

City Council Meeting Agenda

February 3, 2025

In accordance with the Open Public Meetings Act (OPMA), the Vancouver City Council meeting will be open to in-person attendance. Options for viewing and/or participating in the meeting remotely will also be accommodated. The City Council will be attending this meeting in person.

All City Council workshops and meetings are broadcast ([live closed captioning available](#)), CVTV cable channels 23 / HD 323, and on the [City's Facebook page](#).

Public testimony will be accepted regarding any matter on the agenda below. Advance registration will be required.

Unless otherwise announced by the Presiding Officer, each speaker may testify once for up to three minutes under each public testimony opportunity below and will be asked to provide their name and city of residence for the record.

Testimony will be accepted in the following manner:

- **Written comments submitted in advance:** [Email comments to the City Council](#) until 12:00 p.m. February 3, 2025. Comments will be compiled and sent to the City Council and entered into the record.
- **In-person or remote testimony during the meeting:** Register in-person at City Hall. In-person registration is open until 6:30 p.m. on February 3, 2025. Instructions will be provided on-site. Register to testify online. Online registration is open until 12:00 p.m. on February 3, 2025.

Visit the [city's website](#) for more information and to register under Public Participation or call the City Manager's Office at (360) 487-8600.

Further instructions for accessing the virtual meeting (for remote testimony) will be provided upon registration.

Upon request, printouts of agenda materials will be provided, including large print.

Workshops: 5:30-6:00 p.m.

Vancouver City Hall - Council Chambers - 415 W 6th Street, Vancouver WA

Multi-Family Tax Exemption Boundary Expansion

(approximately 30 minutes)

Bryan Monroe, Associate Housing Project Coordinator, bryan.monroe@cityofvancouver.us

Council Dinner / Administrative Updates (6:00 - 6:30 PM)

Regular Council Meeting

6:30 PM

Vancouver City Hall - Council Chambers - 415 W 6th Street, Vancouver WA

Pledge of Allegiance

Call to Order and Roll Call

Approval of Minutes

Minutes - January 27, 2025

Community Communication

This is the place on the agenda where the public is invited to speak to Council regarding any matter on the Agenda not already scheduled for Public Hearing. (Separate instructions are provided for offering testimony on Public Hearing when applicable.) This includes the option to testify about Workshops. Members of the public addressing Council are requested to give their name and city of residence for the audio record. Speakers are to limit their testimony to a total of three minutes for all items combined.

Consent Agenda

The following items will be passed by a single motion to approve all listed actions and resolutions. There will be no discussion on these items unless requested by Council. If discussion is requested, the item will be moved from the Consent Agenda and considered separately – after the motion has been made and passed to approve the remaining items.

1. Construction Acceptance - Water Station 4 Wellhouse 4B Replacement - ITB# 23-40

Staff Report: 018-25

Request: On Monday, February 3, 2025, accept the facilities as constructed by Odyssey Contracting, LLC of Yacolt, Washington, and authorized release of the contractor's bond, subject to receipt of all documentation required by law.

Mehrin Selimgir, Civil Engineer, Mehrin.Selimgir@cityofvancouver.us

2. Contract Award - Water Station 9 Per- and polyfluoroalkyl substances (PFAS) Treatment System Preliminary Design - RFQ 56-24

Staff Report: 019-25

Request: On Monday, February 3, 2025, authorize the City Manager, or designee, to execute a professional services agreement between the City of Vancouver and Brown and Caldwell for an estimated amount not to exceed \$1,332,000; authorize the City Manager to take any legal action necessary to enforce the terms of the same.

Mehrin Selimgir, Civil Engineer, Mehrin.Selimgir@cityofvancouver.us

3. Regional Transportation Council Signal Timing Participation Agreement

Staff Report: 020-25

Request: On Monday, February 3, 2025, authorize the City Manager, or designee, to execute the Agreement on behalf of the City of Vancouver and delegate approval of all task orders issued under this agreement to the City Public Works Director or their designee.

Ryan Lopossa, Streets and Transportation Manager,
ryan.lopossa@cityofvancouver.us

4. Grant and Loan Contract Approvals - Water Station 4 Treatment System Project

Staff Report: 021-25

Request: On Monday, February 3, 2025, authorize the City Manager, or designee, to execute loan contracts DWL29301-0, DWL29707-0 and PC25-96103-005 between the City of Vancouver and Washington Department of Health and Public Works Board.

Mehrin Selimgir, Civil Engineer, Mehrin.Selimgir@cityofvancouver.us

5. Maxon Road Right-of-Way Vacation

A RESOLUTION fixing February 24, 2025, as the date for a public hearing on a proposal to vacate public right-of-way associated with SE Maxon Road, located on the south side of SE 19th Street, east of Ellsworth Road, located within the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 1 North, Range 2 East, Willamette Meridian, City of Vancouver, Clark County, Washington.

