

04/28/14  
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**Agenda Sheet for City Council Meeting of:**  
04/14/2014

<b>Date Rec'd</b>	4/2/2014
<b>Clerk's File #</b>	OPR 2014-0269
<b>Renews #</b>	
<b>Cross Ref #</b>	OPR 2013-0742
<b>Project #</b>	
<b>Bid #</b>	
<b>Requisition #</b>	

<b>Submitting Dept</b>	PLANNING & DEVELOPMENT
<b>Contact Name/Phone</b>	SCOTT CHESNEY 625-6061
<b>Contact E-Mail</b>	SCHESNEY@SPOKANECITY.ORG
<b>Agenda Item Type</b>	Contract Item
<b>Agenda Item Name</b>	0650 - INTERLOCAL AGREEMENT

**Agenda Wording**

Interlocal Agreement for Construction Inspection Services between the Kalispel Tribe of Indians (Tribe) and the City of Spokane for a multi-family apartment community located at 10913 West 6th Avenue, Airway Heights.

**Summary (Background)**

Inland Washington, LLC is constructing a 216-unit multi-family apartment community on property located in the City of Airway Heights. The project is being constructed on property that is held in trust by the United States of America for the Tribe. The Tribe, as a sovereign nation, has the right and authority to design, construct, and inspect buildings, structures and all other facilities placed on its property.

<b>Fiscal Impact</b>	<b>Budget Account</b>
Neutral \$	#
Select \$	#
Select \$	#
Select \$	#

<b>Approvals</b>		<b>Council Notifications</b>	
<b>Dept Head</b>	CHESNEY, SCOTT	<b>Study Session</b>	
<b>Division Director</b>	QUINTRALL, JAN	<b>Other</b>	
<b>Finance</b>	LESESNE, MICHELE	<b>Distribution List</b>	
<b>Legal</b>	RICHMAN, JAMES	kbecker@spokanecity.org	
<b>For the Mayor</b>	SANDERS, THERESA	lhattenburg@spokanecity.org	
<b>Additional Approvals</b>		mhughes@spokanecity.org	
<b>Purchasing</b>		jfaught@spokanecity.org	

APPROVED BY SPOKANE CITY COUNCIL ON

4/14/2014  
  
 SPOKANE CITY CLERK



**Continuation of Wording, Summary, Budget, and Distribution**

**Agenda Wording**

**Summary (Background)**

The City Council previously approved a Memorandum of Understanding (MOU) with Inland Washington, LLC that provides for certain construction inspection services in connection with the Tribe's multi-family apartment community project. Chapter 39.34 RCW, commonly referred to as the Interlocal Agreement Act, authorizes public agencies, including Indian tribes, to contract with each other to perform certain functions which each may legally perform. Pursuant to that authority, the City and the Kalispel Tribe wish to enter into an Interlocal Agreement that acknowledges and incorporates the MOU.

**Fiscal Impact**

Select     \$

Select     \$

**Budget Account**

#

#

**Distribution List**


Return to: Clerk  
City of Spokane  
808 W Spokane Falls Blvd  
Spokane, WA 99201

**INTERLOCAL AGREEMENT  
CONSTRUCTION INSPECTION SERVICES**

**THIS AGREEMENT** entered into among the **Kalispel Tribe of Indians**, a a sovereign nation, having offices for the transaction of business at 100 N. Hayford Road, Airway Heights, WA 99001, hereinafter referred to as "TRIBE," and the **City of Spokane**, a municipal corporation of the State of Washington, having offices for the transaction of business at 808 West Spokane Falls Boulevard, Spokane, Washington 99201, hereinafter referred to as "CITY", jointly hereinafter referred to as the "PARTIES."

