

City of Arlington



## Prairie Creek Stabilization Project

# REQUEST FOR BID



City of Arlington Public Works  
154 West Cox Ave  
Arlington, WA 98223

Project Number: P02-409  
Issue Date: **August 09, 2016**  
Due Date: **August 19, 2016 at 2:00 PM**

## 1.0 REQUEST FOR BID

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The City of Arlington is issuing this Request for BID (Project PO2-409) from qualified contracting firms for the installation of instream habitat structures to reduce erosion that is occurring in a specific reach of Prairie Creek. The firm with the successful bid (CONTRACTOR) shall perform this work during established City of Arlington working days and times; Monday-Friday, 7:00 am to 7:00 pm, excluding City recognized holidays. Though not a requirement, bidders are encouraged to register with the Project Administrator, Linda Taylor at 360-403-3526, so they can be apprised of any Request for Bid addendums.

## 2.0 PRE-BID CONFERENCE

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A non-mandatory pre-bid conference will take place at the City of Arlington Public Works Administration building on **August 16, 2016 at 9:00 AM**. The meeting will start at the PW Admin building and then proceed to the project site. The PW Administration building is located at 154 West Cox Ave, Arlington WA. 98223.

## 3.0 SCOPE OF WORK

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**BACKGROUND** – In the 1980's a small tributary to the Quilceda basin was diverted north into the Portage Creek basin. This diverted stream flow now is now identified as the west branch of Prairie Creek and is estimated to have doubled the amount of flow traveling down the mainstem Prairie Creek. The increased stream flow and lack of naturally occurring stream channel armor has caused significant down cutting and erosion of the stream channel. Eroded sediment is deposited in lower reaches of Prairie Creek causing reduced creek flow capacity and degrading salmonid habitat.

The City of Arlington applied for and received permits from the US Army Corps of Engineers (USACOE) and Washington State Department of Fish and Wildlife (WDFW), copies of these permits condition how the work is to be performed and are included in Attachment 3. The Contractor is responsible for complying with all conditions of the permits.

### **CONTRACTOR shall:**

- 3-1. This project is being bid as a Lump Sum project, the bid amount on the Proposal Form will include all costs for completing the work detailed in this Scope of Work.
- 3-2. Prior to starting work CONTRACTOR shall prepare and submit to the City for approval a work plan detailing proposed method for all work including: coffer dam construction, stream flow bypass and flow restoration, material delivery and staging, site access vegetation control, compliance with WDFW Hydraulics Permit, compliance with USACOE Permit, detailed structure construction, stream wetting and return of flow, and site restoration.

- 3-3. Prior to starting work CONTRACTOR shall prepare and submit to the City for approval a Site Safety Plan and Temporary Erosion and Sediment Control Plan (TESC). While site is an active construction site, CONTRACTOR will fully implement, monitor and maintain site safety controls and erosion control Best Management Practices (BMPs).
- 3-4. Prior to starting work CONTRACTOR shall submit to the City for approval the names of all subcontractors that will be working on this project.
- 3-5. Prior to starting work CONTRACTOR shall submit to the City for approval a project schedule and call for Underground Utility Locates (Utility Notification Center 811).
- 3-6. The CONTRACTOR shall be solely and completely responsible for conditions of the job site, including safety of all persons and property during and after work hours.
- 3-7. The CONTRACTOR shall be solely responsible for implementing, monitoring, and maintaining such controls as may be necessary to ensure compliance with the USACOE and WDFW permits, and any other applicable Federal and State laws and regulations regarding worker and public protection, health, safety and environmental protection.
- 3-8. The CONTRACTOR must take all precautions and measures necessary to protect all existing structures and infrastructure; including the roadway, sidewalks, utilities and buffer areas. Any damage to existing structures and infrastructure shall be repaired to the satisfaction of the City by the CONTRACTOR. Any non-anticipated damage to the stream buffers shall be restored to pre-existing condition.
- 3-9. CONTRACTOR shall install the below type and quantity of in-stream habitat and stream stabilizations structures. Installation of structures will be complete in place in accordance with standard stream habitat restoration practices including that all structures shall be anchored and secured into the stream bed by embedment of rootwad stems, or use of duckbill anchors, or use of rock ballast.
  - Multi-rootwad/Log Structures 8 ea
  - Upstream U-rock Weirs, 6 ea
  - Rock and Rootwad/Log Combination Structures. 7 ea
- 3-10. The CONTRACTOR shall perform post-project site restoration and cleanup that includes:
  - removal of invasive species (mostly blackberry bushes) 20-feet along both side of the stream corridor
  - hydro-seed site disturbed areas at construction entrance
  - Clean debris from staging area and regrade to original condition

City Shall:

- Review and approve submittals (temporary coffer dam construction, staging area, haul routes.
- Fish capture and relocation
- Provide supervision of structure location and placement.
- Manage this project and coordinate with the public.

Engineer's Estimate:

- The Engineer's Estimate for this work is \$30,000.00

#### **4.0 PROJECT SPECIFICATIONS**

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This project will be performed in accordance with the following:

- City of Arlington Public Works Engineering Design and Construction Standards & Specifications, July 2008.
- Washington Department of Transportation 2016 Standard Specifications for Road, Bridge, and Municipal Construction, including amendments.
- Drawings and permits as attached

Consult with the City of Arlington project engineer if there is a conflict between the two specifications.

#### **5.0 PROJECT ATTACHMENTS**

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The following documents are attached to this Request for Bid solicitation.

**Attachment #1 - Bid Instructions and Bid Form**

- Instruction to Bidders
- Statement of Bidder's Qualification
- Non-Collusion Certificate
- Proposal Form

**Attachment #2 - Contract Documents**

- City of Arlington Standard Contract
- Performance Bond
- Payment Bond
- Retainage Option Form

### **Attachment #3 - Construction Drawings**

- WFDW Hydraulics Permit
- USACOE Permit
- Vicinity Map (1 page, 8½" x 11")
- Structure Details

## **6.0 PROJECT SCHEDULE**

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The project is as follows:

- CONTRACTOR shall provide all project submittals, worker certifications, and contract documents within 15 working days following notice of project award.
- Project shall be substantially complete within 20 working days from issuance of Notice to Proceed.

## **7.0 BID QUESTIONS**

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Submit all questions in writing, via post or email, to the Project Administrator:

Linda Taylor  
Project Administrator  
154 West Cox Ave  
Arlington, WA 98223  
E-mail: ltaylor@arlingtonwa.gov

----- END OF REQUEST FOR BID SOLICITATION -----

# ATTACHMENT #1

## BID INSTRUCTIONS AND BID FORMS

Project: Prairie Creek Stabilization

Project No.: P02.409

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This section contains instructions on how to complete this bid, actions that may subject the bid to disqualification, and forms on which to submit the Bid. The Bidder shall include all of the following forms, which must be executed in full, with the Bid submission – failure to do so may disqualify the Bid.

1.  **Instructions to Bidder's**
2.  **Statement of Bidder's Qualifications**
3.  **Non-Collusion Certificate**
4.  **Proposal Form**

## INSTRUCTIONS TO BIDDERS

1. **Request for Bid Purpose** - To obtain bids from qualified contractors for the **Prairie Creek Stabilization Project (P02-409)** for the City of Arlington as detailed in the Scope of Work contained in the Request for Bid.
2. **Coordination and Communication** - All contractor/vendor questions and communications concerning this RFP shall be directed in writing to the Project Administrator listed below. Questions pertaining to this bid that require a response must be received by the Proposer Question Due date/time that is listed in the Request for Bid, questions received after this date/time may not be responded to. Responses to questions will be submitted in writing by the City through addendum. Unauthorized contact regarding this Request for Bid with City employees may result in disqualification. Any verbal communication will be considered unofficial and non-binding on the City.

*Name:* Linda Taylor, Project Administrator  
*Mailing Address:* City of Arlington  
154 West Cox Ave  
Arlington, WA 98223  
*Phone:* 360-403-3526  
*E-mail:* [ltaylor@arlingtonwa.gov](mailto:ltaylor@arlingtonwa.gov)

3. **Proposal Due Date and Time** – Proposals shall be delivered to the Project Administrator at the address and location listed up to the date and time listed in the Request for Bid, no proposals or bids will be accepted after this date and time.
4. **Addressing of Bid** – All bid submittal items shall be enclosed in the same envelope with the proposal. The envelope enclosing the proposal must be sealed with the below information included on the envelope:

**Project Name**  
**Project Number**  
**Bidding Firm**  
**Bid Due Date**

5. **Form of Bid** - The Bid shall be submitted on the forms provided by the City of Arlington in the Request for Bid/Proposal and shall be enclosed in a sealed envelope marked and addressed as hereinafter directed. Additional information may be provided at the discretion of the Bidder/Proposer. The Bidder shall clearly state their bid prices for all bid items included in figures. Failure to enter a value for each bid item will result in a \$0.00 being recorded for the bid item. The City of Arlington reserves the right to correct any arithmetic errors. It shall be the responsibility of the Bidder/ Proposer to verify the completeness of its set of Contract Documents and neither the City of Arlington nor any of its officers or consultants shall be held responsible for any omissions unless such omission has been called to the attention of the City of Arlington prior to the submission of bids.

6. **Completeness of Proposal** - The proposer must attach the ***Proposal Form*** signed by a duly authorized representative of the company or firm to bind the proposing firm contractually. A total bid amount must be included in the designated area on the Proposal Form. The proposal must include the completed Bid Schedule, if included, along with any other supporting documents requested in the Request for Bid.
7. **Withdrawal of Proposal** - Proposals may be withdrawn at any time prior to the Proposal Due Date and Time, provided notification is received in writing. Proposals cannot be changed or withdrawn after the Proposal Due Date and Time has passed.
8. **Rejection of Proposals** - The City reserves the right to reject any or all proposals, to waive any minor informalities or irregularities contained in any proposal, and to accept any proposal deemed to be in the best interest of the City.
9. **Bid/Proposal Modification and Clarifications** - Modification of a proposal already received will be considered only if the request is received prior to the Proposal Due Date and Time. All modifications must be made in writing, executed and submitted in the same form and manner as the original proposal.
10. **Bid/Proposal Signatures**
  - 13.1 An authorized representative must sign the Bid/Proposal, with the vendor's address and telephone information provided. Unsigned proposals will not be considered.
  - 13.2 If the proposal is made by an individual, the name, mailing address and signature of the individual must be shown.
  - 13.3 If the proposal is made by a firm or partnership, the name and mailing address of the firm or partnership and the signature of at least one of the general partners must be shown.
  - 13.4 If the proposal is made by a corporation, the name and mailing address of the corporation and the signature and title of the person who signs on behalf of the corporation must be shown.
  - 13.5 The City reserves the right to request documentation showing the authority of the individual signing the proposal to execute contracts on behalf of anyone, or any corporation, other than himself/herself. Refusal to provide such information upon request may cause the proposal to be rejected as non-responsive.
11. **Bid/Proposal Validity Period** - Submission of a proposal will signify the vendor's agreement that its proposal and the contents thereof are valid for 180 days following the submission deadline unless otherwise agreed to in writing by both parties. The proposal will become part of the contract that is negotiated between the City and the successful bidder.
12. **Request for Bid/Proposal Amendments**
  - 12.1 The City reserves the right to request that any respondent clarify its proposal or to supply any additional material deemed necessary to assist in the evaluation of the proposal

- 12.2 The City reserves the right to issue multiple awards based on the specialty of the supplier and to ensure adequate and timely services
- 12.3 The City reserves the right to change the Bid schedule or issue amendments to the Bid at any time. The City also reserves the right to cancel or re-issue the Bid. All such addenda will become part of the Bid. It is the contractor's/vendor's responsibility to check the City's web site for the issuance of any amendments prior to submitting a bid. If an amendment is issued, vendors must include an Acknowledgement of Amendment, in their submitted bid package.

