph 23.a. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the organization purchased the facility.

47. **Royalties and other costs for use of patents and copyrights**.

a. Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necessary for the proper performance of the award are allowable unless:

(1) The Federal Government has a license or the right to free use of the patent or copyright.

(2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid.

(3) The patent or copyright is considered to be unenforceable.

(4) The patent or copyright is expired.

b. Special care should be exercised in determining reasonableness where the royalties may have arrived at as a result of less-than-arm's-length bargaining, e.g.:

(1) Royalties paid to persons, including corporations, affiliated with the organization.

(2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Federal award would be made.

(3) Royalties paid under an agreement entered into after an award is made to an organization.

c. In any case involving a patent or copyright formerly owned by the organization, the amount of royalty allowed should not exceed the cost which would have been allowed had the organization retained title thereto.

48. **Selling and marketing**. Costs of selling and marketing any products or services of the organization (unless allowed under **paragraph 1** as allowable public relations costs) are unallowable. These costs, however, are allowable as direct costs, with prior approval by awarding agencies, when they are necessary for the performance of Federal programs.

49. **Severance pay**.

a. Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by organizations to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that in each case, it is required by (i) law, (ii) employer-employee agreement, (iii) established policy that constitutes, in effect, an implied agreement on the organization's part, or (iv) circumstances of the particular employment.

b. Costs of severance payments are divided into two categories as follows:

(1) Actual normal turnover severance payments shall be allocated to all activities; or, where the organization provides for a reserve for normal

severances, such method will be acceptable if the charge to current operations is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts charged are allocated to all activities of the organization.

(2) Abnormal or mass severance pay is of such a conjectural nature that measurement of costs by means of an accrual will not achieve equity to both parties. Thus, accruals for this purpose are not allowable. However, the Federal Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Thus, allowability will be considered on a case-by-case basis in the event or occurrence.

c. Costs incurred in certain severance pay packages (commonly known as "a golden parachute" payment) which are in an amount in excess of the normal severance pay paid by the organization to an employee upon termination of employment and are paid to the employee contingent upon a change in management control over, or ownership of, the organization's assets are unallowable.

d. Severance payments to foreign nationals employed by the organization outside the United States, to the extent that the amount exceeds the customary or prevailing practices for the organization in the United States are unallowable, unless they are necessary for the performance of Federal programs and approved by awarding agencies.

e. Severance payments to foreign nationals employed by the organization outside the United States due to the termination of the foreign national as a result of the closing of, or curtailment of activities by, the organization in that country, are unallowable, unless they are necessary for the performance of Federal programs and approved by awarding agencies.

50. **Specialized service facilities**.

a. The costs of services provided by highly complex or specialized facilities operated by the organization, such as electronic computers and wind tunnels, are allowable, provided the charges for the services meet the conditions of either **subparagraph b or c** and, in addition, take into account any items of income or Federal financing that qualify as applicable credits under **subparagraph A.5 of Attachment A**.

b. The costs of such services, when material, must be charged directly to applicable awards based on actual usage of the services on the basis of a schedule of rates or established methodology that (i) does not discriminate against federally-supported activities of the organization, including usage by the organization for internal purposes, and (ii) is designed to recover only the aggregate costs of the services. The costs of each service shall consist normally of both its direct costs and its allocable share of all indirect costs. Advance agreements pursuant to **subparagraph A.6 of Attachment A** are particularly important in this situation.

c. Where the costs incurred for a service are not material, they may be allocated as indirect costs.

50. **Taxes**.

a. In general, taxes which the organization is required to pay and which are paid or accrued in accordance with GAAP, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for (i) taxes from which exemptions are available to the organization directly or which are available to the organization based on an exemption afforded the Federal Government and in the latter case when the awarding agency makes available the necessary exemption certificates, (ii) special assessments on land which represent capital improvements, and (iii) Federal income taxes.

b. Any refund of taxes, and any payment to the organization of interest thereon, which were allowed as award costs, will be credited either as a cost reduction or cash refund, as appropriate, to the Federal Government.

52. **Termination costs**. Termination of awards generally give rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the award not been terminated. Cost principles covering these items are set forth below. They are to be used in conjunction with the other provisions of this Circular in termination situations.

a. **Common items**. The cost of items reasonably usable on the organization's other work shall not be allowable unless the organization submits evidence that it would not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the organization, the awarding agency should consider the organization's plans and orders for current and scheduled activity. Contemporaneous purchases of common items by the organization shall be regarded as evidence that such items are reasonably usable on the organization's other work. Any acceptance of common items as allocable to the terminated portion of the award shall be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

b. **Costs continuing after termination**. If in a particular case, despite all reasonable efforts by the organization, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this Circular, except that any such costs continuing after termination due to the negligent or willful failure of the organization to discontinue such costs shall be unallowable.

c. **Loss of useful value**. Loss of useful value of special tooling, machinery and equipment which was not charged to the award as a capital expenditure is generally allowable if:

(1) Such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the organization.

(2) The interest of the Federal Government is protected by transfer of title or by other means deemed appropriate by the awarding agency;

d. **Rental costs**. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated award less the residual value of such leases, if (i) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the award and such further period as may be reasonable, and (ii) the organization makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the award, and of reasonable restoration required by the provisions of the lease.

e. **Settlement expenses**. Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for:

(a) The preparation and presentation to awarding agency of settlement claims and supporting data with respect to the terminated portion of the award, unless the termination is for default (see Sec. __.61 of Circular A-110); and

(b) The termination and settlement of subawards.

(2) Reasonable costs for the storage, transportation, protection, and disposition of property provided by the Federal Government or acquired or produced for the award, except when grantees or contractors are reimbursed for disposals at a predetermined amount in accordance with Sec. __.30 through __.37 of Circular A-110.

(3) Indirect costs related to salaries and wages incurred as settlement expenses in **subparagraphs (1) and (2)**. Normally, such indirect costs shall be limited to fringe benefits, occupancy cost, and immediate supervision.

f. **Claims under subawards**. Claims under subawards, including the allocable portion of claims which are common to the award, and to other work of the organization are generally allowable. An appropriate share of the organization's indirect expense may be allocated to the amount of settlements with subcontractors and/or subgrantees, provided that the amount allocated is otherwise consistent with the basic guidelines contained in **Attachment A**. The indirect expense so allocated shall exclude the same and similar costs claimed directly or indirectly as settlement expenses.

53. **Training and education costs**.

a. Costs of preparation and maintenance of a program of instruction including but not limited to on-the-job, classroom, and apprenticeship training, designed to increase the vocational effectiveness of employees, including training materials, textbooks, salaries or wages of trainees (excluding overtime compensation which might arise therefrom), and (i) salaries of the director of training and staff when the training program is conducted by the organization; or (ii) tuition and fees when the training is in an institution not operated by the organization, are allowable.

b. Costs of part-time education, at an undergraduate or post-graduate college level, including that provided at the organization's own facilities, are allowable only when the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work, and are limited to:

(1) Training materials.

(2) Textbooks.

(3) Fees charges by the educational institution.

(4) Tuition charged by the educational institution or, in lieu of tuition, instructors' salaries and the related share of indirect costs of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution.

(5) Salaries and related costs of instructors who are employees of the organization.

(6) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year and only to the extent that circumstances do not permit the operation of classes or attendance at classes after regular working hours; otherwise, such compensation is unallowable.

c. Costs of tuition, fees, training materials, and textbooks (but not subsistence, salary, or any other emoluments) in connection with full-time education, including that provided at the organization's own facilities, at a post-graduate (but not undergraduate) college level, are allowable only when the course or degree pursued is related to the field in which the employee is now working or may reasonably be expected to work, and only where the costs receive the prior approval of the awarding agency. Such costs are limited to the costs attributable to a total period not to exceed one school year for each employee so trained. In unusual cases the period may be extended.

d. Costs of attendance of up to 16 weeks per employee per year at specialized programs specifically designed to enhance the effectiveness of executives or managers or to prepare employees for such positions are allowable. Such costs include enrollment fees, training materials, textbooks and related charges, employees' salaries, subsistence, and travel. Costs allowable under this paragraph do not include those for courses that are part of a degree-oriented curriculum, which are allowable only to the extent set forth in **subparagraphs b and c**.

e. Maintenance expense, and normal depreciation or fair rental, on facilities owned or leased by the organization for training purposes are allowable to the extent set forth in **paragraphs 11, 27, and 46**.

f. Contributions or donations to educational or training institutions, including the donation of facilities or other properties, and scholarships or fellowships, are unallowable.

g. Training and education costs in excess of those otherwise allowable under **subparagraphs b and c** may be allowed with prior approval of the awarding agency. To be considered for approval, the organization must demonstrate that such costs are consistently incurred pursuant to an established training and education program, and that the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work.

54. **Transportation costs**. Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly charged as transportation costs or added to the cost of such items (see **paragraph 28**). Where identification with the materials received

cannot readily be made, transportation costs may be charged to the appropriate indirect cost accounts if the organization follows a consistent, equitable procedure in this respect.

55. **Travel costs**.

a. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the organization. Travel costs are allowable subject to **subparagraphs b through e**, when they are directly attributable to specific work under an award or are incurred in the normal course of administration of the organization.

b. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used results in charges consistent with those normally allowed by the organization in its regular operations.

c. The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (i) require circuitous routing, (ii) require travel during unreasonable hours, (iii) greatly increase the duration of the flight, (iv) result in additional costs which would offset the transportation savings, or (v) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

d. Necessary and reasonable costs of family movements and personnel movements of a special or mass nature are allowable, pursuant to **paragraphs 44 and 45**, subject to allocation on the basis of work or time period benefited when appropriate. Advance agreements are particularly important.

e. Direct charges for foreign travel costs are allowable only when the travel has received prior approval of the awarding agency. Each separate foreign trip must be approved. For purposes of this provision, foreign travel is defined as any travel outside of Canada and the United States and its territories and possessions. However, for an organization located in foreign countries, the term "foreign travel" means travel outside that country.

56. **Trustees**. Travel and subsistence costs of trustees (or directors) are allowable. The costs are subject to restrictions regarding lodging, subsistence and air travel costs provided in **paragraph 55**.

NON-PROFIT ORGANIZATIONS NOT SUBJECT TO THIS CIRCULAR

Aerospace Corporation, El Segundo, California
Argonne National Laboratory, Chicago, Illinois
Atomic Casualty Commission, Washington, D.C.
Battelle Memorial Institute, Headquartered in Columbus, Ohio
Brookhaven National Laboratory, Upton, New York
Charles Stark Draper Laboratory, Incorporated, Cambridge, Massachusetts
Environmental Institute of Michigan, Ann Arbor, Michigan
Hanford Environmental Health Foundation, Richland, Washington
IIT Research Institute, Chicago, Illinois
Institute for Defense Analysis, Alexandria, Virginia
Mitre Corporation, Bedford, Massachusetts
National Radiological Astronomy Observatory, Green Bank, West Virginia
National Renewable Energy Laboratory, Golden, Colorado
Oak Ridge Associated Universities, Oak Ridge, Tennessee
Rand Corporation, Santa Monica, California
Research Triangle Institute, Research Triangle Park, North Carolina
Riverside Research Institute, New York, New York
Southern Research Institute, Birmingham, Alabama
Southwest Research Institute, San Antonio, Texas
SRI International, Menlo Park, California
Syracuse Research Corporation, Syracuse, New York
Universities Research Association, Incorporated (National Acceleration Lab), Argonne, Illinois
Non-profit insurance companies, such as Blue Cross and Blue Shield Organizations
Other non-profit organizations as negotiated with awarding agencies

BILLING CODE 3110-01

APPENDIX 5

Code of Federal Regulations
Title 36, Volume 1 [Revised as of July 1, 2001]
CITE: **36CFR61**
TITLE 36--PARKS, FORESTS, AND PUBLIC PROPERTY
CHAPTER I--NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR
PART 61--PROCEDURES FOR STATE, TRIBAL, AND LOCAL GOVERNMENT HISTORIC PRESERVATION PROGRAMS

 Authority: 16 U.S.C. 470 et seq. Source: 64 FR 11742, Mar. 9, 1999, unless otherwise noted.

Sec. 61.1 Authorization.
The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.):

(a) Requires the Secretary of the Interior (Secretary) to promulgate regulations for:

(1) Approving and overseeing State historic preservation programs;

(2) Certifying local governments to carry out the purposes of the Act;

(3) Ensuring that applicable State Historic Preservation Officers (SHPOs) allocate to certified local governments (CLGs) a share of grants that the SHPOs receive under the Act; and

(4) Assisting Indian tribes in preserving their particular ``historic properties'' (as defined by the Act);

(b) Directs the Secretary to administer a program of grants-in-aid to States and Indian tribes for historic preservation projects and programs that the Secretary has approved; and

(c) Requires the Secretary to make available information concerning professional standards, methods, and techniques for the preservation of ``historic properties'' (as defined by the Act) and the administration of historic preservation programs.

Sec. 61.2 Definitions.

As used in this part:

(a) All terms that the National Historic Preservation Act of 1966, as amended, defines have the same meaning in the regulations in this part that the statute provides; see especially sections 101(a)(1)(A), 101(b), 101(c)(4), 108, and 301.

(b) Act means the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470 et seq.).

(c) Chief elected local official means the elected head of a local government.

(d) The Secretary's Standards means only the “Standards” portions and not the “Guidelines'' portions of “the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.” The Secretary's Standards provide broad national principles of archeological and historic preservation practices and methods. “The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation” also contains “the Secretary's Guidelines'' which provide broad national guidance on how to apply “the Secretary's Standards.”

(e) State historic preservation program or State program means a State government organization or program meeting the requirements that section 101(b) of the Act specifies.

Sec. 61.3 Implementation of this part.

(a) National Park Service policy of management by exception. The National Park Service (NPS) will administer the regulations in this part in such a way (and where feasible) as to:

(1) Limit the use of direct Federal management review procedures to high risk situations, to new programs, or to activities that are appropriate for the Federal Government to oversee;

(2) Presume that State, tribal, and local government historic preservation officials manage their programs in an accountable way unless situations indicate the contrary; and

(3) Rely to the maximum extent feasible on State, tribal, and local government systems of financial and program management that meet Federal standards. At the discretion of the Secretary, each State, tribal, and local government may substitute its own fiscal audit and management systems for the Secretary's comparable fiscal audit and management requirements, so long as the State, tribal, or local government system establishes and maintains accounting standards substantially similar to Federal standards and provides for independent peer review.

(b) The Secretary's Standards. NPS will use the Secretary's Standards as technical performance standards for matters covered by this part. NPS may also use as technical performance standards (for matters covered by this part) additional guidance that NPS identifies and provides from time to time after appropriate consultation and notice.

(c) Each State historic preservation program staff member, State Historic Preservation Review Board (Review Board) member, and certified local government (CLG) historic preservation review commission (Commission) member whom the Secretary has approved as meeting “the Secretary's (Historic Preservation) Professional Qualifications Standards” will retain that status, regardless of subsequent revisions to those Standards, until such time as that individual no longer works in that program, or serves on that Review

Board, or serves on that Commission with which that individual was affiliated as of the date of that individual's approval.

(d) You may obtain publications and other information mentioned in this part by contacting: Heritage Preservation Services, National Center for Cultural Resource Stewardship and Partnership Programs, National Park Service, 1849 C Street NW (NC Suite 200), Washington, D.C. 20240 or via the National Park Service Home Page for cultural programs at http:// www.cr.nps.gov.

Sec. 61.4 State programs.

(a) For a State to participate in the program that this part describes, the Governor must appoint and designate a State Historic Preservation Officer (SHPO) to administer the State historic preservation program.

(b) It is the responsibility of the SHPO to carry out the duties and activities that section 101 (b)(3) of the Act describes. In performing those duties and activities:

(1) The SHPO must carry out a historic preservation planning process that includes the development and implementation of a comprehensive statewide historic preservation plan that provides guidance for effective decision making about historic property preservation throughout the State.

(2) The SHPO, in addition to surveying and maintaining inventories of historic properties, may also obtain:

(i) Comparative data valuable in determining the National Register eligibility of properties;

(ii) Information on properties that may become eligible for the National Register of Historic Places with the passage of time; and/or

(iii) Information on the absence of historic properties for use in planning for public and private development projects.

(3) The SHPO must provide for adequate public participation in the State historic preservation program as a whole.

(i) As part of the process of recommending a property to the National Register, the SHPO must comply with the consultation and notification procedures contained in 36 CFR part 60.

(ii) The SHPO may authorize other persons or entities to fulfill the notice requirements in 36 CFR part 60 pursuant to the Secretary's written guidance.

(iii) The SHPO also may authorize the historic preservation review commission (Commission) of a certified local government (CLG) to act in place of the State Historic Preservation Review Board (Review Board) for the purpose of considering National Register nominations within its jurisdiction, provided that the Commission both meets the professional qualifications required for the Review Board when considering such nominations and otherwise follows the Secretary's written guidance.

(iv) In accordance with the Secretary's written guidance and with the consent of both the property owners in a nomination and the chief elected local official, the Review Board (or the Commission acting in its place) may consider the nomination without a face-to-face meeting.

(4) The SHPO may carry out all or any part of his or her responsibilities by contract or cooperative agreement with any qualified nonprofit organization, educational institution, or otherwise pursuant to State law. However, the SHPO may not delegate the responsibility for compliance with the Act or with grant assistance terms and conditions.

(c) The Secretary will consider individual SHPO proposals for programs that, for a specified period, include fewer duties than those section 101(b)(3) of the Act specifies, if a different approach would better serve an appropriate balance of historic property, customer or constituent, and historic preservation needs.

(d) Procedures for review and approval of State historic preservation programs.

(1) In accordance with the Act, the Secretary will evaluate each State program for consistency with the Act periodically, but not less often than every four years. If the Secretary determines that it meets the program requirements of paragraphs (a), (b), (e) and (f) of this section, he or she will approve the State program as set forth in this section.

(2) The Secretary may use on-site and/or off-site inquiries to perform such evaluation. The Secretary will provide the SHPO with a timely report containing written findings and analyses that highlight the strengths and weaknesses of the State program.

(3) Approval method.

(i) If the Secretary determines that a State program is consistent with the Act, the report will include notice that the State program's approved status continues.

(ii) If the Secretary determines that a State program has major aspects not consistent with the Act, the report will include notice of deficiencies along with required actions for correcting them. Unless circumstances warrant immediate action, the Secretary will provide a specified period to allow the SHPO either to correct the deficiencies or to present for Secretarial approval a justifiable plan and timetable for correcting the deficiencies. During this period, the SHPO has the opportunity to request that the Secretary reconsider any findings and required actions.

(iii) The Secretary will provide timely notice of continued approved State program status to a SHPO successfully resolving deficiencies. Once the Secretary renews a State program's approved status, he or she generally will not review the program until the next regular evaluation period. However, if the Secretary deems it necessary, he or she may conduct a review more often.

(iv) The Secretary will provide timely notice of the revocation of a program's approved status to any SHPO whose program has deficiencies that warrant immediate action or that remain uncorrected after the of the period specified pursuant to paragraph (d)(3)(ii) of this section. The Secretary will then initiate financial suspension and other actions in accordance with the Act, applicable regulatory requirements, and related guidance that the National Park Service issues.

(e) The SHPO must appoint or employ a professionally qualified staff.

(1) Except as approved pursuant to paragraph (e)(2) of this section, the staff must include at a minimum, one individual meeting “the Secretary's (Historic Preservation) Professional Qualifications Standards” for history, one individual meeting “the Secretary's (Historic Preservation) Professional Qualifications Standards” for historic or prehistoric archeology, and one individual meeting “the Secretary's (Historic Preservation) Professional Qualifications Standards” for architectural history. “The Secretary's (Historic Preservation) Professional Qualifications Standards” and related guidance are part of the larger “Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.” The SHPO may determine that additional professional staff members representing the required or other disciplines are necessary to administer the State program in accordance with the Act.

(2) The Secretary will consider proposals from a SHPO for a minimum required staff composition that differs from the requirement that paragraph (e)(1) of this section specifies, if the proposal addresses better an appropriate balance of historic property, customer or constituent, and historic preservation needs in that State.

(3) When a staff position that paragraph (e)(1) of this section requires becomes vacant, the SHPO must fill the vacancy in a timely manner. In the interim, the SHPO must ensure that appropriately qualified individuals address technical matters. A vacancy in a required position that persists for more than six months is cause for review, comment, and appropriate action by the Secretary.

(f) Unless State law provides for a different method of appointment, the SHPO must appoint an adequate and qualified State historic preservation Review Board (Review Board).

(1) All Review Board members must have demonstrated competence, interest, or knowledge in historic preservation. A majority of Review Board members must meet “the Secretary of the Interior's (Historic Preservation) Professional Qualifications Standards” which are part of the larger “Secretary's Standards and Guidelines for Archeology and Historic Preservation.” The members meeting “the Secretary's (Historic Preservation) Professional Qualifications Standards” must include at a minimum, one individual meeting “the Secretary's (Historic Preservation) Professional Qualifications Standards” for history, one individual meeting “the Secretary's (Historic Preservation) Professional Qualifications Standards” for prehistoric archeology or historic archeology, and one individual meeting “the Secretary's (Historic Preservation) Professional Qualifications Standards” for architectural

history. One person may meet the Standards for more than one required discipline. The other Review Board members, if any, who comprise the majority that meets “the Secretary's (Historic Preservation) Professional Qualifications Standards” may represent, subject to the SHPO's selection, any of the disciplines that those “Standards” describe.