**WITNESSETH:**

**WHEREAS**, chapter 39.34 RCW ("Interlocal Cooperation Act"), authorizes public agencies, including cities and Indian tribes, to contract with each other to perform certain functions which each may legally perform; and

**WHEREAS**, the City has entered into a Memorandum of Understanding with Inland Washington, LLC ("Inland"), dated November 4, 2013 ("MOU"), that provides for certain construction inspection services in connection with the a 216-unit multi-family apartment community, which Inland is constructing for the Tribe on property located at 10913 West 6<sup>th</sup> Avenue, in the City of Airway Heights (the "Tribe Project"); and

**WHEREAS**, a copy of the MOU is attached to this Agreement and its terms are incorporated herein; and

**WHEREAS**, the PARTIES wish to enter into this Agreement for purposes of documenting the PARTIES' reciprocal acknowledgement and consent to the MOU and its terms;

**NOW, THEREFORE**, for and in consideration of the mutual promises set forth hereinafter, the PARTIES do mutually agree as follows:

**SECTION NO. 1: PURPOSE**

The purpose of this Agreement is to set forth the PARTIES' understanding of the terms and conditions under which the CITY will provide construction inspection services to Inland in connection with the Tribe Project.

**SECTION NO. 2: DURATION**

This Agreement shall be effective during the Term of the MOU.

**SECTION NO. 3: SERVICES**

The CITY will provide those services described in the MOU according to the terms of the MOU.

**SECTION NO. 4: COMPENSATION**

See MOU.

**SECTION NO. 5: PAYMENT**

See MOU.

**SECTION NO. 6: ANTI-KICKBACK**

No officer or employee of the CITY, having the power or duty to perform an official act or action related to this Agreement shall have or acquire any interest in the Agreement, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the Agreement.

**SECTION NO. 7: VENUE STIPULATION**

This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is mutually understood and agreed by each party that this Agreement shall be governed by the laws of the State of Washington both as to interpretation and performance. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement, or any provision hereto, shall be instituted only in courts of competent jurisdiction within Spokane County, Washington.

**SECTION NO. 8: COMPLIANCE WITH LAWS**

The Parties shall observe all federal, state and local laws, ordinances and regulations, to the extent that they may be applicable to the terms of this Agreement.

**SECTION NO. 9: NON-DISCRIMINATION**

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, the presence of any sensory, mental or physical disability, or use of a service animal by a disabled person.

## **SECTION NO. 10: MISCELLANEOUS**

- A. **NON-WAIVER:** No waiver by any party of any of the terms of this Agreement shall be construed as a waiver of the same or other rights of that party in the future.
- B. **ENTIRE AGREEMENT:** This Agreement contains terms and conditions agreed upon by the Parties. The Parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Agreement. No changes or additions to this Agreement shall be valid or binding upon the Parties unless such change or addition is in writing, executed by the Parties.
- C. **MODIFICATION:** No modification or amendment to this Agreement shall be valid until put in writing and signed with the same formalities as this Agreement.
- D. **HEADINGS:** The section headings appearing in this Agreement have been inserted solely for the purpose of convenience and ready reference. In no way do they purport to, and shall not be deemed to define, limit or extend the scope or intent of the sections to which they pertain.
- E. **COUNTERPARTS:** This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same.
- F. **SEVERABILITY:** If any parts, terms or provisions of this Agreement are held by the courts to be illegal, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the Parties shall not be affected in regard to the remainder of the Agreement. If it should appear that any part, term or provision of this Agreement is in conflict with any statutory provision of the State of Washington, then the part, term or provision thereof that may be in conflict shall be deemed inoperative and null and void insofar as it may be in conflict therewith and this Agreement shall be deemed to modify to conform to such statutory provision.
- G. **RELATIONSHIP OF THE PARTIES:** The PARTIES intend that an independent contractor relationship will be created by this Agreement. No agent, employee, servant or representative of the TRIBE shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose. Likewise, no agent, employee, servant or representative of the CITY shall be deemed to be an employee, agent, servant or representative of the TRIBE for any purpose.

## **SECTION NO. 16: RCW 39.34 REQUIRED CLAUSES**

- A. **PURPOSE:** See Section No. 1 above.

