

## SCHEDULE OF AUDIT FINDINGS AND RESPONSES

### **2018-001    The former Mayor violated the Code of Ethics for Municipal Officers, and the City violated its recruiting and hiring personnel policies and state law.**

#### ***Background***

State law prohibits municipal officers from using their positions to secure special privileges or exemptions for themselves or others. In addition, the City's personnel policy requires it to advertise employment positions and requires each applicant to complete and sign an application before being considered for any position.

Also, an Attorney General Opinion states that the legislative body of a municipal corporation cannot enter contracts under its general powers that would bind a future board, council, or commission.

The City Council held a special meeting on September 4, 2018, and approved an ordinance establishing a City Administrator position. The Mayor then resigned during the meeting. The City Council adjourned the special meeting and immediately began its regular meeting. In the regular meeting, the City Council appointed a new Mayor, and the new Mayor appointed the former Mayor as City Administrator. None of the Council members commented on these topics during the meeting other than to approve of the appointments.

#### ***Description of Condition***

The former Mayor received special privileges when he used his position as Mayor to create the City Administrator position and the terms of the contract he was later appointed to fill. Through a review of documents and interviews with staff, we determined the following:

- In August 2018, the then-current Mayor directed the City Attorney to draft an ordinance for a City Administrator position and a proposed City Administrator contract. According to interviews with the then-current Mayor, he initiated the creation of this position and the City Council was not aware of the position until September 4, 2018, the date of the special meeting. Additionally, City Council minutes do not indicate that this position was discussed in an open public meeting before September 4.
- The Mayor directed the City Attorney to modify the draft contract twice: in August and in September 2018. The contract included setting the City Administrator's salary at \$95,000 per year, for the full term of seven years, plus severance pay for six months, even in the event that the City

Administrator contract was terminated. This provision would bind future councils, which is against the law.

- The City Administrator contract, provided to the Council within their packet before the special meeting on Sept. 4, already had the Mayor's name filled in. The City did not advertise the City Administrator position as required by City policy, nor did the Mayor complete and sign an application for the position.

### ***Cause of Condition***

The Mayor created the City Administrator position and contract without consideration of City policy or state conflict-of-interest laws that prohibit such acts by municipal officers. Because the Council did not discuss the ordinance or contract during an open public meeting, either before or at the time of the approvals, it appears the Council did not participate in developing the documents and therefore did not ensure policies and laws were followed.

### ***Effect of Condition***

The former Mayor personally benefited from the creation of the City Administrator position and contract, which he designed without Council knowledge or input. In addition, the City did not follow its personnel policy nor the Attorney General Opinion.

The former Mayor violated the Code of Ethics for Municipal Officers. In addition, the City violated its recruiting and hiring personnel policies and state law.

### ***Recommendations***

We recommend municipal officers comply with state law regarding special privileges. We also recommend the City follow its personnel policies and update the City Administrator contract.

### ***City's Response***

*Mayor Orozco worked with the City Attorney to propose a City Administrator position be created. The Council approved creation of the position. Mayor Orozco subsequently elected to resign from the Council, and a new Mayor was appointed.*

*At the second meeting, the new Mayor appointed a City Administrator. The Council affirmed the appointment.*

*The City's Personnel Policies provide that the policies may change, and that the City Council reserves the right to "revise, supplement, clarify or rescind any policy or portion of a policy when deemed appropriate by the Mayor."*

*The City Council was given two opportunities to review the City Administrator position, both in the form of adoption of the Ordinance establishing the position, and in the form of the contract filling the position.*

*The City Council elected to make an exception to its personnel policy to fill the newly created position.*

*To the extent any conflict of interest is alleged to exist, the City is proposing to Amend and Restate the City Administrator contract to adjust the severance benefits, and so that it may be fully prepared and adopted independently by the Council.*

### ***Auditor's Remarks***

The City's personnel policy reserves the right to revise, supplement, clarify or rescind any policy when deemed appropriate by the Mayor. However, the policy also requires these changes to be made in writing with notification to the employees. There was no discussion in the minutes or elsewhere regarding changes in the City's personnel policy and the Mayor did not make any changes in writing or notify employees that any changes would be made.

We agree the Council was given two opportunities to review the City Administrator position, at 8:30 and 9:00 am on September 4, 2018. This was after the former Mayor had created the City Administrator contract and inserted his name in the contract, which is violation of the Code of Ethics.

There was no discussion by the City Council in a meeting open to the public that "elected to make an exception to its personnel policy." Also, the personnel policy requires any changes or modifications to be done in writing.

We reaffirm our finding.

### ***Applicable Laws and Regulations***

RCW 42.23.070 – Prohibited Acts, states:

No municipal officer may use is or her position to secure special privileges or exemptions for himself, herself, or others.

City Policy Chapter 3.1, Recruiting, states:

Each applicant shall complete and sign an application form prior to be considered for any position. Resumes may supplement, but not replace, the City's official application.

City Policy Chapter 3.2, Hiring, states:

When a position becomes vacant and prior to any posting or advertisement of the vacancy, the department head shall review the position, its job description and the need for such a position, the department head will prepare and submit a written request to fill the position to the Mayor. The position will be posted and/or advertised only after the Mayor has approved the request.

City Policy Chapter 3.6, Promotions, states:

Before advertising a position to the general public, the Mayor may choose to circulate a promotional opportunity within the City...All openings will be posted on the City bulletin board in each department. To be considered for a promotion, an employee must be employed in their position for at least six (6) months, and meet the qualifications for the vacant position.

Attorney General Opinion 61-62 No. 114 (3) – Agreement cannot bind future boards, states, in part:

In AGO to Honorable Cliff Yelle, State Auditor, dated October 15, 1946....we held that absent statutory authority, the legislative body of a municipal corporation could not enter contracts under its general powers which would bind a future board, council or commission.

## SCHEDULE OF AUDIT FINDINGS AND RESPONSES

### **2018-002 The City violated the Open Public Meetings Act and prevented citizens from accessing the actions and deliberations of government.**

#### ***Background***

Cities are subject to the state's Open Public Meetings Act, which requires the council to discuss city business in an open public forum. The City holds regular meetings once a month. If a regular meeting falls on a holiday, state law requires the City to hold its regular meeting on the next business day. Also, if a quorum of members is not in attendance at a meeting, no action can be taken; the meeting must be adjourned to a specified time and place; and the City must post a copy of the order or notice of the adjournment for the public. For special meetings, the City must advertise the time, place, and business to be transacted. Final action cannot be taken on any other matter beyond what is in the advertised notice.

Under the Act, a "meeting" is any action regarding City business when a quorum of Council members is present. The Council has seven members, so four members constitute a quorum. According to state law, when two or more positions are vacant, the remaining members of the governing body shall appoint a qualified person to fill one of the vacant positions. The remaining members of the governing body and the newly appointed person shall appoint another qualified person to fill one of the vacant positions, and so on until each of the vacant positions is filled.

City ordinance allows the removal of an elected Council member for missing three unexcused consecutive meetings. On July 3, 2018, the Mayor and Council removed a member in accordance with the ordinance. Among the missed meetings used to justify the removal was June 6, 2018, which was cancelled for lack of a quorum. No documentation exists to verify whether the removed member was in attendance at that meeting. Therefore, we were unable to substantiate that the member missed three consecutive meetings. Additionally, on October 2, 2018, the Council appointed three new members to fill vacant positions at the same time, rather than separately as state law requires.

#### ***Description of Condition***

The audit identified the following violations of the Open Public Meetings Act:

- On June 15, 2018, five Council members were present at the beginning of the meeting, and two members left after the Pledge of Allegiance. When those two members left, the quorum ended. State law indicates the meeting should have ended and been rescheduled to another date. Instead, the

remaining three Council members continued the meeting without a quorum and approved the following:

- A contract for legal services;
- The resignation of a Council member and the appointment of a new Council member;
- Going out for bid for City Hall roof replacement;
- Accepting a bid for municipal swimming pool renovation; and
- The City operating the Harvest Festival.

A quorum of Council members must exist to take final action.

