

CITY OF SPOKANE ADMINISTRATIVE POLICY AND PROCEDURE	ADMIN 0650-18-01 LGL 2018-0018
TITLE: URBAN UTILITY INSTALLATION PROGRAM POLICY EFFECTIVE DATE: August 1, 2018 REVISION EFFECTIVE DATE: N/A	

1.0 GENERAL

1.1 The purpose of this policy is to provide uniform operating rules and procedures for the consideration and award of financial reimbursement to development and investment project(s) constructed in the public right-of-way under the City of Spokane Urban Utility Installation Program SMC 08.10.230.

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2.0 DEPARTMENTS/DIVISIONS AFFECTED

This Policy shall apply to all City Departments.

3.0 REFERENCES

City Council Resolution 2018-0058
City Council Ordinance C35632
Spokane Municipal Code SMC 08.10.230

4.0 DEFINITIONS

- 4.1 "City" refers to the City of Spokane.
- 4.2 "Director" means Director of Business and Development Services, or designee.

- 4.3 "Qualified Project" means an infrastructure public improvement which has received an initial determination and/or entered into a contract with the City for reimbursement by the Urban Utility Installation program as applicable under the program.
- 4.4 "Public improvements" means installation of new or upgrades to city-owned public utility infrastructures located within the city right-of-way.
- 4.5 "Public improvement costs" means the costs of permits, construction, reconstruction, rehabilitation, improvement, and installation of new or upgrades to city-owned public utility infrastructures located within the city right-of-way.
- 4.6 "Private development" means land or property development undertaken on private property; plot of land, etc. and not located within the city right-of-way.

5.0 POLICY

- 5.1 Projects must have a commercial or multi-family use post redevelopment.
- 5.2 Projects must be located in a Target Investment Area and/or in a designated Center & Corridor Zoned area, or be a Historically Used Commercial structure, a Neighborhood Retail Zoned Property, and/or a listed Historic Property.
- 5.3 Vacant undeveloped properties (i.e. no buildings) located within qualifying areas may be eligible to receive water and sewer right-of-way installation assistance and reimbursement of up to a maximum of ten thousand dollars (\$10,000).
- 5.4 The rehabilitation of an existing building (i.e. occupied or vacant) located within qualifying areas may be eligible to receive water and sewer right-of-way installation assistance and reimbursement of up to a maximum of twenty five thousand dollars (\$25,000).
- 5.5 For those properties which qualify, water and sewer right-of-way installation assistance may be eligible to increase up to a total of forty thousand dollars (\$40,000), when other improvements meet additional City Strategic priorities such as Historically Listed Properties, as well as stormwater and/or conservation priorities.
- 5.6 Any financial assistance and reimbursement awarded to individual projects under this program is limited to those investments made within the public right-of-way..

6.0 PROCEDURE

- 6.1 Potential applicants shall complete and submit to the City Planning Department the Pre-Eligibility Application, included in as Attachment A.
 - 6.1.1 A completed Pre-Eligibility Application is one that fully answers all questions listed on the Application.
- 6.2 The completed Pre-Eligibility Application will be reviewed by Planning Economic Development Staff, and, if approved, the applicant will be notified they are eligible to enter into a Contract with the City.
- 6.3 The Planning Director will make the final decision on funding the project. No individual project funded by the City shall exceed the qualifying limits defined in SMC 08.10.230.
- 6.4 Projects which meet all criteria in SMC 08.10.230 shall be funded in the order in which the application was received until the City reaches the annual limit on the funding as defined in the City's adopted budget.
- 6.5 Upon approval of the Pre-Eligibility Application, the applicant will be required to enter in to a contract with the City, which outlines the applicant's obligations and requirements regarding reimbursement following construction completion.


7.0 RESPONSIBILITIES

- 7.1 The City of Spokane Planning Department and Economic Development Staff shall administer this Policy.
 - 7.1.1 Economic Development Staff will be responsible for receiving and processing applications as well as making recommendations to the Director for approving applications which meet the criteria.
 - 7.1.2 Economic Development Staff will be responsible for providing updates to the Director of Public Works and Utilities and the City Council annually regarding the projects and program funding needs.