### **13. Lowest Responsible Bidder**

- 13.1 The low Bidder shall be the responsive Bidder offering the lowest amount for the Base Bid plus Add Alternates (if applicable) selected by the City.
- 13.2 In selecting the responsible Bidder, consideration will be given to the general competency of the Bidder for the performance of the work covered by the proposal, and the Bidder's financial standing, if requested. To receive favorable consideration, a Bidder must present evidence satisfactory to the City of Arlington that the Bidder and its associates are personally competent to manage the proposed undertaking and to carry it forward to a successful conclusion. Professional integrity and honesty of purpose shall be essential requirements.
- 13.3 A showing of adequate financial resources may be requested by the City of Arlington, but will not alone determine whether a Bidder is competent to undertake the proposed work. Each Bidder must furnish a record of past performance and experience in the form required. To this end, each proposal, except as noted below, shall be supported by a statement of the Bidder's experience on the form provided. This form, completely filled out, must be submitted along with the proposal. Incomplete or false statements submitted in connection with a proposal may, at the option of the City of Arlington, be sufficient cause for its rejection. The City of Arlington shall be the final authority with regard to whether a bid is responsive to the Advertisement for Bid and as to whether a Bidder is a responsible Bidder under the conditions of this bid.

### **14. Prevailing Wage**

- 14.1 Although this is considered a service type contract, the vendor is required to pay, at a minimum, the applicable prevailing wage rates to those employees performing services under the contract. The applicable wage rates are set forth in the State of Washington Department of Labor and Industries Prevailing Wage Rate Schedule, RCW 39.12.020. If this project has federal funding, the higher of either the Prevailing Wage Rate Schedule or the Davis-Bacon Wage rate Schedule will apply for each work classification.
- 14.2 The prevailing wage schedule in effect for the work under the contract will be the one in effect upon the date of execution of the contract and will continue in effect for the first contract year. Wages paid to the employees of the selected vendor must be adjusted annually to recognize and follow the most recently promulgated increases or decreases in prevailing wages each year after the first year of the contract period.

- 14.3 It is the responsibility of the vendor to ensure the appropriate labor classification(s) are identified and that the applicable wage and benefit rates are taken into consideration when preparing their proposal according to these specifications.
  - 14.4 The selected vendor must submit to the Department of Labor and Industries, a "Statement of Intent to Pay Prevailing Wages". A copy of the certified Intent Statement must be submitted to the City prior to payment of the first invoice. The vendor will pay promptly, when due, all wages accruing to its employees.
  - 14.5 All invoice or payment applications are required to bear the following signed statement: "I certify that wages paid under this contract are equal to or greater than the applicable wage rates set forth in the Washington State Prevailing Wage Rates for Public Works Contracts issued by the State of Washington Department of Labor and Industries."
  - 14.6 The selected vendor must submit to the Department of Labor and Industries an "Affidavit of Wages Paid" and a copy of an approved Affidavit must be submitted at the end of the contract to the City before the last payment or any retained funds will be released.
  - 14.7 The cost of filing a Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid with the Department of Labor and Industries shall be at no additional cost to the City.
  - 14.8 The Director of the Department of Labor and Industries shall arbitrate all disputes of the prevailing wage rate, RCW 39.12.060 and WAC 296-127-060.
- 15. Public Records** - Under Washington state law, the documents (including but not limited to written, printed, graphic, electronic, photographic or voice mail materials and/or transcriptions, recordings or reproductions thereof) submitted in response to this request for bid/proposal (the "documents") become a public record upon submission to the City, subject to mandatory disclosure upon request by any person, unless the documents are exempted from public disclosure by a specific provision of law.
- 16. Equal Opportunity** - This City is committed to ensuring that all firms have an equal opportunity to participate in City bids, proposals and contracts.
- 17. Non-Discrimination** - The City of Arlington in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award. During the performance of the work contained in this bid, the vendor shall not discriminate on the basis of race, color, sex, religion, national origin, creed, marital status, age or the presence of any sensory, mental or physical handicaps in employment or application for employment or in the administration or delivery of services or any other benefits under the contract except to the extent permitted by bona fide occupation qualifications.

18. **Non-Endorsement** - As a result of the selection of a vendor to supply products and/or services to the City, the vendor agrees to make no reference to the City in any literature, promotional material, brochures, sales presentation or the like without the express written consent of the City.
19. **Non-Collusion Affidavit** - This Bid Information and Bid Form section includes information regarding Non-Collusion Requirements and how to report any suspected collusion activity.
20. **Execution of Contract.** A Bidder to whom the award is made shall be presented two official copies of the written contract with the City of Arlington in the form of Contract attached hereto. The Bidder shall execute and return to the City of Arlington along with approved bonds as required in the following paragraph, all in accordance with the provisions hereof within seven (7) calendar days of the Notice of Award or such additional time as may be allowed by the City of Arlington. Upon receipt of the signed contract and subsequent signature by the mayor of the City of Arlington will return a copy of the fully executed contract to the Bidder.

If a Bidder to whom the award is made fails or refuses to enter into contract as herein provided, or to conform to any of the stipulated requirements in connection therewith, its check, deposit, or Bid Bond shall become the property of the City of Arlington as provided herein, the award will be annulled, and in the discretion of the City of Arlington an award may be made to the Bidder whose proposal is next most acceptable to the City of Arlington; and such Bidder shall fulfill every stipulation embraced herein as if the Bidder were the party to whom the first award was made. A corporation to which an award is made will be required, before the contract is finally executed, to furnish evidence of its corporate existence and of the authority of the officer signing the contract and bond for the corporation to so sign.

**STATEMENT OF BIDDER'S QUALIFICATIONS**

Name of Bidder: \_\_\_\_\_ Email: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Contractors Registration Number and Expiration Date

Unified Business Identity Number

Federal Tax I.D. Number or Social Security Number

L & I Account Number

Employment Security Account Number

M/WBE Number, if applicable

State Excise Tax Registration Number

DUNS Number

Please provide the names and addresses of the corporation officers, members, partners or principals:

Name/Title

Address

_____	_____
_____	_____
_____	_____

Please provide the name of the Equal Opportunity Officer: \_\_\_\_\_

Is your company a member of any Union(s)? No Yes – Name(s) and Local(s): \_\_\_\_\_

Number of years the Company has been engaged in the construction business under the present name: \_\_\_\_\_

Type of work generally performed by Bidder: \_\_\_\_\_

List five projects, similar in scope to this project, including the owner, contact, and contact phone number that on-going or have been completed by the Bidder within the last five years.

Organization	Contact	Phone No.

**STATEMENT OF BIDDER'S QUALIFICATIONS (continued)**

Bank References:

Name	Address	Contact	Phone No.

Have you changed your Bonding and/or Insurance within the last three (3) years? No Yes – If yes, please explain:

\_\_\_\_\_

Name, address and contact information for your Insurance and Surety companies who will provide insurance and bonds for this project:

Name	Address	Contact	Phone No.

Has your company ever been served with a lawsuit and/or had a judgment and/or a lien placed upon itself and/or any corporation officers, members, partners or principals? No Yes – If yes, please explain:

\_\_\_\_\_

Has your company ever had a lawsuit served and/or placed a judgment and/or lien upon any public (i.e.: county, city, state, municipality, special district, etc) or governmental entity? No Yes – If yes, please explain:

\_\_\_\_\_

\_\_\_\_\_

Please provide the disposition of the case(s): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The information contained within this Statement of Bidder's Qualifications is true and accurate to the best of my knowledge.

\_\_\_\_\_  
Name of Bidder

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signed By

\_\_\_\_\_  
Title

**Failure to return this Declaration as part of the bid proposal package will make the bid nonresponsive and ineligible for award.**

## **NON-COLLUSION DECLARATION**

**I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:**

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.
2. **That by signing the signature page of this proposal, I am deemed to have signed and to have agreed to the provisions of this declaration.**

## **NOTICE TO ALL BIDDERS**

To report rigging activities call:

**1-800-424-9071**

The U.S. Department of Transportation (USDOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m., eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

## PROPOSAL FORM

This is the address to which all communications from the City concerned with this bid and contract should be sent:

Contractor	Contractors Registration No. and Expiration Date
Street Address	Federal Tax I.D. No. or Social Security No.
City, State and Zip Code	L & I Account Number
Phone	Unified Business Identity Number
Fax	

ATTN: Linda Taylor  
TO: City of Arlington Public Works  
ADDRESS: 154 W. Cox  
Arlington, Washington 98223

PROJECT: **Prairie Creek Stabilization Project**  
**City Project Number: P02.409**

Pursuant to and in compliance with your Invitation for Bid and the Instructions to Bidders and other documents relating thereto, the undersigned has carefully examined the drawings and specifications, as well as the premises and conditions affecting the work, and hereby proposes to furnish all labor and materials and to perform all work as required for construction of the improvements in strict accordance with the contract documents, specifications, and drawings for the amount shown.

<b>TOTAL BID AMOUNT</b> <i>(including sales tax)</i>	\$ _____
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### **BIDDER'S DECLARATION AND UNDERSTANDING**

If the undersigned is notified for the acceptance of this bid within sixty (60) calendar days of the time set for the opening of bids, the undersigned agrees to execute a contract for the above work bid in the form of the contract bound in these specifications and to provide a surety bond as required by the specifications.

The undersigned further agrees that the bid guaranty accompanying this bid is left in escrow with the City of Arlington; that the liquidated damages which the City of Arlington will sustain by the failure of the undersigned to execute and deliver the above-named contract and surety bond, for any or all units of this bid accepted by the City of Arlington, will be not less than five percent (5%) of the total bid for such unit or units; and that if the undersigned defaults in executing that contract and in furnishing the surety bond within time frame stated in Instructions to Bidders, then the bid guaranty shall become the property of the City of Arlington who shall be obligated only to refund that portion in excess of the liquidated damages. If, however, this bid or any part thereof is not accepted within sixty (60) calendar days of the time set for the opening of bids or if the undersigned executes and delivers said contract and surety bond, the bid guaranty shall be returned.

Name of Bidder	Date
Signed By	Title

**PROPOSAL FORM (Continued)**

**ADDENDA** - Receipt of Addenda numbered and dated below is hereby acknowledged.

Addendum No.	Dated	Initial	Addendum No.	Dated	Initial	Addendum No.	Dated	Initial

**PREVAILING WAGES**

The prevailing wages shall be paid to all workers, laborers, or mechanics (See 2014 WSDOT / APWA Standard Specifications)

**BID DEPOSIT**

No bid deposit is required for this bid.

**IF CORPORATION:**

IN WITNESS WHEREOF, the undersigned corporation has caused this instrument to be executed and its seal affixed by its duly authorized officers this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Attest:

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
Signature of Corporate Officer

\_\_\_\_\_  
Title

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Washington

residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

**IF SOLE PROPRIETOR, PARTNERSHIP, OR LIMITED LIABILITY COMPANY:**

IN WITNESS hereto, the undersigned has set his (its) hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of Bidder

\_\_\_\_\_  
Title

- NOTE:**
1. If the Bidder is a co-partnership, so state, giving the name under which business is transacted and have notarized.
  2. If the Bidder is a corporation, this Proposal must be executed by a duly authorized officer, have the Corporate Seal affixed and be notarized.

# ATTACHMENT #2

## CONTRACT DOCUMENTS

Project: Prairie Creek Stabilization

Project No.: P02.409

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This section contains contract forms that will be completed and executed after successful bidder/Proposer is awarded project.