- The City did not hold three regular meetings at the regularly scheduled dates and times. The regularly scheduled dates were February 7, June 6, and August 7, 2018. According to the City, the meetings were rescheduled due to lack of a quorum. However, the City did not document who was present at the regular scheduled meeting, the method of adjournment, or notification of the time and place of the rescheduled meetings.
- Two of the City's regular meeting dates were on holidays: July 4, 2018, and January 1, 2019. State law requires meetings that fall on a holiday to be held on the next business day. The City held the meetings on July 3, 2018, and January 10, 2019, respectively, and did not provide notice to the public or communicate this to the public at the prior meeting.
- The City held a special meeting on September 4, 2018, at which Council approved an ordinance to create a City Administrator position. The advertisement for the special meeting did not include the business purpose for the meeting. According to state law, final action can only be taken on business purposes advertised in the public notice. In addition, the City did not post the meeting agenda on its website until after October 9, 2018, more than a month after the meeting occurred.
- The Council held four quarterly community meetings in 2018 and did not maintain records to show if a quorum was present or if action was taken.

### *Cause of Condition*

The Mayor, newly-appointed Council members and newly-hired city staff did not fully understand the Open Public Meetings Act requirements. In addition, they did not fully understand the importance of maintaining records to show compliance with the Act.

### ***Effect of Condition***

The intent of the Open Public Meetings Act is that citizens have access to the actions and deliberations of government. The City did not meet the intent of the Act, violated state law, and deprived the public of its right to be present at Council meetings.

Additionally, when records of meetings are not retained, the City has no official record of what business was conducted, and the public may not be able to determine what occurred.

### ***Recommendations***

We recommend City staff and Council take widely available trainings about the Open Public Meetings Act and conduct meetings in accordance with state law. We also recommend the City maintain minutes and other records to support compliance with the Act.

### ***City's Response***

*All City council members were provided with adequate notice of meetings, as evidenced by attendance at meetings. It continues to be difficult to determine whether and how public notices were provided due to turnover in the City Clerk's office.*

*Current city staff have received training regarding compliance with the open meeting act.*

*To the extent action may have been taken without a quorum, the City was acting on advice of the former City Attorney. The City has retained new attorneys with extensive knowledge and experience regarding the open meetings act.*

### ***Auditor's Remarks***

There is a legal requirement for the City to give notice for all public meetings. As indicated above, the City failed to provide notice on several occasions and could not provide evidence that even Council was aware of changes to meeting dates and times. As a result, several meetings were rescheduled due to a lack of Council attendance. There is no doubt that the lack of notice for these meetings and continued changes in meeting schedules contributed to lack of Council attendance. We reaffirm our finding.

We appreciate the City's commitment in resolving these issues and will follow up on the status of this issue during our next audit.

## *Applicable Laws and Regulations*

RCW 42.30.010 – Legislative declaration, states:

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

RCW 42.30.020 – Definitions, states:

As used in this chapter unless the context indicates otherwise:

(1) "Public agency" means:

- (a) Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature;
- (b) Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of the state of Washington;
- (c) Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies;
- (d) Any policy group whose membership includes representatives of publicly owned utilities formed by or pursuant to the laws of this state when meeting together as or on behalf of participants who have contracted for the output of generating plants being planned or built by an operating agency.



(2) "Governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

(3) "Action" means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

(4) "Meeting" means meetings at which action is taken.

RCW 42.30.060 – Ordinances, rules, resolutions, regulations, etc., adopted at public meetings – Notice – Secret voting prohibited, states:

(1) No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.

(2) No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter.

RCW 42.30.035 – Minutes, states:

The minutes of all regular and special meetings except executive sessions of such boards, commissions, agencies or authorities shall be promptly recorded and such records shall be open to public inspection.

RCW 42.30.070 – Times and places for meetings – Emergencies – Exception, states:

The governing body of a public agency shall provide the time for holding regular meetings by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body. Unless otherwise provided for in the act under which the public agency was formed, meetings of the governing body need not be held within the boundaries of the territory over which the public agency exercises jurisdiction. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day. If, by reason of fire, flood, earthquake, or other emergency, there is a need for expedited action by a governing body to meet the emergency, the presiding officer of the governing body may provide for a meeting site other than the regular meeting site and the notice requirements of this chapter shall be suspended during such emergency. It shall not be a violation of the requirements of this chapter for a majority of the members of a governing body to travel together or gather for purposes other than a regular meeting or a special meeting as these terms are used in this chapter: PROVIDED, that they take no action as defined in this chapter.

RCW 43.30.080 – Special Meetings, states:

(1) A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering written notice personally, by mail, by fax, or by electronic mail to each member of the governing body. Written notice shall be deemed waived in the following circumstances:

(a) A member submits a written waiver of notice with the clerk or secretary of the governing body at or prior to the time the meeting convenes. A written waiver may be given by telegram, fax, or electronic mail; or

(b) A member is actually present at the time the meeting convenes.

(2) Notice of a special meeting called under subsection (1) of this section shall be:

(a) Delivered to each local newspaper of general circulation and local radio or television station that has on file with the governing body a written request to be notified of such special meeting or of all special meetings;

(b) Posted on the agency's web site. An agency is not required to post a special meeting notice on its web site if it (i) does not have a web site; (ii) employs fewer than ten full-time equivalent employees; or (iii) does not employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the web site; and

(c) Prominently displayed at the main entrance of the agency's principal location and the meeting site if it is not held at the agency's principal location.

Such notice must be delivered or posted, as applicable, at least twenty-four hours before the time of such meeting as specified in the notice.

(3) The call and notices required under subsections (1) and (2) of this section shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body.

(4) The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

RCW 42.30.090 – Adjournments, states:

The governing body of a public agency may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk

or secretary of the governing body may declare the meeting adjourned to a stated time and place. He or she shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.30.080 for special meetings, unless such notice is waived as provided for special meetings. Whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

RCW 42.12.070 – Filing nonpartisan vacancies, states:

A vacancy on an elected nonpartisan governing body of a special purpose district where property ownership is not a qualification to vote, a town, or a city other than a first-class city or a charter code city, shall be filled as follows unless the provisions of law relating to the special district, town, or city provide otherwise:

- (1) Where one position is vacant, the remaining members of the governing body shall appoint a qualified person to fill the vacant position.
- (2) Where two or more positions are vacant and two or more members of the governing body remain in office, the remaining members of the governing body shall appoint a qualified person to fill one of the vacant positions, the remaining members of the governing body and the newly appointed person shall appoint another qualified person to fill another vacant position, and so on until each of the vacant positions is filled with each of the new appointees participating in each appointment that is made after his or her appointment.
- (3) If less than two members of a governing body remain in office, the county legislative authority of the county in which

all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person or persons to the governing body until the governing body has two members.

(4) If a governing body fails to appoint a qualified person to fill a vacancy within ninety days of the occurrence of the vacancy, the authority of the governing body to fill the vacancy shall cease and the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person to fill the vacancy.

(5) If the county legislative authority of the county fails to appoint a qualified person within one hundred eighty days of the occurrence of the vacancy, the county legislative authority or the remaining members of the governing body of the city, town, or special district may petition the governor to appoint a qualified person to fill the vacancy. The governor may appoint a qualified person to fill the vacancy after being petitioned if at the time the governor fills the vacancy the county legislative authority has not appointed a qualified person to fill the vacancy.

(6) As provided in chapter [29A.24](#) RCW, each person who is appointed shall serve until a qualified person is elected at the next election at which a member of the governing body normally would be elected. The person elected shall take office immediately and serve the remainder of the unexpired term.

Wapato Municipal Code - Section 2.04.020 Attendance, states:

Council members should appear at all meetings. If a council member is absent without excuse for three consecutive city council meetings, the city council may declare the seat vacant. Whether or not an absence is excused is solely determined by the mayor. The city council may adopt further policies and procedures regarding attendance at city council meetings.

## SCHEDULE OF AUDIT FINDINGS AND RESPONSES

### **2018-003 The City did not comply with state laws regarding cost allocation and use of restricted resources, interfund loans, and spending within legally appropriated budgets.**

#### ***Background***

##### *Cost allocation and use of restricted resources*

Cities charge costs incurred for their central service functions, such as general administration, human resources, payroll and purchasing, to the Current Expense fund or Internal Service fund. State law allows cities to allocate these costs to the funds that benefit from the services as long as the costs charged are in proportion to the benefit received. The City must adopt a fair and equitable method of distributing shared costs among departments and funds and to document the benefit received when applying these charges. Additionally, state law prohibits resources restricted for specific uses, such as utilities that collect usage-based fees from citizens, to benefit or subsidize other functions of government.