(2) The Secretary will consider proposals from a SHPO for a minimum required Review Board composition that differs from the requirement that paragraph (f)(1) of this section specifies, if the proposal addresses better an appropriate balance of historic property, customer or constituent, and historic preservation needs in that State.

(3) When a required Review Board position becomes vacant, the SHPO must fill the vacancy in a timely manner. In the interim, the SHPO must ensure that the Review Board has access to advice from appropriately qualified individuals. A lapse of more than one year in filling the vacancy is cause for review, comment, and appropriate action by the Secretary.

(4) The Review Board must meet as often as is necessary to complete its work in a timely fashion but no less often than once a year.

(5) The Review Board must adopt written procedures governing its operations consistent with the provisions of this section and related guidance that the National Park Service issues.

(6) Review Board responsibilities include, but are not limited to, the following:

(i) Providing advice to the SHPO on the full range of Historic Preservation Fund-supported activities, that section 101 (b)(3) of the Act describes;

(ii) Reviewing and making recommendations on National Register nomination proposals;

(iii) Participating in the review of appeals to National Register nominations; and

(iv) Performing such other duties as may be appropriate.

Sec. 61.5 Grants to State programs.

(a) Each State with an approved State program is eligible for grants-in-aid from the Historic Preservation Fund (HPF).

(b) The National Park Service (NPS) will administer HPF matching grants-in-aid in accordance with the Act, OMB Circular A-133 and 43 CFR part 12, and related guidance that NPS issues. Failure by a State program to meet these requirements is cause for comment and appropriate action by the Secretary.

Sec. 61.6 Certified local government programs.

(a) Each approved State program must provide a mechanism for certification (by the State Historic Preservation Officer and the Secretary) of local governments to carry out the purposes of the Act.

(b) Each State Historic Preservation Officer (SHPO) must follow procedures that the Secretary approves for the certification of local governments. Each SHPO also must follow procedures for removal of certified local government (CLG) status for cause. A SHPO must submit any proposed amendment to its procedures to the Secretary for approval. The Secretary will act on each proposal in a timely fashion generally within 45 days of receipt.

(c) When a SHPO approves a local government certification request in accordance with the State program's National Park Service (NPS)-approved certification process, the SHPO must prepare a written certification agreement between the SHPO and the local government. The certification agreement must list the specific responsibilities of the local government when certified. The SHPO must submit to the Secretary the written certification agreement and any additional information as is necessary for the Secretary to certify the local government pursuant to the Act and this part. If the Secretary does not disapprove the proposed certification within 15 working days of receipt, the Secretary has certified the local government.

(d) Beyond the minimum responsibilities set out in the Act for all CLGs, the SHPO may make additional delegations of responsibility to individual CLGs. However, these delegations may not include the SHPO's overall responsibility derived from the Act or where law or regulation specifies.

(e) The SHPO must ensure that each local government satisfies the following minimum requirements as conditions for certification. Each CLG must:

(1) Enforce appropriate State or local legislation for the designation and protection of historic properties. The State procedures must define what constitutes appropriate legislation, as long as:

(i) Designation provisions in such legislation include the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of the local government;

(ii) Protection provisions in such legislation include a local review process under State or local law for proposed demolitions of, changes to, or other action that may affect historic properties as paragraph (e)(1)(i) of this section describes; and

(iii) The legislation otherwise is consistent with the Act.

(2) Establish by State or local law and maintain an adequate and qualified historic preservation review commission (Commission). All Commission members must have a demonstrated interest, competence, or knowledge in historic preservation. Unless State or local legislation provides for a different method of appointment, the chief elected local official must appoint all Commission members.

(i) The State procedures must encourage certified local governments to include individuals who meet “the Secretary's (Historic Preservation) Professional Qualifications Standards” among the membership of the Commission, to the extent that such individuals are available in the community.

(ii) The State procedures may specify the minimum number of Commission members who must meet “the Secretary's (Historic Preservation) Professional Qualifications Standards.” The State procedures may also specify which, if any, disciplines the Commission's membership must include from among those disciplines that the Standards describe. Membership requirements set by the State procedures for Commissions must be cognizant of the needs and functions of Commissions in the State and subject to the availability of such professionals in the community concerned.

(iii) Provided that the Commission is otherwise adequate and qualified to carry out the responsibilities delegated to it, the SHPO may certify a local government without the minimum number or types of disciplines established in State procedures, if the local government can demonstrate that it has made a reasonable effort to fill those positions, or that an alternative composition of the Commission best meets the needs of the Commission and of the local government.

(iv) The SHPO must make available to each Commission orientation materials and training designed to provide a working knowledge of the roles and operations of Federal, State, and local historic preservation programs, and historic preservation in general.

(3) Maintain a system for the survey and inventory of historic properties. The SHPO must ensure that such systems and the data that they produce are capable of integration into and are compatible with statewide inventories and (when and as appropriate) with State and local planning processes.

(4) Provide for adequate public participation in the local historic preservation program as a whole. The SHPO must provide each CLG with appropriate guidance on mechanisms to ensure adequate public participation in the local historic preservation program including the process for evaluating properties for nomination to the National Register of Historic Places.

(5) Satisfactorily perform the responsibilities delegated to it under the Act. The SHPO must monitor and evaluate the performance of each CLG according to written standards and procedures that the SHPO establishes. If a SHPO's evaluation of a CLG's performance indicates that such performance is inadequate, the SHPO must suggest in writing ways to improve performance. If, after a period of time that the SHPO stipulates, the SHPO determines that the CLG has not improved its performance sufficiently, the SHPO may recommend that the Secretary decertify the local government. If the Secretary does not object within 30 working days of receipt, the Secretary has approved the decertification.

(f) Effects of certification include:

(1) Inclusion in the process of nominating properties to the National Register of Historic Places in accordance with sections 101 (c)(2)(A) and (c)(2)(B) of the Act. The SHPO may delegate to a CLG any of the responsibilities of the SHPO and the Review Board in processing National Register nominations as specified in 36 CFR part 60 (see also

Sec. 61.4(b)(3)), except for the authority to nominate properties directly to the National Register. A CLG may make nominations directly to NPS only when the State does not have an approved program pursuant to Sec. 61.4. (2) Eligibility to apply for a portion of the State's annual Historic Preservation Fund (HPF) grant award. Each State must transfer at least 10 percent of its annual HPF grant award to CLGs for historic preservation projects and programs in accordance with the Act and as Sec. 61.7 specifies.

(g) The District of Columbia is exempt from the requirements of this section because there are no subordinated local governments in the District. If any other jurisdiction that section 301(2) of the Act defines as a State believes that its political subdivisions lack authorities similar to those of local governments in other States, and hence cannot satisfy the requirements for local government certification, it may apply to the Secretary for exemption from the requirements of this section.

(h) Procedures for direct certification by the Secretary where there is no approved State program pursuant to Sec. 61.4. To the extent feasible, the Secretary will ensure that there is consistency and continuity in the CLG program of a State that does not have an approved State program.

(1) Where there is no approved State program, a local government wishing to become certified must apply directly to the Secretary.

(2) The application must demonstrate that the local government meets the specifications for certification set forth in paragraph (e) of this section.

(3) The Secretary will review certification applications under this paragraph (h) and take action in a timely fashion generally within 90 days of receipt.

Sec. 61.7 Subgrants to certified local governments.

(a) Each SHPO must transfer at least 10 percent of its annual Historic Preservation Fund (HPF) grant award to CLGs as subgrants for historic preservation projects and programs in accordance with the Act. In any year that the annual HPF State grant appropriation exceeds $65,000,000, SHPOs must transfer one half of the amount over $65,000,000 to CLGs according to procedures that the Secretary will establish.

(b) Each CLG is eligible to receive funds from the 10 percent (or greater) CLG share of the State's total annual HPF grant award. However, the SHPO need not award funds to all CLGs.

(c) Each SHPO must maintain and follow a procedure that the Secretary approves for the use and distribution of funds from the State's annual HPF grant award to CLGs to ensure that no CLG receives a disproportionate share of the allocation. The procedure will provide a clear basis for the funding decisions. The SHPO must submit any proposed amendment to its procedure to the Secretary for approval. The Secretary will respond to such a proposal in a timely fashion generally within 45 days of receipt.

(d) Each SHPO must notify annually each CLG of its opportunity to apply for HPF funding as well as what is entailed in the application and project selection process.

(e) Each CLG receiving an HPF grant award from the CLG share is a subgrantee of the State. The SHPO must ensure that each CLG adheres to all applicable grant conditions and government-wide and program specific requirements that the National Park Service issues. The SHPO may require specific uses of funds subgranted to CLGs. CLGs may not apply subgranted HPF monies as matching share for any other Federal grant.

(f) Where there is no approved State program pursuant to Sec. 61.4, the Secretary will determine the method for allocating funds to CLGs in that State in accordance with the procedures set forth for the State in this section. To the extent feasible, the Secretary will ensure consistency and continuity in the funding allocation policy of the CLG program for a State that does not have an approved historic preservation program.

Sec. 61.8 Tribal programs. [Reserved]

Sec. 61.9 Grants to tribal programs. [Reserved]

Sec. 61.10 Waiver. The Secretary may waive any of the requirements of the rules in this part that are not mandated by statute or by other applicable regulations if the Secretary finds, in writing, that the historic preservation program would benefit from such waiver and the waiver would not compromise the purposes, conditions, and requirements of the National Historic Preservation Act of 1966, as amended.

Sec. 61.11 Information collection.

(a) The Office of Management and Budget (OMB) under 44 U.S.C. 3507 et seq., has approved the collection of information contained in this part. OMB has assigned clearance number 1024-0038 to this collection of information. The National Park Service (NPS) collects this information as part of the process for reviewing the procedures and programs of State and local governments participating in the national historic preservation program and the Historic Preservation Fund grant program. NPS will use the information to evaluate those programs and procedures for consistency with the National Historic Preservation Act of 1966, as amended, and compliance with government-wide grant requirements. The obligation to respond is required to obtain a benefit under these programs. Note that a Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. NPS provides no assurance of confidentiality to respondents with the exception of locational information concerning some properties that government historic preservation property inventories include. Pursuant to section 304 of the National Historic Preservation Act of 1966, as amended, NPS tightly controls release of information when such release could have the potential of damaging those qualities which make a property historic.

(b) We estimate the public reporting burden for the collection of this information to average 14.06 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Ms. Diane M. Cooke, Information Collection Officer, National Park Service, 1849 C Street NW, Washington, D.C. 20240 and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior (1024-0038), Washington, D.C. 20503.

APPENDIX 6

Chapter 5
WASHINGTON STATE COMPETITIVE PROCUREMENT METHODS
5.1 Overview of Competitive Methods

With few exceptions, competitive procurement of personal services is required by RCW 39.29, “Personal Service Contracts. ”Competition is to be open, fair and objective and should be conducted carefully to ensure those aims are achieved. The following chart provides an outline of competitive methods used to procure personal services depending upon the dollar amount of the proposed contract. Please refer to the sections in this chapter for more detailed information on the requirements for competition in each dollar range.

DOLLAR THRESHOLD	COMPETITIVE PROCESS	PERSONAL SERVICES COMPETITIVE PROCUREMENT MAJOR ACTIVITIES
$1 - $4,999	Not Required	• Seeking competition is always recommended, though not required for this dollar range. • Telephone calls can be made to firms or individuals, describing the services desired and requesting price, schedule and qualifications to perform. • Written contract is entered into upon selection of contractor, regardless of dollar amount.
$5,000 - $19,999	Informal Competition--also called “Evidence of Competition”	• Prepare written document/letter including at a minimum: description of services required, project schedule, request for consultant’s qualifications, request for costs or fees and due date for responses. • Send to a minimum of three firms/individuals. May be faxed to them and responses may be faxed to agency to expedite processing. • Evaluate responses and make award decision. • Negotiate contract. • Document for file: names of firms solicited; information on firm’s responses; basis for award decision; copy of contract.
$20,000 or more	Formal Competition	• Prepare formal solicitation document, e.g., Request for Proposals (RFP) or Request for Qualifications/Quotations (RFQQ). Include all requirements in order for proposer to understand what the agency needs and how the agency will evaluate responses. • Publish legal notice in major daily newspaper in Washington State to notify firms of upcoming solicitation. Develop bidder’s list from firms responding to notice, internal agency listing, etc. • Issue RFP or RFQQ. • Conduct preproposal conference, if scheduled in RFP or RFQQ, and issue minutes. • Date and time stamp proposals received by due date. • Evaluate proposals strictly against what is set forth in the RFP or RFQQ and score. Schedule oral interviews, if required. Determine apparent successful contractor. • Notify successful and unsuccessful firms. • Negotiate contract with apparent successful contractor. • Conduct debriefing conferences, if requested. • File contract with OFM (institutions of higher education may not be required to file due to fund source). • Begin contract work.

5.2 Informal Competition - Evidence of Competition

For personal service contracts estimated to be $5,000 or greater but less than $20,000, the agency may use the informal procurement process known as "evidence of competition." At a minimum, evidence of competition includes the following steps:

1. Locate the names and addresses of multiple firms or individuals that would be qualified to provide the service. Multiple firms means a reasonable number of consultants considering such factors as time, cost and availability of qualified consultants. In most instances, this means at least three consultants; however, more are encouraged. In the event less than three firms are contacted, an explanation must be placed in the file to document why more firms were not notified. Agencies should seek participation from certified minority- and women-owned firms by including them on any bidder list as well. If you need assistance locating names, you may contact the Office of Minority and Women's Business Enterprises at (360) 753-9697 or at their web site: http://www.omwbe.wa.gov/.
2. Prepare and issue a solicitation document. The solicitation document can be in any appropriate form, such as a letter or electronic memorandum. A sample letter which may be used for Evidence of Competition appears on page 5-3. At a minimum, the document should include a description of the type of service required, the proposed project schedule, a request for information on the consultant's qualifications, a request for the consultant's cost or fees, and the due date, time and location to submit responses. The solicitation can be sent electronically, by facsimile or through regular mail. This informal competitive process is intended to be expeditious; however, agencies should provide enough time for firms to submit complete responses.
3. Document the time and date written responses are received. If the responses are forwarded electronically or by facsimile, the date and time are automatically noted.
4. Evaluate the responses and determine which consultant's proposal most closely meets the requirements of the solicitation. Enter into contract negotiations with the top finalist.
5. Prepare the contract document and acquire signatures of both parties.
6. Thoroughly document the entire selection and award process. Prepare auditable documentation of the competitive process and maintain it in the contract file. Such documentation should include: the names of the firms contacted and/or solicited; a copy of the solicitation document; information on how the consultants responded; an explanation of the evaluation and basis for the award decision; process; and a copy of the contract.

Contracts awarded under "evidence of competition" are not required to be filed with OFM, but are subject to reporting to OFM requirements at the end of each fiscal year.

5.3 Formal Competition

Personal service contracts estimated to be $20,000 or more are subject to formal competition. As part of that process, agencies are required to publish a notice of the solicitation in a statewide daily newspaper. Newspapers that satisfy this requirement include the Daily Journal of Commerce, the Seattle Times, Seattle P.I., and The News Tribune.

Another requirement is issuance of a Request for Proposals (RFP) or other formal solicitation document. The RFP is the procurement document most frequently used in state government to procure personal services. This document not only serves as the basis for the consultants to respond but, as importantly, serves as the foundation for the eventual contract. A well-written, well-considered RFP will help ensure responsive proposals and positive results. The

RFP must provide clear, unambiguous statements of project goals and objectives, instructions for submitting the proposals and criteria for proposal evaluation.

Customarily, the RFP requests that a consulting firm prepare, at its own expense, a proposal that responds to the specific needs of the agency. Therefore, the RFP must clearly communicate those needs.

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: Proposed Updates to Master Lease for City-Owned Farmland (Exhibit B: Policies and Practices and Exhibit D: Capital Projects and Management Tasks)	Date: April 7, 2015
Agenda Item: Staff Intensive	Bill No.: 15-068
Proposed By: Deputy City Manager Morgan Smith	Referral(s):

BUDGET INFORMATION		
Department: Executive	Fund:	Munis Contract #
Expenditure Req: various	Budgeted? ☐ Yes ☐ No	Budget Amend. Req? ☐ Yes ☐ No

REFERRALS/REVIEW		
City Manager ☒ Yes ☐ No ☐ N/A	Legal ☒ Yes ☐ No ☐ N/A	Finance ☐ Yes ☐ No ☒ N/A

DESCRIPTION/SUMMARY

Action Item:

Friends of the Farms (FOF) has proposed updates to two exhibits attached to the Master Lease for City-Owned Farmland.

Exhibit B identifies "Goals, Policies and Practices" for each of the five farmland sites. The FOF have revised the original versions of these documents and proposed the changes indicated in the following red-lined documents. The City Attorney has also reviewed these documents and provided additional revisions.

Exhibit D presents "Capital Projects and Management Tasks" related to the City farmland properties which are managed by FOF on behalf of the City. The FOF provided Council with a revised version of Exhibit D at the City Council Business Meeting on December 9, 2014, and the City Council approved those changes. Recently, the FOF proposed additional revisions to this document. Both the December 2014 version and the current proposal are provided for your review.

RECOMMENDED ACTION:

I move the City Council accept the proposed changes to Exhibit B and Exhibit D and forward amendment of the Master Lease for City Farmland to incorporate these new versions to the consent agenda for April 14, 2015.

GOALS, POLICIES AND PRACTICES

CRAWFORD PROPERTY

I. General Property Description

The Crawford property is a partially forested property that was purchased by the City with Open Space funds for agricultural purposes.

A. Acreage: 2.3
B. Location: Mid-point of Farm District, the Crawford property lies south of Suyematsu West, North of the Lempriere property, and west of M & E with access from a Right of Way west of the property, accessible from Lovgreen Road, east of Highway 305.
C. Tax Parcel No.: 102502-1-047-2006

II. Management Goals

Background: As a forested property in a community with a significant dedication to conservation values, it is essential that planned uses of the Crawford Property be sensitive toconservation.. This parcel was purchased with the primary intent of converting it to agricultural purposes. Timber harvesting is the legacy of Bainbridge Island. We can enhance that legacy by harvesting in a manner that is sensitive to the environment with the purpose of fulfilling our vision of community. Once converted from a forested land into agricultural land, the Crawford Property will follow the Suyematsu and Bentryn Family Farms Goals, Policies, and Practices,as this property is adjacent to the Suyematsu and Bentryn Family Farms and will likely be put to the same or similar uses. Therefore, the following management goals shall be recognized:

1. All timber removal shall utilize best management practices for sustainable timber harvest. Removal of lumber shall be phased for minimal environmental impact as the forest is removed. For instance, timber removal should not be undertaken during species mating, nesting, hibernation, or reduced food availability periods for wildlife currently reliant on the property for habitat. Harvest methods involving low impact such as the use of animals and hand logging shall be considered.
2. Timber harvest of the Crawford Property shall exercise maximum sensitivity with regard to surface water run-off. Removal of timber will increase downhill stormwater runoff. Planning shall include mitigation for stormwater impacts such as silt barriers and a stormwater collection pond, if permitted, which could be converted to irrigation uses in the future.

3. Opportunities for harvest of forest products and forest dependent crops should be considered as part of the phased removal of timber. Forest products are a valuable Northwest commodity. For instance, salal and Oregon grape undergrowth is used by florists; cedar and fir trimmings are common holiday decorations; and burnt-out stumps and logs are valuable for landscaping. As agricultural structural needs arise, timber will be harvested for use on public farmland or other commercial use.

4.

5. Maximum public benefit shall be identified for uses for harvested timber. Harvested timber may yield board lumber and logs. These wood resources may be utilized for community projects such as farm property structures, bus stops, bird blinds in public parks, benches, artistic creations, or may be sold to fund public or agricultural related activities.

6. Local labor and artisans should whenever possible be consulted and hired to undertake the work of harvesting materials from the property.

7. All forestry and clearing activities shall comply with local and state laws governing such activities such as securing a City of Bainbridge Island Clearing Permit and a Department of Natural Resources Forest Practices Application.

8. Timing of timber harvest shall be undertaken with consideration to shading impacts already occurring on adjacent farmland.

9. Tree harvest plans shall include consideration of community education opportunities e.g. sustainable logging demonstrations and hands on activities.

10. Wood that cannot be utilized for a more constructive purpose shall be collected for fire wood or woody debris processed into mulch which would be returned to the land for soil improvement. Fire wood sales can be used to fund farmland management and activities.

11. Any signs posted on the property be consistent with rural aesthetics and use of the property.

12. Crawford Property is located near family residences. Neighborhood stewardship through ongoing communication be encouraged.

GOALS, POLICIES AND PRACTICES

SUYEMATSU AND BENTRYN FAMILY FARMS

I. General Property Description

The Suyematsu and Bentryn Family Farms (also referred herein as Day Road Farm)consists of two parcels of land purchased by the City. One was purchased from farmer Akio Suyematsu. According to the real estate purchase agreement this area shall contain “Suyematsu” in the name of the property. The other parcel was purchased from vintners Gerard and JoAnn Bentryn. Herein the parcels will be referred to as “Suyematsu East,” and “Bentryn West,” and collectively as the “The Suyematsu and Bentryn Family Farms.”

The Suyematsu and Bentryn Family Farms are the center piece of the City’s public farmlands. The parcels represent a major agricultural site dating from the 1940’sand remain the largest contiguous farmland in Kitsap County. This farm was identified by the City Open Space Commission as critical to fulfilling the community’s goals of preserving agriculture on Bainbridge Island.