AN ORDINANCE vacating the right-of-way associated with SE Maxon Road, located on the south side of SE 19th Street, east of Ellsworth Road, located within the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 1 North, Range 2 East, Willamette Meridian, City of Vancouver, Clark County, Washington; and providing for an effective date.

Staff Report: 022-25

Request: On Monday, February 3, 2025, adopt a resolution of intent and approve the ordinance on first reading to vacate a portion of public right-of-way associated with SE Maxon Road located within the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 1 North, Range 2 East, Willamette Meridian, setting the date of public hearing for February 24, 2025.

Ryan Lopossa, Streets and Transportation Manager,
ryan.lopossa@cityofvancouver.us

6. Heights Business Improvement Area

AN ORDINANCE establishing the Heights Business Improvement Area under chapter 35.87A RCW; adding a new chapter 3.50 to VMC; enacting new sections VMC 3.50.010, 3.50.020, 3.50.030, 3.50.040, 3.50.050, 3.50.060, 3.50.070, 3.50.080, and 3.50.090; and providing for severability and an effective date.

Staff Report: 023-25

Request: On Monday, February 3, 2025, advance the ordinance to establish a Business Improvement Area to be known as the Heights Business Improvement Area, setting the date for the second reading and public hearing for February 10, 2025.

Amy Stewart, Real Estate Project Manager, amy.stewart@cityofvancouver.us

7. Approval of Claim Vouchers

Request: Approve claim vouchers for February 3, 2025.

Public Hearings

The following item(s) are scheduled for public hearing. Members of the public addressing Council are requested to give their name and city of residence for the audio record. Unless otherwise announced by the Presiding Officer, speakers are to limit their testimony to three minutes for each public hearing.

8. Multi-Family Tax Exemption Boundary Expansion

AN ORDINANCE of the City of Vancouver relating to changes to the City's Multi-Family Housing Tax Exemption Program (MFTE); adopting amendments to the Mill Plain Target Area Boundary amending Section 3.22.030, of the Vancouver Municipal Code (VMC); providing for severability; and setting an immediate effective date.

Staff Report: 016-25

Request: On Monday, February 3, 2025, upon second reading and a public hearing, approve the ordinance.

Bryan Monroe, Associate Housing Project Coordinator,
bryan.monroe@cityofvancouver.us

9. 2024 Comprehensive Plan and Zoning Text Changes

AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and the Vancouver Municipal Code (VMC) Title 20; amending the Capital Facilities Plan 6-year project list, a part of the Vancouver Comprehensive Plan 2011-2030; amending VMC 20.210, 20.245, 20.290, 20.320, 20.330, and 20.430; providing for severability; and establishing an effective date.

Staff Report: 017-25

Request: On Monday, February 3, 2025, upon second reading and a public hearing, approve the ordinance.

Bryan Snodgrass, Principal Planner, bryan.snodgrass@cityofvancouver.us

Communications

A. From the Council

B. From the Mayor

Council Board and Committee Assignments

C. From the City Manager

Adjournment

City Hall is served by C-TRAN. Route information and schedules are available online at www.c-tran.com. You also may reach C-TRAN at (360) 695-0123 for more information on times, fares, and

routes.

Anyone needing language interpretation services or accommodations with a disability at a Vancouver City Council meeting may contact the City Manager's staff at (360) 487-8600 (RELAY: 711). Assistive listening devices and live Closed Captioning are available for the deaf, hard of hearing and general public use. Please notify a staff person if you wish to use one of the devices. Every attempt at reasonable accommodation will be made. To request this agenda in another format, please also contact the phone numbers listed above.