##### *Budget compliance*

The City Council annually approves a budget that determines the City's legal spending limits. Under state law (RCW 35.33.121), spending should not exceed this level without a Council-approved budget amendment. Moreover, the Council cannot authorize spending that exceeds available funds.

##### *Interfund loans*

State law allows local governments to establish loans between funds. The *Budgeting, Accounting and Reporting Systems* (BARS) Manual stipulates minimum acceptable procedures for making and accounting for the interfund loans. For example, the BARS Manual requires the governing body to formally approve all loans and set a reasonable rate of interest. Further, the borrowing fund must anticipate sufficient revenues to make specified principal and interest payments as required. Interfund loans are to be considered "temporary" in nature, which the BARS Manual generally defines as three years.

#### ***Description of Condition***

During the audit, we reviewed the City's compliance with state laws governing the cost allocation and use of restricted resources, budget compliance, and interfund loans. We identified the following:

*Cost allocation and use of restricted resources*

The City did not have written policies adopting a fair and equitable method of allocating costs nor compare allocated costs to actual expenditures to determine the reasonableness of the allocations.

We have communicated similar issues to City management during the past three audits.

During the audit period, the City allocated the following central service costs to its restricted funds without adequate supporting documentation:

<b>Restricted Fund</b>	<b>2018</b>
Water	\$64,418
Sewer	\$60,996
Street	\$27,830
Cemetery	\$23,620
Equipment Rental and Revolving and Public Work Service Center	\$13,796
Garbage	\$9,753
<b>Total</b>	<b>\$200,413</b>

In addition, the City paid for items using the Garbage and Sewer Funds that should have been paid using the Current Expense Fund. Garbage and Sewer Fund resources are restricted to only expenses for these activities, because the funding comes from charges to users of those services. Therefore, they are not allowed to be used for general government purposes. The City spent \$125,894 from the Garbage Fund on construction of the swimming pool, and spent \$117,111 from the Sewer Fund on City legal expenses.

*Budget compliance and monitoring of ending cash and investments*

The City has not monitored financial activity and expenses. Examples include the following:

- The City has not fully reconciled its general ledger to the bank statements since April 2018. As a result, the City cannot ensure the general ledger includes all revenues and expenditures for the period and that cash balances are accurate.

- The City did not record beginning fund balances in the general ledger, preventing staff and Council from knowing each fund's financial resources as they made decisions throughout the year.
- The City did not monitor its budget or available fund balance when obligating expenses to ensure the City is spending within its authorized appropriations and resources.

### *Cause of Condition*

Since the beginning of 2018, nearly all City Hall staff are new to their positions. Staff responsible for allocating costs said they do not understand cost allocation requirements or how charges are to be recorded. Staff also did not fully understand how to reconcile the general ledger to the bank activity. Because the staff responsible for recording beginning fund balances in the general ledger no longer work for the City, we were unable to determine why they did not enter those balances.

The City has not devoted sufficient time and resources to develop adequate controls and oversight over financial activity and has not made it a priority to ensure that previous audit recommendations are resolved promptly.

### *Effect of Condition*

#### *Cost allocation and use of restricted resources*

The City inappropriately spent \$243,005 in restricted utility funds (Garbage and Sewer) for general fund activities (legal expenses and a swimming pool remodel).

Additionally, without support for the allocation of costs, the City cannot demonstrate that amounts were fair, equitable, or representative of the services each fund received. Further, the City cannot show it complied with state laws that prohibit shifting restricted resources to other funds.

Increased allocated costs to City utilities and inappropriate use of the utility funds could result in higher utility rates and inappropriate subsidies to the General Fund.

#### *Budget compliance and interfund loans*

The City paid expenditures from funds that did not have available cash and that exceeded approved budgets during 2018. The City overspent approved budgets for four funds, totaling \$266,973, and reported negative cash and investment balances in three funds, totaling \$367,091, as shown in the tables below:



### 2018 fund details

<b>Fund</b>	<b>Amount expenses exceeded budget</b>	<b>Ending cash and investments</b>
Cemetery	60,044	(63,735)
Public Works Service Center	115,140	(13,506)
Capital Improvement	48,390	160,056
Sewer	-	(289,850)
Garbage	43,399	276,775

When expenditures in a fund exceed the available resources, the City is borrowing from other funds to continue operations without formally establishing an interfund loan. The Council must approve interfund loans by resolution or ordinance that includes a payment plan and sets a reasonable rate of interest to be paid to the lending fund. If such funds are not repaid in a timely manner, it would represent an unallowable diversion of funds.

Similar issues were also reported in the 2017 financial audit, under report number 1023731 in finding number 2017-002.

### *Recommendations*

We again recommend the City develop and follow a policy that governs how the City calculates and charges shared services costs to all funds and that staff receive adequate training over this activity. Costs should be charged in proportion to the level of service or benefit provided to each fund. To accomplish this, the policy should specifically require the City to:

- Develop and use a cost allocation plan for charging shared services across funds. The plan should include a reconciliation of actual expenditures to budgeted amounts if budgeted amounts are used for cost allocations.
- Document the amounts charged and the support for the charges
- Periodically review and update the policy and the cost-allocation plan for charging shared services costs

We also recommend the City's elected officials and management:

- Obligate expenditures only when funds have the available budget and resources to pay for the transactions and use restricted resources only for allowable purposes
- Repay the Garbage and Sewer Funds for the unallowable use of their resources

- Establish interfund loans that include appropriate interest rates and repayment plans for funds with negative cash and investments

### ***City's Response***

*The prior Financial Officers did not have municipal experience and did not appear to understand the concept of BARS Fund accounting; therefore, monies allocated for individual funds (i.e. Water, Sewer and Garbage, etc) were spent on general expenses, without performing an Inter-Fund Loan with the interest calculated though a payback date. As a result of these errors in accounting practices, the above mention funds are in the red.*

*The City is presently looking at options to pay back these funds and provide a reserve for the General Fund.*

*In addition, the theft of over \$300,000.00, which was indicated in the 2017 Fraud Audit Report has also put the City of Wapato at a deficit beginning the 2018 fiscal year. The City is looking at ways to tighten the improper spending and accountability with a new Financial System that would eliminate a substantial amount of errors and create more resources for financial accountability and stability.*

### ***Auditor's Remarks***

We appreciate the City's commitment to resolving the issues identified above and emphasize the importance of establishing effective policies and monitoring procedures over City spending.

We disagree that the fraud reported in February 2019 was a significant cause in the City's declining financial condition for 2018. The misappropriation of \$308,199 took place over a six year period, ending in October 2017. The City's general fund cash and investments decreased by \$665,741 during 2017, of which only \$76,891 was attributed to fraud perpetrated in that year.

We reaffirm our finding and will follow up on the status of the finding during the next audit.

### ***Applicable Laws and Regulations***

RCW 35.33.121 – Funds – Limitations on expenditures – Transfers, states:

The expenditures as classified and itemized in the final budget shall constitute the city's or town's appropriations for the ensuing fiscal year. Unless otherwise ordered by a court of competent jurisdiction, and subject to further limitations imposed by

ordinance of the city or town, the expenditure of city or town funds or the incurring of current liabilities on behalf of the city or town shall be limited to the following:

- (1) The total amount appropriated for each fund in the budget for the current fiscal year, without regard to the individual items contained therein, except that this limitation shall not apply to wage adjustments authorized by RCW [35.33.107](#); and
- (2) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal years pursuant to RCW [35.33.151](#); and
- (3) Funds received from the sale of bonds or warrants which have been duly authorized according to law; and
- (4) Funds received in excess of estimated revenues during the current fiscal year, when authorized by an ordinance amending the original budget; and
- (5) Expenditures required for emergencies, as authorized in RCW [35.33.081](#) and [35.33.091](#).

Transfers between individual appropriations within any one fund may be made during the current fiscal year by order of the city's or town's chief administrative officer subject to such regulations, if any, as may be imposed by the city or town legislative body. Notwithstanding the provisions of RCW [43.09.210](#) or of any statute to the contrary, transfers, as herein authorized, may be made within the same fund regardless of the various offices, departments or divisions of the city or town which may be affected.

The city or town legislative body, upon a finding that it is to the best interests of the city or town to decrease, revoke or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose

or purposes, without limitation to department, division or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance.