- B. **DURATION:** See Section No. 2 above.
- C. **ORGANIZATION OF SEPARATE ENTITY AND ITS POWERS:** No new or separate legal or administrative entity is created to administer the provisions of this Agreement.
- D. **RESPONSIBILITIES OF THE PARTIES:** See provisions above.
- E. **AGREEMENT TO BE FILED:** The CITY shall file this Agreement with its City Clerk.
- F. **FINANCING:** Each party shall be responsible for the financing of its contractual obligations under its normal budgetary process.
- G. **TERMINATION:** See the MOU.
- H. **PROPERTY UPON TERMINATION:** Title to all property acquired by any party in the performance of this Agreement shall remain with the acquiring party upon termination of the Agreement.

**IN WITNESS WHEREOF,** the Parties have caused this Agreement to be executed on the date and year opposite their respective signature blocks.

DATED: 3-11-14

KALISPEL TRIBE OF INDIANS

By: *Elen Neuma*

Its: *Chairman*

DATED: 04.24.2014

CITY OF SPOKANE

By: *David A. Cantor*

Its: *Mayor*

Attest:

*Leri H. Hilde*  
City Clerk


Approved as to form:

*[Signature]*  
Assistant City Attorney

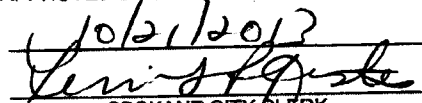


Memorandum of Understanding

11.06.13

 <b>Agenda Sheet for City Council Meeting of:</b> 10/21/2013		<b>Date Rec'd</b> 10/9/2013
		<b>Clerk's File #</b> OPR 2013-0742
		<b>Renews #</b> 
<b>Submitting Dept</b>	PLANNING & DEVELOPMENT	<b>Cross Ref #</b> 
<b>Contact Name/Phone</b>	SCOTT CHESNEY 625-6061	<b>Project #</b> 
<b>Contact E-Mail</b>	SCHESNEY@SPOKANECITY.ORG	<b>Bld #</b> 
<b>Agenda Item Type</b>	Contract Item	<b>Requisition #</b> REVENUE
<b>Agenda Item Name</b>	0650-MOU - INLAND WASHINGTON LLC	
<b>Agenda Wording</b>  Memorandum of Understanding (MOU) between the City of Spokane and Inland Washington, LLC for revenue in the amount of \$130,361.00.		
<b>Summary (Background)</b>  Inland Washington, LLC is constructing a 216-unit multi-family apartment community on property located in the City of Airway Heights. The project is being constructed on property that is held in trust by the United States of America, for the Kalispel Tribe of Indians. The Tribe, as a sovereign nation, pursuant to its sole discretion, has the right and authority to design, construct, and inspect buildings, structures and all other facilities placed on its property.		
<b>Fiscal Impact</b>		<b>Budget Account</b>
Revenue \$ 130,361.00		# 4700 41300 99999 36999
Select \$		#
Select \$		#
Select \$		#
<b>Approvals</b>		<b>Council Notifications</b>
<b>Dept Head</b>	CHESNEY, SCOTT	<b>Study Session</b>
<b>Division Director</b>	QUINTRALL, JAN	<b>Other</b>
<b>Finance</b>	LESESNE, MICHELE	<b>Distribution List</b>
<b>Legal</b>	PICCOLO, MIKE	kbecker@spokanecity.org
<b>For the Mayor</b>	SANDERS, THERESA	lhattenburg@spokanecity.org
<b>Additional Approvals</b>		ewade@spokanecity.org
<b>Purchasing</b>	PRINCE, THEA	mhughes@spokanecity.org
		alans@inlandconstruction.com

APPROVED BY SPOKANE CITY COUNCIL ON

10/21/2013  
  
 SPOKANE CITY CLERK





## Continuation of Wording, Summary, Budget, and Distribution

### Agenda Wording

### Summary (Background)

Inland desires that all or portions of the project structures be inspected by the City of Spokane Planning and Development Services for general conformance with the building codes. This MOU is for the purpose of securing construction inspection services (including but not limited to building, plumbing, electrical, mechanical, and fire-code related inspections/tests) for the project.