8.0 APPENDICES

- Attachment A: Urban Utility Installation Pre-Eligibility Application
- Attachment B: Contract Template
- Attachment C: Reimbursement Agreement Template

APPROVED BY:



City Attorney

7/12/18

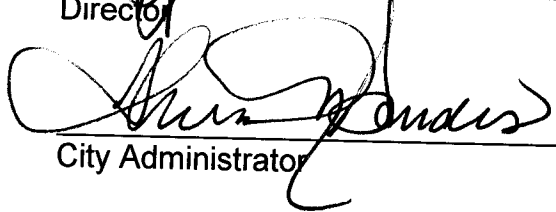
Date



Director

7/12/18

Date



City Administrator

7/17/2018

Date



Urban Utility Installation Program

Pre-Eligibility Application

Rev. 05-17-2018

Part 1 – Applicant Information

Applicant Name: _____

Property Address: _____

City/State/Zip: _____

Phone Number(s): (work) _____ (other) _____

Email Address: _____

Proposed Use: _____

Property Owner's Name (if different than applicant): _____

Owner Phone Number(s): (work) _____ Email _____

Project Description: _____

What Utility assistance are you seeking? Domestic Water Fire Line Sewer Hydrant

Part 2 – Additional Questions for Fire Lines

Yes	No	
		Does the existing building have a fire sprinkler system inside the building?
		If the building has fire sprinklers, what percentage of the building do the sprinklers cover? does it only cover part of the building? Please describe the system?
		Is the building located in a Urban Utility Installation area targeted for upgrading and/or redevelopment as approved by City Council?
		Does the addition of the fire line and fire sprinkler system increase the building occupancy limit or utilize a vacant building?
		Is there a site fire flow test for the building location less than 3 years old? Attach the most current fire flow test.
		Is there an existing water main fronting or adjacent to the building capable of providing the required fire flow? Where is the existing water main in relation to the building?
		Is there a fire alarm system in the building? Can it support fire sprinkler system monitoring?
		In addition to the fire alarm and fire sprinkler system, are there additional building and/or site improvements proposed? Please describe
		Have permits been obtained for additional building and/or site improvements?
		Have you attended a pre-development conference with this project?

OFFICE USE ONLY – PLEASE DO NOT WRITE IN THIS SPACE

Application Receipt Acknowledgment:

Staff Name: _____ Date: _____

Is the project eligible for consideration? YES NO

DEVELOPMENT AGREEMENT RELATING TO CERTAIN PUBLIC INFRASTRUCTURE COSTS

THIS DEVELOPMENT AGREEMENT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and _____<owner name>_____, a ___<business type>_____, as "____<DBA>_____", collectively referred to as the "Parties".

Recitals

A. In connection with plans to renovate the ___<project name>_____ to provide a ___<Commercial, Mixed Use>_____ project which will include ___<office, retail, public market, and parking garage with retail on the first floor>_____ (the "Project"), ___<DBA>_____ applied for assistance pursuant to the City's Urban Utility Installation Program Policy. Based on the findings the project's qualifying public improvements are eligible for reimbursement, and in order to assist the ___<DBA>_____, in improving the infrastructures located in the public right-of-way during the construction the City awarded an eligibility for reimbursement to the Project of up to ___<spell out and insert \$ amount>_____ eligible public improvement costs related to the Project, as outlined in Spokane Municipal Code SMC 08.10.230 and Admin Policy _____.

B. The City Council with this agreement accepts the staff recommendation regarding ___<DBA>_____ assistance application on ___<Date>_____. Staff previously presented to Council at a Council Committee meeting on ___<Date>_____ the application and its approval/denial. Staff proceeded to prepare a development agreement with ___<DBA>_____ setting forth the terms and conditions under which the ___<spell out and insert \$ amount>_____ will be applied to eligible public infrastructure improvements costs related to the Project, subject to final approval by Council as outlined in Admin Policy _____.

C. Pursuant to RCW 35.21.703, Washington's legislature has declared that it shall be in the public purpose for all cities to engage in economic development activities.

D. Chapter 36.70A RCW, commonly known as the Growth Management Act, includes as a planning goal the encouragement of economic development and the promotion of economic opportunity for all citizens of the state.

E. Pursuant to other provisions of State law, including chapter 39.89 RCW relating to community revitalization financing, and RCW 82.02.050-.090 relating to certain development impact fees, Washington cities are authorized to participate in the cost of financing public improvements where the cities' participation will encourage private investment in the surrounding area and are further authorized, pursuant to

Chapter 36.70B RCW, to enter into development agreements that obligate a party to fund or provide infrastructure.

F. The Project will cause both direct and indirect public benefits and can reasonably be expected to make a significant difference in stimulating economic growth and the creation of new jobs within the City. In addition to a direct benefit to the City in terms of increased sales, upgraded system efficiency to the utility and property tax revenues, indirect benefits include encouraging the revitalization and increased utilization public infrastructures reducing ratepayer burdens, reuse of historic and older commercial buildings in the City, providing a mixed-use development that brings employment, and shopping activities into Spokane, and contributes to the public realm by providing additional street level amenities.

G. In addition to providing a public benefit, the Project also directly aligns with policy included in the Comprehensive Plan for the City of Spokane supporting the undergrounding of utilities, as outlined below.