- Sample Contract to be used on this project**
- Performance Bond**
- Payment Bond**
- Retainage Selection Option Form**

## PROFESSIONAL SERVICES AGREEMENT

### PRAIRIE CREEK STABILIZATION PROJECT, P02.409

THIS AGREEMENT, is made and entered into in duplicate this \_\_\_\_ day of August, 2016, by and between the CITY OF ARLINGTON, a Washington municipal corporation, hereinafter referred to as the "CITY" and, hereinafter referred to as the "SERVICE PROVIDER."

#### RECITALS:

WHEREAS, the CITY desires to have certain **Prairie Creek Stabilization** services and/or tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient CITY resources are not available to provide such services; and

WHEREAS, the SERVICE PROVIDER represents that the SERVICE PROVIDER is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

1. Scope of Services.

The SERVICE PROVIDER shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as SERVICE PROVIDER responsibilities throughout this Agreement and as detailed in Exhibit "A" Proposal for **Prairie Creek Stabilization** project attached hereto and incorporated herein (the "Project").

2. Term.

The Project shall begin **upon full execution of this agreement** and shall be completed no later than, **six months following agreement execution**, unless sooner terminated according to the provisions herein.

3. Compensation and Method of Payment.

- 3.1 Payments for services provided hereunder shall be made following the performance of such services, unless otherwise permitted by law and approved in writing by the CITY.
- 3.2 No payment shall be made for any service rendered by the SERVICE PROVIDER except for services identified and set forth in this Agreement.

3.3 The CITY shall pay the SERVICE PROVIDER for work performed under this Agreement as follows: SERVICE PROVIDER shall submit monthly invoices detailing work performed and expenses for which reimbursement is sought. CITY shall approve all invoices before payment is issued. Payment shall occur within thirty (30) days of receipt and approval of an invoice.

3.4 City shall pay SERVICE PROVIDER for such services: (check one)

• Hourly: \$ \_\_\_\_\_ per hour, plus actual expenses, but not to exceed a total of \$ \_\_\_\_\_ without an amendment to the contract.

• Fixed Sum: A total amount of \$ \_\_\_\_\_ in accordance with project Request for Bid and project proposal form included in Exhibit A.

• Other:

for all work performed and expenses incurred under this Contract.

#### 4. Reports And Inspections.

4.1 The SERVICE PROVIDER at such times and in such forms as the CITY may require, shall furnish to the CITY such statements, records, reports, data, and information as the CITY may request pertaining to matters covered by this Agreement.

4.2 The SERVICE PROVIDER shall at any time during normal business hours and as often as the CITY or State Auditor may deem necessary, make available for examination all of its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the CITY or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The CITY shall receive a copy of all audit reports made by the agency or firm as to the SERVICE PROVIDER'S activities. The CITY may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the SERVICE PROVIDER'S activities which relate, directly or indirectly, to this Agreement.

#### 5. Independent Contractor Relationship.

5.1 The parties intend that an independent SERVICE PROVIDER/CITY relationship will be created by this Agreement. The CITY is interested primarily in the results to be achieved; subject to paragraphs herein, the implementation of services will lie solely with the discretion of the SERVICE PROVIDER. No agent, employee, servant or representative of the SERVICE PROVIDER shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose, and the employees of the SERVICE PROVIDER are not entitled to any of the benefits the CITY provides for its employees. The SERVICE PROVIDER will be solely and entirely responsible for its

acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.

- 5.2 In the performance of the services herein contemplated the SERVICE PROVIDER is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the CITY and shall be subject to the CITY'S general rights of inspection and review to secure the satisfactory completion thereof.

6. Service Provider Employees/agents

The CITY may at its sole discretion require the SERVICE PROVIDER to remove any employee, agent or servant from employment on this Project. The SERVICE PROVIDER may however employ that (those) individual(s) on other non-CITY related projects.

7. Hold Harmless/Indemnification.

7.1 Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

7.2 No liability shall attach to the CITY by reason of entering into this Agreement except as expressly provided herein.

8. Insurance.

The SERVICE PROVIDER shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the SERVICE PROVIDER, its agents, representatives, or employees.

8.1 Minimum Scope of Insurance. SERVICE PROVIDER shall obtain insurance of the types described below:

a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named as an insured under the SERVICE PROVIDER'S Commercial General Liability insurance policy with respect to the work performed for the City.

- c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- d. Professional Liability insurance appropriate to the SERVICE PROVIDER's profession.

8.2 Minimum Amounts of Insurance. SERVICE PROVIDER shall maintain the following insurance limits:

- a. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- b. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
- c. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

8.3 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

- a. The SERVICE PROVIDER's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the SERVICE PROVIDER's insurance and shall not contribute with it.
- b. The SERVICE PROVIDER's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

8.4 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

8.5 Verification of Coverage. SERVICE PROVIDER shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the SERVICE PROVIDER before commencement of the work.

9. Treatment of Assets.

Title to all property furnished by the CITY shall remain in the name of the CITY and the CITY shall become the owner of the work product and other documents, if any, prepared by the SERVICE PROVIDER pursuant to this Agreement.

10. Compliance with Laws.

10.1 The SERVICE PROVIDER, in the performance of this Agreement, shall comply with all applicable federal, state or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and

licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

10.2 The SERVICE PROVIDER specifically agrees to pay any applicable business and occupation (B & O) taxes which may be due on account of this Agreement.

11. Nondiscrimination.

11.1 The CITY is an equal opportunity employer.

11.2 Nondiscrimination in Employment. In the performance of this Agreement, the SERVICE PROVIDER will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The SERVICE PROVIDER shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The SERVICE PROVIDER shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

11.3 Nondiscrimination in Services. The SERVICE PROVIDER will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

11.4 If any assignment and/or subcontracting has been authorized by the CITY, said assignment or subcontract shall include appropriate safeguards against discrimination. The SERVICE PROVIDER shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. Assignment/subcontracting.

12.1 The SERVICE PROVIDER shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the CITY, and it is further agreed that said consent must be sought in writing by the SERVICE PROVIDER not less than thirty (30) days prior to the date of any proposed assignment. The CITY reserves the right to reject without cause any such assignment.

12.2 Any work or services assigned hereunder shall be subject to each provision of this Agreement and proper bidding procedures where applicable as set forth in local, state and/or federal statutes, ordinances and guidelines.

12.3 Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the CITY.

13. Changes.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

14. Maintenance and Inspection of Records.

14.1 The SERVICE PROVIDER shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit, by the CITY, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

14.2 The SERVICE PROVIDER shall retain all books, records, documents and other material relevant to this agreement, for six (6) years after its expiration. The SERVICE PROVIDER agrees that the CITY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. Other Provisions.

If changes in state law necessitate that services hereunder be expanded, the parties shall negotiate an appropriate amendment. If after thirty (30) days of negotiation, agreement can not be reached, this Agreement may be terminated by the City no sooner than sixty (60) days thereafter.

16. Termination.

16.1 Termination for Convenience. The CITY may terminate this Agreement, in whole or in part, at any time, by at least five (5) days written notice to the SERVICE PROVIDER.

16.2 Termination for Cause. If the SERVICE PROVIDER fails to perform in the manner called for in this Agreement, or if the SERVICE PROVIDER fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within five (5) days written notice thereof, the CITY may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the SERVICE PROVIDER setting forth the manner in which the SERVICE PROVIDER is in default. The SERVICE PROVIDER will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

17. Notice.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

18. Attorneys Fees and Costs.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

19. Jurisdiction and Venue.

19.1 This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

19.2 Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Snohomish County, Washington.

20. Severability.

20.1 If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

20.2 If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

21. Entire Agreement.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

CITY:

SERVICE PROVIDER:

CITY OF ARLINGTON

\_\_\_\_\_  
Barbara Tolbert, Mayor

Attest:

\_\_\_\_\_  
Kristin Banfield, City Clerk



# PERFORMANCE BOND

To City of Arlington, Washington

Bond No. \_\_\_\_\_

The City of Arlington, Washington has awarded to \_\_\_\_\_(Principal), a contract for the construction of the project designated as Prairie Creek Stabilization, Project No. P02.409, in Arlington, Washington (Contract), and said Principal is required to furnish a bond for performance of all obligations under the Contract.

The Principal, and \_\_\_\_\_(Surety), a corporation, organized under the laws of the State of and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the [City or County], in the sum of \_\_\_\_\_US Dollars (\$) Total Contract Amount, subject to the provisions herein.

This statutory performance bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall well and faithfully perform all of the Principal's obligations under the Contract and fulfill all terms and conditions of all duly authorized modifications, additions, and changes to said Contract that may hereafter be made, at the time and in the manner therein specified; and if such performance obligations have not been fulfilled, this bond shall remain in force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the office executing on behalf of the surety.

PRINCIPAL

SURETY

\_\_\_\_\_  
Principal Signature Date

\_\_\_\_\_  
Surety Signature Date

\_\_\_\_\_  
Printed Name Date

\_\_\_\_\_  
Printed Name Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Name, address, and telephone of local office/agent of Surety Company is:

Approved as to form:

\_\_\_\_\_  
City Attorney, City of Arlington

\_\_\_\_\_  
Date



# PAYMENT BOND

To City of Arlington, Washington

Bond No. \_\_\_\_\_

The City of Arlington, Washington has awarded to \_\_\_\_\_ (Principal), a contract for the construction of the project designated as Prairie Creek Stabilization, Project No. P02.409, in Arlington, Washington (Contract), and said Principal is required to furnish a payment bond in accordance with Title 39.08 Revised Code of Washington (RCW) and (where applicable) 60.28 RCW.

The Principal, and \_\_\_\_\_ (Surety), a corporation organized under the laws of the State of \_\_\_\_\_ and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the [City or County], in the sum of \_\_\_\_\_ US Dollars (\$) ) Total Contract Amount, subject to the provisions herein.

This statutory payment bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW 39.08, 39.12, and 60.28 including all workers, laborers, mechanics, subcontractors, and materialmen, and all person who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work, and all taxes incurred on said Contract under Titles 50 and 51 RCW and all taxes imposed on the Principal under Title 82 RCW; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any changes, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the office executing on behalf of the surety.

PRINCIPAL

SURETY

\_\_\_\_\_  
Principal Signature Date

\_\_\_\_\_  
Surety Signature Date

\_\_\_\_\_  
Printed Name Date

\_\_\_\_\_  
Printed Name Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Name, address, and telephone of local office/agent of Surety Company is:

Approved as to form:

\_\_\_\_\_  
City Attorney, City of Arlington

\_\_\_\_\_  
Date



# RETAINAGE OPTION

## CONTRACTOR'S OPTION FOR RETAINED PERCENTAGE ON PUBLIC WORKS CONTRACTS

Project: Prairie Creek Stabilization, P02.409

Contractor: \_\_\_\_\_

RCW 60.28 as amended by (Chapter 223, laws of 1994) Regular Session allows each prime contractor on a Public Works contract the following options concerning the amount reserved as retainage from moneys earned by the contractor.

### Retainage Option Selection *(Please Initial Selected Option)*

\_\_\_\_ Retained in a non-interest bearing fund by the City until forty-five days following the final acceptance of said improvement or work as completed.