### **Fiscal Impact**

Select     \$  
Select     \$  
AmtType7   \$ Amount7  
AmtType8   \$ Amount8

### **Budget Account**

#  
#  
# Budget7  
# Budget8

### **Distribution List**

Email16  
Email17  
Email18  
Email19  
Email20  
Email21  
Email22  
Email23

**MEMORANDUM OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING is between the CITY OF SPOKANE, Washington State municipal corporation, by and through the Planning and Development Services Department, as "City" or "Department," and INLAND WASHINGTON, LLC, a Washington limited liability company, whose address is 1620 N. Mamer Rd., Bldg. B, Spokane Valley, Washington 99216, as "Inland," jointly referred to as the "Parties."

The parties agree as follows:

1. **GENERAL.** Inland is constructing a 216-unit multi-family apartment community on property located at 10913 West 6th Avenue, in the City of Airway Heights, Washington (the "Project"). The Project is being constructed on property held in trust by the United States of America, for the Kalispel Tribe of Indians (the "Tribe"), and the Tribe, as a sovereign nation, pursuant to its sole discretion, has the right and authority to design, construct, and inspect buildings, structures and all other facilities placed on its property. Inland desires that all or portions of the Project structures be inspected by the Department for general conformance with the codes, as enacted by the State of Washington, and adopted by the City of Spokane, in effect at the time of permit issuance. Accordingly, this Memorandum of Understanding is entered into among and between Inland and the Department for the purpose of securing construction inspection services (including but not limited to building, plumbing, electrical, mechanical, and fire code-related inspections/tests) for the Project. Plan review services are not contemplated or included in this Memorandum of Understanding.
2. **TERM.** This Memorandum of Understanding is effective upon signing by the Parties. It shall continue in full force and effect until completion of the Project, which shall be memorialized by the City's issuance of a Letter of Conformance in lieu of a Certificate of Occupancy for the Project (in accordance with Section 4.g below) or until terminated (in accordance with Section 8 below).
3. **PROJECT DESCRIPTION.** The Project will consist of nine (9) 24-unit, 3-story apartment buildings; twelve (12) 6-bay garage buildings; ten (10) multi-bay prefabricated carport structures; a clubhouse and pool; and a maintenance building.

4. **CONDITIONS.** The scope of services provided by the City under this Memorandum of Understanding shall be as follows:

a. The Department will inspect the Project for general conformance with the codes, as enacted by the State of Washington, and adopted by the City of Spokane, in effect at the time of permit issuance.

b. Construction is anticipated to start in August 2013, and continue for not more than 18 months.

c. The Department will identify a building inspector to be available to perform timely inspections upon request, during normal business hours, and will coordinate its schedule with other obligations to ensure a timely response to inspection requests. For purposes of this Memorandum of Understanding, normal business hours are 8:00 a.m. – 5:00 p.m., Monday through Friday, except for major holidays. Saturdays, Sundays, and major holidays will be considered outside the scope of normal business hours, with no inspection services available on these days.

d. The Department will only perform inspections on request from Inland or its authorized representative and will provide a written inspection report of any deficiencies noted to Inland or as otherwise directed by Inland. This report shall list any requirements to remedy the deficiencies.

e. The Parties recognize that the Department is not responsible for code enforcement on the Project site. The Department is not authorized to stop construction of the Project at any time or otherwise require correction of any deficiencies noted. Accordingly, the inspections and associated reports, correspondence or other communications pursuant to this Memorandum of Understanding are of an advisory nature only.

f. Upon completion of each building and/or structure, in lieu of a Temporary Certificate of Occupancy, the Department will issue a letter indicating that building(s) and/or structure(s) conform to the plans provided by Inland (which plans, prior to permit issuance, were reviewed by the Tribe and/or its representatives and deemed to be in substantial compliance with the applicable codes in effect at the time of permit issuance), and that the building(s) and/or structure(s) are ready for their intended use.

g. Upon completion of the Project, in lieu of a Certificate of Occupancy, the Department will issue a letter indicating that Project structures conform to the plans provided by Inland (which plans, prior to permit issuance, were reviewed by the Tribe and/or its representatives and deemed to be in substantial compliance with the applicable codes in effect at the time of permit issuance), and that the structures are ready for their intended use.