The Suyematsu and Bentryn Family Farms agricultural lands consist of some of the richest and most productive agricultural soils on the island.

A: Acreage

Suyematsu East:	14.76
Bentryn West:	11.21
Total:	25.97

A. **Location:** The Suyematsu and Bentryn Family Farms comprise the north end of the City Farm District. Day Road runs parallel to the northern property line bounding the Farm District on that side. Suyematsu East has the physical address of 9229 Day Rd. E.

B. **Tax Parcel Nos.:** Suyematsu East: 102502-1-052-2008
Bentryn West: 102502-1-063-2005

II. Management Goals, Policies and Practices

A. Agricultural Use

1. Policies and Practices

(a) The land shall be farmed consistent with feasible and long-term sustainable agriculture objectives. Allowances shall be made for standard farm practices that enhance long-term sustainability as opposed to short term maximization of profit, such as regular fallowing of land, and variation of crops from one season to another or long-term crop development.

(b) Farming operations shall be carried out in a cooperative manner among all farmers bearing leases to the farmland. Such cooperation will include but not be limited to equipment and infrastructure sharing, repair and maintenance of farm infrastructure and common areas, group irrigation planning, marketing, farm stand sales, and crop rotation planning.

(c) Property owners and lessees must comply with any and all applicable local ordinances, including but not limited to zoning, solid waste, wellhead protection and critical areas ordinances, and any applicable federal, state and local permits that may be required. (d) Farm activities on the Suyematsu and Bentryn Family Farms shall conform to the Resource Inventory Evaluation and Alternatives produced for the property by the Kitsap Conservation District.

(e) Farmers should rely on the findings of the Farm Evaluation Plan for the Suyematsu and Bentryn Family Farms , if available, as they develop farm plans.

(f) Long-term operating leases designed to ensure long-term viability shall be offered to farmers who are chosen as tenants. Farm leases shall be based on farmer experience, farmer business plan, availability of agricultural lands, type of crop and demonstrated farmer ability to meet management goals for the property and City agricultural lands.

(g) The primary use for the City agricultural lands is for the production of food crops.

(h) Consideration should be given to identifying opportunities for providing emerging commercial farmers with access to farmland and/or opportunities to participate with established commercial farming businesses.

(i) Storm water should be managed to reduce loss of soils and contamination of the drainage system through filtering and setback of tilled soils.

2. Goals

(a) Develop a Farm Evaluation Plan for the Suyematsu and Bentryn Family Farms Property to identify potential agricultural uses for the farm area. The evaluation should include an analysis of soil quality, water availability, potential crop and livestock capacity, and analysis of existing and potential farm related infrastructure.

(b) Farm Plans. Farmers utilizing Suyematsu and Bentryn Family Farms agricultural lands must develop individual farm plans and business plans to be reviewed in a City-approved application process.

(c) Capital Improvement Plan. Develop a cooperative maintenance, repair, and placement plan and schedule for common areas and shared infrastructure.

B. Agricultural Housing

1. Background: Agricultural housing is a desired goal by farmers andthe community to enhance opportunities to support the agricultural community. The need for farmer housing on the Island is significant.

Suyematsu East has 6 development rights under current zoning code. The Northeast corner of this property contains a single family home. Up to 5 new single family homes can be built on this property along with up to 6 accessory dwelling units (1for each single family home). The existing home can either be replaced or rebuilt to meet needs. Historically, 3 transient residences were placed along the northern boundary. Although no longer used, the location of these transient residences offer potential sites of historical interest and for location of additional farm housing. This Northeast area of the farm property is the preferred location of additional and ongoing development due to its easy access to roadways and the poor condition of soils compared with other areas of the property.

2. Policies and Practices

(a) Housing opportunities should be provided on the property for farmers and farm interns working the public agricultural lands, farm interns, and participants in agricultural education programming.

(b) Housing development should be coordinated to reduce impact on farming activities, and existing housing.

(c) Agricultural housing on the Suyematsu and Bentryn Family Farms should only be provided for farmer households, farm interns, itinerant farm labor, educational farm program housing, or other agriculture housing needs. Housing should not be established on the Suyematsu and Bentryn Family Farms to provide general housing or affordable housing to meet other City housing needs.

(d) As based on need, as determined by the farmers relying on farms in the farm district, available units should be provided for interns and itinerant labor.

(e) Management of the housing should be carried out Friends of the “Farms.

(f) Farm housing should be made available on a rental basis.

(g) Opportunities for communal sharing of resources should be maximized for the farm housing. This policy should be considered during development and management of the farm housing. This may include shared utilities, storage space, meeting rooms, kitchen service, garbage/composting operations, transportation, office space, yard space, play areas and workshops. At the same time, development should ensure opportunities for privacy for each individual and family.

3. Goals

(a) Develop a master farmplan for appropriate farm housing.

(b)

Establish a cluster of farm housing at the North East corner of Suyematsu East.

(c) Form a farm housing resident's association for governance of common areas and shared resources.

(d) Ensure long term maintenance and operations of existing farm structures.

C. Water

1. Background: Water is a limited and scarce resource for the Suyematsu and Bentryn Family Farms. Farmers must recognize the need to conserve and creatively use water. The Agricultural Land Purchased and Sales Agreement between the City of Bainbridge Island and Gerard and Josephine defines the use of the ponds for private use, wildlife and farming.(December 15, 2004)

2. Policies and Practices

(a) Water use on the Suyematsu and Bentryn Family Farms shall conform to theUSDA Irrigation Plan Natural Resources Conservation Service Irrigation Plan and the Resource Inventory Evaluation and Alternatives produced for the property by the Kitsap Conservation District.

(b) Where feasible, drip irrigation and similar conservation methodologies should be utilized.

(c) Rainwater catchment should be encouraged where feasible.

3. Goals

(a) Implement Kitsap Conservation District farm plan to maximize conservation and sustainable use of water resources.

(b) Develop and implement irrigation management plan.

2. Policies and Practices

(a) Water use on the Suyematsu and Bentryn Family Farms shall conform to USFA Irrigation Plan Natural Resources Conservation Service Irrigation Plan or the Resource Inventory Evaluation and Alternatives produced for the property by the Kitsap Conservation District. Where feasible, drip irrigation and similar conservation methodologies should be utilized.

(b) Rainwater catchment should be encouraged where feasible.

3. Goals

(a) Secure water-rights sufficient to serve long-term agricultural uses.

(b) Implement Kitsap Conservation District farm plan to maximize conservation and sustainable use of water resources.

(c) Develop and implement an irrigation management plan.

D. Soils

1. Policies and Practices

(a) Farm activities affecting soil on the Suyematsu and Bentryn Family Farms shall conform to the Resource Inventory Evaluation and Alternatives produced for the property by the Kitsap Conservation District.

(b) The amount and timing of amendments and fertilizer applications should be based on crop needs and production goals.

(c) Farmers shall implement best management practices that intercept runoff and sediment as close to the source as possible.

(d) Efforts to control sources of runoff, sediment, and erosion shall be coordinated with those of neighboring properties.

(e) Unpaved roads and other heavy-use or bare soil areas shall be protected from concentrated flows of water.

(f) Sediment and runoff shall be detained and filtered before it leaves the property.

3. Goals

(a) Implement the Kitsap Conservation District farm plan to minimize erosion.

(b) Implement the Kitsap Conservation District farm plan to improve and maintain soil conditions and quality.

E. Structures

1. Background:

Suyematsu East: This property includes the Suyematsu house (mentioned above), a workshop, a green house and a variety of equipment sheds and storage areas.

Bentryn West: This property includes an existing farm stand, historical water-tower, and a storage shed.

2. Policies and Practices

(a) Existing structures shall be maintained and integrated into farming activities if feasible.

(b) Existing structures shall be used for farm related or farm support activities only.

(c) Existing structures have historic value. Preserving the buildings should be encouraged.

d) Consideration of new structures may include other shared agricultural and educational resources and structures, including a commercial kitchen, processing facilities, and classrooms. Structures such as greenhouses that provide opportunities for year-round growing are encouraged. In addition, enhancement of existing structures to meet changing farm uses should be considered.

(e) Any signs posted on the property must be consistent with rural aesthetics and use of the property and shall comply with the City of Bainbridge Island municipal code regarding signage.

3. Goals

(a) Initiate process for acquiring/funding structures.

(b) Ensure long term maintenance and operations of existing farm structures.

(c) Evaluate the current location of existing structures to ensure locations maximize compatibility with access to sales and are compatible with other farming operations.

4. Farmstand

(a) Background**:** Discussions of uses at the Suyematsu and Bentryn Family Farms have included the idea of upgrading the existing farm stand on Bentryn West. The electrical connections that may assist such an upgrade have been made as part of the electrical system installed for the Day Road Irrigation Project in 2008. In 2010, the existing farm stand was significantly upgraded and expanded to allow a substantial increase in sales of farm products. It is possible that the farm stand may operate up to seven days a week during high crop yield seasons, and if provided with refrigeration and display capacity, the farm stand may expand the timing and variety of produce currently offered. The farmers leasing public farmland formed a cooperative marketing system through the Suyematsu and Bentryn Family Farms Guild, a non-profit organization and through which lessees will make seasonal products available to the farm stand. The farm stand shall be managed to allow sales of products from commercial farmers from other locations on Bainbridge Island.

(b) Goals

(i) Assist farmers to develop a business plan to determine the best and most feasible market plan for the farm stand (this should include a comparative analysis with the adequacy of other locations).

(ii) The Farmers at the Suyematsu and Bentryn Family Farms shall participate in a common marketing program that utilizes the farm stand.

5. Water Tower.

(a) Policy and Practices

(i) The Hoskinson/Pratt historic water tower now standing in Bentryn West shall be enhanced and serve as an exhibit commemorating the history of local agriculture on Bainbridge Island. Access shall be ensured for the public, and island visitors, to this commemorative site.

F. Public Access

1. Trails

(a.) Background**:** Agricultural parcels owned by the City are of interest to the entire community and require access trails and point of interest viewing locations. Friends of the Farms is designing and constructing trails that allow public access that connects the farm properties with local trails. The City's Non-Motorized Transportation Plan includes the construction of non-motorized facilities in the area. In addition, portions of the property not dedicated to agriculture may serve low impact public uses.

(b) Policies and Practices

(i) Trails and viewing stations shall be developed to ensure that visitors can access and view the property, will not interfere with farm activity, and are safe from active farm operations.

(ii) Open space on the property may allow activities where appropriate such as compiling wildlife and plant inventories, analyzing the life forms in the waterways, placing birdhouses on parts of the property, making periodic butterfly or bird counts, picking up litter on an annual basis and removal of invasive species where appropriate.

(iii) Trails shall be developed for multi-model non-motorized transportation including pedestrian, bicycle and equestrian use.

c. Goals

(i) Develop trail system with viewing stations for points of interest to allow the public access to the Suyematsu and Bentryn Family Farms Area.

(ii) Integrate the trail system with the City non-motorized transportation plan and Bainbridge Island Metropolitan Parks and Recreation District's trail Island wide trail planning.

2. Education Activities

a. Policies and Practices

(i) Public and private educational activities shall be allowed and encouraged on the Suyematsu and Bentryn Family Farms.

(ii) Public and private educational activities may include, but are not limited to, volunteer projects to enhance the public's enjoyment of the properties, and opportunities for Bainbridge residents and others to educate themselves about agricultural practices and the natural world. These activities may include agricultural education programs, public growing programs, trail enhancement, and property enhancement work parties.

b. Goals

(i) Enhance and identify opportunities for the possibility of granting historic status to the Suyematsu property through the state registry should be researched. Such designation shall acknowledge the historical and cultural significance of Japanese farmers on Bainbridge Island, and may open the property up to additional funding and educational opportunities.

(ii) Develop partnerships with educational institutions to facilitate educational opportunities on the property. Specifically: (i) build and facilitate pre-school through grade-12 learning experiences integrated with farm operations, in a way that does not interfere with daily business and supports the farm's sustainability, (ii) develop adult learning experiences integrated with farm operations, in a way that does not interfere with daily business and supports the farm's sustainability.

G. Stewardship/Habitat Conservation

1. Background: Natural habitat and watercourses are an indispensable and irreplaceable but fragile natural resource with which the citizens of Bainbridge Island have been endowed. The natural areas and habitats are a unique sub-system in the local environment. Further, preservation of natural habitats in agricultural areas helps to ensure a continuance of native biological diversity. Therefore, efforts shall be made to preserve/maintain existing critical areas as defined by the Bainbridge Island Municipal Code.

2. Policies and Practices

(a) All farm activities shall preserve a relationship to the natural environment.

(b) Farm practices shall preserve the unique natural habitats of agricultural areas for species that commonly rely on healthy farmlands.

(c) Portions of the property bordering private non-agricultural property and public rights of way shall be maintained in a natural vegetative state when compatible with farm uses of the property. These border areas may be planted and maintained with native plants, edible plantings and plantings supportive of habitat and food provision for birds and animals. Where possible plantings should include a variety of plant species and avoid monocultures. Where practicable, trees shall be planted on or near the property line, shrubs and smaller trees should be planted in front of trees, and finally shrubs and groundcovers should be placed inof small trees and larger shrubs.. Such planting configurations will allow for a tapered buffer to maximize privacy and habitat variation. Consideration shall be given to planting of edible plant species that can be harvested. All planting shall be balanced against usability of the land for crop production, which will take precedence.

(d) Management of the property shall be mindful of the water course that runs from Day Road through the Bentryn property and the M & E property. This ravine is a high value natural area.

3. Goals

(a) Place a conservation easement on portions of this property and the adjacent properties containing the ravine area to permanently protect the open space value of this portion of these properties.

(b) Develop a habitat management plan for the Suyematsu and Bentryn Family Farms.

(c)

H. Special Considerations

1. Aesthetics: Public lands and management of fully operational commercial farmlands shall strike a delicate balance between form and function. One of the reasons operating farms are supported on public lands is that farms reflect a rural aesthetic valued by the community. Farms are also supported because of their practical value of providing locally grown food for local consumption. Farm management is inherently a busy and sometimes messy industry, and farm operational practices must not be compromised by aesthetics alone. To balance these values the farmland must be maintained according to the following Policies and Practices:

2. Policy and Practices

(a) Obsolete materials and machinery should be removed from the property, or if they are to be saved,they shall be organized for display.

(b) Mechanical equipment and storage areas shall be screened by vegetation or building design where possible.

(c) Vegetation near roadsides and public areas shall be maintained.

(d) Structures shall reflect the historical and rural character of local farms where feasible.

(d) While year-round agriculture opportunities provided by greenhouses are encouraged, placement and development of such structures shall be guided by aesthetic principles that preserve the rural and open cropland nature of the property.

(e) Suyematsu and Bentryn Family Farms are located near family residences. Neighborhood stewardship through ongoing communication shall be encouraged.

GOALS, POLICIES AND PRACTICES

JOHNSON FARM

I. General Property Description

The Johnson Farm is located mid-island on Fletcher Bay Road and Johnsonville Lane. This area was historically farmed by the Johnson family.

A. Acreage: 14.51

B. Location: Johnson Farm is located off of Island Center Road at its intersection with Johnsonville Lane. Primary access to the property is via two access roads that enter from Fletcher Bay Road.

C. Tax Parcel: No.: 282502-2-064-2002

II. Management Goals, Policies and Practices

Background: The Johnson Farm is a unique property serving multiple public purposes. The diverse segments of the property allow for uses serving farming, affordable/agricultural housing, public access, and open space conservation. The Johnson Farm property shall be managed for a combination of agricultural purposes, affordable/agricultural housing, habitat conservation, public access, and passive recreation. See Attachment A for a Johnson Farm Site Plan reflecting these goals, practices, and policies.

A. Agricultural Use

1. Policies and Practices

(a) The land be farmed consistent with feasible and long-term sustainable agriculture objectives. Allowances be made for standard farm practices that enhance long-term sustainability as opposed to short term maximization of profit, such as regular fallowing of land, and variation of crops from one season to another or long-term crop development.

(b) Site Committee meetings-Farming operations shall be carried out in a cooperative manner among all farmers leasing farmland. Such cooperation will include but are not be limited to equipment and infrastructure sharing, repair and maintenance of farm infrastructure and common areas, group irrigation planning, marketing, farm stand sales, and crop rotation planning. Meetings occur twice a year.

(c) Property owners and lessees must comply with any and all applicable local ordinances, including but not limited to zoning, solid waste, storm water, wellhead protection and critical areas ordinances, and any applicable federal, state and local permits that may be required

(d) Farm activities on the Johnson Farm shall conform to the Resource Inventory Evaluation and Alternatives produced for the property by the Kitsap Conservation District.

(e) Farmers should rely on the findings of the Farm Evaluation Plan for the Johnson Farm Property, if available, as they develop farm plans.

(f) Long-term operating leases designed to ensure long-term viability shall be offered to farmers who are chosen as tenants. Lease terms shall be based on farmer experience, farmer business plan, availability of agricultural lands, type of crop and demonstrated farmer ability to meet management goals for the property and City agricultural lands.

(g) The primary use for the City agricultural lands is for the production of food crops.

(h) Consideration be given to identifying opportunities for providing emerging commercial farmers with access to farmland and/or opportunities to participate with established commercial farming businesses.

2. Goals

(a) Farm Plans. Farmers utilizing Johnson Farm agricultural lands shall develop individual farm plans and business plans to be reviewed by a City-approved application process.

) Develop Farm Evaluation Plan for the Johnson Farm Property to identify potential agricultural uses for the farm area. The evaluation should include an analysis of soil quality, water availability, potential crop and livestock capacity, and analysis of existing and potential farm related infrastructure.

) Capital Improvement Plan. Develop a cooperative maintenance, repair and placement plan and schedule for common areas and shared infrastructure.

B. Water

1. **Background:** There is a large farm pond on the Johnson property, and the Johnson property has legal water rights for irrigation of up to 20 acres. The time-frame during which irrigation can be pumped from the farm pond under existing water rights for the property is limited to the period of June 1 to September 30 each year. The water rights for this property also include the use of water for rearing and propagating fish. In order to extend the irrigation period, or change the allowed uses for the farm's water, then an application to the Washington Department of Ecology would need to be submitted for these changes.

2. Policies and Practices

(a) Water use on the Johnson Farm shall conform to USDA Irrigation Plan Natural Resources Conservation Service Irrigation Plan or the Resource Inventory Evaluation and Alternatives produced for the property by the Kitsap Conservation District. Where feasible, drip irrigation and similar conservation methodologies shall be utilized.

(b) Rainwater catchment should be encouraged where feasible.

(c) In most years, application of water between June 1 and September 30 will likely cover the needs for irrigation of crops and pasture. Should precipitation in the Spring or in October be insufficient for agricultural needs, the provision of water shall be extended from May 1 through October 15 each year.

3. Goals

(a) Implement Kitsap Conservation District farm plan to maximize conservation and sustainable use of water resources.

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2. Policies and Practices

(a) Water use on Johnson Farm shall conform to USFA Irrigation Plan Natural Resources Conservation Service Irrigation Plan or the Resource Inventory Evaluation and Alternatives produced for the property by the Kitsap Conservation District. Where feasible, drip irrigation and similar conservation methodologies be utilized.

(b) Rainwater catchment be encouraged where feasible.

3. Goals

(a) Secure water-rights sufficient to serve long-term agricultural uses.

(b) Implement Kitsap Conservation District farm plan to maximize conservation and sustainable use of water resources.

(c) Develop and implement an irrigation management plan as recommended by the Site Committee.

C. Soils

1. Policies and Practices

(a) Farm activities affecting soil on the Johnson Farm shall conform to the Resource Inventory Evaluation and Alternatives produced for the property by the Kitsap Conservation District.

(b) The extent and timing of amendments and fertilizer applications should be based on crop needs and production goals.

(c) Farmers shall implement best management practices that intercept runoff and sediment as close to the source as possible.

(d) Efforts to control sources of runoff, sediment, and erosion should be coordinated with those of neighboring properties.

(e) Unpaved roads and other heavy-use or bare soil areas should be protected from concentrated flows of water.

2. Goals

(a) Implement the Kitsap Conservation District farm plan to minimize erosion.

(b) Implement the Kitsap Conservation District farm plan to improve and maintain soil conditions and quality.

D. Housing/Structures

1. Background: Five existing structures on Johnson Farm include two well houses, a storage shed with a Community Supported Agriculture ("CSA") delivery area, a p-patch storage shed and a storage area with a fowl pen. Six development rights are associated with the property as follows: two units for farmer housing are planned for construction on the upper property, and four units are planned for location in the lower "parking" area of the property. The City has approved a barn structure to be built for community use, also to be located in the "parking" area.

2. Policies and Practices

(a) Providing opportunities for housing to the farming community is an important element in ensuring that farmers and their families can continue their work on Bainbridge Island. Further, economic diversity in the community is promoted by providing options for affordable housing. Therefore, a portion of the property shall be engaged in affordable and/or agricultural housing unless specific conditions make housing impossible on the property.

(b) The Johnson Farm property has 6 development rights. These should be used to provide agricultural housing and affordable housing.

(c) Farm families should be given priority of use for housing. Units that are not occupied by farm families, interns or itinerate labor can be added to the pool of affordable housing available to residents of Bainbridge Islander.

(d) Management of the housing be carried out by Friends of the Farms, Farm housing should be made available on a rental basis.