\_\_\_\_ Bond in lieu of retainage. Use City of Arlington Retainage Bond form. *Complete and submit attached Retainage Bond section with Retainage Option selection.*

\_\_\_\_ Deposited by the City in an interest bearing account or escrow account in a bank, mutual savings bank, or savings and loan association designated by the contractor (Form D-162), not subject to withdrawal until after the final acceptance of said improvement or work as completed, or until agreed to by both parties; PROVIDED, that interest on such account shall be paid to the contractor. *Complete and submit attached Retainage Escrow Account section with Retainage Option selection..*

#### PRINCIPAL

#### FIRM or COMPANY

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Name of Firm or Company

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Title

\_\_\_\_\_  
City/State/Zip

Approved as to form:

\_\_\_\_\_  
City Attorney, City of Arlington Date



# RETAINAGE BOND

To: City of Arlington, Washington

Bond No: \_\_\_\_\_

KNOW ALL BY THESE PRESENTS that \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_ and authorized to do business in the State of Washington as Principal ("Principal") and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_ and authorized and admitted to transact business in the State of Washington as Surety ("Surety"), are jointly and severally held and bound unto the CITY OF ARLINGTON as Obligee ("Owner") for the use and benefit of Claimants defined below as beneficiaries of the trust fund created by RCW 60.28, in the amount of described below for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, on the day of 201\_, the Principal entered into a contract with the Owner in accordance with Drawings, Specifications, and other Contract Documents, which contract is by reference made a part of this Retainage Bond ("Contract"); AND WHEREAS, the Contract and RCW 60.28 require the Owner to reserve from the monies earned by the Principal on estimates during the progress of the improvement or work a sum not to exceed 5% ("Retained Funds");

AND WHEREAS, Principal has requested under RCW 60.28.011(6) to submit a bond for all or a portion of the Retained Funds, and the Owner is required by the statute to accept a satisfactory bond in lieu of the Retained Funds unless it can demonstrate good cause for refusing it;

AND WHEREAS, it is the intent of the Principal, the Surety, and the Owner that this Retainage Bond and any proceeds from it are subject to all claims and liens in the same manner and priority as set forth for retained percentages in RCW 60.28;

NOW THEREFORE, the condition of this obligation is that, if there are no valid claims by any person or entity arising under the Contract pursuant to RCW 60.28, and no payment due from the Principal to the State of Washington with respect to taxes imposed pursuant to Title 82 RCW or payments pursuant to RCW 50.42, then this obligation shall be void; otherwise, it shall remain in full force and effect, subject, however, to the following conditions:

1. The Principal and Surety hereby jointly and severally agree among themselves and with the Owner that every person or entity making a valid claim on the Retained Fund pursuant to RCW 60.28 ("Claimant") who has not been paid in full before the expiration of a period of forty-five (45) days after the completion of all Contract work may sue on this Retainage Bond for the use and benefit of the Claimant, prosecute the suit to final judgment for the sum justly due the Claimant, if any, and have execution on this Retainage Bond, all in accordance with and to the extent permissible under RCW 60.28. The Owner shall not be liable for the payment of any costs or expenses, including attorneys' fees, of any such suit.
2. No suit or action shall be commenced under this Retainage Bond by any Claimant:
  - (a) Unless the Claimant has complied with the requirements of RCW 60.28, and
  - (b) Other than in a state court of competent jurisdiction in and for Snohomish County, and not elsewhere.





# RETAINAGE ESCROW ACCOUNT

\_\_\_\_\_  
Bank or Trust Company

\_\_\_\_\_  
Branch

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

Escrow No. \_\_\_\_\_  
Bank Account # \_\_\_\_\_

Agency: City of Arlington  
238 N. Olympic Ave  
Arlington, WA 98223

Project Name: \_\_\_\_\_

The Undersigned, \_\_\_\_\_, herein referred to as the Contractor, has directed City of Arlington, and hereinafter referred to as the Agency, to deliver to you its warrants or checks, which shall be payable to you and the Contractor jointly. Such warrants or checks are to be held and disposed of by you in accordance with the following instructions and upon the terms and conditions hereinafter set forth.

### INSTRUCTIONS

1. Warrants or checks made payable to you and the Contractor jointly upon delivery to you shall be endorsed by you and forwarded for collection. The monies will then be used by you to purchase, as directed by the Contractor, bonds or other securities chosen by the Contractor and approved by the Agency. Attached is a list of the types of such bonds, or other securities approved by the Agency. Other bonds or securities, except stocks may be selected by the Contractor, subject to express written approval of the Agency. Purchase of such bonds or other securities shall be in a form which shall allow you alone to reconvert such bonds or other securities into money if you are required to do so by the Agency as provided in Paragraph 4 of the Escrow Agreement.
2. When and as interest on the securities held by you pursuant to this agreement accrues and is paid, you shall collect such interest and forward it to the Contractor at its address designated below unless otherwise directed by the Contractor.
3. You are not authorized to deliver to the Contractor all or any part of the securities held by you pursuant to this agreement (or any monies derived from the sale of such securities or the negotiation of the Agency's warrants or checks) except in accordance with written instructions from the Agency. Compliance with such instructions shall relieve you of any further liability related thereto. The estimated completion date on the contract underlying this Escrow Agreement is . \_\_\_\_\_ subject to change as provided for by contract provisions.

RETAINAGE ESCROW ACCOUNT (cont'd)

4. The Contractor agrees to pay you as compensation for your services hereunder as follows:

Payment of all fees shall be the sole responsibility of the Contractor and shall not be deducted from any property placed with you pursuant to this agreement until and unless the Agency directs the release to the Contractor of the securities and monies held hereunder whereupon you shall be granted a first lien upon such property released and shall be entitled to reimburse yourself from such property for the entire amount of your fees as provided for herein above. In the event that you are made a party to any litigation with respect to the property held by you hereunder, or in the event that the conditions of this escrow are not promptly fulfilled or that you are required to render any service not provided for in these instructions or that there is any compensation for such extraordinary services from the Contractor and reimbursement from the Contractor for all costs and expenses, including attorney fees occasioned by such default, delay, controversy, or litigation.

5. This agreement shall not be binding until executed by the Contractor and the Agency and accepted by you.

6. This instrument contains the entire agreement between you, the Contractor and the Agency with respect to this escrow and you are not a party to nor bound by any instrument agreement other than this, you shall not be required to take notice of any default or any other matter, nor be bound by nor required to give notice or demand, nor required to take action whatever except as herein expressly provided; you shall not be liable for any loss or damage not caused by your own negligence or willful misconduct.

7. The foregoing provisions shall be binding upon assigns, successors, personal representatives, and heirs of the parties hereto.

The undersigned have read and hereby approve the instruction as given about governing the administration of this escrow and do hereby execute this agreement on this \_\_\_Day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Contractor)

City of Arlington  
\_\_\_\_\_  
(Agency)

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Address)

238 North Olympic  
\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City-State-Zip)

Arlington, WA 98223  
\_\_\_\_\_  
(City-State-Zip)

The above escrow instruction received and accepted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Bank or Trust Company

\_\_\_\_\_  
Authorized Signature

# ATTACHMENT #3

## CONTRACT DOCUMENTS

Project: Prairie Creek Stabilization

Project No.: P02.409

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This attachment contains contract drawing that support this project:

- Washington Department of Fish and Wildlife Hydraulic Permit (XXXX)
- US Army Corps of Engineers Permit and attachments (Permit XXXX)
- Vicinity Map (1 page, 8½" x 11")
- Structure Details (2 pages, 8½" x 11")



# HYDRAULIC PROJECT APPROVAL

Washington Department of  
Fish & Wildlife  
PO Box 43234  
Olympia, WA 98504-3234  
(360) 902-2200

Issued Date: September 01, 2015  
Project End Date: August 31, 2020

Permit Number: 2015-4-672+01  
FPA/Public Notice Number: N/A  
Application ID: 4672

PERMITTEE	AUTHORIZED AGENT OR CONTRACTOR
City of Arlington ATTENTION: Bill Blake 154 W Cox Arlington, WA 98223	

**Project Name:** Prairie Creek Instream Habitat Installation and Sediment Reduction Project

**Project Description:** The project goal is to install a combination of LWD and rock structures to provide instream fish habitat, stabilize the streambed, and reduce the severe stream bank erosion causing excessive deposits of fine sediments burying downstream spawning gravels.

## PROVISIONS

### TIMING - PLANS - INVASIVE SPECIES CONTROL

1. TIMING LIMITATION: Work below the ordinary high water line must only occur between July 15 and September 30.
2. APPROVED PLANS: You must accomplish the work per plans and specifications submitted with the application and approved by the Washington Department of Fish and Wildlife, entitled "Prairie Creek Sediment Reduction Project", dated May 12, 2015, except as modified by this Hydraulic Project Approval. You must have a copy of these plans available on site during all phases of the project proposal.

### NOTIFICATION REQUIREMENTS

3. PRE- AND POST-CONSTRUCTION NOTIFICATION: You, your agent, or contractor must contact the Washington Department of Fish and Wildlife by e-mail at [HPAapplications@dfw.wa.gov](mailto:HPAapplications@dfw.wa.gov); mail to Post Office Box 43234, Olympia, Washington 98504-3234; or fax to (360) 902-2946 at least three business days before starting work, and again within seven days after completing the work. The notification must include the permittee's name, project location, starting date for work or date the work was completed, and the permit number. The Washington Department of Fish and Wildlife may conduct inspections during and after construction; however, the Washington Department of Fish and Wildlife will notify you or your agent before conducting the inspection.
4. PHOTOGRAPHS: You, your agent, or contractor must take photographs of representative portions of the job site before the work begins and after the work is completed. You must upload the photographs to the post-permit requirement page in the Aquatic Protection Permitting System (APPS) or mail them to Washington Department of Fish and Wildlife at Post Office Box 43234, Olympia, Washington 98504-3234 within 30-days after the work is completed.
5. FISH KILL/ WATER QUALITY PROBLEM NOTIFICATION: If a fish kill occurs or fish are observed in distress at the job site, immediately stop all activities causing harm. Immediately notify the Washington Department of Fish and Wildlife of the problem. If the likely cause of the fish kill or fish distress is related to water quality, also notify the Washington Military Department Emergency Management Division at 1-800-258-5990. Activities related to the fish kill or fish distress must not resume until the Washington Department of Fish and Wildlife gives approval. The Washington Department of Fish and Wildlife may require additional measures to mitigate impacts.

### STAGING, JOB SITE ACCESS, AND EQUIPMENT

6. Establish staging areas (used for equipment storage, vehicle storage, fueling, servicing, and hazardous material



# HYDRAULIC PROJECT APPROVAL

Washington Department of  
Fish & Wildlife  
PO Box 43234  
Olympia, WA 98504-3234  
(360) 902-2200

Issued Date: September 01, 2015  
Project End Date: August 31, 2020

Permit Number: 2015-4-672+01  
FPA/Public Notice Number: N/A  
Application ID: 4672

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storage) in a location and manner that will prevent contaminants such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials from entering waters of the state.

7. Design and locate new temporary access routes to prevent erosion and sediment delivery to waters of the state.
8. Limit the removal of native bankline vegetation to the minimum amount needed to construct the project.
9. Retain all natural habitat features on the bed or banks including large woody material and boulders. You may move these natural habitat features during construction but you must place them near the preproject location before leaving the job site.
10. Station and operate equipment used for this project landward of the ordinary high water line.
11. Limit the use of equipment waterward of the ordinary high water line to that necessary to gain position for the work.
12. Remove soil or debris from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to operating the equipment waterward of the ordinary high water line.
13. If wet or muddy conditions exist, in or near a riparian zone or wetland area, use equipment that reduces ground pressure.
14. Check equipment daily for leaks and complete any required repairs in an upland location before using the equipment in or near the water.
15. Use environmentally acceptable lubricants composed of biodegradable base oils such as vegetable oils, synthetic esters, and polyalkylene glycols in equipment operated in or near the water.
16. This Hydraulic Project Approval authorizes equipment crossings of the stream. Confine crossings to the least number of crossings necessary to complete the work. These stream crossings do not result in "establishing a ford".
17. Equipment must cross the creek in the most direct route and in a manner that does the least damage to the bed, streambank and streambank vegetation. If needed, you must place planks, matting or other suitable clean temporary material on the bank when driving equipment into and out of the channel to prevent damage.