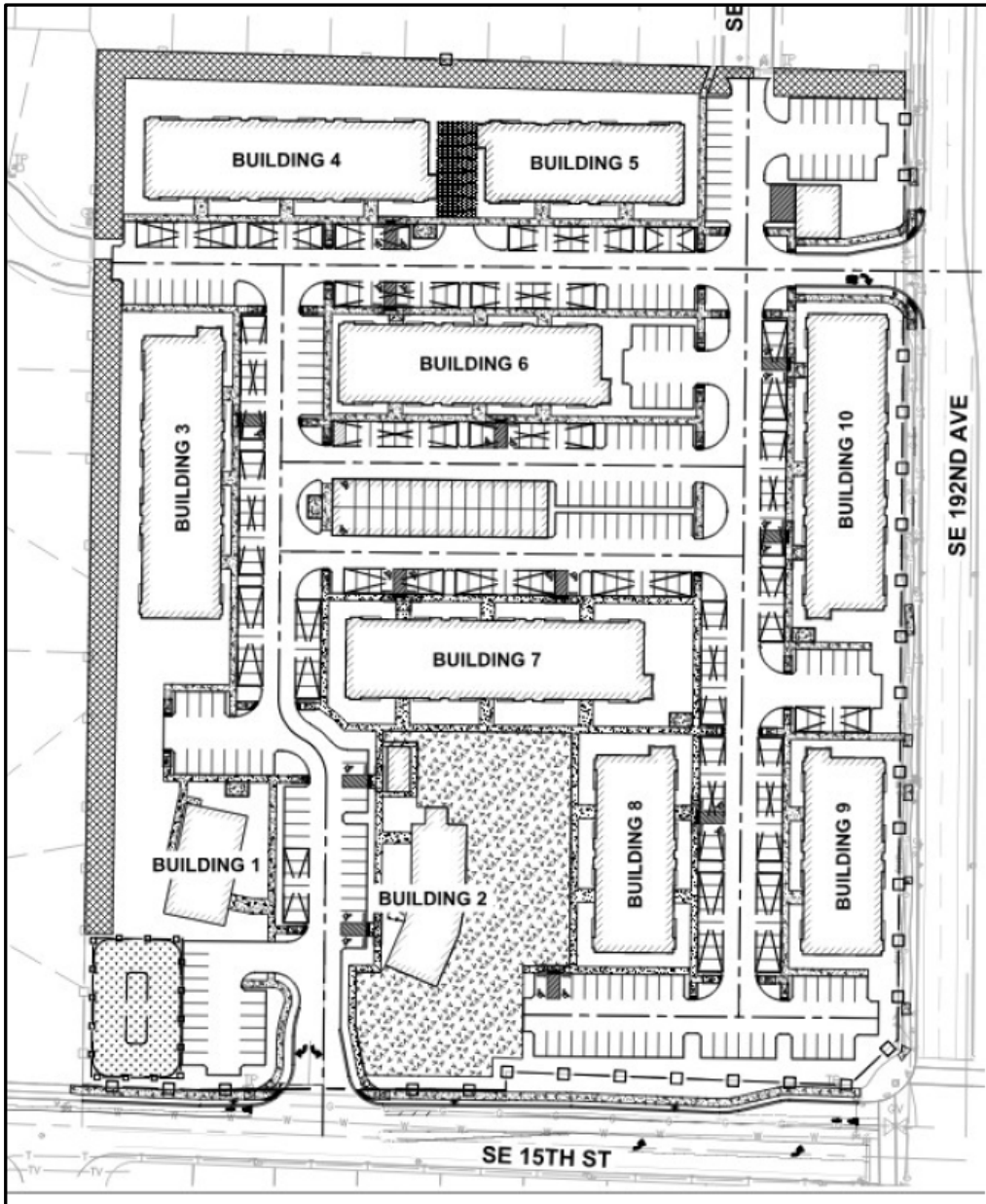
CITY OF
Vancouver
WASHINGTON

MFTE Mill Plain Target Area Amendment

Patrick Quinton
Director
EP&H

Bryan Monroe
Associate Housing Coordinator
EP&H

February 3, 2025



Agenda

I. MFTE Overview

- Program Options
- Feasibility Analysis
- Density Methodology

II. Requested Information

- Target Area Criteria
- Zone Change Development Agreement
- Financial Impact

III. Next Steps

IV. Requested Action



MFTE Program Options

8-year Market Rate

- Affordable Housing Fee
- Density + Affordable Housing Fee
- Ownership/No Affordable Housing Fee

12-year Income-Based

- 20% of units restricted to 80% MFI tenants

Residential Target Area	Program Options			
	Market Rate			Income based Units
	Affordable Housing Fee	Density + Affordable Housing Fee	Ownership	
Downtown Waterfront	50%	275 dwelling units/acre + 25% fee	No Affordable Housing Fee; min 12 units; max sales price	20% of total units restricted to households earning 80% or less of median family income (MFI)
VCCV	50%	225 dwelling units/acre+ 25% fee		
East Vancouver	50%	200 dwelling units/acre+ 25% fee		
Uptown	25%	160 dwelling units/acre		
Evergreen / Grand	25%	90 dwelling units/acre	No Affordable Housing Fee; min 4 units; max sales price	
Fourth Plain	25%	90 dwelling units/acre		
Mill Plain Corridor	25%	90 dwelling units/acre		
HWY 99 Corridor	25%	90 dwelling units/acre		
The Heights*	Not Available	Not Available		

2022 Development Feasibility Analysis

MFTE Benefit Calibrated to Achieve Feasibility

- ECONorthwest analyzed feasibility of development types in different neighborhoods
- Current development pipeline data indicates gap to achieve feasibility is greater than 2022 due to increased cost of money and construction