Shaping Spokane: Comprehensive Plan for the City of Spokane

Chapter 5: Capital Facilities and Utilities (CFU)

5.3 Goals and Policies

CFU 4: Service Provision

Goal: Provide public services in a manner that facilitates efficient and effective delivery of service and meets current and future demand.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree:

1. Construction of the Project. ___<DBA>___ shall, at no cost or expense to the City, diligently perform and fully complete construction of the Project according to approved plans and permits, and in compliance with Title 17 of the Spokane Municipal Code. Nothing herein shall create a contractual relationship or privity between the City and any contractors engaged by ___<DBA>___.

2. Construction of Public Improvements. ___<DBA>___ will construct or cause to be constructed the following public improvements within the public right-of-way (the "Public Improvements"), subject to partial reimbursement by the City pursuant to the terms, limitations, and conditions of this agreement:

- ___<Eligible Public right-of-way Improvements>___

3. Partial Reimbursement. Subject to the terms and conditions of this agreement, the City agrees to reimburse ___<DBA>___ partial costs associated with the Public Improvements identified in Section 2 above, up to ___<spell out and insert \$ amount>___). The City will make payments to ___<DBA>___, within sixty (60) days after the receipt of ___<DBA>___ request for payment, subject to the City's approval of the completed Public Improvements in accordance with City standards, and subject to compliance with the terms of this agreement. Without limiting any of the foregoing, ___<DBA>___ applications for reimbursement shall be subject to review by the City's Engineering Services Department for the purpose of confirming reasonable prices for materials, equipment rentals and labor.

4. Prevailing Wage Requirement. As a condition for reimbursement under this agreement, ___<DBA>___ agrees to comply with Chapter 39.12 RCW on prevailing wages and provide verification of compliance prior to any reimbursement under this Agreement. Such verification requires, but is not limited to, an Affidavit of Prevailing Wages Paid for each job classification for all contractors and subcontractors as certified and approved by the industrial statistician of the Washington State Department of Labor and Industries.

5. Inspection of Cost Records. ___<DBA>___ and its contractors and subcontractors shall keep available for inspection by City representatives the cost records and accounts pertaining to this agreement.

6. Actual Material Costs. Reimbursement for any/all materials or equipment rentals under this agreement shall be on the basis of the actual cost incurred by ___<DBA>___, its contractors and subcontractors without any mark up. All payments for materials will be based on approved quantities as verified by City inspectors, and receipt of actual and verified material payment by ___<DBA>___, its contractors and subcontractors, as the case may be.

7. Indemnity & Hold Harmless. ___<DBA>___ shall indemnify, defend, and hold the City, its officers, agents, and employees harmless from all loss and liability for any claim by any person, or for any injury or property damage resulting from, or by reason of, this agreement and/or the construction of the Public Improvements, unless caused directly or indirectly by the City's negligence or intentional misconduct.

To the extent necessary to enforce ___<DBA>___ indemnification obligations hereunder, ___<DBA>___ hereby agrees to waive immunity under Title 51 RCW. This provision has been specifically negotiated.

___<DBA>___ Initials

City's Initials

8. Insurance. At all times prior to City's approval of the completed Public Improvements, ___<DBA>___ shall cause to be maintained in force at ___<DBA>___ own expense, each insurance noted below.

A. Commercial general liability insurance with a combined single liability limit of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury and Property Damage. It shall include, at least, Independent Contractors, Products and Completed Operations, Contractual Liability and Personal Injury Liability for the indemnity provided under this agreement. It shall provide that the City, its officers, employees, contractors, agents, and such other persons or entities as the City may designate are additional insureds, but only with respect to the construction of the Public Improvements.

B. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days written notice from ___<DBA>___ or its insurer(s) to the City.

C. ___<DBA>___ shall require any contractor working on the Public Improvements pursuant to this agreement to carry and maintain, at no expense to City: (a) comprehensive general liability insurance, including contractor's liability coverage, contractual liability coverage, completed operations coverage, broad form property damage endorsement and contractor's protective liability coverage, to afford protection, with respect to personal injury, death or property damage of not less than \$1,000,000 per occurrence, combined single limit/\$2,000,000 aggregate; (b) comprehensive automobile liability insurance with limits for each occurrence of not less than \$1,000,000 with respect to personal injury or death and \$500,000 with respect to property damage; and (c) Worker's Compensation or similar insurance in form and amounts required by law.

D. All the insurance required under this agreement shall be written as primary policies, not contributing with and not supplemental to the coverage that City may carry.