## CONSTRUCTION-RELATED SEDIMENT, EROSION AND POLLUTION CONTAINMENT

18. Protect all disturbed areas from erosion. Maintain erosion and sediment control until all work and cleanup of the job site is complete.
19. All erosion control materials that will remain onsite must be composed of 100% biodegradable materials.
20. Straw used for erosion and sediment control, must be certified free of noxious weeds and their seeds.
21. Stop all hydraulic project activities except those needed to control erosion and siltation, if flow conditions arise that will result in erosion or siltation of waters of the state.
22. Prevent project contaminants, such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials, from entering or leaching into waters of the state.
23. Deposit waste material from the project, such as construction debris, silt, excess dirt, or overburden, in an upland area above the limits of anticipated floodwater unless the material is approved by the Washington Department of Fish and Wildlife for reuse in the project.
24. Deposit all trash from the project at an appropriate upland disposal location.

## CONSTRUCTION MATERIALS

25. Store all construction and deconstruction material in a location and manner that will prevent contaminants such as petroleum products, hydraulic fluid, fresh cement, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials from entering waters of the state.
26. Do not stockpile construction material waterward of the ordinary high water line.



## HYDRAULIC PROJECT APPROVAL

Washington Department of  
Fish & Wildlife  
PO Box 43234  
Olympia, WA 98504-3234  
(360) 902-2200

Issued Date: September 01, 2015  
Project End Date: August 31, 2020

Permit Number: 2015-4-672+01  
FPA/Public Notice Number: N/A  
Application ID: 4672

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27. Rock must be large enough and installed such to withstand the 25-year peak flow.

### IN-WATER WORK AREA ISOLATION USING BLOCK NETS

28. Isolate fish from the work area by using block nets.
29. Install block nets at sites with reduced flow volume or velocity, uniform depth, and good accessibility.
30. Do not install block nets at sites with heavy vegetation, large cobble or boulders, undercut banks, or deep pools unless you can secure and maintain them.
31. Install block nets at an angle to the direction of flow (not perpendicular to the flow) to avoid entrapping fish in the nets.
32. After the first block net is secured at the upstream end, use a second block net to herd fish downstream and out of the project area.
33. Install a downstream block net if fish may reenter the work area from downstream.
34. To anchor block nets, place bags filled with clean round gravel along the bottom of the nets.
35. Secure block nets along both banks and the channel bottom to prevent failure from debris accumulation, high flows, and/or flanking.
36. To keep fish out of the job site, leave block nets in place until the work is complete and conditions are suitable for fish.
37. Check block nets at least three times a day for entangled fish and accumulated debris.

### IN-WATER WORK WITHOUT A BYPASS OR COFFERDAM

38. This Hydraulic Project Approval does not require the use of a cofferdam, bypass, or similar structure to separate the work area from waters of the state, provided that no excavation takes place within the wetted stream channel.
39. A temporary bypass is not required when the following circumstances exist, provided you can comply with the Hydraulic Project Approval provisions:
  - a) When installing a coffer dam, bypass or similar structure would cause greater impacts to fish life than it would prevent;
  - b) When the work area is in deep or swiftly flowing water;
  - c) When turbidity is not a concern (i.e. the stream is dry, very slow flow);
  - d) When fish can be excluded by nets or screens; or
  - e) When fish are not present.

### IN-WATER WORK AREA ISOLATION USING A TEMPORARY BYPASS

40. If the conditions contained in Provisions 38 and 39 can not be met, a temporary bypass must be installed and Provisions 41 through 46 must be complied with.
41. Sequence the work to minimize the duration of dewatering.
42. Use the least-impacting feasible method to temporarily bypass water from the work area. Consider the physical characteristics of the site and the anticipated volume of water flowing through the work area.
43. Design the temporary bypass to minimize the length of the dewatered stream channel.
44. During all phases of bypass installation and decommissioning, maintain flows downstream of the project site to ensure survival of all downstream fish.
45. Return diverted water to the channel immediately downstream of the work area. Dissipate flow energy from the diversion to prevent scour or erosion of the channel and bank.
46. If the bypass is a pumped diversion, once started it must run continuously until it is no longer necessary to bypass flows. This requires back-up pumps on-site and twenty-four-hour monitoring for overnight operation.



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## FISH LIFE REMOVAL

- 47. All persons participating in capture and removal must have training, knowledge, and skills in the safe handling of fish life.
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- 49. If personnel are available, the Washington Department of Fish and Wildlife and affected tribes may help capture and move fish life from the job site.
- 50. Place block nets upstream and downstream of the in-water work area before capturing and removing fish life.
- 51. Capture and safely move fish life from the work area to the nearest suitable free-flowing water.

## LARGE WOODY MATERIAL

- 52. When placing, repositioning, or removing large woody material, station equipment on the bank.
- 53. Do not drag large woody material. Suspend large woody material during placement, repositioning, or removal so it does not damage the bed or banks. A yarding corridor or full suspension is required to protect riparian zone vegetation. Full suspension can be achieved with hand-operated or heavy equipment or aerial log yarding towers.
- 54. Do not disturb large woody material embedded in a bank or bed except as approved by the Washington Department of Fish and Wildlife.

## DEMOBILIZATION AND CLEANUP

- 55. Before the end of the in-water work period specified in the "timing limitations" provision, remove all temporary stream crossings and restore the bed and banks to preproject condition.
- 56. To prevent fish from stranding, backfill trenches, depressions, and holes in the bed that may entrain fish during high water or wave action.
- 57. Replace native riparian zone and aquatic vegetation, and wetland vascular plants (except noxious weeds) damaged or destroyed by construction using a proven methodology.
- 58. Upon completion of the project, remove all materials or equipment from the site and dispose of all excess spoils and waste materials in an upland area above the limits of anticipated floodwater.
- 59. Remove temporary erosion and sediment control methods after job site is stabilized or within three months of project completion, whichever is sooner.

LOCATION #1:		Site Name: Prairie Creek Near 74th Ave NE, Arlington, WA 98223				
WORK START:		September 1, 2015		WORK END:		August 31, 2020
<u>WRIA</u>		<u>Waterbody:</u>			<u>Tributary to:</u>	
05 - Stillaguamish		Prairie Creek			Portage Creek	
<u>1/4 SEC:</u>	<u>Section:</u>	<u>Township:</u>	<u>Range:</u>	<u>Latitude:</u>	<u>Longitude:</u>	<u>County:</u>
	14	31 N	05 E	48.175633	-122.129632	Snohomish
<u>Location #1 Driving Directions</u>						



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From the intersection of Highway 9 and 204h Ave NE travel west on 204th Avenue NE one block and turn south on 74th Ave NE. Travel approximately 3-blocks to 201st St NE and park on the south side of the intersection of 74th Ave NE and 201st St NE.

## APPLY TO ALL HYDRAULIC PROJECT APPROVALS

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This Hydraulic Project Approval shall be available on the job site at all times and all its provisions followed by the person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work.

This Hydraulic Project Approval does not authorize trespass.

The person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this Hydraulic Project Approval.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day and/or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All Hydraulic Project Approvals issued under RCW 77.55.021 are subject to additional restrictions, conditions, or revocation if the Department of Fish and Wildlife determines that changed conditions require such action. The person(s) to whom this Hydraulic Project Approval is issued has the right to appeal those decisions. Procedures for filing appeals are listed below.

**MINOR MODIFICATIONS TO THIS HPA:** You may request approval of minor modifications to the required work timing or to the plans and specifications approved in this HPA. Any approved minor modification will require issuance of a letter documenting the approval. A minor modification to the required work timing means any change to the work start or end dates of the current work season to enable project or work phase completion. Minor modifications will be approved only if spawning or incubating fish are not present within the vicinity of the project. You may request subsequent minor modifications to the required work timing. A minor modification of the plans and specifications means any changes in the materials, characteristics or construction of your project that does not alter the project's impact to fish life or habitat and does not require a change in the provisions of the HPA to mitigate the impacts of the modification. Minor modifications do not require you to pay additional application fees or be issued a new HPA. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a minor modification through APPS. A link to APPS is at <http://wdfw.wa.gov/licensing/hpa/>. If you do not use APPS you must submit a written request that clearly indicates you are seeking a minor modification to an existing HPA. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the control number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. Send by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234, or by email to [HPAapplications@dfw.wa.gov](mailto:HPAapplications@dfw.wa.gov). Do not include payment with your request. You should allow up to 45 days for the department to process your request.



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**MAJOR MODIFICATIONS TO THIS HPA:** You may request approval of major modifications to any aspect of your HPA. Any approved change other than a minor modification to your HPA will require issuance of a new HPA. If you paid an application fee for your original HPA you must pay an additional \$150 for the major modification. If you did not pay an application fee for the original HPA, no fee is required for a change to it. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a major modification through APPS. A link to APPS is at <http://wdfw.wa.gov/licensing/hpa/>. If you do not use APPS you must submit a written request that clearly indicates you are requesting a major modification to an existing HPA. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the control number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, payment of the application the original application was subject to an application fee, and the requestor's signature. Send your written request and payment, if applicable, by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. You should allow up to 45 days for the department to process your request.

### APPEALS INFORMATION

If you wish to appeal the issuance, denial, conditioning, or modification of a Hydraulic Project Approval (HPA), Washington Department of Fish and Wildlife (WDFW) recommends that you first contact the department employee who issued or denied the HPA to discuss your concerns. Such a discussion may resolve your concerns without the need for further appeal action. If you proceed with an appeal, you may request an informal or formal appeal. WDFW encourages you to take advantage of the informal appeal process before initiating a formal appeal. The informal appeal process includes a review by department management of the HPA or denial and often resolves issues faster and with less legal complexity than the formal appeal process. If the informal appeal process does not resolve your concerns, you may advance your appeal to the formal process. You may contact the HPA Appeals Coordinator at (360) 902-2534 for more information.

**A. INFORMAL APPEALS:** WAC 220-660-460 is the rule describing how to request an informal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete informal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request an informal appeal of that action. You must send your request to WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to [HPAapplications@dfw.wa.gov](mailto:HPAapplications@dfw.wa.gov); fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. WDFW must receive your request within 30 days from the date you receive notice of the decision. If you agree, and you applied for the HPA, resolution of the appeal may be facilitated through an informal conference with the WDFW employee responsible for the decision and a supervisor. If a resolution is not reached through the informal conference, or you are not the person who applied for the HPA, the HPA Appeals Coordinator or designee will conduct an informal hearing and recommend a decision to the Director or designee. If you are not satisfied with the results of the informal appeal, you may file a request for a formal appeal.

**B. FORMAL APPEALS:** WAC 220-660-470 is the rule describing how to request a formal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete formal appeal procedures. The following information summarizes that rule.



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A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request a formal appeal of that action. You must send your request for a formal appeal to the clerk of the Pollution Control Hearings Boards and serve a copy on WDFW within 30 days from the date you receive notice of the decision. You may serve WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to [HPAapplications@dfw.wa.gov](mailto:HPAapplications@dfw.wa.gov); fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, you may request a formal appeal within 30 days from the date you receive the Director's or designee's written decision in response to the informal appeal.

C. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS: If there is no timely request for an appeal, the WDFW action shall be final and unappealable.