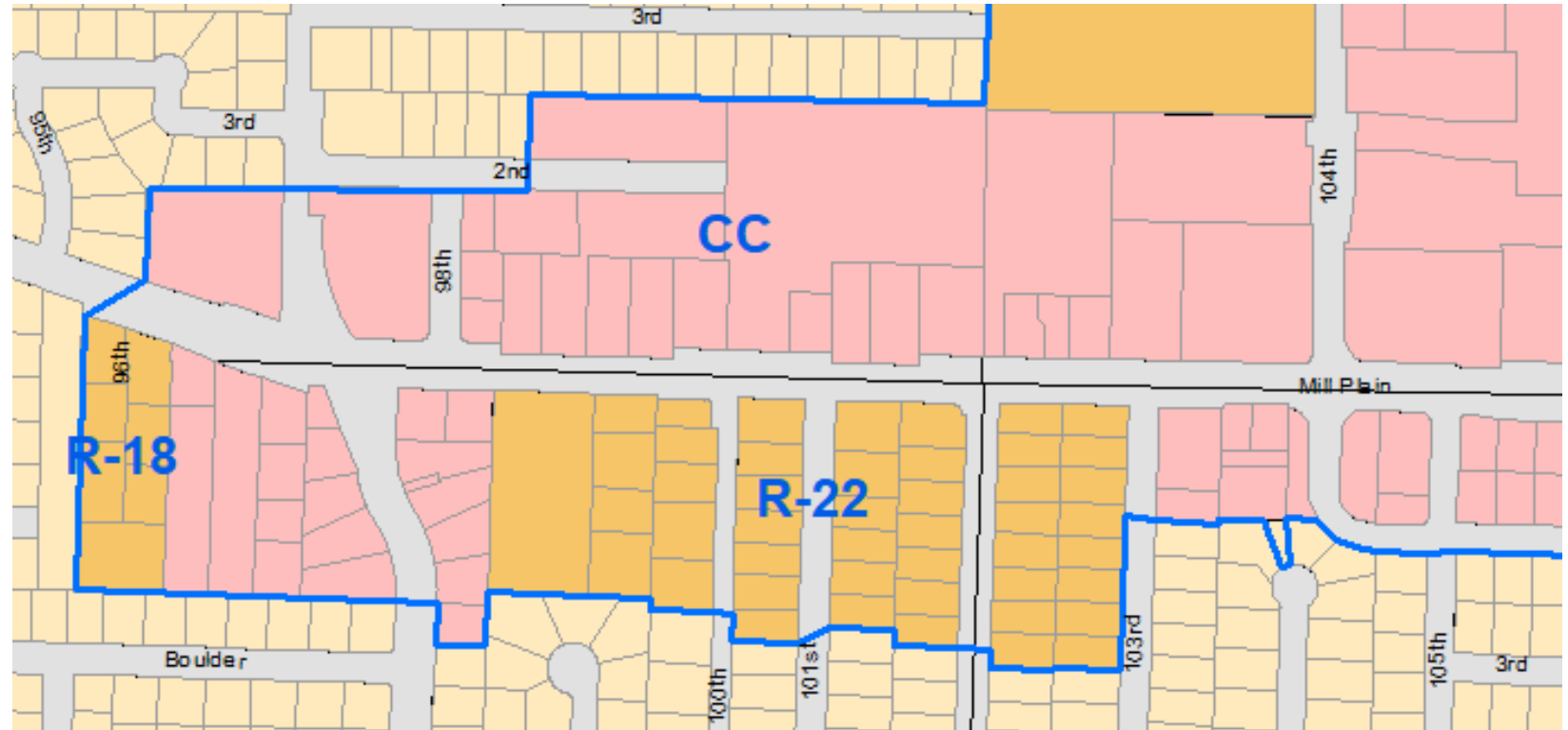
	Small Plex	3-story walk up	4-story wood frame	Podium	Tower
					
VCCV	Likely Feasible	Likely Feasible	Likely Feasible	Likely Feasible	Potentially Feasible
Fourth Plain	Likely Feasible	Likely Feasible	Likely Feasible	Not Feasible	Not Feasible
Evergreen / Grand	Likely Feasible	Likely Feasible	Likely Feasible	Not Feasible	Not Feasible
The Heights	Likely Feasible	Likely Feasible	Likely Feasible	Potentially Feasible	Not Feasible
VIC	Likely Feasible	Likely Feasible	Likely Feasible	Not Feasible	Not Feasible
Fruit Valley	Not Feasible	Not Feasible	Not Feasible	Not Feasible	Not Feasible
TOD Area – Mill Plain	Likely Feasible	Likely Feasible	Likely Feasible	Not Feasible	Not Feasible
TOD Area – Hwy 99	Likely Feasible	Likely Feasible	Likely Feasible	Not Feasible	Not Feasible