(e) Opportunities for communal sharing of resources should be maximized by the households located on the property. This may include shared utilities, storage space, meeting rooms, kitchen service, garbage/composting operations, transportation, office space, yard space, play areas and workshops. , Development should ensure opportunities for privacy for each individual and family.

(f) The barn structure planned for the low East end of the property shall be available for farm related activities, and may be used for other public needs that are compatible with the primary uses of the Johnson Farm.

(g) The property currently includes a well and appurtenant pump house, fowl containment pen, and shed structure used for storage and to house the CSA subscription pick up for Persephone Farms. These structures should be maintained and remain in continued use.

(h) Any signs posted on the property must be consistent with rural aesthetics and uses of the property, as well as applicable sign regulations contained in the Bainbridge Island Municipal Code..

3. Goals

(a) Develop housing on the property according to the layout in the Johnson Farm Site Plan, Attachment A. The East end of the property (a low area used for parking during the Harvest Fair) is planned to include four residential units and a barn structure for public use. Two residential units are planned for the central area of the upland portion of the property.

(b) Develop a master farm plan for appropriate farm housing.

(c) Form a resident's or homeowner's association for governance of common areas and shared resources. Alternatively, develop a Community Land Trust to govern all housing and common areas.

(d) Ensure long term maintenance and operations of existing farm structures. Renovation, repairs, or construction on structures requiring a City of

Bainbridge Island building permit shall not commence until and unless such building permit(s) are issued.

E. Public Access

1. Trails

(a) Background**:** Agricultural parcels owned by the City are of interest to the entire community and require access trails and point of interest viewing locations. Friends of the Farms has constructed a trail system that provides access and viewing opportunities on the property. In addition, portions of the property not dedicated to agriculture may serve low impact public uses and serve as a designated wildlife corridor.

(b) Policies and Practices

i. Trails and viewing stations should be developed to ensure that visitors can access and view the property, will not interfere with farm activity, and are safe from active farm operations.

ii. Open space on the property may allow activities where appropriate such as compiling wildlife and plant inventories, analyzing the life forms in the waterways, placing birdhouses on parts of the property, making periodic butterfly or bird counts, picking up litter on an annual basis,removal of invasive species, and planting of native species.

iii. Trails be developed for multi-model, non-motorized transportation including pedestrian, bicycle and equestrian use.

(c) Goals

i. Develop additional trail systems with viewing stations for points of interest to allow the public access to the Johnson Farm Area.

ii. Integrate the trail system with the City non-motorized transportation plan and Bainbridge Island Metropolitan Parks and Recreation District's trail Island wide trail planning.

2. Education Activities

(a) Policies and Practices

i. Public and private educational activities shall be allowed and encouraged on Johnson Farm.

ii. Public and private educational activities may include, but are not limited to, volunteer projects to enhance the public's enjoyment of the properties, and opportunities for Bainbridge residents and others to educate themselves about agricultural practices and the natural world. These could include agricultural education programs, public growing programs, trail enhancement, and property enhancement work parties.

(b) Goals

i. Develop partnerships with educational institutions to facilitate educational opportunities on the property. Specifically: (i) build and facilitate pre-school through grade-12 learning experiences integrated with farm operations, in a way that does not interfere with daily business and supports the farm's sustainability, (ii) develop adult learning experiences integrated with farm operations, in a way that does not interfere with daily business and supports the farm's sustainability.

3. P-Patches

(a) Background: A p-patch area has been established adjacent to the orchard area.

(b) Policies and Practices

i. A portion of the property should be maintained for public use garden areas.

(c) Goals

i. Maintain availability of portions of the property for p-patch gardening.

F. Stewardship/Habitat Conservation

1. Background: Natural habitat and watercourses are an indispensable and irreplaceable but fragile natural resource with which the citizens of Bainbridge Island have been endowed. The natural areas and habitats are a unique sub-system in the local environment. Further, preservation of natural habitats in agricultural areas helps to ensure a continuance of native biological diversity. Therefore, efforts shall be made to preserve/maintain existing critical areas as defined by the Bainbridge Island Municipal Code.

2. Policies and Practices

(a) All farm activities should preserve a relationship to the natural environment.

(b) Farm practices should preserve the unique natural habitats of agricultural areas for species that commonly rely on healthy farmlands.

(c) Portions of the property bordering private non-agricultural property and public rights of way shall be maintained in a natural vegetative state, when compatible with farm uses of the property. These border areas may be planted and maintained with native plants, edible plantings and plantings supportive of habitat and food provision for birds and animals. Where possible plantings should include a variety of plant species and avoid monocultures. Where practicable trees should be planted on or near the property line, shrubs and smaller trees should be planted in front of these, and finally shrubs and groundcovers should be placed in front. This will allow for a tapered buffer to maximize privacy and habitat variation. Consideration should be given to planting of edible plant species that can be harvested. All planting must be balanced against usability of the land for crop production which will take precedence.

3. Goals

(a) The West end of the property has been used for nature mapping by students from Sakai for at least eleven years. The data they have been collecting has been submitted to the University of Washington. This and similar activities should be encouraged to continue.

(b) Develop a habitat management plan for the Johnson Farm.

(c) The West end of the property is not suitable for agricultural activities, and should be placed under a conservation easement to permanently protect the open space value of this portion of the property.

G. Special Considerations

1. Aesthetics. Public lands and management of fully operational commercial farmlands management must strike a delicate balance between form and function. One of the reasons operating farms are supported on public lands is that farms reflect a rural aesthetic valued by the community. Farms are also supported because of their practical value of providing locally grown food for local consumption. Farm management is inherently a busy and sometimes messy industry, and these practices must not be compromised by aesthetics alone. To balance these values the farmland must be maintained according to the following Policies and Practices:

2. Policy and Practices

(a) Obsolete materials and machinery should be removed from the property, or if they are to be saved, they shall be organized for display.

(b) Mechanical equipment and storage areas should be screened by vegetation or building design where possible.

(c) Vegetation near roadsides and public areas should be maintained.

(d) Structures should reflect the historical and rural character of local farms where feasible.

(e) Johnson Farm has neighbors nearby. Neighborhood stewardship through ongoing communication is should be encouraged.

GOALS, POLICIES AND PRACTICES

M & E PROPERTY

I. General Property Description

The M & E Property was donated to the City in 2003 by Elizabeth Grossman. It is the location of the former M & E Tree Farm. The site consists of two parcels "M & E East" and "M & E West."

A. Acreage: Total 13.33

M & E East: 5.02

M & E West: 8.31

B. Location: The M & E properties are located along the southern and south east section of the Farm District, at the north end of Charles Place off of Lovgreen Road. *)*.

C. Tax Parcel Nos.: M & E East: 102502-1-028-2009
M & E West: 102502-1-029-2008

II. Management Goals, Policies and Practices

A. **Background:** The M & E property is unique from other properties in the Farm District in that it was not purchased using City open space funds, but received via private donation from the property owner. The acquisition agreement subjected the property to conservation and use restrictions that control and serve as policy and practices for the property.

III. Land Uses

A. Background:

The M & E property is restricted, such that no individual may conduct commercial farming that adversely affects the natural habitat on the property. Aside from this restriction there are no restrictions on agricultural activity for the property.

The unique restrictions placed on the M & E property present unique opportunities. While it is not possible to conduct commercial agricultural operations by private parties, there are many activities that can be undertaken on the property that complement the farm activities on nearby public farmland. Possible uses include but are not limited to:

1. Incubator farm area for interns, apprentices and new farmers (such as interns) to test their business plans, possibly in conjunction with agriculture-related courses and/or other educational opportunities from private or public schools, and higher education.

2. Demonstration, community, and p-patch garden and growing spaces.

3. Nursery space for public agency use.

4. Growing spaces dedicated to multi-age educational opportunities.

5. According to the agreement between the City and the previous owner, not-for-profit farming activities are allowed to support management of the public farms programs, agriculture related educational programs, programming for Bainbridge Island agriculture, and permanent preservation of Bainbridge Island farming, For instance, harvesting and sale of existing Christmas trees or seasonal greens may be carried out by a contract staff farmer or volunteers.

B. Water

1. Background: The M & E property has no water rights at this time. The property has access to water service from the Kitsap Public Utility District.

(b) Develop feasible onsite water resources including wells, water catchment, and water rights acquisition.

2. Policies and Practices

(a) Where feasible, drip irrigation and similar conservation methodologies should be utilized.

(b) Rainwater catchment be encouraged where feasible.

3. Goals

(a) Secure water-rights sufficient to serve long-term agricultural uses.

(b) Implement Kitsap Conservation District farm plan to maximize conservation and sustainable use of water resources.

(d) Develop and implement a water acquisition and management plan relative to the determined use of the property.

C. Soils

Background: The West M & E Property has served as a commercial tree farm. Therefore, the soils are disturbed and have special amendment needs.

1. Policies and Practices

(a) Farm activities affecting soil on the M & E Property shall conform to the Resource Inventory Evaluation and Alternatives produced for the property by the Kitsap Conservation District.

(b) The amount and timing of amendments and fertilizer applications should be based on crop needs and production goals.

(c) Farmers shall implement best management practices that intercept runoff and sediment as close to the source as possible.

(d) Efforts to control sources of runoff, sediment, and erosion should be coordinated with those of neighboring properties.

(e) Protect unpaved roads and other heavy-use or bare soil areas should be protected from concentrated flows of water.

(f) Sediment and runoff should be detained and filtered before it leaves the property.

2. Goals

(a) Perform an evaluation of site conditions to determine farm-site irrigation, rainfall, stormwater runoff patterns, and identify erosion problem areas and their causes.

(b) Implement the KCD farm plan to minimize erosion.

(c) Perform an evaluation of site conditions to determine farm-site soil conditions and quality.

(d) Develop a farm plan to improve and maintain soil conditions and quality.

D. Structures

1. **Background:** There are two storage sheds and a small office structure located on the property. The Conservation Restrictions allow for maintenance of existing structures, but prohibit expansion of the structures.

2. **Policies and Practices**

(a) Existing structures shall be maintained and restored, as deemed appropriate, and used for any onsite farm related or property use programs.

(b) Any signs posted on the property must be consistent with rural aesthetics and uses of the property.

(c) Where possible utilities should be installed underground, and in a manner such that they do not interfere other uses of the property or the natural environment.

3. Goals

(a) Ensure long term maintenance and operations of existing farm structures.

(b) Establish electrical utility access for the Property. Solar access should also be considered as option.

F. Public Access

1. Trails

(a) Background**:** Agricultural parcels owned by the City are of interest to the entire community and require access trails and point of interest viewing locations. The City and the Park District are in the process of constructing a trail system that would connect the farm properties in the farm district. The City's Non-Motorized Transportation Plan includes plans for the construction of non-motorized facilities in the area. In addition, portions of the property not dedicated to agriculture may serve low impact public uses.

(b) Policies and Practices

i. Trails and viewing stations should be developed to ensure that public visitors can access and view the property, will not interfere with farm activity, and are safe from active farm operations.

ii. Open space on the property may allow activities where appropriate such as compiling wildlife and plant inventories, analyzing the life forms in the waterways, placing birdhouses on parts of the property, making periodic butterfly or bird counts, picking up litter on an annual basis and removal of invasive species where appropriate.

(c) Goals

i. Develop trail system with viewing stations for points of interest to allow the public access to the M & E Property Area.

ii. Integrate the trail system with the City non-motorized transportation plan and Bainbridge Island Metropolitan Parks and Recreation District's Island wide trail planning.

2. Education Activities

(a) Policies and Practices

i. Public and private educational activities shall be allowed and encouraged on the M & E Property.

ii. Public and private educational activities may include, but are not limited to, volunteer projects to enhance the public's enjoyment of the properties, and opportunities for Bainbridge residents and others to educate themselves about agricultural practices and the natural world. These may include agricultural education programs, public growing programs, trail enhancement, and property enhancement work parties.

(b) Goals

i. Develop partnerships with educational institutions to facilitate educational opportunities on the property. Specifically: (i) build and facilitate pre-school through grade-12 learning experiences integrated with farm operations, in a way that does not interfere with daily business and supports the farm's sustainability, (ii) develop adult learning experiences integrated with farm operations, in a way that does not interfere with daily business and supports the farm's sustainability – these may include internship programs and classes coordinated with WSU Extension and other educational programs.

3. Passive Recreation

(a) Policies and Practices

i. Low impact public use of the Property that is compatible with other users shall be encouraged. Uses such as trails, seating areas, and view-points are allowed.

ii. No hunting is allowed on the Property.
i.

G. Stewardship/Habitat Conservation

1. **Background**: Natural habitat and watercourses are an indispensable and irreplaceable but fragile natural resource with which the citizens of Bainbridge Island have been endowed. The natural areas and habitats are a unique sub-system in the local environment. Further, preservation of natural habitats in agricultural areas helps to ensure a continuance of native biological diversity. Therefore, efforts shall be made to preserve/maintain existing critical areas as defined by BIMC.

2. Policies and Practices

(a) Farm practices should reflect a relation to the natural environment.

(b) Farm practices should preserve the unique natural habitats of agricultural areas for species that commonly rely on healthy farmlands.

(c) Portions of the property bordering private non-agricultural property and public rights of way shall be maintained in a natural vegetative state when compatible with farm uses of the property. These border areas may be planted and maintained with native plants, edible plantings and plantings supportive of habitat and food provision for birds and animals. Where possible, plantings should include a variety of plant species and avoid monocultures. Where practicable, trees should be planted on or near the property line, shrubs and smaller trees should be planted in front oftrees, and hrubs and groundcovers should be placed in front of trees and larger shrubs. This will allow for a tapered buffer to maximize privacy and habitat variation. Consideration should be given to planting of edible plant species that can be harvested. All planting must be balanced against usability of the land for crop production which will take precedence.

(d) Management of the property should be mindful of the water course that runs from Day Road through the Bentryn property and the M & E property. This ravine is a high value natural area.

(e) Alteration of Land. The alteration of the surface of the land may include without limitation, the excavation or removal of soil, sand, gravel, rock, peat, or sod, except as necessary to preserve or protect the Conservation Values of the Property.

3. **Goals**

(a) Place a conservation easement on portions of this property and the adjacent properties containing the ravine area to permanently protect the open space value of this portion of these properties.

(b) Develop a habitat management plan for the M & E Property

(c)

H. Timber Removal

Background: According to the property Conservation Restrictions "Timber resources on the Property may be cultivated, cut, and harvested, provided that such timber Activities are (i) reviewed and approved in advance by the Open Space Commission or other commission or entity designated by the City, (ii) conducted in a manner to preserve and protect the Conservation Values of the Property, and (iii) all funds generated by such activities are used to acquire additional open space property in accordance with applicable laws and ordinances."

1. All timber removal shall be done using best management practices for sustainable timber harvest. Removal of lumber shall be phased to allow for minimal environmental impact as the forest is removed. For instance, timber removal should not be undertaken during species mating, nesting, hibernation, or reduced food availability periods for wildlife currently reliant on the property for habitat. Harvest methods involving low impact such as the use of animals and hand logging shall be considered.
2. Timber harvest of the Crawford Property shall exercise maximum sensitivity with regard to surface water run-off. Removal of timber will increase downhill stormwater runoff. Planning shall include mitigation for stormwater impacts such as silt barriers and a stormwater collection pond, if permitted, that could be converted to irrigation uses in the future.

3. Opportunities for harvest of forest products and forest dependent crops be considered as part of the phased removal of timber. Forest products are a valuable Northwest commodity. For instance, salal and oregon grape undergrowth is used by florists, cedar and fir trimmings are common holiday decorations, and burnt out stumps and logs are valuable for landscaping.As agricultural structural needs arise, timber be harvested for use on public farmland or other commercial use.

4. Maximum public benefit shall be identified for uses for harvested timber. Harvested timber may yield board lumber and logs. These wood resources may be utilized for community projects such as farm property structures, bus stops, bird blinds in public parks, benches, or artistic creations, or may be sold to fund public or agricultural related activities.

5. Local labor and artisans whenever possible be consulted and hired to undertake the work of harvesting materials from the property.

6. All forestry and clearing activities shall comply with local and state laws governing such activities such as securing a City of Bainbridge Island Clearing Permit and a Department of Natural Resources Forest Practices Application.

7. Timing of timber harvest shall be undertaken with consideration to shading impacts already occurring on adjacent farmland.

8. Tree harvest plans shall include consideration of community education opportunities e.g. sustainable logging demonstrations and hands on activities.

9. Wood that cannot be utilized for a more constructive purpose shall be collected for fire wood or woody debris processed into mulch which would be returned to the land for soil improvement. Fire wood sales can be used to fund farmland management and activities.

IV. Prohibited Uses

The following uses are prohibited on the property under the Conservation Restrictions:

A. Subdivision of the property.

B. Commercial Agricultural Activities. The commercial harvesting, cutting, or destruction of timber or other vegetation on the Property that adversely affect wildlife habitat.

GOALS, POLICIES AND PRACTICES

MORALES FARM

I. General Property Description

The Morales Farm is owned by the City and currently managed by the Friends of the Farms under a stewardship plan dated November 4, 2003, that has been incorporated into the Master Lease Agreement dated December 20, 2011.

The Morales Farm has value as a historic farm located in a part of the island with soil and other conditions conducive to agriculture, at the South West corner of the Farm District. The property must be preserved as a community resource to promote island farming.

The Morales house was built in 1953 and served as the primary residence of the Morales family for farming. The property was sold to the City in 2003 as an Open Space Fund Acquisition .

A. Acreage: 4.74 acres

B. Location: The property is located in the NE ¼ of Section 10, Township 25N, Range 2E, at 8862 Lovgreen Road, Bainbridge Island in the Manzanita Bay Watershed.

C. Tax Parcel No.: 102502-1-056-2004

II. Management Goals, Policies and Practices

A. Agricultural Use

1. Background: The Morales Farm has been used for small-scale agriculture for decades. The farm fell into disuse when the Morales family vacated the property prior to purchase by the City. The property should be returned to maximum agricultural production. Under Friends of the Farms management, substantial steps to improve the land and the structures have been taken toward that goal over the past eight years.

2. Policies and Practices

(a) The land be farmed consistent with feasible and long-term sustainable agriculture objectives. Allowances be made for standard farm practices that enhance long-term sustainability as opposed to short term maximization of profit, such as regular fallowing of land, and variation of crops from one season to another or long-term crop development.

(b) Farming operations shall be carried out in a cooperative manner among all farmers leasing the farmland. Such cooperation shall include but not be limited to equipment and infrastructure sharing, repair and maintenance of farm infrastructure and common areas, group irrigation planning, marketing, farm stand sales, and crop rotation planning.

(c) Property owners and lessees must comply with any and all applicable local ordinances, including but not limited to zoning, solid waste, wellhead protection and critical areas ordinances, and any applicable federal, state and local permits that may be required.

(d) Farm activities on the Morales Farm shall conform to the Resource Inventory Evaluation and Alternatives produced for the property by the Kitsap Conservation District.

(e) Farmers should rely on the findings of the Farm Evaluation Plan for the Morales Farm Property, if available, as farmers develop farm plans.

(f) Long-term operating leases designed to ensure economic viability shall be offered to farmers who are chosen as tenants. Farm leases shall be given terms based on farmer experience, farmer business plan, availability of agricultural lands, type of crop and demonstrated farmer ability to meet management goals for the property and City agricultural lands.

(g) The primary use for the City agricultural lands is for the production of food crops.

(h) Consideration be given to identifying opportunities for providing emerging commercial farmers with access to farmland and/or opportunities to participate with established commercial farming businesses.

3. Goals:

(a) Develop Farm Evaluation Plan for the Morales Farm Property to identify potential agricultural uses for the farm area. The evaluation should include an analysis of soil quality, water availability, potential crop and livestock capacity, and analysis of existing and potential farm related infrastructure.

(b) Capital Improvement Plan. Develop a cooperative maintenance and repair plan and schedule for common areas and shared infrastructure.

B. Water

1. Background: There is a shallow well on the property (see "pumphouse" on site plan for location). The well currently being used to support agricultural activity. Friends of the Farms installed a new pump and electrical system. The well originally provided water for the Morales residence. Future plans for the property should include application to the Department of Ecology for a water right to serve agricultural activity.

A seasonal stream crosses the property from the northeast, emptying into a wetland on the adjacent property to the west. The Morales family made use of water from the pond on the neighboring property to the west for their agricultural needs. Another approach to securing long-term water access for agricultural activities may include obtaining a water easement.

Finally, the Morales Farm has been connected to domestic water provided by the KPUD system, which serves the surrounding neighborhood. This connection will provide a health department-approved water source for any residence or farm stand on the property, though it does not represent a likely source of agricultural water in the future due to the costs of irrigation water usage.

2. Policies and Practices

(a) Water use on the Morales Farm shall conform to USDA Irrigation Plan Natural Resources Conservation Service Irrigation Plan or the Resource Inventory Evaluation and Alternatives produced for the property by the Kitsap Conservation District. Where feasible, drip irrigation and similar conservation methodologies be utilized.

(b) Rainwater catchment be encouraged.

3. Goals

(a) Secure water-rights sufficient to serve long-term agricultural uses.

(b) Implement Kitsap Conservation District farm plan to maximize conservation and sustainable use of water resources.

(c) Develop and implement irrigation management plan.

C. Soil

1. Policies and Practices

(a) Farm activities affecting soil on the Morales Farm shall conform to the Resource Inventory Evaluation and Alternatives produced for the property by the Kitsap Conservation District.

(b) The extent and timing of amendments and fertilizer applications should be based on crop needs and production goals.