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Habitat Biologist      Paul.Marczin@dfw.wa.gov  
Paul Marczin          425-379-2303

A handwritten signature in black ink that reads "Paul Marczin".

for Director  
WDFW

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# HYDRAULIC PROJECT APPROVAL

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PERMITTEE	AUTHORIZED AGENT OR CONTRACTOR
City of Arlington ATTENTION: Bill Blake 154 W Cox Arlington, WA 98223	

**Project Name:** Prairie Creek Instream Habitat Installation and Sediment Reduction Project

**Project Description:** The project goal is to install a combination of LWD and rock structures to provide instream fish habitat, stabilize the streambed, and reduce the severe stream bank erosion causing excessive deposits of fine sediments burying downstream spawning gravels.

## PROVISIONS

### TIMING - PLANS - INVASIVE SPECIES CONTROL

1. TIMING LIMITATION: Work below the ordinary high water line must only occur between July 15 and September 30.
2. APPROVED PLANS: You must accomplish the work per plans and specifications submitted with the application and approved by the Washington Department of Fish and Wildlife, entitled "Prairie Creek Sediment Reduction Project", dated May 12, 2015, except as modified by this Hydraulic Project Approval. You must have a copy of these plans available on site during all phases of the project proposal.

### NOTIFICATION REQUIREMENTS

3. PRE- AND POST-CONSTRUCTION NOTIFICATION: You, your agent, or contractor must contact the Washington Department of Fish and Wildlife by e-mail at [HPAapplications@dfw.wa.gov](mailto:HPAapplications@dfw.wa.gov); mail to Post Office Box 43234, Olympia, Washington 98504-3234; or fax to (360) 902-2946 at least three business days before starting work, and again within seven days after completing the work. The notification must include the permittee's name, project location, starting date for work or date the work was completed, and the permit number. The Washington Department of Fish and Wildlife may conduct inspections during and after construction; however, the Washington Department of Fish and Wildlife will notify you or your agent before conducting the inspection.
4. PHOTOGRAPHS: You, your agent, or contractor must take photographs of representative portions of the job site before the work begins and after the work is completed. You must upload the photographs to the post-permit requirement page in the Aquatic Protection Permitting System (APPS) or mail them to Washington Department of Fish and Wildlife at Post Office Box 43234, Olympia, Washington 98504-3234 within 30-days after the work is completed.
5. FISH KILL/ WATER QUALITY PROBLEM NOTIFICATION: If a fish kill occurs or fish are observed in distress at the job site, immediately stop all activities causing harm. Immediately notify the Washington Department of Fish and Wildlife of the problem. If the likely cause of the fish kill or fish distress is related to water quality, also notify the Washington Military Department Emergency Management Division at 1-800-258-5990. Activities related to the fish kill or fish distress must not resume until the Washington Department of Fish and Wildlife gives approval. The Washington Department of Fish and Wildlife may require additional measures to mitigate impacts.

### STAGING, JOB SITE ACCESS, AND EQUIPMENT

6. Establish staging areas (used for equipment storage, vehicle storage, fueling, servicing, and hazardous material



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storage) in a location and manner that will prevent contaminants such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials from entering waters of the state.

7. Design and locate new temporary access routes to prevent erosion and sediment delivery to waters of the state.
8. Limit the removal of native bankline vegetation to the minimum amount needed to construct the project.
9. Retain all natural habitat features on the bed or banks including large woody material and boulders. You may move these natural habitat features during construction but you must place them near the preproject location before leaving the job site.
10. Station and operate equipment used for this project landward of the ordinary high water line.
11. Limit the use of equipment waterward of the ordinary high water line to that necessary to gain position for the work.
12. Remove soil or debris from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to operating the equipment waterward of the ordinary high water line.
13. If wet or muddy conditions exist, in or near a riparian zone or wetland area, use equipment that reduces ground pressure.
14. Check equipment daily for leaks and complete any required repairs in an upland location before using the equipment in or near the water.
15. Use environmentally acceptable lubricants composed of biodegradable base oils such as vegetable oils, synthetic esters, and polyalkylene glycols in equipment operated in or near the water.
16. This Hydraulic Project Approval authorizes equipment crossings of the stream. Confine crossings to the least number of crossings necessary to complete the work. These stream crossings do not result in "establishing a ford".
17. Equipment must cross the creek in the most direct route and in a manner that does the least damage to the bed, streambank and streambank vegetation. If needed, you must place planks, matting or other suitable clean temporary material on the bank when driving equipment into and out of the channel to prevent damage.

## CONSTRUCTION-RELATED SEDIMENT, EROSION AND POLLUTION CONTAINMENT

18. Protect all disturbed areas from erosion. Maintain erosion and sediment control until all work and cleanup of the job site is complete.
19. All erosion control materials that will remain onsite must be composed of 100% biodegradable materials.
20. Straw used for erosion and sediment control, must be certified free of noxious weeds and their seeds.
21. Stop all hydraulic project activities except those needed to control erosion and siltation, if flow conditions arise that will result in erosion or siltation of waters of the state.
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23. Deposit waste material from the project, such as construction debris, silt, excess dirt, or overburden, in an upland area above the limits of anticipated floodwater unless the material is approved by the Washington Department of Fish and Wildlife for reuse in the project.
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LOCATION #1:		Site Name: Prairie Creek Near 74th Ave NE, Arlington, WA 98223				
WORK START:		September 1, 2015		WORK END:		August 31, 2020
<u>WRIA</u>		<u>Waterbody:</u>			<u>Tributary to:</u>	
05 - Stillaguamish		Prairie Creek			Portage Creek	
<u>1/4 SEC:</u>	<u>Section:</u>	<u>Township:</u>	<u>Range:</u>	<u>Latitude:</u>	<u>Longitude:</u>	<u>County:</u>
	14	31 N	05 E	48.175633	-122.129632	Snohomish
<u>Location #1 Driving Directions</u>						



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This Hydraulic Project Approval does not authorize trespass.

The person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this Hydraulic Project Approval.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day and/or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All Hydraulic Project Approvals issued under RCW 77.55.021 are subject to additional restrictions, conditions, or revocation if the Department of Fish and Wildlife determines that changed conditions require such action. The person(s) to whom this Hydraulic Project Approval is issued has the right to appeal those decisions. Procedures for filing appeals are listed below.

**MINOR MODIFICATIONS TO THIS HPA:** You may request approval of minor modifications to the required work timing or to the plans and specifications approved in this HPA. Any approved minor modification will require issuance of a letter documenting the approval. A minor modification to the required work timing means any change to the work start or end dates of the current work season to enable project or work phase completion. Minor modifications will be approved only if spawning or incubating fish are not present within the vicinity of the project. You may request subsequent minor modifications to the required work timing. A minor modification of the plans and specifications means any changes in the materials, characteristics or construction of your project that does not alter the project's impact to fish life or habitat and does not require a change in the provisions of the HPA to mitigate the impacts of the modification. Minor modifications do not require you to pay additional application fees or be issued a new HPA. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a minor modification through APPS. A link to APPS is at <http://wdfw.wa.gov/licensing/hpa/>. If you do not use APPS you must submit a written request that clearly indicates you are seeking a minor modification to an existing HPA. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the control number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. Send by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234, or by email to [HPAapplications@dfw.wa.gov](mailto:HPAapplications@dfw.wa.gov). Do not include payment with your request. You should allow up to 45 days for the department to process your request.



## HYDRAULIC PROJECT APPROVAL

Washington Department of  
Fish & Wildlife  
PO Box 43234  
Olympia, WA 98504-3234  
(360) 902-2200

Issued Date: September 01, 2015  
Project End Date: August 31, 2020

Permit Number: 2015-4-672+01  
FPA/Public Notice Number: N/A  
Application ID: 4672

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**MAJOR MODIFICATIONS TO THIS HPA:** You may request approval of major modifications to any aspect of your HPA. Any approved change other than a minor modification to your HPA will require issuance of a new HPA. If you paid an application fee for your original HPA you must pay an additional \$150 for the major modification. If you did not pay an application fee for the original HPA, no fee is required for a change to it. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a major modification through APPS. A link to APPS is at <http://wdfw.wa.gov/licensing/hpa/>. If you do not use APPS you must submit a written request that clearly indicates you are requesting a major modification to an existing HPA. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the control number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, payment of the application the original application was subject to an application fee, and the requestor's signature. Send your written request and payment, if applicable, by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. You should allow up to 45 days for the department to process your request.

### APPEALS INFORMATION

If you wish to appeal the issuance, denial, conditioning, or modification of a Hydraulic Project Approval (HPA), Washington Department of Fish and Wildlife (WDFW) recommends that you first contact the department employee who issued or denied the HPA to discuss your concerns. Such a discussion may resolve your concerns without the need for further appeal action. If you proceed with an appeal, you may request an informal or formal appeal. WDFW encourages you to take advantage of the informal appeal process before initiating a formal appeal. The informal appeal process includes a review by department management of the HPA or denial and often resolves issues faster and with less legal complexity than the formal appeal process. If the informal appeal process does not resolve your concerns, you may advance your appeal to the formal process. You may contact the HPA Appeals Coordinator at (360) 902-2534 for more information.

**A. INFORMAL APPEALS:** WAC 220-660-460 is the rule describing how to request an informal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete informal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request an informal appeal of that action. You must send your request to WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to [HPAapplications@dfw.wa.gov](mailto:HPAapplications@dfw.wa.gov); fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. WDFW must receive your request within 30 days from the date you receive notice of the decision. If you agree, and you applied for the HPA, resolution of the appeal may be facilitated through an informal conference with the WDFW employee responsible for the decision and a supervisor. If a resolution is not reached through the informal conference, or you are not the person who applied for the HPA, the HPA Appeals Coordinator or designee will conduct an informal hearing and recommend a decision to the Director or designee. If you are not satisfied with the results of the informal appeal, you may file a request for a formal appeal.

**B. FORMAL APPEALS:** WAC 220-660-470 is the rule describing how to request a formal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete formal appeal procedures. The following information summarizes that rule.



## HYDRAULIC PROJECT APPROVAL

Washington Department of  
Fish & Wildlife  
PO Box 43234  
Olympia, WA 98504-3234  
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Issued Date: September 01, 2015  
Project End Date: August 31, 2020

Permit Number: 2015-4-672+01  
FPA/Public Notice Number: N/A  
Application ID: 4672

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A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request a formal appeal of that action. You must send your request for a formal appeal to the clerk of the Pollution Control Hearings Boards and serve a copy on WDFW within 30 days from the date you receive notice of the decision. You may serve WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to [HPAapplications@dfw.wa.gov](mailto:HPAapplications@dfw.wa.gov); fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, you may request a formal appeal within 30 days from the date you receive the Director's or designee's written decision in response to the informal appeal.

C. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS: If there is no timely request for an appeal, the WDFW action shall be final and unappealable.

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Habitat Biologist                      Paul.Marczin@dfw.wa.gov  
Paul Marczin                              425-379-2303

A handwritten signature in black ink that reads "Paul Marczin".