 Not Feasible
  Potentially Feasible
  Likely Feasible

Density Methodology

Density goal unlocks additional incentive; not a requirement

- Density goals based on maximum density for commercial district zoning
- Density bonus for 3+ bedroom units
- Parcels in multifamily zones can not meet density goals and select another option to participate in MFTE

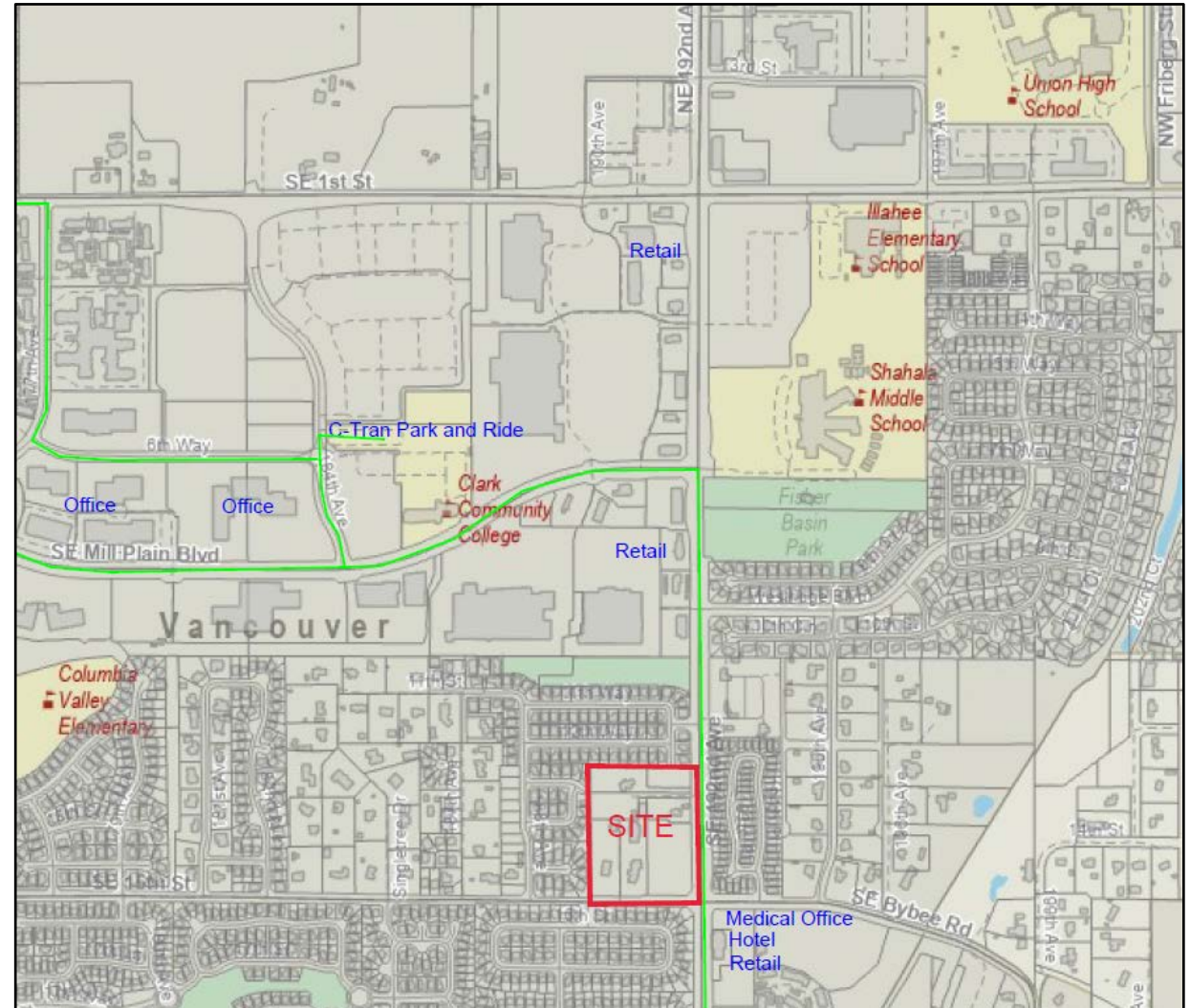


Target Area Criteria

Does the expansion area meet the criteria to be included in a Target area?