RCW 35.33.122 Administration, oversight, or supervision of utility – Reimbursement from utility budget authorized, states:

Whenever any city or town apportions a percentage of the city manager's, administrator's, or supervisor's time, or the time of other management or general government staff, for administration, oversight, or supervision of a utility operated by the city or town, or to provide services to the utility, the utility budget may identify such services and budget for reimbursement of the city's or town's current expense fund for the value of such services.

*Budgeting Accounting and Reporting System (BARS) Manual – Accounting Principles and Controls, Internal Control, Sections 3.1.3.20 and 3.1.3.30* states:

Internal control is a process – affected by those charged with governance, management and other personnel designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations
- Compliance with applicable laws and regulations
- Reliability of financial reporting

Management and the governing body are responsible for the government's performance, compliance and financial reporting. Therefore, the adequacy of internal control to provide reasonable assurance of achieving these objectives is also the responsibility of management and the governing body. The governing body has ultimate responsibility for ensuring adequate controls to achieve objectives, even though primary responsibility has been delegated to management. Since management and the governing body are assumed to work in harmony, both parties are collectively referred to as “management” throughout the rest of this section.

RCW 43.09.210 – Local government accounting – Separate accounts for each fund or activity – Exemption for agency surplus personal property, states:

(1) Separate accounts shall be kept for every appropriation or fund of a taxing or legislative body showing date and manner of each payment made therefrom, the name, address, and vocation of each person, organization, corporation, or association to whom paid, and for what purpose paid.

(2) Separate accounts shall be kept for each department, public improvement, undertaking, institution, and public service industry under the jurisdiction of every taxing body.

(3) All service rendered by, or property transferred from, one department, public improvement, undertaking, institution, or public service industry to another, shall be paid for at its true and full value by the department, public improvement, undertaking, institution, or public service industry receiving the same, and no department, public improvement, undertaking, institution, or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another.

(4) All unexpended balances of appropriations shall be transferred to the fund from which appropriated, whenever the account with an appropriation is closed.

(5) This section does not apply to:

(a) Agency surplus personal property handled under RCW [43.19.1919](#)(1)(e); or

(b) The transfer, lease, or other disposal of surplus property for public benefit purposes, as provided under RCW [39.33.015](#).

*Budgeting, Accounting and Reporting System (BARS) Manual, 3.9.1, Loans, states, in part:*

This section does not attempt to determine which moneys of a local government may or may not be available for interfund lending, since the special character of some moneys involves commitments and restrictions which would require individual

consideration. As a rule of thumb, however, it may be considered permissible to make interfund loans of those moneys which are clearly inactive or in excess of anticipated cash needs throughout the duration of the loan and legally available for investment.

The minimum acceptable procedures for making and accounting for interfund loans are as follows:

1. The legislative body of a local government must, by ordinance or resolution, approve all interfund loans, indicating the lending and borrowing funds, and provide in the authorization a planned schedule of repayment of the loan principal as well as setting a reasonable rate of interest (based on the external rate available to the local government) to be paid to the lending fund. The planned schedule of repayment should specify the due date(s) of payment(s) needed to repay the principal and interest on the loan.
2. Interest should be charged in all cases, unless:
  - a. The borrowing fund has no other source of revenue other than the lending fund; or
  - b. The borrowing fund is normally funded by the lending fund.
3. The borrowing fund must anticipate sufficient revenues to be able over the period of the loan to make the specified principal and interest payments as required in the authorizing ordinance or resolution.
4. The loan status should be reviewed annually by the legislative body at any open public meeting.
5. The term of the loan may continue over a period of more than one year, but must be “temporary” in the sense that no permanent diversion of the lending fund results from the failure to repay by the borrowing fund. A loan that continues longer than three years will be scrutinized for a permanent diversion of moneys. (Note: these restrictions and limitations do not apply to those funds which are legally

permitted to support one another through appropriations, transfers, advances, etc.)

6. Appropriate accounting records should be maintained to reflect the balances of loans in every fund affected by such transactions.

No debt instrument issued by one fund and held by another fund can be consider an investment. Such activity should be accounted for and reported as an interfund loan. Although the accounting treatment for such situations is not specified within a source of authoritative pronouncements, GAAP standards require transactions to be with an external party in order to classify them as other than interfund.

## SCHEDULE OF AUDIT FINDINGS AND RESPONSES

### **2018-004 The City did not have adequate controls over cash receipting and billings to safeguard public funds.**

#### ***Background***

The City collects annual operating revenues of about \$8.6 million. The City's main revenue sources include property taxes and sales taxes, which are collected primarily through electronic transfers; and services for water, sewer, and cemetery that are collected at City Hall and other locations. In addition, the City collects about \$50,000 each year from the sale of dog licenses, business licenses, yard-sale permits, and rental of the community center and park. Further, the Police Department collected about \$1,280 during 2018 for pistol license permits, fingerprinting, and copies.

City management is responsible for designing, implementing, and maintaining internal controls that provide reasonable assurance that public resources are safeguarded. The City did not have policies over cash receipts and billings to ensure that all money collected was deposited intact and properly accounted for.

We reported similar concerns during the prior accountability audit and a special investigation report dated February 21, 2019.

#### ***Description of Condition***

We identified the following control deficiencies:

##### ***Cash receipts***

- Bank and accounting records were not reconciled in a timely manner. Additionally, City Hall did not perform an independent or timely review of these reconciliations to verify that all funds collected were deposited intact and within 24 hours. As of February 2019, the City had not fully reconciled bank statements for six months in 2018. Also, on three occasions, City Hall deposited funds two days after collection. Those funds totaled \$71,425.
- The person responsible for reconciling daily cash receipts was also responsible for delivering the deposit to the bank and reconciling the monthly bank statements, which does not provide adequate segregation of duties to ensure minimal opportunities for misappropriation. Also, new employees were allowed to use other employee usernames to log into the City's receipting system, which would make it difficult to track activity and tie it to the correct person.



- All cashiers had the ability to adjust receipts without any independent review or monitoring of the transactions.
- The City did not monitor business and occupation (B&O) tax payments to ensure that the amount receipted was accurately recorded in the accounting system.
- The City did not have a sufficient process for monitoring cemetery sales and services to properly track and reconcile the amount due to the amount paid, or perform an independent review of this activity to verify all money collected was deposited.
- The City did not have a process in place to verify that all revenue was collected for the sale of items such as dog licenses, business licenses, and facility rentals. The City also did not have a method for comparing the number of items sold to the actual revenue collected, to ensure all funds were collected and deposited. We reviewed this activity and identified the following:
  - Actual revenue did not agree with expected revenue for community center rentals, community center deposits, park rentals, and park deposits, with differences ranging from \$2,638 more than expected to \$2,700 less than expected. In addition, the City did not charge deposits or charged a lower amount for 15 community center rentals and one park rental, totaling \$3,200 in under-charging.
  - Business license revenue was \$24,258, \$17,138 and \$17,986 in 2016, 2017 and 2018, respectively. As of January 2019, the City accounting system showed businesses owed \$39,401, and the City has not followed up on any overdue balances.
- The City receives payments from a local business through a Supporting Investments in Economic Diversification (SIED) loan. During 2018, the City did not have a process to ensure the loan payments were collected. At the time of the audit, staff could not determine the amount the business owed. The audit determined that the balance of this loan was \$139,939 as of January 1, 2018, of which \$20,629 should have been billed and received in 2018.
- The Police Department lacked proper segregation of duties over cash handling procedures. There was no independent review of deposits to ensure all money collected was deposited and that the payment methods (cash, check, or credit card) agreed to receipting records. Specifically, the Police Department:

- Did not indicate the method of payment (cash or check) on 42 receipts, totaling \$508
- Collected \$239 from July 2018 to October 2018; however, the City could not provide support to show that the funds were deposited
- The Police Department did not deposit funds within 24 hours as state law requires. On December 14, 2018, the Police Department transmitted receipts to the City Hall, totaling \$417, that were collected between October 2018 and December 2018. The funds were not receipted or deposited by City Hall until January 3, 2019, which was 86 days after collection.

### *Utility billings*

- Several City Hall employees had the ability to adjust utility accounts without adequate monitoring to verify the adjustments were for legitimate purposes or properly supported. During 2018, staff performed 776 adjustments, totaling \$426,840, that were not independently reviewed.
- The City did not properly adjust accounts for meter-reading errors. When the City identified meter-reading errors, staff would adjust the bill based on the prior month's bill instead of revising the meter reading to the correct amount and calculating the correct amount due.
- The City did not verify that all accounts were billed each month. We identified six accounts that were not charged in May 2018 because they did not have any utility usage; however, the City should have charged the accounts the minimum charge per account of \$89. As a result, the City under-billed by \$532.