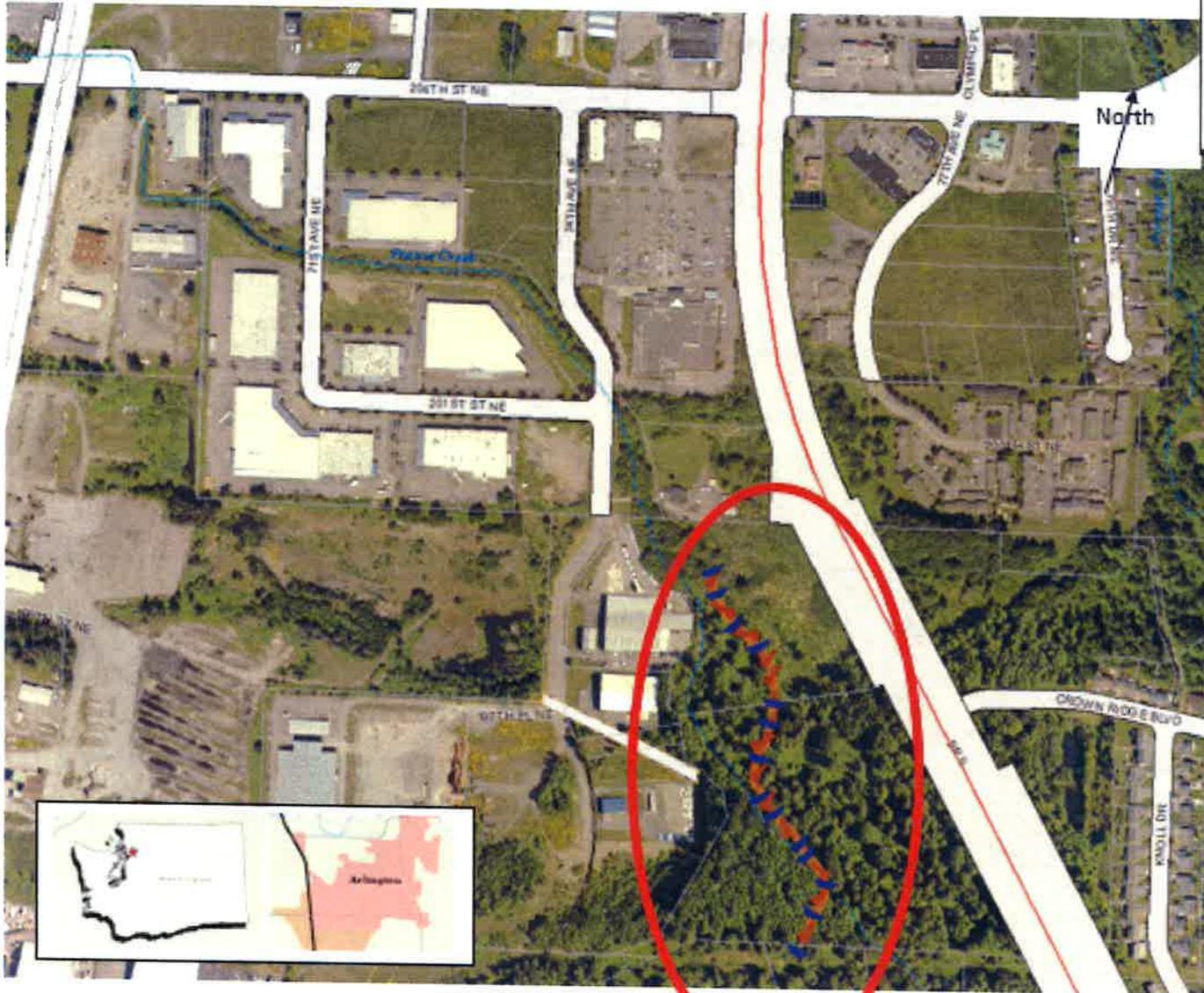
for Director  
WDFW

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Prairie Creek Stabilization site plan. Map show approximate location of proposed instream structures within the eroding stream section.

U.S. Army Corps of Engineers Reference : NWS-2015-564  
City of Arlington  
Project: Prairie Creek Instream habitat  
and sediment reduction project  
Location: 122°7'47.07"W 48°10'35.49"N  
Sheet 1 of 4 Site/Vicinity Map

October 28, 2015



- Total Project length 1,121'
- Total Rock Upstream weirs 13 = 20 cubic yards
- Total Rootwads with stem 13

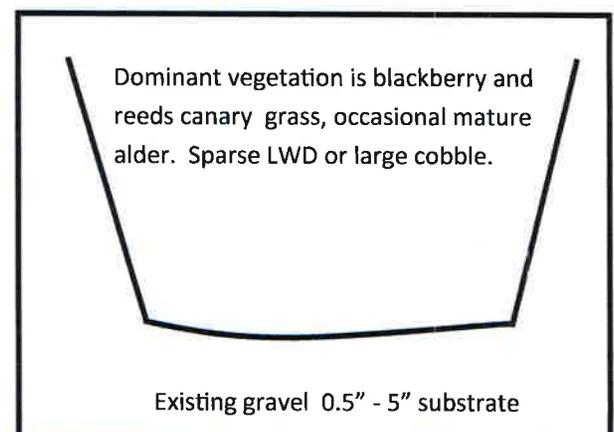
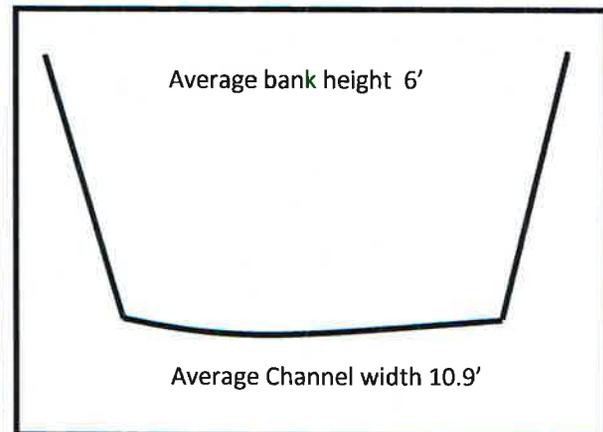
Rock  
upstream  
U-weir

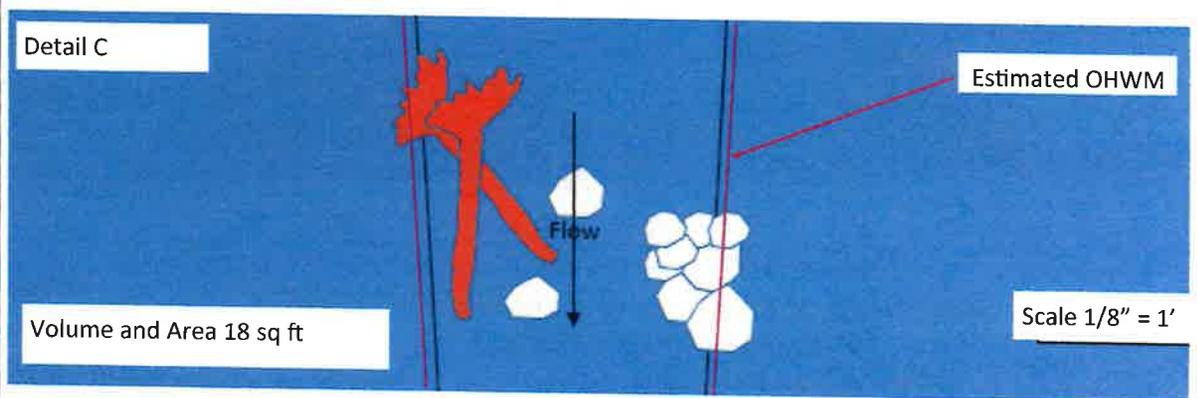
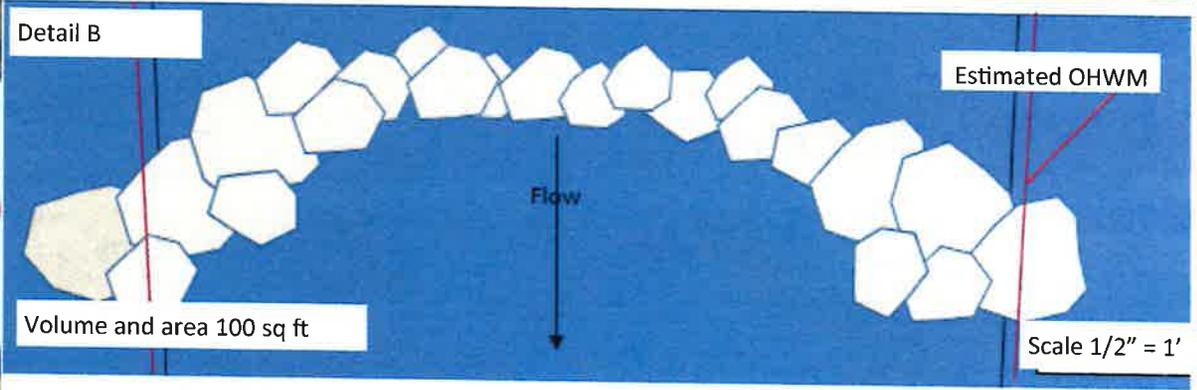
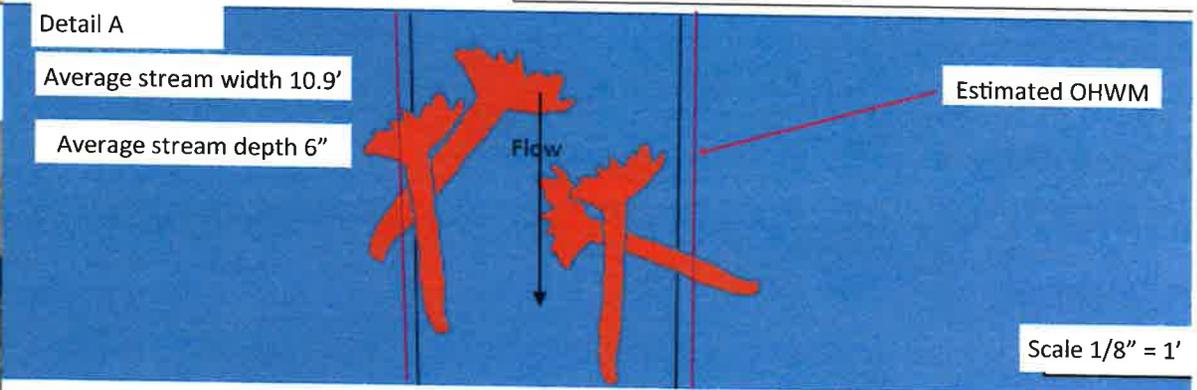
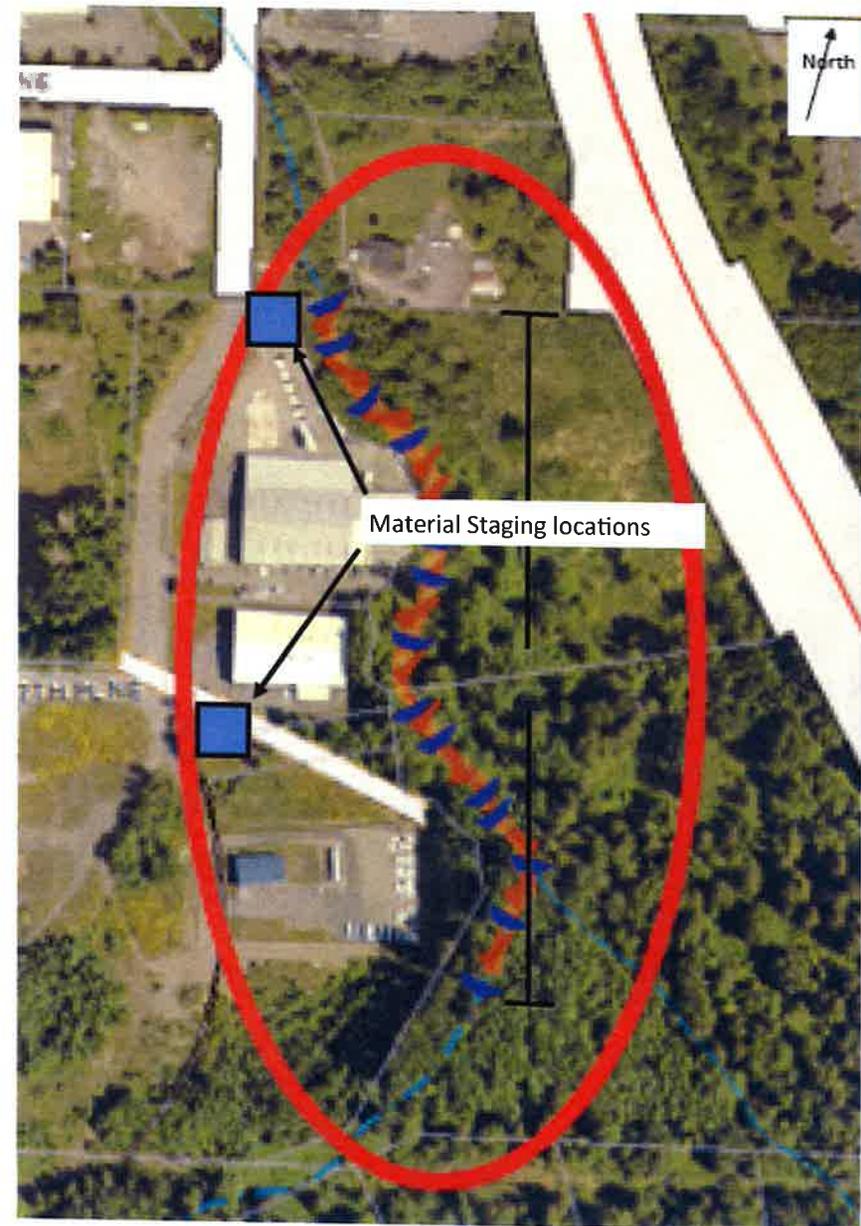