YES:

- Higher density residential zoning
- High frequency transit line
- Walking distance to retail, office, parks, schools



Rezone Development Agreement Elements

- R-22 zoning to match neighborhood scale
- Enhanced setbacks
- Enhanced landscape buffer
- 5% of units (12) at 80% AMI for 25-yrs
- Green building enhancements



Financial Impact

	All taxing districts	City of Vancouver
Net Present Value of future tax revenue (20 year)*	\$6,608,000	\$2,155,000
Estimated value of tax exemption (during exemption period)	\$3,677,000	\$990,000
Net Present Value Benefit to Taxing Districts	\$2,931,000	\$1,165,000

	5% of Units @ 80% AMI	Combined 20% of Units @ 80% AMI
Net Present Value of Income Restricted Units**	\$911,000	\$2,156,000

*Estimated value of construction sales tax, utility tax and property tax over 20 years: 2025-2044.

** Based on estimated loss in NOI over affordability period





Next Steps

- VMC Ordinance Adoption Hearing
- Site specific MFTE application

Discussion / Questions



bryan.monroe@cityofvancouver.us | 360-487-7958



MEMORANDUM

DATE: February 3, 2025

TO: Vancouver City Council

FROM: Lon Pluckhahn, City Manager

CC: Patrick Quinton, Director; Bryan Monroe, Associate Housing Coordinator, Economic Prosperity & Housing

RE: **MFTE Mill Plain Target Area Expansion Ordinance**

This memo is intended to provide additional information regarding a proposed expansion of the multifamily tax exemption (MFTE) target area boundary. At the 1st reading of the MFTE boundary expansion ordinance, City Council members requested additional information on five topics prior to making a decision on expanding the target area boundary. The requested information included:

1. Target Area Criteria - Provide an analysis on whether the proposed expansion area meets the criteria required for inclusion in a target area and confirmation that the subject parcels would have been included when the Mill Plain target area was initially established if the parcels were appropriately zoned at that time.
2. Minimum Density - Provide an explanation of the minimum target densities listed under the "Market" rate option and why the proposed project cannot meet that target.
3. Fee in lieu requirement – Clarify fee-in-lieu option and rationale for payment requirements in different target areas.
4. Financial Impact - Provide an estimate of the expected value of the MFTE tax exemption for the future development along with a comparative value of the income-restricted units.
5. Zone Change Development Agreement - Provide a summary of the stipulations contained in the recorded development agreement tied to the zone change of the property from a single-family R-6 zone to a multifamily R-22 zone.

While the first question is most directly applicable to the pending council action regarding the target area expansion ordinance, the remaining questions relate to general MFTE program components and application criteria for specific project applications. If the target area expansion is approved, City Council will have additional opportunity to review and approve the applicant's participation in the MFTE program when the project applies for an exemption.

Target Area Criteria

The criteria for residential target areas are in the Vancouver Municipal Code specifically in the purpose statement (VMC 3.22.010) and in the specific target area designation criteria (VMC 3.22.030). The purpose section of the MFTE ordinance states *“this chapter is to encourage new private multi-housing development and redevelopment within designated urban centers to accommodate future population growth, provide places to live close to employment, shopping, entertainment, and transit services and encourage affordable housing where appropriate.”* Staff finds that the target area expansion request meets the intent of the purpose statement as the expansion area is located in an urban area, on a high frequency transit line, and is within walking distance of employment, shopping, educational, and recreational facilities.

The City of Vancouver still “lacks sufficient available, desirable, affordable, and convenient residential housing to meet the needs of the public...”. The expansion of the target area combined with the proposed future development proposal will allow for increased new construction of residential units providing opportunities for both market rate and income-restricted residents. Applying the MFTE provisions to the future development results in an increase of income-restricted units from 12 to 45. The addition of the new construction units to the housing supply in general will help reduce the deficit of available housing within the City.

Minimum density targets

The second question focuses on the minimum target density for target areas listed in Table 1 of VMC 3.22.040 (attached). Before the MFTE program amendment in 2023, market rate projects were permitted on the condition that the project developer provide 25% of the expected value of foregone property taxes in the form of a “public benefit” (i.e. public art, transit/pedestrian amenities, public park improvements, etc.). The 2023 program amendment eliminated the public benefit requirement for market rate projects and replaced it with two options: payment of a fee-in-lieu (of providing income-restricted units) or achieving a minimum density threshold for the target area. Both the fee-in-lieu and density minimums were based on the specific market dynamics within each target area and determined after an analysis by ECONorthwest that attempted to calculate the minimum necessary incentive for a project to achieve feasibility.

The minimum densities were intended to be aggressive targets because a qualifying project would receive the full MFTE benefit without either providing income restricted units or paying a fee-in-lieu. At the time the 2023 program changes were adopted and new target areas established, staff highlighted that many parcels within the target areas outside of downtown would be unable to meet the density minimums due to the multifamily zoning in place on those parcels. On those parcels, developers would not have the option of meeting the minimum density threshold to receive the full MFTE benefit.