(c) Farmers shall implement best management practices that intercept runoff and sediment as close to the source as possible.

(d) Efforts to control sources of runoff, sediment, and erosion should be coordinated with those of neighboring properties.

(e) Unpaved roads and other heavy-use or bare soil areas should be protected from concentrated flows of water.

3. Goals

(a) Implement the Kitsap Conservation District farm plan to minimize erosion.

(b) Implement the Kitsap Conservation District farm plan to improve and maintain soil conditions and quality.

D. Housing/Structures

1. Background: The property includes the Morales house and adjacent garage structure.

a. Any signs posted on the property be consistent with rural aesthetics and use of the property and shall comply with the City of Bainbridge Island Municipal Code regarding signage.

2. Policies and Practices

(a) The Morales house is currently dedicated to housing for farm interns, and new farmers associated with Bainbridge Island farming activities that Friends of the Farms manages.

(b) A large greenhouse structure on the property is owned and managed by Butler Farm Green Farms. The structure serves the growing needs of the farmers on the property, and also serves as an auxiliary structure for agriculture education and community p-patch programs.

3. Goals

(a) Ensure long term maintenance and operations of existing farm structures.

(b) Evaluate the current location of existing structures to ensure locations maximize compatibility with access and are compatible with other farming operations.

E. Public Access

1. Trails

(a) Background**:** The Morales Farm is on the South West corner of the City Farm District. The City is interested in constructing a trail system that would connect the farm properties. The Non-Motorized Transportation Plan includes plans for the construction of non-motorized facilities in conjunction with Day Road to the north of the Morales Farm.

(b) Policies and Practices

i. Trails and viewing stations should be developed to ensure that visitors can access and view the property, will not interfere with farm activity, and are safe from active farm operations.

ii. Open space on the property may allow activities where appropriate such as compiling wildlife and plant inventories, analyzing the life forms in the waterways, placing birdhouses on parts of the property, making periodic butterfly or bird counts, picking up litter on an annual basis and removal of invasive species where appropriate. iii. Trails be developed for multi-model non-motorized transportation including pedestrian, bicycle and equestrian use.

(c) Goals

i. Develop trail system with viewing stations for points of interest to allow the public access to the Johnson Farm Area.

ii. Integrate the trail system with the City non-motorized transportation plan and Bainbridge Island Metropolitan Parks and Recreation District's Island wide trail planning.

2. Education Activities

(a) Policies and Practices

i. Public and private educational activities shall be allowed and encouraged on Morales Farm.

ii. Public and private educational activities may include, but are not limited to, volunteer projects to enhance the public's enjoyment of the properties, and opportunities for Bainbridge residents and others to educate themselves about agricultural practices and the natural world. These activities may include agricultural education programs, public growing programs, trail enhancement, and property enhancement work parties.

(b) Goals

i. Develop partnerships with educational institutions to facilitate educational opportunities on the property. Specifically: (i) build and facilitate pre-12 learning experiences integrated with farm operations, in a way that does not interfere with daily business and supports the farm's sustainability, (ii) develop adult learning experiences integrated with farm operations, in a way that does not interfere with daily business and supports the farm's sustainability.

ii. Consideration should be given to placing an interpretive display on the property that explains the history and cultural contributions of Filipino farmers on Bainbridge Island. Due to its historic and cultural values, the Morales farm may be a candidate for historical designation through the state registry. Such designation may expose the farm and the City's farmland preservation program in general to additional funding opportunities.

H. Stewardship/Habitat Conservation

1. Background: Natural habitat and watercourses are an indispensable and irreplaceable but fragile natural resource with which the citizens of Bainbridge Island have been endowed. The natural areas and habitats are a unique sub-system in the local environment. Further, preservation of natural habitats in agricultural areas ensures a continuance of native biological diversity. Therefore, efforts shall be made to preserve/maintain existing critical areas as defined by the Bainbridge Island Municipal Code.

2. Policies and Practices

(a) All farm activities preserve a relationship to the natural environment.

(b) Farm practices should preserve the unique natural habitats of agricultural areas for species that commonly rely on healthy farmlands.

(c) Portions of the property bordering private non-agricultural property and public rights of way shall be maintained in a natural vegetative state. These border areas should be planted and maintained with native plants, edible plantings and plantings supportive of habitat and food provision for birds and animals. Plantings should include a variety of plant species and avoid monocultures. Where practicable, trees should be planted on or near the property line, shrubs and smaller trees should be planted in front of trees, , and shrubs and groundcovers should be placed in front of small trees. This planting arrangement will allow for a tapered buffer to maximize privacy and habitat variation. Consideration should be given to planting of edible plant species that can be harvested. All planting must be balanced against usability of the land for crop production, which should take precedence.

(d) The farm is transected by a Non-fish seasonal (Ns) stream that drains west to Manzanita Creek. While Manzanita Creek has documented presence of salmonid species, publicly available data indicate the presence of a fish passage barrier where the stream passes under SR 305 via a culvert. This fish passage barrier is classified by Washington Department of Fish and Wildlife (WDFW) as a "total barrier." Current City critical areas regulations require a 50-foot buffer for Ns streams, measured from the ordinary high water mark (OHWM). Buffers are to be retained in their natural condition; however, it is acceptable to enhance the buffer by planting native or equivalent vegetation as approved by the City. Ongoing agricultural activities using best management practices as included in a farm management plan developed by the Kitsap Conservation District are exempt from current critical areas regulations; however, it is recommended that invasive species, such as Himalayan and evergreen blackberry and Scotch broom, as well as tree species that may shade actively farmed areas, be removed from the stream buffer. Depending upon the extent of bare ground resulting from plant removal, native plant species of quantities and height that will provide an adequate riparian plant community and not interfere with agricultural activities should be installed. In addition, the Kitsap Conservation District recommends the correct management of fertilizers and chemicals on the farm property.

3. Goals

(a) Place a conservation easement on portions of this property and the adjacent properties containing the ravine area to permanently protect the open space value of this portion of these properties.

(b) Develop a habitat management plan for the Morales Farm.

G. Special Considerations

1. Aesthetics

(a) Background: Public lands and management of fully operational commercial farmlands shall strike a delicate balance between form and function. One of the reasons operating farms are supported on public lands is that farms reflect a rural aesthetic valued by the community. Farms are also supported because of their practical value of providing locally grown food for local consumption. Farm management is inherently a busy and sometimes messy industry, and farm operational practices must not be compromised by aesthetics alone. To balance these values, the farmland must be maintained according to the following Policies and Practices:

2. Policy and Practices

a. Obsolete materials and machinery should be removed from the property, or if saved, they organized for display.

b. Mechanical equipment and storage areas should be screened by vegetation or building design where possible.

c. Vegetation near roadsides and public areas should be maintained.

d. Structures should reflect the historical and rural character of local farms where feasible.

e. Morales Farm is located near family residences. Neighborhood stewardship through ongoing communications should be encouraged.

2015 Proposed Exhibit D

City of Bainbridge Island and Friends of the Farms' Lease Agreement

As indicated in Section 3.2 (f) of the Lease:

"The parties anticipate that the list of projects on Exhibit D will change from time to time upon mutual agreement of the Parties, as projects and management tasks are completed, and as City funding and Friends' capacity to perform evolves during the term of this Lease."

The Parties agree to review Exhibit D and its contents annually to ensure that the projects and tasks identified herein conform to the annual work plans and budgets for both the City and Friends of the Farms. Annual review should be coordinated with the City budget process, and Friends' annual report to the City.

The following Capital Projects have been identified:

A. Capital Projects:

1. **Suyematsu Barn-** An historic barn built around 1920 is in danger of collapsing. The project will include architectural and structural design, permitting costs, and structural repair/refurbishment.
2. **Suyematsu House-** The house will undergo repairs and maintenance to comply with Existing Building Code.
3. **Property Maintenance and Improvements**:
   a. Install doors and construct walls on two pump houses at Suyematsu and Bentryn Family Farms.
   b. Rebuild one pump house at Morales Farm.
   c. Repaint barns at Johnson Farm.
   d. Install a gate and fence to prevent vandalism at Johnson Farm.
   e. Replace two roofs on small structures at M & E Farm.
   f. Improve drainage and farm road maintenance.
   g. Remove and cut back invasive and native vegetation to improve sightlines and vehicle access from Day Road that leads to the existing farm stand, onsite residents and the Bainbridge Winery.
   h. Provide ditch management along Day Road.
   i. Provide ongoing farmland stewardship to include fence repair and installation, removal of invasive species, native vegetation planting, and trail maintenance and construction.

B. Planning and Legal Issues

1. Develop a Comprehensive Farm Plan for City-Owned Agricultural Lands
2. Complete a Water Study for Bentryn and Suyematsu Family Farms, Johnson, M and E, and Crawford Farms

3. Review water quality of the creek and ponds as it affects irrigation and wildlife habitat.
4. Develop a comprehensive vegetation management plan of perimeters, buffer area and non-farmed open areas and forest habitats on all public farmland.
5. Explore legal issues for the use of M & E Farm.
6. Explore the preparation of the Crawford property for farming criteria.
7. Explore the feasibility of a farm produce pick-up site at Morales Farm structure at Morales.

FRIENDS OF THE FARMS

FRIENDS OF THE FARMS

Exhibit D-COBI and Friends of the Farms' Lease Agreement

December 2, 2014

As indicated in Section 3.2 (f) of the Lease:

"The parties anticipate that the list of projects on Exhibit D will change from time to time upon mutual agreement of the Parties, as projects and management tasks are completed, and as City funding and Friends' capacity to perform evolves during the term of this Lease."

The Parties agree to review Exhibit D and its contents annually to ensure that the projects and tasks identified herein conform to the annual work plans and budgets for both the City and FOF. Annual review should be coordinated with the City budget process, and Friends' annual report to the City.

The following Capital Projects and Management Tasks have been identified:

A. Capital Projects:

1. **Suyematsu Barn**- An historic barn built around 1920 is in danger of collapsing. The Historic Preservation Commission is recommending that it is restored and nominated for the local history registry. Project will include architectural and structural design, permitting costs, and structural repair/refurbishment.

2. **Morales Commercial Greenhouse** – Continue improvements to the greenhouse that serves commercial farmers, interns, p-patch members and educators. A more permanent polycarbon roof and electrical services are also required.

3. **Farm Structure Maintenance and Improvements** – All of the recommended maintenance and improvement projects are critical for the sustainability of the property.

a. Door and wall construction on two pump houses at Suyematsu
b. Rebuild one pump house at Morales
c. Barn repainting through volunteer work parties at Johnson
d. Install a gate and fence to prevent vandalism at Johnson
e. Remove invasive species in open areas at M and E.
f. Two roof replacements at M and E Farm

C. Planning and Legal Issues

1. Develop a Comprehensive Farm Plan for City- Owned Agricultural Lands

- Water Capacity Study for Bentryn and Suyematsu Family Farms, M and E and Crawford properties
- Explore legal issues of M and E use
- Explore potential farm use of Crawford

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: Review Current Food Truck Regulations and Food Service in Industrial Zones	Date: April 7, 2015
Agenda Item: Staff Intensive	Bill No.: 15-069
Proposed By: Kathy Cook, Director, Planning and Community Development	

BUDGET INFORMATION		
Depart/Fund: N/A		
Expenditure Req:	Budgeted? ☐ Yes ☐ No	Budget Amend. Req? ☐ Yes ☐ No

REFERRALS/REVIEW		
City Council: March 10, 2015		
City Manager ☐ Yes ☐ No ☐ N/A	Legal ☐Yes ☐ No N/A	Finance ☐ Yes ☐ No ☐ N/A

DESCRIPTION/SUMMARY

Action Item:

Discuss existing regulations for food trucks and food service establishments in the Business/Industrial district.

Background:

Members of the public have emailed the City Council with suggestions to change the above regulations. The City Council heard public comment at the March 10, 2015 business meeting, and requested that the Department of Planning and Community Development brief the City Council on the existing regulations.

See attached memo.

RECOMMENDED ACTION

Information.

City of Bainbridge Island
PLANNING & COMMUNITY DEVELOPMENT

MEMORANDUM

TO: City Council

FROM: Jennifer Sutton, AICP
Special Project Planner

DATE: April 7, 2015

RE: Study Session on Current Regulations for Food Trucks and Food Service in the Business/Industrial District

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Background
The City Council has requested that the agenda for the City Council meeting on April 7 include a discussion of the City's regulations pertaining to food trucks, and to food service regulations in the Business/Industrial zoning district. The following information is provided to facilitate the Council's discussion.

Food Truck Regulations
The City's regulations refer to food trucks as "mobile retail food establishments," which are defined in BIMC Section 18.36.030.155 as,

> "Mobile retail food establishment" means a retail food establishment that is operated from a movable vehicle or other portable structure, and that routinely changes location, except that if the establishment operates from any one location for more than 30 consecutive days, the establishment is no longer a mobile retail food establishment. A mobile retail establishment shall not be considered a personal service.

Food trucks are permitted in all of the commercial and mixed-use zones (See Attachment A). Specific regulations are contained in BIMC Section 18.09.030.D.4. The key elements of the regulations are:

- The business must be on private property, not within the right-of-way. Permission from the property owner must be submitted with the business license.
- The operating vehicle or structure must be removed from the site at the end of the day.
- Drive-through facilities not allowed.
- No tables or chairs may be set up on-site, no additional signs (besides what is on the vehicle).
- The food truck can take up no more than two parking spaces, so long as adequate parking exists on the particular property.
- Must meet all requirements from Kitsap County Health District.

The overall purpose of the current regulations is to ensure that food trucks are placed so as to not interfere with pedestrians and drivers. The City has recently received several public comments regarding food trucks, which are included as Attachment B. In general, the commenters are requesting that the City allow food trucks in public parks in all zones and create a mechanism to request permission from the City to allow a food truck on City-owned property (i.e. *The Waypoint*).

Food Service in Business/Industrial Zones

The City has a specific definition for "food service establishments," which differentiates it from restaurants and fast-food restaurants. The definition is contained in BIMC Section 18.36.030.92, which states:

> "Food service establishment" means a building, or portion thereof, containing tables and/or booths, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, for employees of businesses within the development. The term "food service establishment" shall not include "restaurant," "formula take-out food restaurant," or "drive-through business."

Food service establishments are only permitted in the Business/ Industrial district. Regulations pertaining to food service in the B/I zones are contained in BIMC 18.09.030.D.3. The key elements of the regulations are:

- The food service establishment should be visible within a Business/Industrial complex only, not visible from the adjacent streets. No additional signs for the business shall face arterials or collector streets.
- Indoor area occupied by the food service business may not exceed 2,000 square feet.
- Food service business hours are limited to 5:00 am-6:00 pm.

The overall purpose of the current regulations is to ensure that food service establishments are primarily for the benefit of customers and employees in the zone, as opposed to providing full-service destination restaurants. The Council that adopted the regulations did not want the BI zones to become "restaurant districts" that would compete with Winslow and create additional traffic, and wanted to avoid having land intended for industrial purposes taken up with restaurants and other types of retail uses.

The City has recently received public comment regarding food service in the Business/Industrial district, which is included as Attachment B. In general, the commenter is requesting that the City modify the food service establishment regulations to support a nascent craft beverage industry by allowing food service businesses to have later hours, and/or allowing craft beverage "production" businesses to prepare food.

Action Requested of the Council

Staff is recommending that upon conclusion of the study session on April 7, the Council provide direction as to whether the regulations should be revised, and if so, what priority should be assigned to this effort, given the Department's current work plan.

Attachments

A. BIMC Table 18.09.020 *Use Table*
B. Public Comment

Table 18.09.020 Use Table

“P” = Permitted Use	**“A” = Accessory Use**	**Additional use restrictions for Chapters 16.12 and 16.20 BIMC may apply to shoreline or critical area properties**
“C” = Conditional Use	**“CA” = Conditional Accessory Use**	
Blank = Prohibited Use	**“T” = Temporary Use**	

ZONING DISTRICT **USE CATEGORY/TYPE**	**R-0.4**	**R-1**	**R-2**	**R-2.9**	**R-3.5**	**R-4.3**	**R-5**	**R-6**	**R-8**	**R-14**	**Winslow Mixed Use Town Center**					**HSR I and II**	**NSC**	**B/I**	**WD-I**	**Use-Specific Standards BIMC 18.09.030**
											CC	**MA**	**EA**	**Gate**	**Ferry [1]**					
PRINCIPAL USES																				
Food and Beverage																				
Restaurant											P	P	P	P	P	P	P			
Food Service Establishment																		P		D-3
Mobile Retail Food Establishment											P	P	P	P	P	P	P	P	P	D-4

Attachment A

Jennifer Sutton

From: Kathy Cook
Sent: Wednesday, March 04, 2015 5:22 PM
To: Jennifer Sutton
Subject: FW: A Request to City Council re: Mobil Retail Food Establishments
Attachments: Bainbridge Island Municipal Code_Chapter18.09[1].pdf

Kathy Cook
Director, Planning and Community Development
City of Bainbridge Island
280 Madison Avenue No.
Bainbridge Island, WA. 98110
206-780-3756

From: Council
Sent: Wednesday, March 04, 2015 4:27 PM
To: Doug Schulze; Morgan Smith; Lisa Marshall; Kathy Cook
Subject: FW: A Request to City Council re: Mobil Retail Food Establishments

From: Kimberly Raymond [mailto:kimberlyraymond70@gmail.com]
Sent: Wednesday, March 04, 2015 4:14 PM
To: Council
Cc: Rick Wood
Subject: A Request to City Council re: Mobil Retail Food Establishments

Attachment B

Ladies and gentleman of the City Council,

My name is Kim Raymond and my business partner is Rick Wood. We are writing to you today to introduce our request for a text amendment to the current ordinance about the operation of a Mobile Retail Food Establishment, description found in 18.09.030.D.4

First, I would like to outline our goal with the food truck. The concept of a food truck is to capture foot traffic. Our goal is to be located in a place that captures foot traffic, yet does not negatively impact vehicular traffic. Our target audiences are the high school students that are regularly leaving campus for food and the parks where families do not have food options during their children's activities. Students that are able to purchase a reasonably priced, healthy lunch located across from the high school may be less likely to walk to Safeway, against school policy. Safeway suffers from higher shop lifting during the lunch periods so this may be a way to help minimize that negative side effect. Our primary goal is to provide a service that is being asked for in places with unmet demand. We are not asking to drive through neighborhoods or to operate someplace that would negatively impact the image of our island.

We have been involved in multiple discussions with the city planners regarding the current code. As it is written in 18.09.020, a mobile food establishment is allowed in the main Winslow core, neighborhood service centers, business/industrial, High School Road districts 1&2 and water dependent industrial. Upon further investigation, we have found that in regards to the Winslow core, there are no practical options. Since there is no provision to operate within a city right-of-way, as there is in Seattle, any logical location would require an existing business to allow a truck to be on their property creating undue congestion and conflicts of interest. As a result, obtaining permission from private property owners is very difficult. We have found that churches will not allow for-profit businesses to operate on their property due to being a non-profit entity. The same applies to the public library parking areas. As for the ferry area, the parking companies are focusing on providing parking, not renting spaces for mobile businesses. The request for permission to operate at the Lynwood Center neighborhood service center was denied as it would compete with the few choices available. The demand does not exist in the Rolling Bay neighborhood service center or the industrial park on Day Road.

We have managed to obtain permission from the Parks Department for the aquatic center parking lot & the parks. We also have permission from the Masonic Temple across from the High School. Finally, the Little League specifically asked us to come to their fields to provide a food option as they have decided that their own concessions are not netting a profit for them.

We would like to request your consideration for a text amendment that would allow for a Conditional Use Permit in the following areas:

Battle Point Park
Rotary Park
Sands Ball Fields
Strawberry Hill Park
Hidden Cove Ball fields
Aquatic Center Parking Area
Masonic Temple
High School

In this amendment, a Mobile Retail Food Establishment would still be held to the standards set in 18.09.030.D.4.

In addition, it would be greatly appreciated if we could brainstorm viable options for opening up the Winslow core.

We are planning to attend the meeting next Tuesday and have an opportunity to address this during the open mic session. Jennifer, in Planning, suggested I send the email now so that you can be prepared for the discussion.

We appreciate your time and consideration of this matter,

Kim Raymond

Rick Wood

Jennifer Sutton

From: Jennifer Sutton
Sent: Wednesday, March 11, 2015 3:45 PM
To: 'Bryce James'
Subject: RE: coffee cart questions

Hi Bryce, Another person went to the City Council meeting last night to describe how the existing regulations for mobile retail, aka food trucks/ carts should be changed. The Council agreed to look into the issue, and an initial discussion of this issue has been scheduled for the Tuesday, April 7th City Council Study Session. At that meeting, City staff will provide the Council with a briefing regarding current regulations and seek direction from the City Council on any further consideration of this issue. Study Sessions are open to the public and comments are accepted on each agenda item so, I would encourage you to attend the meeting, if possible.

Jennifer Sutton, AICP
Special Project Planner
Department of Planning & Community Development City of Bainbridge Island
(206) 780-3772

· Please consider the environment before printing this email and any attachment. Thank you.