E. ___<DBA>___ shall furnish its insurance carriers with a copy of this agreement to insure proper coverage. As evidence of the insurance coverages required by this agreement, ___<DBA>___ shall furnish acceptable insurance certificates to the City at the time this agreement is executed. The certificates shall specify all of the parties who are additional insured, will include applicable policy endorsements, and will include the 30-day cancellation clause. If ___<DBA>___ fails to perform any of its obligations under this Section 8, the City may perform the same and may deduct such expenditures from its reimbursements to ___<DBA>___ under this agreement. The City makes no representations that the types or amounts of coverage required to be carried by ___<DBA>___ pursuant to this Section are adequate to protect ___<DBA>___. If ___<DBA>___ believes that any of such insurance coverage is inadequate, ___<DBA>___ will obtain, at ___<DBA>___ sole cost and expense, such additional insurance coverage as ___<DBA>___ deems appropriate.

9. Additional Terms.

- A. Waiver. No officer, employee, agent or otherwise of either party has the power, right or authority to waive any of the conditions or provisions of this agreement. No waiver of any breach of this agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this agreement or a law shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law. Failure of either party to enforce at any time any of the provisions of this agreement or to require at any time performance by the other of any provision hereof, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this agreement or any part hereof, or the right of the party entitled to performance to hereafter enforce each and every such provision. Either party's failure to insist upon the strict performance of any provision of this agreement or to exercise any right based upon breach hereof or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this agreement.
- B. Modification. No modification or amendment to this agreement shall be valid until the same is reduced to writing, in the form of an amendment, and executed with the same formalities as this present agreement.
- C. Assignment. Neither party may assign or transfer in whole or in part, its interest in this agreement without the express written consent of the other party.
- D. Compliance with Laws. The Parties hereto specifically agree to observe Federal, State and local laws, ordinances and regulations, to the extent that they may have any bearing on either providing any money under the terms of this agreement or the services actually provided under the terms of this agreement. This agreement shall not be construed or interpreted as a waiver of any conditions or requirements applicable to the Project. The City reserves the right to impose new or different regulations to the extent required by a serious threat to public health and safety.
- E. 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 agreement 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.

- F. Anti-Kickback. No officer or employee of the Parties, having the power or duty to perform an official act or action related to this agreement, shall have or acquire any interest in this 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 this agreement.
- G. Notices. All notices called for or provided for in this agreement shall be in writing and must be served on any of the Parties either personally or by certified mail. Notices sent by certified mail shall be deemed served when deposited in the United States mail, postage prepaid.
- H. Venue Stipulation. This agreement has and shall be construed as having been made and delivered in the State of Washington, and the laws of the State of Washington shall be applicable to its construction and enforcement of this agreement or any provision hereto shall be instituted only in the courts of competent jurisdiction within Spokane County, Washington.
- I. Headings. The article headings in this agreement have been inserted solely for purposes 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 articles to which they appertain.
- J. All Writings Contained Herein. This agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the Parties hereto. The Parties have read and understand all of this agreement, and now state that no representation, promise, or agreement not expressed in this document has been made to induce the Parties to execute the same.
- K. Relationship of the Parties. The Parties intend that an independent contractor relationship will be created by this agreement. The City is interested only in the results that could be achieved and the conduct and control of all work and services provided by __<DBA>__ will be solely with __<DBA>__. No agent, employee, servant or otherwise of __<DBA>__ hereto shall be deemed to be an employee, agent, servant, or otherwise of the City for any purpose, and the employees of __<DBA>__ are not entitled to any of the benefits that the City provides for City employees. __<DBA>__ will solely and entirely be responsible for its acts and the acts of its agents, employees, servants, subcontractors, or otherwise, during the performance of this agreement.

[Signature Page Follows]

Dated: _____

CITY OF SPOKANE

By: _____

Title: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Dated: _____

__<Legal Name>__

By: _____
<Name>



Urban Utility Installation Program

Reimbursement Request

Rev. 05-17-2018

Applicant/Project Information

Project Name: _____

Property Owner's Name: _____

Applicant Name (if different than owner): _____

Project/Property Address: _____

City/State/Zip: _____

Phone Number(s): (work) _____ (other) _____

Email Address: _____

Council Approved Contract Date: _____ Copy Attached

Construction Complete Date: _____ City Inspection Date: _____

Copies of all Invoices/Payment Receipts for services related to the eligible construction attached

Prevailing Wage documentation as required by Council Approved Contract Attached

Additional Information

Total project development costs: _____

Estimate of total construction and Apprenticeship jobs: _____

Number & Names of known incoming tenants: _____

How did the Urban Utility Installation Program assist your project? _____

If you have another qualifying project, will you utilize the UUI Program again? YES NO

If no, why not? _____

OFFICE USE ONLY – PLEASE DO NOT WRITE IN THIS SPACE

Application Receipt Acknowledgment:

Staff Name: _____ Date: _____

Are the cost eligible for reimbursement? YES NO The Amount to be reimbursed \$ _____