### *Cause of Condition*

The City experienced significant staff turnover in the area related to cash receipting and billing. Generally, two or three people hold these jobs. However, at least nine people have been in these positions during the past year., Staff did not have the necessary experience or training to understand proper controls over segregation of duties and effective oversight of cash handling and billing procedures.

### *Effect of Condition*

Inadequate internal controls over the City's activities and lack of proper oversight increase the risk that a loss or misappropriation of public funds could occur and not be detected by management quickly, if at all.

We were notified of a suspected loss of funds during the audit totaling \$100. We performed interviews and reviewed receipting activity and determined that the money was not receipted into the receipting system or deposited. However, due to internal control weaknesses, we could not assign responsibility for the loss.

### ***Recommendations***

We recommend the City strengthen internal controls over cash receipting and billings to ensure public funds are adequately safeguarded from loss or misappropriation. Specifically, we recommend the City:

- Provide the necessary resources and training to staff responsible for cash receipting and billing to ensure revenues are safeguarded
- Establish and follow a policy that outlines guidelines regarding cash handling, segregation of duties, and independent reconciliations of deposits and bank statements. This should include an independent review of daily cash activity and depositing receipts within 24 hours.
- Establish controls over Business & Occupation Tax revenues to verify that all funds collected are deposited
- Establish controls over revenue generated from services and sales by appropriately tracking activity and reconciling actual sales and service revenue to the expected revenue. Also, the City should perform an independent review of this activity.
- Establish a process to ensure SIED loans are billed accurately and in a timely manner, and that accounts are collected, receipted and deposited in a timely manner
- Perform an independent review of all adjustments to cash receipts and utility accounts to verify all transactions are calculated correctly, supported, and for a valid purpose

### ***City's Response***

*The City of Wapato has taken Cash Receipting very seriously since February 2019. The new Clerk-Treasurer has implemented a tremendous amount of Internal Controls that were lacking upon her arrival. The cashiers are responsible for their own deposits, a second person verifies the prior day receipting and balancing of the cash, checks and credit/debit cards and makes daily 2 person deposits to the bank. Every account adjustment has a 2 person audit, 1 of which must be administrative and the proper documentation must be attached to any adjustments.*

*The Clerk-Treasurer is working diligently to collect documentation on any monies that are owed to the City that have not been invoiced or collected. The Clerk-*

*Treasurer has been in contact with these entities and is working vigorously to collect these outstanding debts.*

*The Clerk-Treasurer is working to reconcile the 2018 bank statements, and will continue to reconcile the 2019 bank statements and prepare for the 2018 Annual Financial reporting to the State. In the past 2 months, the Clerk-Treasurer has made strides to meet the requests of the State Auditor's Office as well as the many other State and Local Departments and businesses that were left unpaid or left without filed documents to receive payment for the 2018 and 2017 filed years. The City of Wapato is gaining ground in Internal Controls, including obtaining training and implementing the proper policies and procedures needed to safeguard the City's public funds.*

### ***Auditor's Remarks***

We appreciate the City's commitment to resolving the issues identified above and emphasize the importance of establishing effective controls over cash receipting and billing procedures that includes adequate monitoring of all sources of revenue. We reaffirm our finding and will follow up on the status of the finding during the next audit.

### ***Applicable Laws and Regulations***

RCW 43.09.200 – Local government accounting – Uniform system of accounting, states,

The state auditor shall formulate, prescribe, and install a system of accounting and reporting for all local governments, which shall be uniform for every public institution, and every public office, and every public account of the same class.

The system shall exhibit true accounts and detailed statements of funds collected, received, and expended for account of the public for any purpose whatever, and by all public officers, employees or other persons.

The accounts shall show the receipt, use, and disposition of all public property, and the income, if any, derived therefrom; all sources of public income, and the amounts due and received from each source; all receipts, vouchers, and other documents kept, or required to be kept, necessary to isolate and prove the validity of every transaction; all statements and reports made or required to be made, for the internal administration of the office to which they pertain; and all reports published or required to be published, for

the information of the people regarding any and all details of the financial administration of public affairs.

RCW 43.09.210 – Local government accounting – Separate accounts for each fund or activity – Exemption for agency surplus personal property, states:

(3) Separate accounts shall be kept for every appropriation or fund of a taxing or legislative body showing date and manner of each payment made therefrom, the name, address, and vocation of each person, organization, corporation, or association to whom paid, and for what purpose paid.

(4) Separate accounts shall be kept for each department, public improvement, undertaking, institution, and public service industry under the jurisdiction of every taxing body.

(3) All service rendered by, or property transferred from, one department, public improvement, undertaking, institution, or public service industry to another, shall be paid for at its true and full value by the department, public improvement, undertaking, institution, or public service industry receiving the same, and no department, public improvement, undertaking, institution, or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another.

(4) All unexpended balances of appropriations shall be transferred to the fund from which appropriated, whenever the account with an appropriation is closed.

(5) This section does not apply to:

(a) Agency surplus personal property handled under RCW [43.19.1919](#)(1)(e); or

(b) The transfer, lease, or other disposal of surplus property for public benefit purposes, as provided under RCW [39.33.015](#).

RCW 43.09.240 – Local government accounting – Public officers and employees – Duty to account and report – Removal from office – Deposit of collections, states:

Every public officer and employee of a local government shall keep all accounts of his or her office in the form prescribed and

make all reports required by the state auditor. Any public officer or employee who refuses or willfully neglects to perform such duties shall be subject to removal from office in an appropriate proceeding for that purpose brought by the attorney general or by any prosecuting attorney.

Every public officer and employee, whose duty it is to collect or receive payments due or for the use of the public shall deposit such moneys collected or received by him or her with the treasurer of the local government once every twenty-four consecutive hours. The treasurer may in his or her discretion grant an exception where such daily transfers would not be administratively practical or feasible as long as the treasurer has received a written request from the department, district, or agency, and where the department, district, or agency certifies that the money is held with proper safekeeping and that the entity carries out proper theft protection to reduce risk of loss of funds. Exceptions granted by the treasurer shall state the frequency with which deposits are required as long as no exception exceeds a time period greater than one deposit per week.

In case a public officer or employee collects or receives funds for the account of a local government of which he or she is an officer or employee, the treasurer shall, by Friday of each week, pay to the proper officer of the local government for the account of which the collection was made or payment received, the full amount collected or received during the current week for the account of the district.

*Budgeting Accounting and Reporting System (BARS) Manual – Accounting Principles and Controls, Internal Control, Sections 3.1.3.20 and 3.1.3.30 states:*

Internal control is a process – affected by those charged with governance, management and other personnel designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations
- Compliance with applicable laws and regulations
- Reliability of financial reporting

Management and the governing body are responsible for the government's performance, compliance and financial reporting. Therefore, the adequacy of internal control to provide reasonable assurance of achieving these objectives is also the responsibility of management and the governing body. The governing body has ultimate responsibility for ensuring adequate controls to achieve objectives, even though primary responsibility has been delegated to management. Since management and the governing body are assumed to work in harmony, both parties are collectively referred to as "management" throughout the rest of this section.

*Budgeting Accounting and Reporting System (BARS) Manual – Accounting Principles and Controls, Revenues, Cash Receipting, Sections 3.6.1, states in part:*

*Deposits*

1. Every public officer and employee, whose duty it is to collect and receive payments should deposit receipts with the treasurer of the local government at least once every 24 hours. The treasurer of the local government may grant an exception where such daily transfers would not be administratively practical or feasible (RCW 43.09.240).
2. Deposits must be made intact, meaning all payments received must be deposited without substitution. This is evidenced by the composition of checks and cash listed on the deposit slip matched to related receipt records.
3. Checks must be restrictively endorsed For Deposit Only immediately upon receipt.
4. Separate bank accounts may be used to receipt funds and transfer to a master account in order to facilitate timely collection of cash in remote areas or as part of the government's banking structure. These accounts (which may be referred to as zero-balance, clearing, transmittal or depository accounts), should be swept at least monthly and be independently reconciled the same as all other bank accounts.