-----Original Message-----
From: Jennifer Sutton
Sent: Tuesday, March 03, 2015 3:52 PM
To: 'Bryce James'
Cc: Doug Schulze; Anne Blair; Morgan Smith
Subject: RE: coffee cart questions, Bryce

Hi Bryce,
If you wanted to operate at special events (think Taste of Lynwood) only, then you would need a business license to do so repeatedly, but would not have to be reviewed under the City's mobile retail regulations (see below). Your location at the special event would be evaluated as part of the larger event permit. If you wanted to have a food truck all the time, then you would need a business license. The food truck must be on a property, with permission of the property owner, and that permission would have to be indicated in writing with the business license application. To have a food truck on City property, you would need to turn in something in writing from the Administration that indicated that the City is allowing you to have that business on a specific property (and in a specific location on the property). Currently, mobile retail is only allowed in commercial zoning districts, and not allowed in the public streets or sidewalks. So far the City has yet to process a business license to have a food truck on City property. You need to check in with the administration, 842-2545. Before you talk to the administration, think about what City property (and where on the property) you would like to have a food truck, make sure it is in the right zoning district, you can double check the zoning by calling our planning front desk at 780-3770, or emailing me back.

The BIMC Use Specific Standards for mobile retail (food trucks) are below.

18.09.030.D4. Mobile Retail Food Establishment. Mobile retail food establishments must meet the following standards: a. The mobile business operator must obtain permission of the owner of the property upon which the business is going to operate; b. All operating locations must be approved by the city of Bainbridge Island department of planning and community development c. The operating vehicle or structure shall be removed from the site of operation at the end of the business day and the operator shall store/park the vehicle or structure in a manner consistent with applicable provisions of the BIMC; d. No furniture such as tables or chairs shall be set up on site in conjunction with the mobile business; e. Drive-through facilities are not allowed; f. Besides signage existing on the mobile vehicle or structure, additional signage is not allowed; g. An applicant for a mobile retail food establishment must obtain a business license, and must include a site plan to scale with the business license application that demonstrates:

i. Adequate parking exists on the subject site (including parking for existing plus proposed uses). The mobile retail facility shall occupy a maximum of two parking spaces;

ii. Traffic impacts can be mitigated; and

iii. The establishment will not be placed within a right-of-way or drive aisle. If the establishment is placed within a loading dock, it must move if the loading dock is needed for the primary use.

h. The mobile retail food establishment must meet the requirements of the Kitsap County health district

Jennifer Sutton, AICP
Special Project Planner
Department of Planning & Community Development City of Bainbridge Island
(206) 780-3772

· Please consider the environment before printing this email and any attachment. Thank you.

-----Original Message-----
From: Bryce James [mailto:brycej1111@gmail.com]
Sent: Thursday, February 26, 2015 9:01 PM
To: Jennifer Sutton
Subject: coffee cart questions, Bryce

Hi Jennifer, I received an email from Doug Schulze letting me know that you could answer questions regarding communicating with the city and applications for temporary food services. Is there a set of applications, and how would I go about requesting permission from the city to operate on city property? Any information you can give me or direction you can point me in would be very much appreciated. Thanks for your time!

Bryce

Sent from my iPad

Suggestions for a Craft Beverage Destination
At the Sportsman Club Area Business/Industrial District

Bainbridge Island Brewing
March 18, 2015

Summary

The City of Bainbridge Island is currently undertaking an update of its Comprehensive Plan that will establish a vision for the community for the next twenty years. The co-owners of Bainbridge Island Brewing, located at 9415 Coppertop Loop, wish to provide input into this ongoing process. This paper includes four suggestions related to the brewery and to the Sportsman Club area Business/Industrial (B/I) District where the brewery is located. This paper does not make suggestions for other areas zoned B/I district on the island.

The first suggestion is for the City to recognize the Sportsman Club area B/I District as a craft beverage destination on the island. Other communities, such as Woodinville, Bellevue and Snohomish County, recognize and promote their local craft beverage destinations via the web and other means. This would help promote the growing cluster of new craft beverage companies on the island as a visitor destination for both residents and off-island visitors.

The second suggestion, related to the first one, is to modify current food service restrictions at the B/I District to better support the island's burgeoning craft beverage destination. The current food service restrictions are prohibitive and do not begin to support current needs, let alone those for the next twenty years.

As one thinks about these first two topics, it calls into question the current definition of this B/I district. Looking at a list of current and future businesses and organizations in and around the Sportsman Club area B/I District, this area looks more and more like a de facto Neighborhood Service Center. The third suggestion of this paper is to reassess the current definition of this area that is outdated.

The last suggestion, like a lot of the island, is that mobile phone reception within the Sportsman Club area B/I District is dismal (one bar is common) and needs to be greatly improved. A cell phone tower is already located within this area, yet almost no visitors or employees can get an adequate signal here. This needs to change if this area is to become a true destination.

Discussion

Since the City has initiated a periodic update of its Comprehensive Plan, the Bainbridge Island Municipal Code (BIMC) and other associated plans and ordinances would also change to reflect any new or modified goals and policies. To support a healthy craft beverage destination at the

Sportsman Club area B/I District, and elsewhere on the island, several actions noted below are highly recommended for consideration by the City.

1. <u>Support the long-term growth of the island's burgeoning craft beverage destination with appropriate changes to the Comprehensive Plan and associated codes, zoning, plans, and ordinances</u>

The growing cluster of hand-crafted beverage companies should be recognized as a unique resource on the island and a visitor destination of island-wide and regional significance. This new destination should be supported by the City through acknowledgement in the City's updated Comprehensive Plan, as well as its website and upcoming branding/way-finding program that should be starting soon, in coordination with the Bainbridge Island Chamber of Commerce and the Bainbridge Island Downtown Association. Other scattered wineries on the island should also be included.

Over the last few years, Bainbridge Island has seen a number of craft beverage companies set up small businesses with a tasting room or taproom in the Sportsman Club area B/I District. So far there are five craft beverage businesses in this one B/I district including: Bainbridge Island Brewing, Bainbridge Organic Distillers, Eagle Harbor Winery, Fletcher Bay Winery, and Storyville Coffee. It is expected that an additional winery (or wineries) will also come to this area when a new phase of the Coppertop Park Business Complex is opened later this year. The result of this clustering is a new synergistic, burgeoning visitor destination area on the island.

Customers are beginning to find their way to this area via word of mouth, websites, social media, brochures and signs. WSDOT Visitor and Recreation Activities signs have gone up along SR 305 for some of these businesses with more to follow. This area was a former Frog Hopper stop and is now frequented by B I Ride, private vehicles, bicyclists, and walkers.

Businesses are staying open longer as activity increases and the businesses grow. The hours of operation vary between businesses with some now open seven days a week. Many visitors, particularly off-island, seek out multiple craft beverage companies during a single trip (e.g., brewery, distillery and/or wineries). Another synergy example is Island Rock Gym customers going to the brewery or a winery after rock climbing at the Gym.

2. <u>Remove or significantly alter the existing food service restrictions at the Sportsman Club area B/I District</u>

Current Use Specific Standards (BIMC 18.09.030) within the Sportsman Club area B/I District include the following:

D. Commercial Sales and Service

3. Food Service Establishment. In the B/I district, food service establishments must meet the following standards:

a. The use shall be located interior to the B/I district or shall be fully screened from public streets, and no signage shall face primary and secondary arterials or collector streets;

b. The indoor area occupied by the food service business shall be limited to 2,000 square feet; and

c. Food service available to employees and customers shall be limited to between 5:00 a.m. and 6:00 p.m.

Mobile food service is allowed in the B/I district with landowner permission and a host of other City requirements.

As a result of current BIMC restrictions on food service, one small business (Metro Market Café) is allowed to serve prepared food. Metro Market is open from 11am to 2pm, Monday through Friday. Per their business model, they are primarily a caterer, offering a limited lunch service. As a result, there is no food service business that is open in the Sportsman Club area B/I District on the weekends and after 2pm weekdays.

Speaking for the brewery only, customer comments are received daily from residents and off-island visitors asking for prepared food service at the brewery, and/or within the Sportsman Club area B/I District. Since Metro Market Café closes at 2pm weekdays when the brewery opens up for business, there is no overlap of prepared food service available to brewery customers during weekdays, at night, or during weekends.

Based on over two years of observations and customer comments received at the brewery, the impact of current food service restrictions include: 1) customers must call for a pizza delivery to the brewery, 2) customers must bring food themselves to the brewery, 3) customers will shorten their stay and will drive to a food service provider elsewhere, either before or after their visit to the brewery, or 4) customers will not come or will leave once they see that a prepared meal is not available. This is a poor situation for a burgeoning visitor destination. To grow and prosper, the craft beverage companies need onsite prepared food service in the B/I district that is available during weekends and evening hours.

Current food service work-arounds at the brewery include: 1) serving snacks prepared off-site, 2) allowing customers to bring in food prepared elsewhere, 3) allowing pizza deliveries (often multiple trips per day), and 4) bringing in a mobile food provider for a few hours each week. This is seen as a temporary solution.

Storyville Coffee and Fletcher Bay Winery also offer their customers limited snacks that are prepared off-site. Sweet Dahlia bakery offers baked goods during limited weekday hours.

3. Reassess the B/I District definition and its use restrictions at the Sportsman Club area B/I District

In reality, this B/I district appears to be functioning more and more like a Neighborhood Service Center, compared to a traditional business/industrial complex. Existing businesses and organizations in this area include the current craft beverage companies, along with a wide variety of professional services, health care providers, private schools, studios, and recreational facilities. Inside Coppertop Park is a picnic green space and a private climbing gym. There are two major public school complexes and a church with a park and ride facility located nearby. A future Boys and Girls Club is opening up in May 2015 in Coppertop Park. And the NorthTown Woods residential development is located nearby.

Based on a visual inventory made on March 14, 2015, there are 40 or so businesses and organizations within the current Sportsman Club area B/I District. This B/I district includes the Coppertop Loop and Business Park Lane areas. Not included in the list below are businesses in a new phase of Coppertop Park that is about to break ground to the north of the current complex.

Coppertop Loop (Coppertop Park Business Complex)

- Aberon Studio (photography)
- American Property
- Bainbridge Ballet
- Bainbridge Island Brewing
- Bainbridge Independent
- Bainbridge Organic Distillers
- Bainbridge Pediatrics
- Bottlehead (high end electronics)
- Boys and Girls Club (May 2015 opening)
- Cavu Networks (IT Consulting)
- Fire Dragon Acupuncture
- Fletcher Bay Winery
- Island Children's Montessori School (recently moved out)
- Island Health and Chiropractic
- Island Rock Gym
- Jody Lyle (jewelry)
- Kite & Lightning (electronic media)
- Metro Market Café
- Neil Conaty, Acupuncturist

- New Motion Physical Therapy
- Northwest Insurance Group
- Pink Chalk (sewing accessories and design)
- SMB Nation (technology and business consulting)
- Storyville Coffee Company
- Sweet Dahlia (bakery)
- The Studio (acting studio)
- Wicklund Dental (TI remodeling is underway now)
- Vast Solutions Group (insurance and business solutions)

Business Park Lane Area (various buildings and properties)

- Bainbridge Disposal
- Bainbridge Heated Self-Storage
- Bainbridge Island Boxing
- Bainbridge Island Septic Pumping
- Eagle Harbor Winery
- Kids Emergency Packs
- Leaps & Bounds Montessori
- Nutrition For Life
- Olympic Glass
- Outcome Cross Fit
- Ubbe's Fitness Studio

4. <u>Significantly improve mobile phone reception at the Sportsman Club area B/I District</u>

Improved mobile phone reception is definitely an island-wide need and has been a significant issue for many years, as well as a public safety concern. A cell phone tower is already located within this B/I district, yet many visitors and employees can only get "one bar" reception. Poor reception is further exacerbated by the metal building construction at Coppertop Park and elsewhere.

Businesses and their customers rely more and more on the use of smart phones and new technology. Without good mobile phone reception, it is more difficult for visitors to find their intended destinations, for emergency calls to go through, for taxis and B I Ride to connect with riders, and for customers and employees to go about their daily routines. Restrictive sign regulations in the B/I district make it even harder for businesses to connect with potential customers when their mobile phone reception is dismal.

This needs to change if this area is to become a true destination. The City should make it a priority to significantly improve mobile phone reception throughout the island and this area should be a high priority area.

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION

Subject: Public Works Contracts	Date: April 7, 2015
Agenda Item: Staff Intensive	Bill No.: AB 15-074
Proposed By: Public Works Director Barry Loveless	Referral(s):

BUDGET INFORMATION

Department:	Fund:	Munis Contract #
Expenditure Req:	Budgeted? ☒ Yes ☐ No	Budget Amend. Req? ☐ Yes ☐ No

REFERRALS/REVIEW

Study Session:	Recommendation:	
City Manager ☐ Yes ☐ No ☒ N/A	Legal ☐ Yes ☐ No ☒ N/A	Finance ☐ Yes ☐ No ☒ N/A

DESCRIPTION/SUMMARY

Action Item:

Consider forwarding the following Public Works Contracts to the April 14, 2015 Regular Business Meeting Consent Agenda: 1. Valley, Logg and Gertie Johnson Drainage Project Budget Amendment and 2. Cave Avenue and Knechtel Way Overlay Project, Final Change Order and Budget Amendment.

RECOMMENDED ACTION

Motion:

I move that the City Council forward the following Public Works Contracts to the April 14, 2015 Regular Business Meeting Consent Agenda: 1. Valley, Logg and Gertie Johnson Drainage Project Budget Amendment and 2. Cave Avenue and Knechtel Way Overlay Project, Final Change Order and Budget Amendment.

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: Valley, Logg, & Gertie Johnson Road Drainage Improvements Project – Budget Amendment	Date: April 7, 2015
Agenda Item: Staff Intensive	Bill No.: AB 14-122
Proposed By: Public Works Director Barry Loveless	

BUDGET INFORMATION		
Depart/Fund: 2015 Annual Drainage Program		
Expenditure Req: $9,589.00	Budgeted? ☐ Yes ☒ No	Budget Amend. Req? ☒ Yes ☐ No

REFERRALS/REVIEW		
Study Session:	Recommendation:	
City Manager ☒ Yes ☐ No ☐ N/A	Legal ☐Yes ☐ No ☒ N/A	Finance ☒ Yes ☐ No ☐ N/A

DESCRIPTION/SUMMARY

Action Item:

City Council to consider placement of the Valley, Logg, & Gertie Johnson Road Drainage Improvements project budget amendment on the April 14, 2015 City Council consent agenda.

Background:

The Valley, Logg, & Gertie Johnson Road Drainage Improvements project included roadway and storm drainage improvements to portions of Valley Road to Logg Road & Gertie Johnson Road. The project was approved at the August 11, 2014 City Council meeting in the original contract amount of $245,736.00. Over the course of the project, two changes orders were processed in the combined amount of $ 6,143.22 leaving a revised contract amount of $251,879.22.

An overall budget amendment in the amount of $9,589.00 from the 2015 Annual Drainage program will be needed to balance the project budget. See attached Sources & Use spreadsheet.

RECOMMENDED ACTION

Motion:

I move that the City Council forward the Valley, Logg, & Gertie Johnson Road Drainage Improvements project budget amendment in the amount of $9,589.00 from the 2015 Annual Drainage program to the April 14, 2015 City Council consent agenda.

City of Bainbridge Island
VALLEY, Logg, GERTIE Johnson Road Reconstruction-00602

Sources and Uses of Funds

Sources [A]	
ORIGINAL BUDGET	
DOE Grant - SSWM	$120,000
Streets - Transportation - City	$83,000
	$203,000
TRANSFER	
From - Roads Preservation	$62,000
	$62,000
Total Sources of Funds	**$265,000**
Uses [A]	
Engineering	
Browne Engineering	$41,100
Liquidate / Reduce PO	-$19,370
Construction	
Sound Excavation (245,736.00)	**$251,880**
(Change Order#1 15264.03)	
(Change Order#2 -9120.81))	
Other Uses	
Advertising/ Publications	$979
Permitting??	
Contingency ?? / 10 %	
Total Uses of Funds	$274,589
	-$9,589

Status
5-Mar-15

Sources	Life to Date	Remaining
DOE Grant - SSWM	$120,000	$120,000
Streets - Transportation-City	$83,000	$83,000
	$203,000	**$203,000**
From - Roads Preservation	$62,000	$62,000
	$0	$0
	$62,000	**$62,000**
	$265,000	**$265,000**
Uses		
Engineering		
Browne Engineering	$21,730	$0
Add Additl Invoice + 2118.75		
Construction		
Contruction Contract	**$237,045**	**$14,835**
Other Uses		
Advertising/ Publications	$979	$0
Permitting ??		$0
Contingency ?? / 10 %		$0
	$259,754	$14,835

Notes:
(A) *Contains estimated funds to complete*

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION

Subject: Cave Avenue & Knechtel Way Overlay Project – Final Change Order	Date: April 7, 2015
Agenda Item: Staff Intensive	Bill No.: AB 14-133
Proposed By: Public Works Director Barry Loveless	

BUDGET INFORMATION

Dept/Fund: 2015 Roads Preservation program		
Expenditure Req: $8,368.00	Budgeted? ☐ Yes ☒ No	Budget Amend. Req? ☒ Yes ☐ No

REFERRALS/REVIEW

Study Session:	Recommendation:	
City Manager ☒ Yes ☐ No ☐ N/A	Legal ☐Yes ☐ No ☒ N/A	Finance ☒ Yes ☐ No ☐ N/A

DESCRIPTION/SUMMARY

Action Item:

City Council to consider placement of the Cave Avenue & Knechtel Way Overlay project final change order and budget amendment on the April 14, 2015 City Council consent agenda.

Background:

This project consisted of applying a thin asphalt overlay on Cave Avenue and Knechtel Way; install speed humps on Cave Avenue, and drainage/sidewalk improvements on Knechtel Way.

The Cave Avenue and Knechtel Way Overlay project was approved at the August 25, 2014 City Council meeting in the amount of $137,891.50. Change Order No. 1 in the amount of $4,003.35 equaled a revised contract amount of $141.894.85.

The final change order in the amount of $8,368.00 is necessary to balance out the quantity adjustments equaling a revised contract amount of $152,262.85. See attached final change order for details. A budget amendment in the amount of $7,489.94 from the 2015 Roads Preservation fund will be needed.

RECOMMENDED ACTION

Motion:

I move that the City Council forward the Cave Avenue & Knechtel Way Overlay project final change order in the amount of $8,368.00 and approve a budget amendment in the amount of $7,489.94 from the 2015 Road Preservation fund, to the April 14, 2015 City Council consent agenda.

Change Order

Knechtel and Cave Overlay Project

City of Bainbridge Island - Public Works Department

280 Madison Ave. N
Bainbridge Island, WA 98110
206.842.2016 Fax. 206.780.3710
pwadmin@ci.bainbridge-isl.wa.us

Change Order No. 2 - Final
DATE March 24, 2015
Vendor ID 6577

CONTRACTOR Lakeside Industries
PO Box 7016
Issaquah, WA 98027

Contract No. 21400085
PO /Pymt No. 21400131
PO / Ret No.

CHANGE ORDER DESCRIPTION: The contract is hereby revised as shown below and on any applicable attached detail, sheet, and sheet notes to this Change Order.

Item No.	Description	Unit	Unit Price	Bid Qty	Actual Qty	Final CO
6	HMA for Preleveling	TN	200.00	7.6	17.84	2,048.00
7	HMA for Pavement Repair	TN	200.00	16	60.95	8,990.00
10	Corr. HDPE Storm Pipe 12" Diam.	LF	65.00	60	73.00	845.00
20	Plastic Stop Line	LF	22.00	60	15.00	(990.00)
22	Inlet Projection	EA	125.00	18	9.00	(1,125.00)
25	Minor Change	DOL	4,000.00	1	0.65	(1,400.00)
					Total C/O:	**8,368.00**

	Amount	Sales Tax	Total w/ Tax
Original Contract Amount:	137,891.50	0.00	137,891.50
Previous Change Orders:	4,003.35	0.00	4,003.35
Current Contract Amount:	141,894.85		141,894.85
Net Change This Change Order:	8,368.00		8,368.00
New Contract Amount:	150,262.85		150,262.85

Contractors Acceptance:

Lakeside Industries Date

Prepared By:

Chris Hammer, PE, PMP Date

Approved By:

Douglas Schulze - City Manager Date

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: Sound to Olympics (STO) Trail Phase 2 Supplemental Agreement Number 3	Date: April 7, 2015
Agenda Item: Staff Intensive	Bill No.: AB 14-096
Proposed By: Public Works Director Barry Loveless	

BUDGET INFORMATION		
Depart/Fund: 2015 CIP STO Phase 2 @ $1,450,000 – Federal Transp. Alt. Grant @ $1,254,000		
Expenditure Req: $26,377.03	Budgeted? ☒ Yes ☐ No	Budget Amend. Req? ☐ Yes ☒ No

REFERRALS/REVIEW		
Study Session:	Recommendation:	
City Manager ☒ Yes ☐ No ☐ N/A	Legal ☒Yes ☐ No ☐ N/A	Finance ☒ Yes ☐ No ☐ N/A

DESCRIPTION/SUMMARY

Action Item:

City Council to consider placement of the STO Trail Phase 2 Supplemental Agreement Number 3 on the April 14, 2015 City Council consent agenda.

Background:

The STO Trail Phase 2 project provides for a separated shared-use pathway along SR305 from Winslow Way to High School Road. This project will complete the "first mile" of the Sound to Olympics Trail and study potential branch connections.

City Council approved the original design Agreement at their August 4, 2014 meeting, awarding the design to MacLeod Reckord in the amount of $135,948.02. In 2014, two Supplemental Agreements were processed for environmental permitting and geotechnical services as well as finalized design and construction documentation for the recommended alignment, totaling a combined amount of $283,879.63.