A map is attached showing a portion of the Mill Plain MFTE target area boundary layered over the underlying zoning districts. The pink shaded parcels are nonresidential zones where housing is allowed above the ground floor with no maximum density. The light orange areas indicate multifamily residential zones that have designated density maximums between 18-35 units per acre. As the prevalence of light orange areas indicates, there are many parcels within the Mill Plain target area that are unable to meet the minimum density threshold and therefore must pursue a different MFTE option. The planned

MFTE Mill Plain Target Area Expansion

February 3, 2025

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update to the Comprehensive Plan is revisiting the zoning in these corridors and changes may be proposed to allow for greater density within these parcels.

Fee-in-Lieu Requirement

As previously stated, the fee-in-lieu option, as shown in Table 1 of VMC 3.22.040 (attached) was created as an alternative to the public benefit requirement that was previously used for market rate MFTE projects. Recognizing that some developers may not be able to add affordable units or density to a project, a payment in lieu was added to the MFTE program to provide valuable resources to invest in deeply affordable housing elsewhere. The fee-in-lieu payments were calibrated based on analysis performed by ECONorthwest and reflect the market requirements in different parts of the city. For example, a 50% fee-in-lieu payment for downtown target areas suggests that projects downtown require a lower incentive level to move forward, but the remaining 50% value of the incentive is still required to help those projects achieve the financial return necessary to attract capital to the project. In neighborhood target areas, including the Mill Plain target area, a higher incentive level (i.e., 75% of the incentive) is necessary to help those projects achieve feasibility and move forward.

Financial Impact

The developer has provided preliminary financial data typically required at the project application stage. The City's Chief Financial Officer has reviewed the data and confirmed the following tax exemption estimate.

	All Taxing Districts	City of Vancouver
Net Present Value of future tax revenue* (20 year)	\$6,608,000	\$2,155,000
Estimated value of tax exemption	\$3,677,000	\$990,000
Net Present Value Benefit	\$2,931,000	\$1,165,000

In addition, EP&H staff reviewed the project assumptions and estimated the following values for both the 5% income-restricted unit set aside included in the development agreement and the combined 20% unit set aside resulting from MFTE and the development agreement requirements. Those estimates are provided below along with an estimate of the fee-in-lieu if developer selected that option instead of income-restricted option.

	5% @ 80% AMI	Combined 20% @ AMI (15% for 12 years; 5% for 25 years)
Nominal Value of Income-Restricted Units	\$1,843,000	\$3,578,000
Net Present Value of Income-Restricted Units	\$911,000	\$2,156,000
Potential Fee-in-Lieu @ 25% of benefit	N/A	\$988,000

The intent of the MFTE incentive is to both help projects achieve financial feasibility and provide public benefits. Therefore, the value of the incentive is designed to exceed the value of the public benefit to help project achieve the necessary financial return to attract the capital necessary to finance the project.

Rezone Development Agreement

A copy of the recorded rezone development agreement has been attached for reference. The agreement is vested for 20 years and is transferable. In exchange for the zone change to R-22, the development agreement requires the developer to provide the following project elements:

- Enhanced setbacks to buffer existing single family uses abutting the site.
- Enhanced landscaping buffer exceeding standard zoning requirements.
- Affordable housing covenant that assigns 5% of the total project units (12 out of 222) as income-restricted to households earning at or below 80% area median income (Currently set at \$94,400 for a household of four). The covenant duration is 25 years.
- Green building enhancements;
 - 2021 Washington Energy Code compliance
 - Fully electric buildings, with an exception for shared water heaters for multiple units on a single tank system.
 - EnergyStar appliances, low flow plumbing fixtures and high efficiency LED light fixtures.
 - Minimum of 22 stalls will have installed and operational electric vehicle charging stations with an additional 110 parking stalls provided with conduit capable of supporting electric vehicle readiness.
 - Outdoor bike racks and covered bike parking area
 - Dark sky lighting fixtures to minimize light pollution
 - Drought resistant vegetation and light-colored paving surfaces in open spaces

As part of the upzoning process, the applicant worked with the surrounding neighbors to ensure the proposed development provided increased setbacks, landscape buffering, and similar building heights to assimilate into the existing neighborhood. The property was originally zoned R-6 and developer requested an upzone to R-30. The R-22 zone that resulted from this process reflects the objective of adding density and keeping the project within the neighborhood context. To achieve 90 units per acre on this site, assuming a change to commercial zoning was approved, the resulting buildings would likely be five plus story structures, built on the setback lines, and with a ground floor parking podiums because an underground parking garage would not be financially feasible in this area.