*Receipt Forms (manual or automated)*

1. Receipts should be pre-numbered and imprinted with the name of the local government.

2. Receipts must include the following information:

- Identification of payor.
- Amount received.
- Mode of payment (cash, check, credit card, other).
- Purpose of payment.
- Identification of employee who prepares receipt.

3. Generic receipt forms should not be used (e.g., Rediform, etc.).

4. In instances where cash is received at decentralized locations (e.g., police department, parks department, etc.), the local government treasurer may combine those receipts onto one treasurer's receipt. The treasurer's receipt should indicate the total amount received from each location as well as the appropriate account codes.

5. If a receipt is voided, the original and any copies of that receipt must be retained.

#### *Internal Control*

See the BARS manual 3.1.3, Internal Control for general guidance on internal controls. The following are minimum expected controls for cash receipting:

1. More than one employee should open the daily mail and prepare a list of cash and checks received (remittance list). If dual custody is not feasible, the government should consider compensating controls such as having mail opened in an area observable by other employees or stronger monitoring controls over revenues.

2. Deposits may be prepared by the person who received the payment. The government should implement a system of supervisory review of the remittance list and bank deposits to ensure deposits are made intact.

3. Checks received in the mail should be briefly reviewed for accuracy (e.g., proper payee, date, signature of payor, etc.). Checks with obvious inaccuracies should not be included in the



deposit. In such a case, the entity should contact the payor and request that the payment be corrected or reissued.

4. The daily remittance list should be compared (reconciled) to daily deposit slips and to the cash receipts journal (or check register) on a regular basis. This should be performed by someone other than the employee who prepared the remittance list. Any shortage should be resolved.

5. A duplicate copy of the bank-validated deposit slip showing the composition of receipts should be retained by someone other than the employee making up the deposit.

6. The bank statement reconciliation should be performed by a person who does not have custody of or access to cash during any point in the receipting and depositing process. This reconciliation should include comparing deposits per bank to recorded receipting transactions in the general ledger.

7. Deposits should be physically safeguarded using bank bags with locks or other tamper-proof devices.

8. Receipts should be physically safeguarded during the operating day and secured in a safe or vault overnight. Access to the cashiering area should be appropriately restricted whenever possible.

9. Access to the safe or vault should be limited and combination should be changed periodically.

In addition, the safe and vault combination should be changed after employees terminate employment.

10. If the government utilizes cash registers, there should be one change fund and one cash register (or drawer) per cashier. This enables assignment of responsibility for cash to a specific individual at all times.

11. Policies should contain instructions for identifying cash receipts and for dating cash receipts journal entries for that day's receipts.

## SCHEDULE OF AUDIT FINDINGS AND RESPONSES

### **2018-005 The City violated its nepotism policy and did not have adequate internal controls over payroll, disbursements, and credit card activity to safeguard public resources.**

#### *Background*

The City of Wapato spends about \$7.4 million a year on operating expenditures. Of this, about \$500,000 is for payroll and at least \$50,000 is credit card activity.

Until the fall of 2018, the City was governed by a seven-member Council and Mayor, who oversaw daily operations. In September 2018, the Council established a new city administrator position to oversee its daily operations and appointed to the position the elected Mayor, who resigned his Mayoral position. City Administrator duties include supervising, administering, and coordinating the activities of the various City offices. One of the position's roles involves serving as personnel officer for the City, responsible for the hiring and discharging of all City employees, except those employees and officers required by law to be appointed by the Mayor.

#### *Description of Condition*

The City did not have adequate procedures in place over disbursements, credit card and payroll activity to safeguard public funds. Specifically, the City did not:

- Ensure management and staff both understood and complied with state laws, City policies and the collective bargaining agreement (CBA), including:
  - Personnel policy prohibiting nepotism
  - Personnel policy requiring the City to advertise open permanent positions
  - CBA provisions for clothing and boot allowances
  - CBA rules for overtime
  - Code of ethics laws for municipal officers
- Ensure it collected and retained timesheets to support payroll, and related personnel documents to support the full- or part-time status and pay rates for employees
- Implement necessary payroll processing procedures or monitoring of the payroll function to ensure staff calculate payroll using correct pay rates

- Implement controls over credit cards and disbursements to ensure supporting documentation is both required and retained for all disbursements and credit card transactions and that someone independent review all purchases before payment.

### *Cause of Condition*

The City experienced significant turnover during 2018. Management did not ensure all personnel changes were properly documented and retained in personnel files or that the payroll system was adequately updated.

In addition, management and City Council did not hold staff accountable for keeping supporting documentation for credit card disbursements and did not make it a priority to adopt policies and procedures over effective credit card use.

Further, management and City Council did not provide sufficient oversight over payroll and disbursements to ensure public funds were used for a valid business purpose, properly supported, and free from a conflict of interest through the code of ethics.

### *Effect of Condition*

Inadequate internal controls over disbursement, and credit card and payroll transactions increase the risk that a loss or misappropriation of public funds could occur and not be detected by management quickly, if at all.

### *Nepotism*

In both positions, the former Mayor/current City Administrator, as personnel officer, has the responsibility to supervise, appoint and remove employees. In this case, that includes the former Mayor/current Administrator's daughter, the Deputy Clerk-Treasurer, who was hired in February 2018 after the former Mayor was elected.

This violates the City of Wapato Personnel Policy, section 3.5 Employment of Relatives (nepotism), which states in part: "The immediate family of current city employees and city council members will not be employed by the City where: (1) One of the parties would have authority (or practical power) to supervise, appoint, remove, or discipline the other."

### *Payroll - hiring*

The City hired 11 employees during 2018 and 2019 but did not follow the City's personnel policy that requires permanent positions to be posted or advertised.

### *Payroll – clothing and boot allowances*

Only employees covered under a CBA were authorized to receive a boot allowance (for Public Work employees) and a clothing allowance (for all represented employees). However, the City paid one non-represented, exempt employee and two non-represented temporary employees clothing and boot allowances, totaling \$1,172. In addition, one City Hall employee was incorrectly paid a boot allowance of \$150.

### *Payroll - overtime*

The City did not follow the CBA when paying overtime. According to the City's CBA and personnel policy, non-exempt employees earn overtime for work exceeding 40 hours in any work week; however, the City did not calculate overtime based on this 40-hour requirement. The City paid two employees overtime to which they were not entitled, totaling \$113, because they did not work more than 40 hours in the work week. In addition, the City paid one employee 10 hours of compensatory time, totaling \$198, that was not earned.

### *Payroll – code of ethics*

The City allowed a Councilmember to continue her City employment after being appointed to the Council on October 2, 2018. This violates state law for municipal officers. She was paid \$5,917 as an employee between October and December, when she resigned her position.

### *Pay rates, personnel files and timesheets*

The Deputy Clerk-Treasurer, the former Mayor/current City Administrator's daughter, became a permanent, full-time employee in February 2018, three months after her father was sworn in as Mayor. The City did not have documentation to support her permanent status or whether she received an increase in pay; however, the City increased her pay from March through August 15, 2018, and then returned her pay back to the correct rate through the rest of the year. As a result, she was overpaid by \$133. Also, for one pay-period, she recorded 12.1 overtime hours, but was paid for 17.1 hours, resulting in a \$144 overpayment. In addition, the City could not produce one of her timesheets, resulting in \$2,815 in unsupported payroll expenditures.

Also, the City did not use the correct pay rate when paying other employees, overpaying them by a total of \$487 and underpaying one employee by \$235.

#### *Disbursements and credit cards*

The City paid credit card transactions totaling \$5,835 and general disbursement transactions totaling \$1,690 that were not supported by an itemized receipt. As a result, we could not determine whether these transactions were for a valid business purpose. Also, credit card transactions totaling \$9,381 and general disbursement transactions totaling \$82,345 were not approved by an independent person before payment.

Further, the City recorded \$23,441 of professional service expenditures as salaries in the general ledger.