Supplemental Agreement Number 3 in the amount of $26,377.03 is needed for structural design and engineering of elevated trail, structural retaining walls, and mechanically stabilized embankments for portion of the Trail.

See attached Supplemental Agreement No. 3 for more details.

RECOMMENDED ACTION

Motion:

I move that the City Council forward the Sound to Olympics Trail Phase 2 Supplemental Agreement Number 3 with MacLeod Reckord in the amount of $26,377.03 to the April 14, 2015 City Council consent agenda.

Washington State
Department of Transportation

Supplemental Agreement Number 3 (three)	Organization and Address City of Bainbridge Island Public Works Department 280 Madison Avenue N Bainbridge Island, WA 98110 Phone: (206) 780-3720	
Original Agreement Number 21400077		
Project Number 00668	Execution Date	Completion Date 3/30/2016
Project Title Sound to Olympics Trail Phase 2	New Maximum Amount Payable $ 446,204.68	
Description of Work Provide structural design and engineering of elevated trail for portions of Phase 2 and Phase 4 of the STO Trail.		

The Local Agency of City of Bainbridge Island
desires to supplement the agreement entered into with MacLeod Reckord PLLC
and executed on 8/5/2014 and identified as Agreement No. 21400077
All provisions in the basic agreement remain in effect except as expressly modified by this supplement.

The changes to the agreement are described as follows:

I

Section 1, SCOPE OF WORK, is hereby changed to read:

Provide structural design and engineering of elevated trail and structural retaining walls and vegetated face mechanically stabilized embankment for portions of the Sound to Olympics Trail Phases 2 and 4.

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: Begin work November 20, 2014; Completion Date March 30, 2016

III

Section V, PAYMENT, shall be amended as follows:

increase by $26,377.03 for a new total of $446,204.68

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.

If you concur with this supplement and agree to the changes as stated above, please sign in the appropriate spaces below and return to this office for final action.

By: Connie Reckord

By:

Consultant Signature

Approving Authority Signature

Date

DOT Form 140-063 EF
Revised 9/2005

SUPPLEMENTAL AGREEMENT NUMBER 3
SECTION 1
Scope of Work
March 12, 2015

City of Bainbridge Island
SOUND TO OLYMPICS TRAIL PHASES 2 AND 4

SUPPLEMENTAL EXHIBIT A-1 AS FOLLOWS:

PROJECT DESCRIPTION

Provide structural design and engineering of elevated trail and structural retaining walls and vegetated face mechanically stabilized embankment for portions of the Sound to Olympics Trail Phases 2 and 4.

PROJECT TEAM ROLES AND RESPONSIBILITIES

MacLeod Reckord – project management, conceptual design and final horizontal and vertical layout of elevated trail; conceptual design and final design and layout, including elevations, for structural retaining walls; conceptual design and layout for vegetated face mechanically stabilized embankments; coordination with subconsultants and with COBI; incorporation of additional specifications and cost estimate.

N.L. Olson & Associates (Olson) – structural engineering for elevated trail and structural retaining walls over 4 feet tall; final engineering and detailing for elevated trail and structural retaining walls; draft and final structural calculations for elevated trail and walls as required for permit approval; coordination with team and with COBI; provision of additional specifications and cost estimate.

HWA GeoSciences (HWA) – geotechnical evaluation and engineering for vegetated face mechanically stabilized embankments (or reinforced slopes) as identified in the plans; modification of existing geotechnical report to incorporate new information; recommendations will include details and specifications to incorporate into final documents; provision of additional specifications and cost estimate.

DELIVERABLES

- **50% Design Development** – submittal of structural components will not coincide with that of the rest of the trail project in order to maintain current schedule.
- **90% Construction Documents** – submittal will be incorporated with other trail documents.
- **100% Bid Documents** – submittal will be incorporated with other trail documents.

Assumptions:

- Retaining wall height is defined as the elevation difference between bottom of footing and top of retained grade.
- Structural design will be provided for structural retaining walls, which are assumed to be reinforced cast-in-place concrete walls, with a stacked stone face. Mechanically Stabilized Earth (MSE) walls with either vegetated faces or exposed wire faces are assumed to be designed by the MSE wall supplier.
- Structural retaining walls are assumed to have a height of no more than 10 feet.

- Total elevated trail length is assumed to be approximately 400 feet. Elevated trail maximum width is assumed to be 10 feet.
- Coordination of permanent or temporary relocation, preservation, or temporary stabilization of utilities including, but not limited to, power poles and guy anchors/poles; vaults for power, lighting, or traffic signal will be the responsibility of COBI. MacLeod Reckord will provide supporting materials to the allowance indicated in the fee proposal.

Exhibit E-1
Consultant Fee Determination - Summary Shee
3.12.2015

Sound to Olympics Trail
MacLeod Reckord

Direct Salary Cost

Item	Classification	Hours	Rate	Cost		
Task 1	**Project Management**					
	Principal in Charge	1	45.00	45.00		
	Project Manager	2	41.00	82.00		
	Project Designer	-	32.00	0.00		
	Designer	-	24.00	0.00		
	Drafter	-	27.00	0.00		
	Graphics	-	26.00	0.00		
	Admin	1	30.00	30.00	Subtotal:	157.00
Task 12	**50% Design Developmen**					
	Principal in Charge	1	45.00	45.00		
	Project Manager	14	41.00	574.00		
	Project Designer	6	32.00	192.00		
	Designer	-	24.00	0.00		
	Drafter	11	27.00	297.00		
	Graphics	-	26.00	0.00		
	Admin	-	30.00	0.00	Subtotal:	1,108.00
Task 13	**90% Construction Document**					
	Principal in Charge	1	45.00	45.00		
	Project Manager	14	41.00	574.00		
	Project Designer	14	32.00	448.00		
	Designer	-	24.00	0.00		
	Drafter	16	27.00	432.00		
	Graphics	-	26.00	0.00		
	Admin	-	30.00	0.00	Subtotal:	1,499.00
Task 14	**100% Bid Documents**					
	Principal in Charge	1	45.00	45.00		
	Project Manager	2	41.00	82.00		
	Project Designer	4	32.00	128.00		
	Designer	-	24.00	0.00		
	Drafter	8	27.00	216.00		
	Graphics	-	26.00	0.00		
	Admin	-	30.00	0.00	Subtotal:	471.00

				TOTAL DSC:	3,235.00
Overhead (OH cost - including salary additives):					
OH Rate X DSC of	203.91%	X	3,235.00		6,596.49
Fixed Fee (FF):					
FF Rate X DSC of	30%	X	3,235.00		970.50
Subtotal MacLeod Reckord					10,801.99
Reimbursables (mileage, courier, copies)					
Subconsultant Costs (Exhibit G)					15,575.04
				GRAND TOTAL:	**$26,377.03**

Prepared by: Connie Reckord 3/12/2015

Sound to Olympics Trail
Fee Estimate

March 12, 2015		MacLeod Reckord							
		Principal in Charge	Project Manager	Project Designer	Designer	Drafter/ ACAD	Graphics	Admin.	SUBTOTAL
Task	SCOPE OF WORK	$45.00	$41.00	$32.00	$24.00	$27.00	$26.00	$30.00	
1.0	**PROJECT MANAGEMENT**								
1.1	Coordination and Review	1							$45
1.5	Subconsultant Management		2					1	$112
	Subtotal:	1	2	0	0	0	0	1	$157
12.0	**50% Design Development**								
12.5.1	Electrical and Traffic Signal coordination with COBI		2			1			$109
12.6	Structural (itemized below)								$0
12.6.1	Wall layout and elevations (total 4 walls); coordination with structural	1	6	4		8			$635
12.6.2	Boardwalk layout and detailing; coordination with structural		4			1			$191
12.6.3	Vegetated MSE layout; coordination with geotechnical		2	2		1			$173
									$0
	Subtotal:	1	14	6	0	11	0	0	$1,108
13.0	**90% Construction Documents**								
13.4.1	Electrical and Traffic Signal coordination with COBI		2			1			$109
13.6	Structural (itemized below)								$0
13.6.1	Finalize wall layout, grades, elevs, details; coordination with structural	1	6	12		12			$999
13.6.2	Finalize boardwalk layout and detailing; coordination with structural		4			2			$218
13.6.3	Finalize vegetated MSE layout; coordination with geotechnical		2	2		1			$173
									$0
	Subtotal:	1	14	14	0	16	0	0	$1,499
14.0	**100% Bid Documents**								
14.1.1	Finalize all PS&E for structural walls, boardwalk, vegetated MSE	1	2	4		8			$471
									$0
									$0
	Subtotal:	1	2	4	0	8	0	0	$471
	Subtotal	**4**	**32**	**24**	**0**	**35**	**0**	**1**	**$3,235**
			Reimbursables:						
			SUBTOTAL:						**$3,235**

Exhibit G
Subcontracted Work

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

N.L. Olson & Associates - Structural Engineering

Exhibit G-1
Subconsultant Fee Determination - Summary Sheet
11-Mar-15

Sound To Olympics Trail Phase 2 & 4
NL OLSON - Structural

Direct Salary Cost

Item	Classification	Hours	Rate	Cost		
Task 1	Retaining Wall Design					
	Principal Engineer	-		0.00		
	Structural Engineer	14	40.08	561.12		
	Design Engineer	36	22.00	792.00		
	Structural CAD	-		0.00		
					Subtotal:	1,353.12
Task 2	Elevated Trail Design					
	Principal Engineer	-		0.00		
	Structural Engineer	22	40.08	881.76		
	Design Engineer	46	22.00	1,012.00		
	Structural CAD	-		0.00		
					Subtotal:	1,893.76
Task 3	Specifications and Estimate					
	Principal Engineer	-		0.00		
	Structural Engineer	10	40.08	400.80		
	Design Engineer	-	22.00	0.00		
	Structural CAD	-		0.00		
					Subtotal:	400.80
				TOTAL DSC:		3,647.68
Overhead (OH cost - including salary additives):						
	OH Rate X DSC of	176.47%	X 3,647.68			6,437.06
Fixed Fee (FF):						
	FF Rate X DSC of	30%	X 3,647.68			1,094.30
Subtotal						11,179.04
Reimbursables	(mileage, courier, copies)					0.00
				GRAND TOTAL:		**$11,179.04**

Prepared by: Matthew Zawlocki 3/11/2015

Sound To Olympics Trail Phase 2
Fee Estimate

March 12, 2015		NL Olson - Structures							
		Principal Engineer	Structural Engineer	Design Engineer	Structural CAD	Job Title	Job Title	Job Title	SUBTOTAL
Task	SCOPE OF WORK		$40.08	$22.00					
1	**RETAINING WALL DESIGN**								
	Retaining wall analysis		2	8					$256
	Prepare Sheets & Review		6	22					$724
	Rail Coordination		2	4					$168
	Interim Submittal and Meeting		2						$80
	Final review and signature		2	2					$124
	Subtotal:	**0**	**14**	**36**	**0**	**0**	**0**	**0**	**$1,353**
2	**ELEVATED PATH DESIGN**								
	Pile and deck analysis		8	4					$409
	Plan preparation section and plan		6	30					$900
	Details		4	10					$380
	Interim submittal & Meeting		2						$80
	Final review and signature		2	2					$124
	Subtotal:	**0**	**22**	**46**	**0**	**0**	**0**	**0**	**$1,894**
3	**SPECIFICATIONS & ESTIMATE**								
	Specifications		7						$281
	Engineer's Estimate		3						$120
									$0
		0	**10**	**0**	**0**	**0**	**0**	**0**	**$401**
	Subtotal	**0**	**46**	**82**	**0**	**0**	**0**	**0**	**$3,648**
								Reimbursables:	**$0**
								SUBTOTAL:	**$3,648**

Exhibit G-3

RECEIVED

MAR 05 2015

N.L. OLSON & ASSOC., INC.

Washington State
Department of Transportation

Lynn Peterson
Secretary of Transportation

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

February 27, 2015

N.L. Olson & Associates
PO Box 637
2453 Bethel Avenue
Port Orchard, WA 98366

Subject: Acceptance FYE December 31, 2013 ICR – Risk Assessment Review

Dear: Mr. Edie Baglio:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed ICR of 176.47% for FYE December 31, 2013. This ICR shall be good until 180 days following your FYE December 31, 2014 closing date. This rate may be subject to additional review if considered necessary by WSDOT and will be applicable for Local Agency contracts only.

Costs billed to agreements will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to call me at (360) 705-7106 or via email consultantrates@wsdot.wa.gov.

Regards;

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:rck

Exhibit G-1

Project Cost Estimate
Geotechnical Engineering Services
Sound to Olympics Trail
Bainbridge Island, Washington

HWA GeoSciences Inc.

2014-153-21
23-Feb-15

DJH

Scope of Work: See Scope Document.

ESTIMATED HWA LABOR:

WORK TASK DESCRIPTION	PERSONNEL & 2014 DIRECT RATES									
	Principal $72.00	Geotech Engr VI $48.08	Geotech Engr IV $45.67	Geotech Engr I $25.48	Geologist V $31.39	Geologist I $23.32	CAD $22.07	Clerical $20.82	TOTAL HOURS	TOTAL AMOUNT
Engineered Slopes Anlaysis and Recommendations		1	8	12					21	$719
Modify Draft Geotechnical Report	1	2	4	4			6		17	$585
Additional Project and Contract Management			3						3	$137
TOTAL LABOR:	1	3	15	16	0	0	6	0	41	$1,441

LABORATORY TESTING ESTIMATE:

TEST	Est. No. Tests	Unit Test Cost	Total Cost
Atterberg Limits	0	$140	$0
Grain Size Analysis	0	$90	$0
Grain Size Analysis with Hydrometer	0	$220	$0
Moisture Content	0	$18	$0
LABORATORY TOTAL:			**$0**

ESTIMATED DIRECT EXPENSES:

Mileage @ $0.56/mile	$0
Ferry Fees	$0
Laboratory Testing	$0
Traffic Control Rental	$0
TOTAL DIRECT EXPENSES:	**$0**

ESTIMATED LABOR EXPENSE:

Direct Salary	$1,441
Overhead @ 175.00 of Direct Salary	$2,522
Fixed Fee @ 30 % of Direct Salary	$432
TOTAL LABOR EXPENSE:	**$4,396**

PROJECT TOTALS AND SUMMARY:

Total Labor	$4,396
Direct Expenses	$0
ESTIMATED PROJECT TOTAL:	**$4,396**

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: Road Reconstruction Projects Planning	Date: April 7, 2015
Agenda Item: Staff Intensive	Bill No.: AB 15-064
Proposed By: Public Works Director Barry Loveless	

BUDGET INFORMATION		
Depart/Fund: N/A		
Expenditure Req: $ N/A	Budgeted? ☐ Yes ☐ No	Budget Amend. Req? ☐ Yes ☐ No

REFERRALS/REVIEW		
Study Session:	Recommendation:	
City Manager ☒ Yes ☐ No ☐ N/A	Legal ☐Yes ☐ No ☒ N/A	Finance ☐ Yes ☐ No ☒ N/A

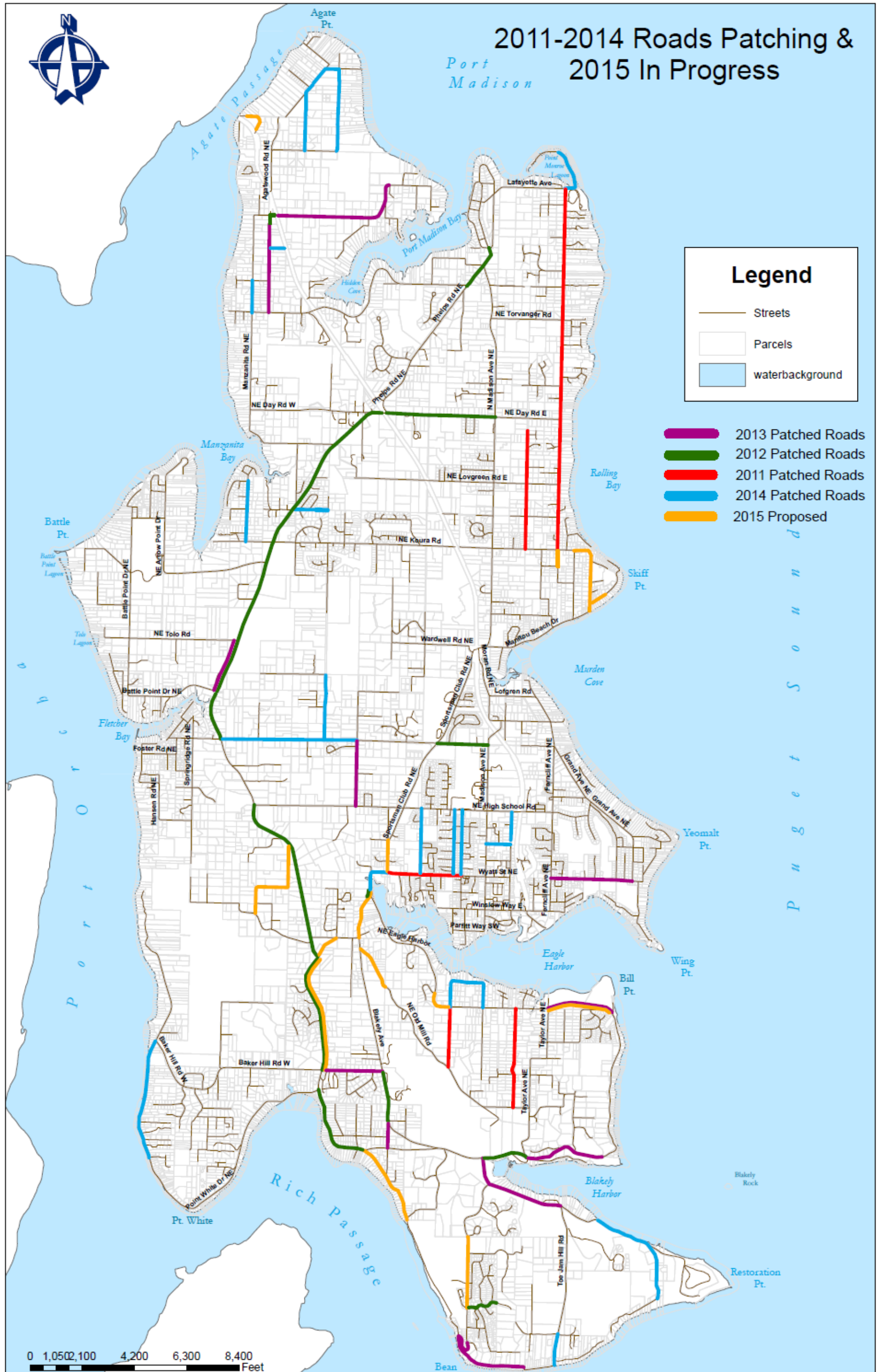
Action Item:
City staff to update City Council on proposed Pavement Restoration Program and Road Reconstruction Projects planning efforts.

RECOMMENDED ACTION
Motion:
Information Only.