h. Inspection of fuel storage tank(s) installation, and all related product transfer/piping systems, double containment, are not provided by the Department per this Memorandum of Understanding, and as such are not the responsibility of the Department.

i. The presence or duties of the Department's personnel at the Project site whether as on-site representatives of the Department or otherwise, do not make the Department or its personnel in any way responsible for those duties otherwise applicable by contract or at law to Inland and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their respective obligations, duties, and responsibilities undertaken by contract or imposed by law, including, but not limited to, responsibility for all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the Project plans and any health and safety precautions as may be applicable.

j. The Department accepts no independent duty outside the scope of this agreement for Project safety of third parties. The Department is not a guarantor or insurer of any independent jobsite safety obligations imposed by contract or law, whether with respect to Inland or any other third parties.

5. **COMPENSATION.** Inland shall pay the Department a one-time lump sum payment of ONE HUNDRED THIRTY THOUSAND THREE HUNDRED SIXTY-ONE AND 00/100 DOLLARS (\$130,361.00) for the Department's services under this Memorandum of Understanding ("Base Fee"). Inland shall pay the Base Fee to the Department within thirty (30) days of the Parties' mutual execution of this Memorandum of Understanding, and shall be delivered or sent to the City of Spokane, Planning and Development Services Department, Third Floor – City Hall, 808 W. Spokane Falls Blvd., Spokane, WA 99201. Requests for inspection services outside normal business hours, as defined herein, shall be subject to negotiation by the Parties. If the Department reasonably determines that Department staff have been or are being called to the Project site for excessive re-inspections, the Parties shall negotiate a reasonable fee for such services, consistent with the methodology used to determine the Base Fee.

6. **HOLD HARMLESS.** Inland shall defend, indemnify and hold harmless the City, its officers, employees and agents, from all claims, demands, or suits in law or equity arising in favor of any third-party or estate on account of personal injuries, death or property loss or damage occurring, growing out of, incident to, or resulting directly or indirectly from the acts or omissions of Inland in the performance of this Memorandum. The Department shall defend, indemnify and hold harmless Inland, its officers, employees and agents, from any legal liability, loss, damages, costs and

expenses arising in favor of any third-party or estate on account of personal injuries, death or property loss or damage occurring, growing out of, incident to, or resulting directly or indirectly from the acts of omissions of the Department in the performance of this Memorandum; provided, the Department shall have no such obligation to defend, indemnify and hold harmless for any legal liability, loss, damages, costs and expenses if, but for the fact that the inspection services being provided by the Department under this Memorandum of Understanding, the Department would not be liable for such claims under Washington law, including without limitation the public duty doctrine. The Parties' respective duties to indemnify shall survive termination or expiration of this Memorandum of Understanding.

7. NONPERFORMANCE. The Department shall not be held responsible for any delay or failure in performance of the activities required herein when such delay or failure is due to causes beyond the control and without the fault or negligence of the Department. Such cause may include, but are not restricted to, fire, flood, epidemic, labor unrest, acts of God or public enemy, unusually severe weather, and/or legal acts of public authorities. In the event of such delay or failure to perform, the Department shall make all efforts to perform the activities required under this Memorandum of Understanding within a reasonable period.

8. TERMINATION. This Memorandum of Understanding may be terminated by mutual consent of both parties, or unilaterally by either party at any time upon thirty (30) calendar days' notice in writing. Termination under this clause shall be without prejudice to any obligations or liabilities of either party already reasonably incurred prior to such termination. In the event of termination by either party prior to the completion of the Department's services under this Memorandum of Understanding, the Department shall return a pro-rata portion of the Base Fee for the services the Department has not completed as of the date of termination, based on the methodology used to determine the Base Fee as set forth on the break-down of costs attached hereto as Exhibit A.

9. ANTI-KICKBACK. No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Memorandum of Understanding, shall have or acquire any interest in the Memorandum or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the Memorandum of Understanding.

10. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Memorandum because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities.

11. AMENDMENTS. This Memorandum of Understanding may be amended at any time by mutual written agreement between the parties.