### ***Recommendations***

We recommend the City:

- Adequately train staff responsible for processing payroll and accounts payable that include the allowable use of expenditures and proper recording of transactions
- Comply with the personnel policy manual by not allowing immediate family members to have authority to supervise, appoint, remove, or discipline another family member
- Pay employees based on terms of the CBA and personnel policy, specifically as they relate to overtime and paying clothing and boot allowances
- Ensure all transactions are free from conflicts of interest
- Keep sufficient documentation to support all payroll transactions, including authorized pay rates, timesheets and approval for time worked and perform an independent review to verify all payroll transactions are properly calculated
- Establish policies and procedures over disbursements and credit cards that include retaining itemized receipts for all transactions and performing an independent review to ensure expenses are supported, for a valid business purpose and properly coded

### ***City's Response***

*The Mayor is not an employee of the City. Therefore, the City personnel policy did not apply to appointments made by the Mayor.*

*The City Administrator does not have authority to terminate or discharge employees without approval of the Mayor. Therefore, the final authority for all decisions continues to reside in the Mayor.*

*As for the boot allowance, the City provided an allowance to unrepresented employees to match the treatment afforded to represented employees. The boots were needed for the performance of city work (similar to work performed by represented employees). Some or all of the unrepresented employees that were given the allowance subsequently became represented employees, and would have been entitled to the allowance anyway. The expense was within the authority and discretion of the Mayor's spending authority.*

### ***Auditor's Remarks***

We agree that the City's nepotism policy only refers to employees and City Council members. However, given that the Mayor, by ordinance, is ultimately responsible for overseeing the actions of the City, the Mayor's appointment of an immediate family member violates the intent of the policy.

By ordinance, the City Administrator serves as the City's personnel officer, which gives him "practical power" to supervise City employees. The nepotism policy prohibits employees that are immediate family members where "One of the parties would have authority (or practical power) to supervise, appoint, remove, or discipline the other."

In regards to the boot allowances, the CBA only allows boot allowances for represented public work employees. The employees that received boot allowances were either unrepresented City Hall employees or unrepresented, part-time public work employees. The City is required to follow City policy and CBAs when making payments. Modifications to these policies or agreements would need to be approved and in writing. There was no such modification.

We reaffirm our finding.

### ***Applicable Laws and Regulation***

RCW 42.23.030 – Interest in contracts prohibited, states:

No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in

connection with such contract from any other person beneficially interested therein.

RCW 42.23.070 – Prohibited Acts, states:

(1) No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.

(2) No municipal officer may, directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the employing municipality, for a matter connected with or related to the officer's services as such an officer unless otherwise provided for by law.

(3) No municipal officer may accept employment or engage in business or professional activity that the officer might reasonably expect would require or induce him or her by reason of his or her official position to disclose confidential information acquired by reason of his or her official position.

(4) No municipal officer may disclose confidential information gained by reason of the officer's position, nor may the officer otherwise use such information for his or her personal gain or benefit.

RCW 42.24.080 – Municipal corporations and political subdivisions – Claims against for contractual purposes – Auditing and payment – Forms – Authentication and certification, states:

(1) All claims presented against any county, city, district or other municipal corporation or political subdivision by persons furnishing materials, rendering services or performing labor, or for any other contractual purpose, shall be audited, before payment, by an auditing officer elected or appointed pursuant to statute or, in the absence of statute, an appropriate charter provision, ordinance or resolution of the municipal corporation or political subdivision. Such claims shall be prepared for audit and payment on a form and in the manner prescribed by the state auditor. The form shall provide for the authentication and certification by such auditing officer that the materials have been furnished, the services rendered, the labor performed as described, or that any advance payment is due and payable pursuant to a contract or is available as an option for full or

partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the municipal corporation or political subdivision. No claim shall be paid without such authentication and certification.

(2) Certification as to claims of officers and employees of a county, city, district or other municipal corporation or political subdivision, for services rendered, shall be made by the person charged with preparing and submitting vouchers for payment of services. He or she shall certify that the claim is just, true and unpaid, and that certification shall be part of the voucher.

RCW 43.09.200 – Local government accounting – Uniform system of accounting, states,

The state auditor shall formulate, prescribe, and install a system of accounting and reporting for all local governments, which shall be uniform for every public institution, and every public office, and every public account of the same class.

The system shall exhibit true accounts and detailed statements of funds collected, received, and expended for account of the public for any purpose whatever, and by all public officers, employees or other persons.

The accounts shall show the receipt, use, and disposition of all public property, and the income, if any, derived therefrom; all sources of public income, and the amounts due and received from each source; all receipts, vouchers, and other documents kept, or required to be kept, necessary to isolate and prove the validity of every transaction; all statements and reports made or required to be made, for the internal administration of the office to which they pertain; and all reports published or required to be published, for the information of the people regarding any and all details of the financial administration of public affairs.

RCW 43.09.2855 – Local Governments – Use of credit cards, states:

(1) Local governments, including counties, cities, towns, special purpose districts, municipal and quasi-municipal corporations, and political subdivisions, are authorized to use credit cards for official government purchases and acquisitions.



(2) A local government may contract for issuance of the credit cards.

(3) The legislative body shall adopt a system for:

- (a) The distribution of the credit cards;
- (b) The authorization and control of the use of credit card funds;
- (c) The credit limits available on the credit cards;
- (d) Payment of the bills; and
- (e) Any other rule necessary to implement or administer the system under this section.

(4) As used in this section, "credit card" means a card or device issued under an arrangement pursuant to which the issuer gives to a card holder the privilege of obtaining credit from the issuer.

(5) Any credit card system adopted under this section is subject to examination by the state auditor's office pursuant to chapter 43.09 RCW.

(6) Cash advances on credit cards are prohibited.

*Budgeting Accounting and Reporting System (BARS) Manual – Accounting Principles and Controls, Internal Control, Sections 3.1.3.20 and 3.1.3.30 states:*

Internal control is a process – affected by those charged with governance, management and other personnel designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations
- Compliance with applicable laws and regulations
- Reliability of financial reporting

Management and the governing body are responsible for the government's performance, compliance and financial reporting. Therefore, the adequacy of internal control to provide reasonable assurance of achieving these objectives is also the responsibility of management and the governing body. The governing body has ultimate responsibility for ensuring adequate controls to achieve objectives, even though primary responsibility has been delegated to management. Since management and the governing body are

assumed to work in harmony, both parties are collectively referred to as “management” throughout the rest of this section.

*Budgeting Accounting and Reporting System (BARS) Manual – Accounting, Expenditures, Purchase Cards, Sections 3.8.4 states:*

Credit, debit, fuel, prepaid or other forms of purchase cards are commonly used for purchases when appropriate to improve cash management, reduce administrative costs and increase efficiency.

In accordance with RCW 43.09.2855, local governments using credit cards must adopt policies and procedures to control credit card payments, including distribution of cards, credit limits, authorization of purchases and support and payment of bills. If cards are used for travel purchases, policies must conform to requirements of RCW 42.24.115.

Credit card payments must be supported by documentation for every purchase and be audited and certified in accordance with RCW 42.24.080 or RCW 42.24.180.

Officials and employees are prohibited by law from:

- Using publicly-used credit cards for personal purchases, even if the purchase is reimbursed prior to the date that the bill becomes due.
- Using credit cards for cash advances, regardless of the purpose.

## SCHEDULE OF AUDIT FINDINGS AND RESPONSES

### 2018-006 The City did not comply with state procurement requirements.

#### *Background*

A seven-member Council and Mayor govern the City, and the City Administrator oversees its daily operations. The City operates on an annual budget of about \$6.6 million.

State law requires local governments to solicit bids and keep records for purchases and projects that meet or exceed the established thresholds. Specifically, state law requires cities to use a formal sealed bid procedure when purchasing supplies, materials, or equipment for more than \$7,500 or for public work projects that exceed \$65,000, or \$300,000 if using the small-works roster. When using a small-works roster, the City must advertise at least once a year, soliciting names of interested contractors. When selecting contractors from the small-works roster, the City must invite quotes from all appropriate contractors on the list. As an alternative, quotes may be invited from at least five contractors on the appropriate small-works roster.

In addition, when procuring architectural and engineering services, state law requires local governments to publicly solicit qualifications from firms and then select, based upon criteria established by the governments, the firm deemed to be the most highly qualified to provide the services required for the project.

#### *Description of Condition*

The audit identified the following:

- The City did not competitively procure or formally claim an exemption for the purchase of two used vehicles. The City purchased a Chevrolet Impala totaling \$23,572 and a GMC Yukon Denali totaling \$51,803. When purchasing the Denali, the City traded another vehicle valued at \$25,000; however, the Council did not approve the surplus of that vehicle.
- The City created a small-works roster in 2018 without advertising for interested contractors, as state law requires.
- The City awarded the swimming pool renovation project, totaling \$297,563, using the small-works roster. However, the City paid \$356,167 for the project. The City should have formally bid the project because the total amount exceeded \$300,000.