LWD



U.S. Army Corps of Engineers Reference : NWS-2015-564  
City of Arlington  
Project: Prairie Creek Instream habitat  
and sediment reduction project  
Location: 122°7'47.07"W 48°10'35.49"N  
Sheet 2 of 4 Plan View Existing conditions

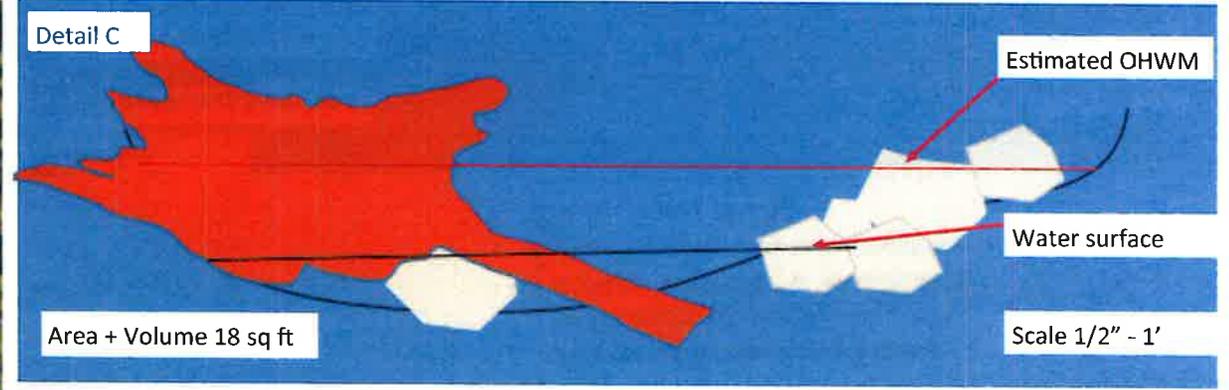
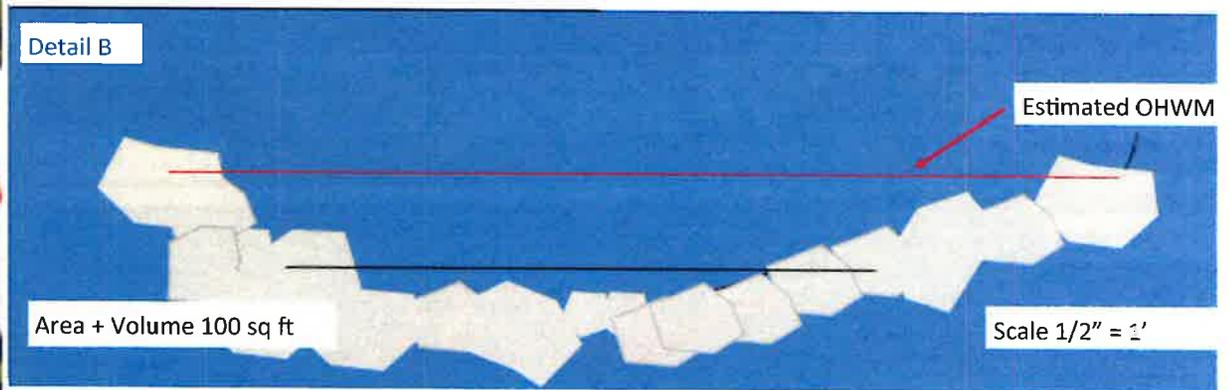
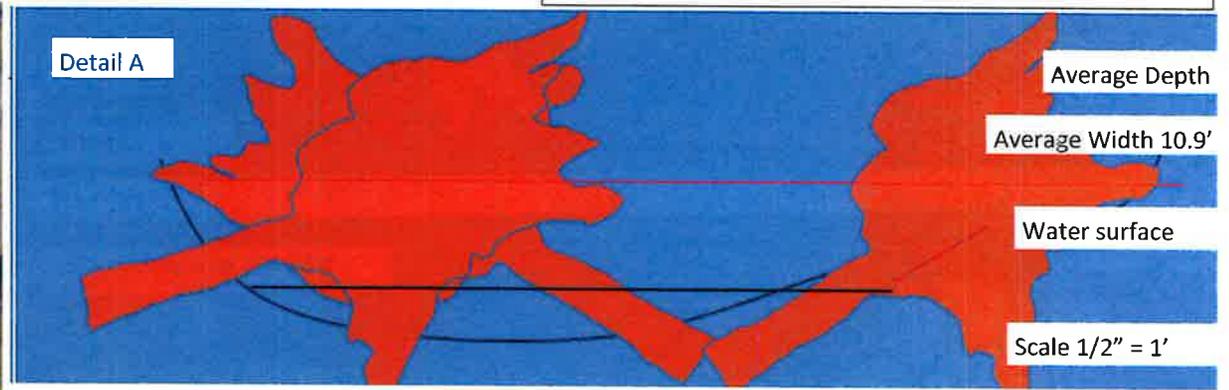




Due to the steepness of the slopes and down cutting the OHWM does not generally expand laterally across a floodplain.

U.S. Army Corps of Engineers Reference : NWS-2015-564  
 City of Arlington  
 Project: Prairie Creek Instream habitat  
 and sediment reduction project  
 Location: 122°7'47.07"W 48°10'35.49"N  
 Sheet 4 of 4 Cross sectional view  
 Date: October 28, 2015

Wetland layer from City's Critical Areas Inventory supported by NWI. The stream is due west of the wetland, and at a lower elevation due to the down cutting of the stream.



U.S. Army Corps of Engineers Reference : NWS-2015-564

City of Arlington

Project: Prairie Creek Instream habitat  
and sediment reduction project

Location: 122°7'47.07"W 48°10'35.49"N

Sheet B1 Location of project elements downstream 1/2 of project

Date: October 28, 2015



Detail A—LWD

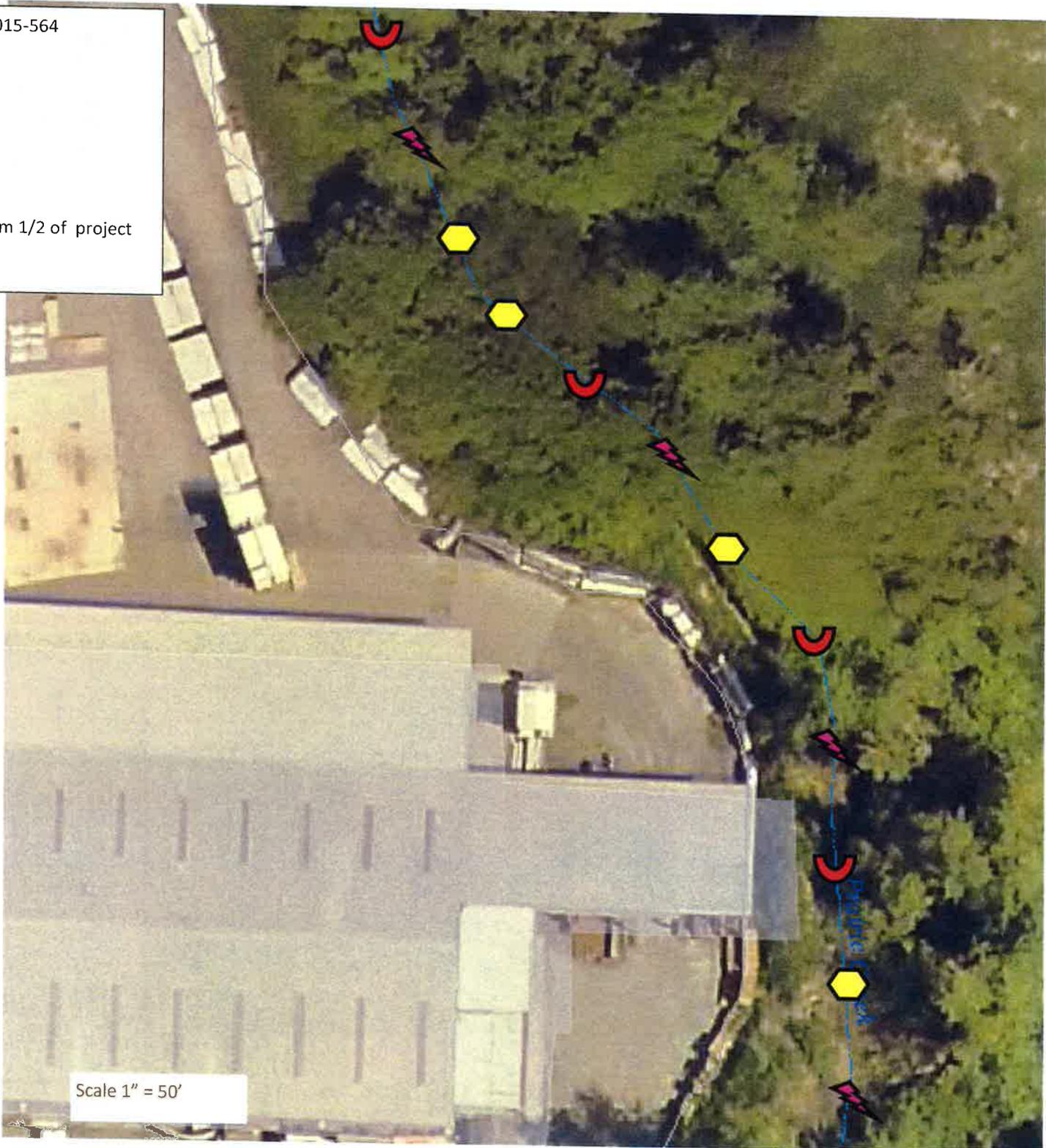


Detail B—Upstream rock weir



Detail C—LWD and rock

Scale 1" = 50'



U.S. Army Corps of Engineers Reference : NWS-2015-564

City of Arlington

Project: Prairie Creek Instream habitat  
and sediment reduction project

Location: 122°7'47.07"W 48°10'35.49"N

Sheet B2 Location of project elements Upstream 1/2 of project

Date: October 28, 2015



Detail A—LWD



Detail B—Upstream rock weir



Detail C—LWD and rock