12. DISPUTES. This Memorandum of Understanding shall be performed under the laws of Washington State. Any litigation to enforce this contract or any of its provisions shall be brought in Spokane County, Washington. The prevailing party shall be allowed such reasonable amounts for attorney fees, costs and expenses as the court may set.

13. SEVERABILITY. In the event any provision of this Memorandum of Understanding should become invalid or unenforceable, the rest of the contract shall remain in full force and effect.

14. INDEPENDENT CONTRACTOR. All activities performed by Inland or its agents, employees or representatives are, for all purposes under this Memorandum, performed as an independent contractor and they shall not be deemed to be an employee of the City, and none of them shall be entitled to any benefits to which City employees are entitled, including, but not limited to, overtime, retirement benefits, worker's compensation benefits, injury leave or other leave benefits.

Dated: 11.04.2013

CITY OF SPOKANE

By: David A. Condon  
Mayor David A. Condon  
Mayor  
City of Spokane

Attest: Jenifer L. Hester  
City Clerk



INLAND WASHINGTON, LLC

Email Address, if available:

ALAN.S@INLANDCONSTRUCTION.COM

By: [Signature]

Title: MEMBER

Approved as to form:

[Signature]  
Assistant City Attorney

# EXHIBIT A

## COPPER LANDING APARTMENTS (AIRWAY HEIGHTS)

BUILDING	UNITS	BUILDING TYPE	PERMIT ONLY COST
Clubhouse	NA	Same as Palouse Family	\$ 2,232.00
Maintenance Bldg.	NA	Same as Palouse Family	\$ 280.00
A (Type 1)	24	Same as Palouse Family Type A	\$ 8,117.00
B (Type 2)	24	Same as Palouse Family Type B	\$ 8,444.00
C (Type 1)	24	Same as Palouse Family Type A	\$ 8,117.00
D (Type 1)	24	Same as Palouse Family Type A	\$ 8,117.00
E (Type 3)	24	Similar to Palouse Family Type B	\$ 8,444.00
F (Type 1)	24	Same as Palouse Family Type A	\$ 8,117.00
G (Type 1)	24	Same as Palouse Family Type A	\$ 8,117.00
H (Type 2)	24	Same as Palouse Family Type B	\$ 8,444.00
J (Type 1)	24	Same as Palouse Family Type A	\$ 8,117.00
<b>TOTALS</b>	<b>216</b>		<b>\$ 76,546.00</b>

GARAGES			CARPORTS		
BUILDING	BAYS	PERMIT ONLY COST	BUILDING	BAYS	PERMIT ONLY COST
Garage A1	6	\$ 731.00	Carport A1	6	\$ 356.50
Garage B1	6	\$ 731.00	Carport B1	4	\$ 246.00
Garage B2	6	\$ 731.00	Carport C1	8	\$ 467.00
Garage C1	6	\$ 731.00	Carport C2	8	\$ 467.00
Garage C2	6	\$ 731.00	Carport D1	8	\$ 467.00
Garage D1	6	\$ 731.00	Carport F1	8	\$ 467.00
Garage F1	6	\$ 731.00	Carport G1	8	\$ 467.00
Garage G1	6	\$ 731.00	Carport G2	8	\$ 467.00
Garage G2	6	\$ 731.00	Carport H1	4	\$ 246.00
Garage H1	6	\$ 731.00	Carport J1	6	\$ 356.50
Garage H2	6	\$ 731.00			
Garage J1	6	\$ 731.00			
<b>TOTALS</b>	<b>72</b>	<b>\$ 8,772.00</b>		<b>68</b>	<b>\$ 4,007.00</b>

### OTHER PERMITS

Electrical	\$ 11,224.00
Plumbing	\$ 17,567.00
Mechanical	\$ 12,091.00
Pool	\$ 154.00
<b>TOTAL</b>	<b>\$ 41,036.00</b>

Buildings	\$76,546.00
Garages	\$8,772.00
Carports	\$4,007.00
other	\$41,036.00
	<b>\$130,361.00</b>