- The City paid an engineering firm \$79,468 for the North Wapato Lift Station project. The City did not advertise for the engineering services or go through the process of selecting the most qualified vendor.

### ***Cause of Condition***

In 2017 and 2018, the City experienced turnover in key financial oversight positions. The City did not fully understand state law over procurement requirements and did not assign clear responsibility to a knowledgeable employee to evaluate all transactions for bid law compliance before approving the purchases and services.

### ***Effect of Condition***

The City cannot guarantee all interested vendors and contractors had the opportunity to bid or that the lowest possible price was obtained. In addition, the City cannot demonstrate it complied with procurement requirements for engineering services or awarded the contract to the most qualified firm.

### ***Recommendations***

We recommend the City comply with state and local procurement requirements, and implement internal controls that include:

- Training staff adequately regarding appropriate methods for procuring goods and services
- Seeking legal guidance on appropriate bidding procedures when necessary to ensure state laws are followed
- Formally bidding for purchases or public work projects that exceed the required threshold
- Keeping adequate records to support compliance with state procurement laws
- Advertising formally for the small-works roster and selecting contractors properly in accordance with state law

### ***City's Response***

*All of the items listed above were purchased or contracted by resolution and approval of the City Council.*

*The swimming pool project was not estimated to exceed the bid thresholds for formal sealed bids.*

*Unfortunately, once work commenced, additional repairs were required resulting in the need for change orders. The resulting change orders caused the final project to slightly exceed \$300,000. There is no requirement in state law that we are aware of requiring sealed bids if projects are within \$5,000 or \$10,000 of a threshold.*

*The Denali was purchased by Resolution and passed by the City council.*

*The City of Wapato solicited bids for an Engineering Firm to represent the City on the Wapato Lift Station project and was selected using a fair and competitive process.*

*The City of Wapato has tried to abide by all laws and regulations to appease the public and state statutes. The City is currently evaluating the use of the MRSC Rosters to improve compliance for small works projects.*

### ***Auditor's Remarks***

The swimming pool project was neither formally bid nor procured through a valid small works roster, which is a violation of state bid requirements. The same is the case with the purchase of the vehicles.

The City procured for engineering services in 2015 that covered the period 2015 through 2017. The contract for engineering services on the North Wapato Lift Station was approved in April of 2018. The City has been unable to provide evidence that this contract was properly procured. We reaffirm our finding.

### ***Applicable Laws and Regulation***

RCW 35.23.352 – Public works – Contracts – Bids – Small works roster – Purchasing requirements, recycled or reused materials or products, states, in part:

(1) Any second-class city or any town may construct any public works, as defined in RCW [39.04.010](#), by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of sixty-five thousand dollars if more than one craft or trade is involved with the public works, or forty thousand dollars if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least thirteen days prior to the last date upon which bids will be received. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in accordance with RCW [39.08.030](#). If the bidder fails to enter into the contract in accordance with his or her bid and furnish a bond within ten days from the date at which he or she is notified that he or she is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(3) In lieu of the procedures of subsection (1) of this section, a second-class city or a town may let contracts using the small works roster process provided in RCW [39.04.155](#).

Whenever possible, the city or town shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(4) The form required by RCW [43.09.205](#) shall be to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(6) Any purchase of supplies, material, or equipment, except for public work or improvement, where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids.

(7) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(8) For advertisement and formal sealed bidding to be dispensed with as to purchases with an estimated value of fifteen thousand dollars or less, the council or commission must authorize by resolution, use of the uniform procedure provided in RCW [39.04.190](#).

(9) The city or town legislative authority may waive the competitive bidding requirements of this section pursuant to RCW [39.04.280](#) if an exemption contained within that section applies to the purchase or public work.

(10) This section does not apply to performance-based contracts, as defined in RCW [39.35A.020](#)(4), that are negotiated under chapter [39.35A](#) RCW.

(11) Nothing in this section shall prohibit any second class city or any town from allowing for preferential purchase of products

made from recycled materials or products that may be recycled or reused.

RCW 39.04.155 – Small works roster contract procedures, states in part:

(1) This section provides uniform small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property that may be used by state agencies and by any local government that is expressly authorized to use these provisions. These provisions may be used in lieu of other procedures to award contracts for such work with an estimated cost of three hundred thousand dollars or less. The small works roster process includes the limited public works process authorized under subsection (3) of this section and any local government authorized to award contracts using the small works roster process under this section may award contracts using the limited public works process under subsection (3) of this section.

(2)(a) A state agency or authorized local government may create a single general small works roster, or may create a small works roster for different specialties or categories of anticipated work. Where applicable, small works rosters may make distinctions between contractors based upon different geographic areas served by the contractor. The small works roster or rosters shall consist of all responsible contractors who have requested to be on the list, and where required by law are properly licensed or registered to perform such work in this state. A state agency or local government establishing a small works roster or rosters may require eligible contractors desiring to be placed on a roster or rosters to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the state agency or local government as a condition of being placed on a roster or rosters. At least once a year, the state agency or local government shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. In addition, responsible contractors shall be added to an appropriate roster or rosters at any time they submit a written request and necessary records. Master contracts may be required to be signed that become effective when a specific award is made using a small works roster.



(b) A state agency establishing a small works roster or rosters shall adopt rules implementing this subsection. A local government establishing a small works roster or rosters shall adopt an ordinance or resolution implementing this subsection. Procedures included in rules adopted by the department of enterprise services in implementing this subsection must be included in any rules providing for a small works roster or rosters that is adopted by another state agency, if the authority for that state agency to engage in these activities has been delegated to it by the department of enterprise services under chapter [43.19](#) RCW. An interlocal contract or agreement between two or more state agencies or local governments establishing a small works roster or rosters to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the provisions of this subsection.

(c) Procedures shall be established for securing telephone, written, or electronic quotations from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW [39.04.010](#). Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes. Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. However, if the estimated cost of the work is from one hundred fifty thousand dollars to three hundred thousand dollars, a state agency or local government that chooses to solicit bids from less than all the appropriate contractors on the appropriate small works roster must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The government has the sole option of

determining whether this notice to the remaining contractors is made by: (i) Publishing notice in a legal newspaper in general circulation in the area where the work is to be done; (ii) mailing a notice to these contractors; or (iii) sending a notice to these contractors by facsimile or other electronic means. For purposes of this subsection (2)(c), "equitably distribute" means that a state agency or local government soliciting bids may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

(d) A contract awarded from a small works roster under this section need not be advertised.

(e) Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

RCW 39.80.030 – Agency’s requirement for professional services – Advance publication, states:

Each agency shall publish in advance that agency's requirement for professional services. The announcement shall state concisely the general scope and nature of the project or work for which the services are required and the address of a representative of the agency who can provide further details. An agency may comply with this section by: (1) Publishing an announcement on each occasion when professional services provided by a consultant are required by the agency; or (2) announcing generally to the public its projected requirements for any category or type of professional services.

RCW 39.80.040 – Procurement of architectural and engineering services—Submission of statement of qualifications and performance data—Participation by minority and women-owned firms and veteran-owned firms, states:

In the procurement of architectural and engineering services, the agency shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The agency shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct

discussions with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, based upon criteria established by the agency, the firm deemed to be the most highly qualified to provide the services required for the proposed project. Such agency procedures and guidelines shall include a plan to ensure that minority and women-owned firms and veteran-owned firms are afforded the maximum practicable opportunity to compete for and obtain public contracts for services. The level of participation by minority and women-owned firms and veteran-owned firms shall be consistent with their general availability within the professional communities involved. For the 2015-2017 biennium the procurement for services related to modular classrooms may be expedited.

RCW 39.80.050 – Procurement of architectural and engineering services – Contract negotiations, states:

(1) The agency shall negotiate a contract with the most qualified firm for architectural and engineering services at a price which the agency determines is fair and reasonable to the agency. In making its determination, the agency shall take into account the estimated value of the services to be rendered as well as the scope, complexity, and professional nature thereof.

(2) If the agency is unable to negotiate a satisfactory contract with the firm selected at a price the agency determines to be fair and reasonable, negotiations with that firm shall be formally terminated and the agency shall select other firms in accordance with RCW [39.80.040](#) and continue in accordance with this section until an agreement is reached or the process is terminated.