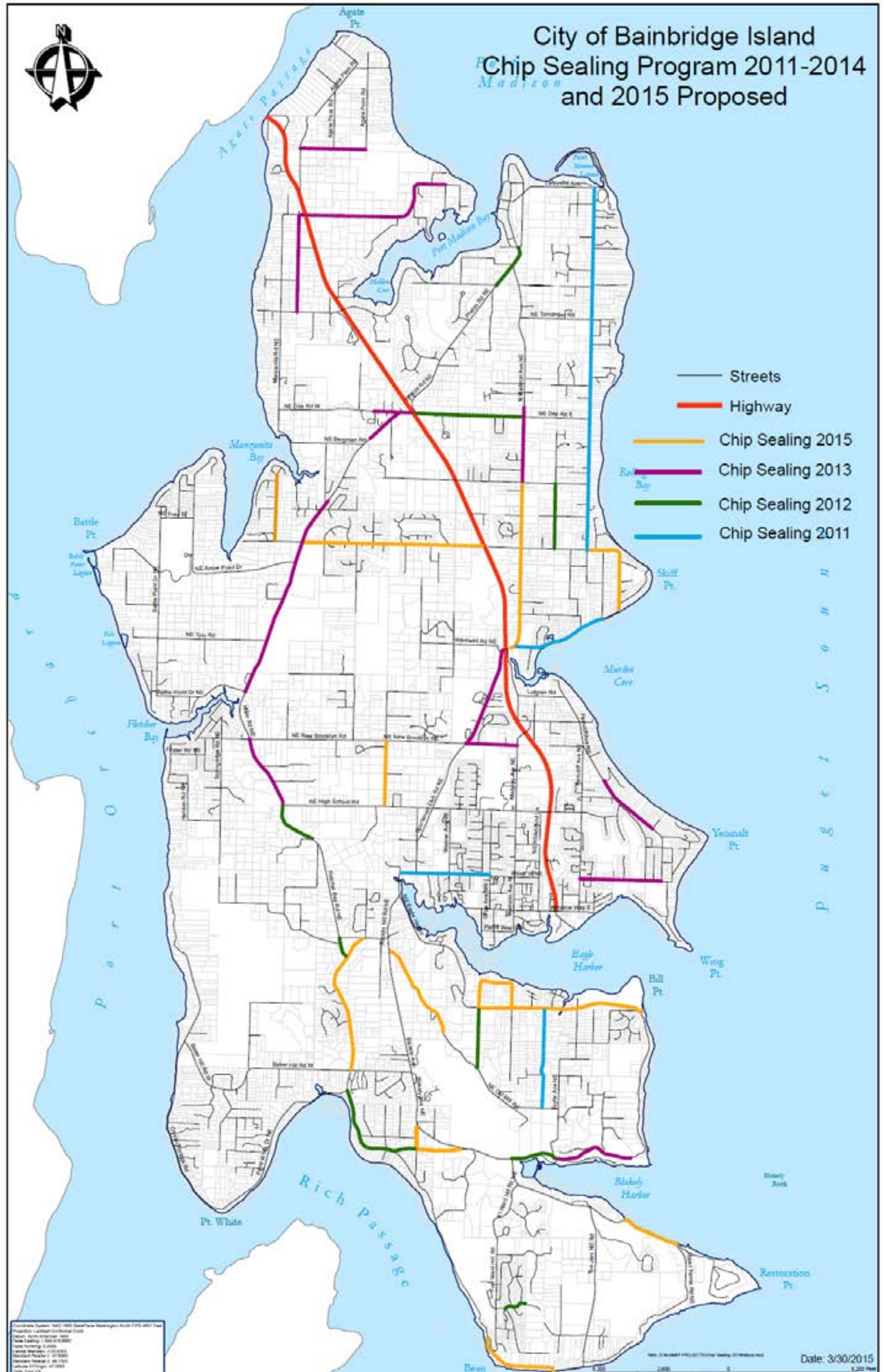
2015 Road Preservation Update

2015 Planned Work
Reconstruction Needs

April 7, 2015



2011-2014 Roads Patching &
2015 In Progress
Legend
Streets
Parcels
waterbackground
2013 Patched Roads
2012 Patched Roads
2011 Patched Roads
2014 Patched Roads
2015 Proposed
0 1,050 2,100 4,200 6,300 8,400 Feet
Agate Pt.
Agate Passage
Port Madison
Port Madison Bay
Manzanita Bay
Battle Pt.
Rolling Bay
Skiff Pt.
Murden Cove
Fletcher Bay
Yeomalt Pt.
Port Orchard
Puget Sound
Eagle Harbor
Wing Pt.
Bill Pt.
Blakely Harbor
Blakely Rock
Rich Passage
Pt. White
Restoration Pt.
Bean Pt.
Lafayette Ave
NE Torvanger Rd
NE Day Rd W
NE Day Rd E
NE Lovgreen Rd E
NE Koura Rd
NE Tolo Rd
Wardwell Rd NE
Lofgren Rd
Battle Point Dr NE
Foster Rd NE
NE High School Rd
Wyatt St NE
Winslow Way E
Baker Hill Rd W


City of Bainbridge Island
Chip Sealing Program 2011-2014
and 2015 Proposed
Streets
Highway
Chip Sealing 2015
Chip Sealing 2013
Chip Sealing 2012
Chip Sealing 2011
Agate Pt.
Manzanita Bay
Battle Pt.
Fletcher Bay
Skiff Pt.
Murden Cove
Yeomalt Pt.
Eagle Harbor
Wing Pt.
Bill Pt.
Blakely Harbor
Restoration Pt.
Pt. White
Rich Passage
Port Orchard
Puget Sound
Date: 3/30/2015


City of Bainbridge Island
Overlays/Reconstruction CIP
Port Madison
Agate Passage
Manzanita Bay
Battle Pt.
Rolling Bay
Skiff Pt.
Murden Cove
Fletcher Bay
Yeomalt Pt.
Eagle Harbor
Wing Pt.
Bill Pt.
Blakely Harbor
Restoration Pt.
Bean Pt.
Rich Passage
Port Orchard
Puget Sound
Valley Rd/Logg Rd Reconstruction & Drainage
Mountain View Rd Reconstruction & Drainage
Wardwell Rd Reconstruction & Drainage
Madison Ave Safety Improvements
Madison Avenue Overlay
High School Rd/Fletcher Bay Rd Intersection Overlay
Wyatt Way Reconstruction
Knechtel Ave Overlay
Cave Ave Overlay
Eagle Harbor/Bucklin Hill Rd Intersection Overlay
Winslow Way Reconstruction
Rockaway Beach Rd Stabilization Project
Old Mill Reconstruction & Drainage
Country Club Rd Reconstruction & Drainage
Fort Ward Hill Rd Reconstruction Phase 2
Legend
2011-2014 CIP
6 yr Proposed CIP
20 yr Proposed CIP
Very Poor Road Condition (PCI<25)
Streets
Highway

2015 Planned Work

Annual Roads Preservation Program Projects:

➢ 2014 road project change orders	$53,000
➢ Island-wide Asphalt Repair	$400,000
➢ Island-wide Chip Sealing	$550,000
➢ Country Club Road Bulkhead Repair	$100,000
➢ Guardrail Repairs	$50,000
➢ Program Budget	$1,218,000
➢ Under spending Fed Aid	$ 10,000
➢ Forecasted Costs	$1,153,000
➢ Reserve for Contingencies	$55,000

Current Thoughts for 2016

- Island-wide asphalt repair project - Patching
- Winslow Area Overlay project – Thin lift polymer modified overlays of collector streets
- Island-wide Reconstruction project - Grinding and cold in place recycling and overlay of minor collector and local access streets

Reconstruction Funding Challenges

Major Roadways

Recommended Roadway Reconstruction Projects - Funded

- Country club Road Reconstruction and Drainage Improvements

Recommended Roadway Reconstruction Projects - Unfunded

- Wardwell Road Reconstruction and Drainage Improvements
- Old Mill Road Reconstruction and Drainage Improvements

Minor Roadways

- Addressed using Annual Road Preservation Funding.
- Achievable by maintain current funding levels for next 3 or 4 years.

- Preservation set aside Federal Grant - $300K or so every two years.
- Recommend continuing $300K/ yr from Transportation Benefit District through 2018.

Summary

- On track to achieving goal of raising PCI scores to 70 or above to optimize pavement preservation. Anticipate achieving this goal by end of 2015.
- Backlog of very poor condition roadways is about 12% of the network as of 2014 assessment. Goal is to reduce below 10%. Funding reconstructions identified in 6 year CIP is needed to realize this target.
- Next roadway condition assessment scheduled for 2018. Pending results of study, may be able to reduce funding of Annual Roadway Preservation Program to under $1M per as early as 2019.

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION

Subject: Police Oversight Proposal	Date: April 7, 2015
Agenda Item: Council Discussion	Bill No.: 15-071
Proposed By: Ad Hoc Committee members Scott, Tollefson and Townsend	Referral(s):

DESCRIPTION/SUMMARY

Action Item:

At the direction of the City Council, the ad hoc committee has met on several occasions with Chief Hamner and with City Manager Schulze. The committee consulted the considerable literature and past expressions of local opinion, and discussed the subject among themselves. The attached proposal is the result of that effort.

RECOMMENDED ACTION

Information.

February 28, 2015

From: Councilmembers Val Tollefson, Roger Townsend, and Mike Scott

To: City Manager Doug Schulze and Chief Matt Hamner

Subject: Police Department Oversight

Background.

A variety of operational and personnel problems had plagued the Bainbridge Island Police Department in the years prior to the hiring of the current City Manager. The fatal shooting of Doug Ostling resulted in a lawsuit which was resolved adverse to the City, and shed a harsh light on the Department. Other issues also played a role leading to several independent investigations or studies of our Police Department.

An October, 2011 report by Pailca Consulting was critical of the Department's procedures for handling citizen complaints, and among its recommendations was that the City "…[c]reate alternative forums for citizens to make complaints about police conduct to persons or entities other than sworn police officers, i.e., to other city personnel, to a monitored email address, to an ombudsman or monitor dedicated to that function." Pailca report, p. 4.

Of the three investigative reports, the one by Michael Pendleton in 2013 seems to be the most comprehensive and authoritative. Dr. Pendleton offered a number of recommendations, three of which are germane to this discussion:

2. Fully develop and implement a police accountability system comprised of both internal affairs and the city performance evaluation system.

3. Develop a formal Police Commission of citizens with the role of reviewing the internal affairs activities of the Department, advising the Chief of Police and the City Manager on key police issues, and assist the police department with outreach to the full community.

4. The Chief of Police conduct an annual performance evaluation compliance audit and report the findings of the audit to the City Manager.

Pendleton Report, p. 1-2.

Most recently, ex-Seattle Police Chief Norm Stamper, writing in the current issue of YES! Magazine, stated: "**Local political jurisdictions must implement independent citizen oversight of police practices.** Currently, no single model works flawlessly, and many flounder." Chief Stamper goes on to suggest a level of involvement and authority that we don't think is indicated for Bainbridge Island at this point in time, but his core suggestion of <u>some</u> civilian oversight finds wide support. YES! Magazine, Spring 2015, p. 64.

History.

In early 2013, the Council decided that it wished to move ahead with some form of civilian oversight of the Police Department on Bainbridge. In response, the Chief arranged for some community input both on the need for such oversight, and on what form it should take should it in fact be implemented. He presented a proposal to Council at the September 23 Council meeting that contemplated a Civilian

Police Advisory Board that was (1) appointed by the City Manager, (2) Advisory to the Chief of Police, and (3) could be essentially suspended if the Board so recommended, and could thereafter be reactivated by the City Manager. Because of concerns over the sunsetting provision, and the lack of appearance of true independence of the proposed Board, a Council ad hoc committee was assigned the task of, in cooperation with the City Manager and the Chief, giving this matter further study and coming back to Council with a new proposal.

Analysis.

With the highly publicized problems of a number of large-city police departments, including Seattle's, in recent years, and with the more recent and continuing publicity surrounding a number of controversial police shootings in the past year, the subject of civilian oversight of police departments is a hot topic.

A review of the considerable literature on the subject makes clear, however, (1) that there is no consensus as to whether or not civilian oversight is necessary or effective, and (2) it is abundantly clear from the wide variety of solutions that have been employed across the country that "one size does not fit all".

The September, 2014 recommendation by Chief Hamner envisioned the purpose of a Board as follows:

> The citizen police advisory board will have the responsibility to review the health of the BIPD by reviewing the department in a holistic manner i.e. meeting state training requirements, instituting best practices, CIO progress, CIT training updates, complaint summary, progress of state accreditation, Lexipol policy implementation, FTO program, hiring practices, promotional processes, community outreach programs, and other such functions that define the health of the police department.

It is our view, given the size of our community, the apparent improvement of our Police Department in the past several years, and the fact that our Police Chief is subject to management and oversight by a professional City Manager, that a civilian oversight body on Bainbridge Island should serve three primary functions:

1. Provide the general public with assurance that the general conduct, performance and professionalism of our Police Department receives regular and thoughtful consideration by a civilian body wholly independent of the Department.
2. Provide a clearly identified resource for individuals or groups who feel for one reason or another that established complaint or grievance procedures established by the Police Department are not responsive to their needs.
3. Provide a level of assurance that if material negative issues start to develop surrounding police management and operations on Bainbridge Island, that there is an "early warning system" in place to help guide early course correction.

Recommendations.

Rather than establishing yet another citizen committee or commission requiring administration, we suggest as follows:

1. The Council should establish a Public Safety Committee ("PSC") comprised of three Council members serving staggered 3 year terms, so that one new member comes on the Committee each year.
2. The Police Department should create a one-day mini-civilian police academy program, available to the general public. Each member of the Public Safety Committee would attend either the mini- or the regular civilian police academy program offered by the Department.
3. The PSC would advise the Chief of Police and the City Manager on key police issues, and assist the police department with outreach to the full community.
4. The PSC would be available to receive communications of any sort from the public at large on subjects related to the Police Department, and would be responsible for responding to such communications.
5. The PSC would meet with Police Department and City management as needed, but no less than once each quarter, to hear informally from management on subjects of mutual interest, and to communicate to management on subjects of community interest or concern.
6. Police Department management would report annually to the City Council in a form and manner that will inform the Council as to how successfully the Police Department is accomplishing its mission.
7. The PSC would report no less than annually to the full Council on its interactions with the public and the Department, and its view of Department performance related to the needs of the City.

Conclusion.

We recognize that there are people intensely interested in the subject of civilian oversight that would prefer a more activist role for such a body, including, for instance, independent investigative authority. However, it is our view that the foregoing suggested procedure would accomplish the bulk of our current and foreseeable needs without creating a structure that appears at the outset to challenge the authority and professionalism of the Department. We believe a community of our size, and with our level of community activism, will have no difficulty creating a new solution should a new problem present itself.

We look forward to discussing these ideas and recommendations with you both at our meeting next Tuesday.

To: City Council

From: Val Tollefson, UAC Liaison

Re: March 23, 2015 UAC meeting.

Present: Andy Maron, Jeff Kanter, Steve Johnson, Nancy Nolan

Absent: Emily Sato

Also present: Barry Loveless, Val Tollefson, Steve Leach, Jay Kinney (BIMPRD)

1. Notes from March 11 meeting approved.
2. Steve Johnson asked whether sewer rates were tied to water rates? The answer is no, although sewer rates ARE tied to winter-season water consumption.
3. The Committee continued its review of discretionary programs in SSWM. Three main programs discussed were Water Quality Monitoring, Kitsap Conservation District Farm Assistance, and street sweeping/spoils handling.
4. Committee discussed at some length the question of what programs are properly funded from SSWM, with focus on difference between requirements of the NPDS permit and the scope of the Utility as set out in City Ordinances.
    a. Assuming it is legal to fund these programs out of SSWM (and Barry pointed out that the practice was largely consistent with other jurisdictions' practice), the Committee then discussed the details and merits of the individual programs at length.
    b. Water Quality Monitoring is certainly consistent with the Comp Plan, but could benefit from a clearer and more regular demonstration of practical utility.
    c. The Farm Assistance program should be revisited when the Committee discusses the rate structure, as it might make sense to find a way to have the farms, themselves, bear this cost.
    d. The Spoils issue will diminish in financial significance with the use of the Lovegreen decant site. Accounting could be revised to treat allocation of labor expense and materials handling (?) consistently.
5. Barry will be making a number of changes to Chapter 5 of the draft plan as a result of the discussion.
6. Barry discussed the way infrastructure is catalogued and desired/needed maintenance/upgrades/capital improvements are tracked in Chapter 6 as a lead in to discussing the Capital Needs dealt with in Ch. 7, and discussed the difficulty in forecasting with the precision available in the Sewer Plan. He suggested on approach is to choose a percentage of revenue to devote to capital projects, suggesting that something in the 25-40% range seems to be the norm based on his experience.
7. The Committee will meet next on April 13. BIMPRD representatives will attend to provide views on rate structure.

cc: City Manager, City Attorney, Barry Loveless, UAC Chair

To: City Council

From: Val Tollefson

Re: Puget Sound Regional Council (PSRC) Growth Management Policy Board meeting – April 2, 2015

1. The Board heard a presentation on the application of Issaquah to designate 400+ acres as a "Regional Growth Center". Such a designation would enhance Issaquah's ability to compete for certain regional funding. Of particular interest to Bainbridge Island was the discussion of how they plan to connect parts of the proposed area currently bisected by I-90. There were some skeptical questions from some members of the Board, but PSRC Staff seems enthusiastic. This proposal will be brought back for a vote of the Board in June. Any suggestions/direction would be welcome.
2. The Board received a briefing on plans to update the PSRC Regional Centers Framework. This work has apparently been going on for the past year, and is expected to conclude next year. The Board had questions around the fuzzy definition of "regional centers", and several members encouraged recognition that there were probably a variety of "regional centers", and any framework should recognize the diversity, and provide for diverse solutions. Also, Staff was encouraged to look for similar efforts that have FAILED elsewhere, and try to learn from those failures.
3. There was a report on regional traffic congestion. The Board was told that growth in Kitsap County was ½ the rate of the rest of the region, and that congestion on Hwy 16 and Hwy 3 had not appreciably worsened in the past 4 years. I have followed up with a question as to why Hwy 305 was not considered, and an observation about reports of worsening congestion on that route during commute hours. Interestingly, on the east side of Puget Sound, job growth is outstripping population growth, and congestion is worsening on the freeways without a significant increase in the number of vehicle trips.

cc: City Manager, City Attorney, Kathy Cook

2015 PROPOSED COUNCIL CALENDAR ITEMS

Absences	Clerk	Department	Timing (min)	*Study Session 7 pm*	Absences	Clerk	Department	Timing (min)	*Business Meeting 7 pm*
Lisa Morgan Barry	Kelly		25	7-Apr		Kelly		25	14-Apr
		EXEC	15	Friends of the Farms: 2014 Annual Report on Public Farmland Management (Info.)					Executive Session - Potential Litigation (30 minutes)
		EXEC	15	Friends of the Farms: Proposed Updates to Master Lease for City Owned Farmland - Exhibits B and D (Info.)			PCD	20	Ferncliff Village Subdivision Amendment -Quasi-Judicial matter (Consider Action)
		PCD	15	Review Current Food Truck Regulations and Food Service in Industrial Zones (Info.)			PCD	15	Approve Final Shoreline Master Program Monitoring Program - Unfinished Business (Consider Action)
		PW	15	Sound to Olympic Trail Phase 2 Supplemental Agreement No. 3 (Info.)			EXEC	15	Authorize City Manager to Record Conservation Easement Against Madison Tot Lot Property - New Business (Consider Action)
		PW	15	Road Reconstruction Projects Planning (Info.)			CC	10	Proclamation Declaring April 24, 2015 as Arbor Day (Consider Action) and Receive "Tree City USA" Award from DNR
		CC	15	Police Oversight Proposal			CC	5	National Poetry Month Reading
		PW	10	Public Works Contracts			CC	5	Proclamation Declaring April 22, 2015 as Earth Day (Consider Action)
				Valley, Logg and Gertie Johnson Drainage Project, Budget Amendment (Info.)			PW	CA	Valley, Logg and Gertie Johnson Drainage Project, Budget Amendment (Consider Action)
				Cave Avenue and Knechtel Way Overlay Project, Final Change Order and Budget Amendment (Info.)			PW	CA	Cave Avenue and Knechtel Way Overlay Project, Final Change Order and Budget Amendment (Consider Action)
		CC	5	Proclamation Declaring April 12-18, 2015 as Volunteer Week (Consider Action)			PW	CA	Sound to Olympic Trail Phase 2 Supplemental Agreement No. 3 (Consider Action)
		CC	5	National Poetry Month Reading			EXEC	CA	Friends of the Farms: Proposed Updates to Master Lease for City Owned Farmland - Exhibits B and D (Consider Action)
		CC	5	Proclamation Declaring April 9, 2015 as Spartronics Day (Consider Action)				95	
			140						Work Session
								30	Overview of City Revenue Options and Trends
								20	Review City's Green Power Participation
								50	

2015 PROPOSED COUNCIL CALENDAR ITEMS

Absences	Clerk	Department	Timing (min)	*Study Session 7 pm*	Absences	Clerk	Department	Timing (min)	*Business Meeting 7 pm*
Morgan	Kelly		25	21-Apr		Roz		25	28-Apr
		PW	20	Water System Plan Review Policies				15	Swearing-In Ceremony (Police Officers)
		PCD	15	Ordinance No. 2015-04 (Formerly 2014-07) Landscaping and Tree Ordinance (1st Reading)			CC	5	National Poetry Month Reading
		FIN	15	2014 Year End Financial Reporting (Info.)			CC	5	Puget Sound Starts Here Proclamation
		CC	15	Harbor Commission 2014 Annual Report and 2015 Work Plan (Info.)			PW	CA	City Dock Improvement Design PSA (Consider Action)
		EXEC	10	Business License Amendment Related to Retail Marijuana Sales (Info.)			PW	CA	Survey Equipment Purchase (Consider Action)
		PW	10	Public Works Contracts			CC	CA	Harbor Commission 2014 Annual Report and 2015 Work Plan (Consider Action)
				City Dock Improvement Design PSA (Info.)			PD	CA	WestNet Memorandum of Understanding (Consider Action)
				Survey Equipment Purchase (Info.)			PD	CA	Strategic Operations Group (SOG) Interlocal Agreement (Consider Action)
		PD	10	Police Department Contracts			EXEC	CA	Business License Amendment Related to Retail Marijuana Sales (Consider Action)
				WestNet Memorandum of Understanding (Info.)				50	
				Strategic Operations Group (SOG) Interlocal Agreement (Info.)					
		CC	5	National Poetry Month Reading					Work Session
			125				PW	45	Storm and Surface Water Management Utility Overview and Utility Advisory Committee Recommendations

2015 PROPOSED COUNCIL CALENDAR ITEMS

Absences	Clerk	Department	Timing (min)	*Study Session 7 pm*	Absences	Clerk	Department	Timing (min)	*Business Meeting 7 pm*
	Kelly		25	5-May		Roz		25	12-May
		CC	20	Governance Manual Amendments (Info.)			PW	5	Proclaiming May 17-23, 2015 as Public Works Week (Consider Action)
		PW	15	Ordinance No. 2015-07 Traffic Impact Fees (1st Reading)			PW	CA	Ordinance No. 2015-07 Traffic Impact Fees (2nd Reading)
		PCD	15	Proposed Revisions to Ericksen Avenue Design Guidelines (Info.)			FIN	CA	Ordinance Related to Q1, 2015 Budget Amendments (Consider Action)
		FIN	10	Q1 Financial Reporting				30	
		FIN	10	Ordinance Related to Q1, 2015 Budget Amendments - 1st Reading (Info.)					
			95						
	Kelly		25	19-May		Roz		25	26-May
		EXEC	30	Funding Model for Public Art Program					
		EXEC	30	Public Safety Facility Site Selection					
			85						