Staff contact:

Bryan Monroe-Housing Project Coordinator

Bryan.monroe@cityofvancouver.us

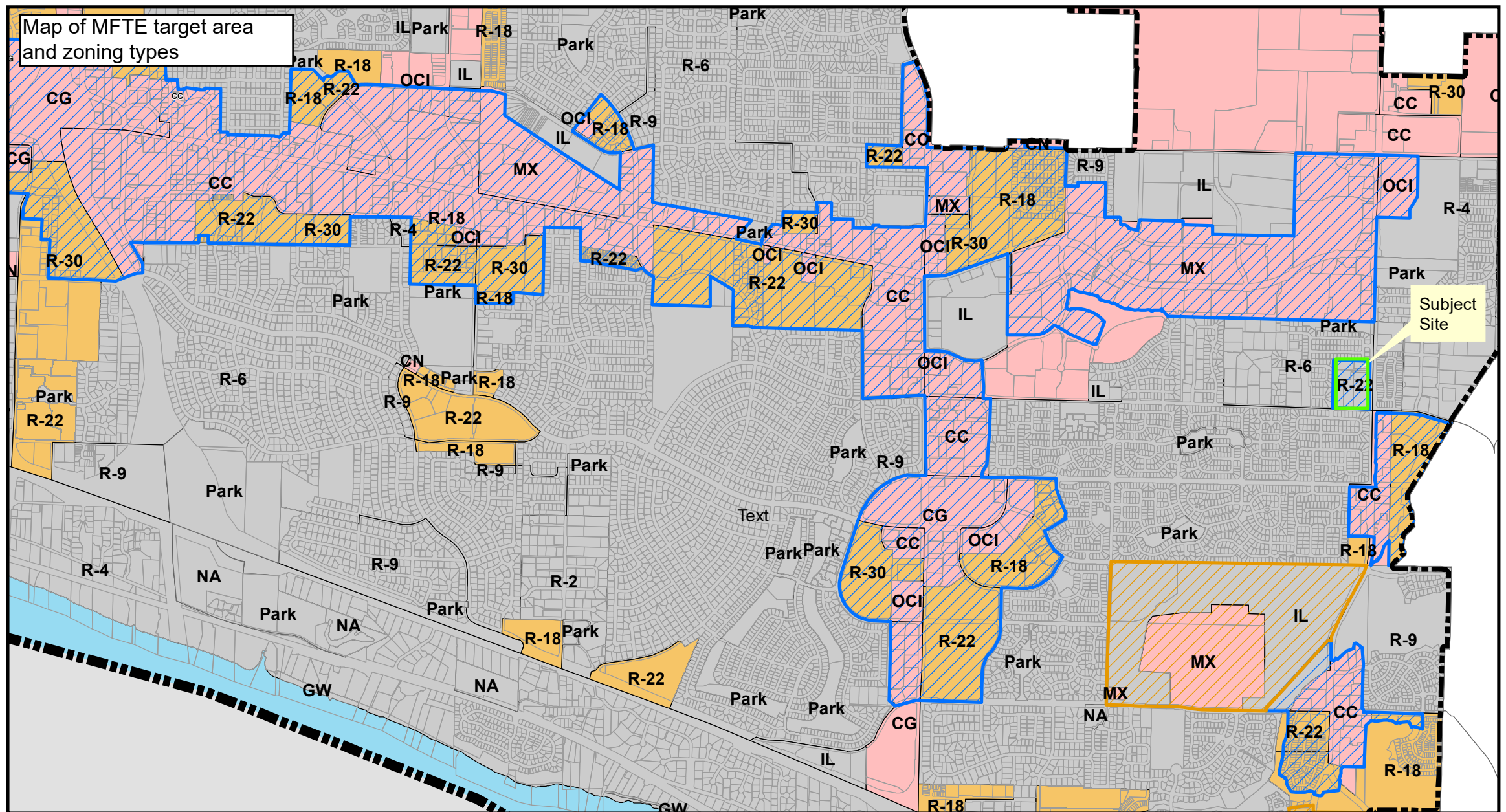
360-487-7958

Attachment(s):

- VMC MFTE density target table
- Map of MFTE target area and zoning types
- Copy of recorded Development Agreement from the zone change amendment ordinance.
- Copy of the proposed future site plan and related project elements

VMC MFTE density target table

Residential Target Area	<u>Option 1</u> Market Rate With Affordable Housing Fee	<u>Option 2</u> Market Rate With Density Requirements and/or Affordable Housing Fee	<u>Option 3</u> Ownership
Downtown Waterfront	50%	275 dwelling units/acre + 25% Affordable Housing Fee In Lieu	No Affordable Housing Fee In Lieu; Minimum of 12 units required
Vancouver City Center	50%	225 dwelling units/acre + 25% Affordable Housing Fee In Lieu	
East Vancouver	50%	200 dwelling units/acre + 25% Affordable Housing Fee In Lieu	
Uptown	25%	160 dwelling units/acre	
Evergreen/Grand	25%	90 dwelling units/acre	No Affordable Housing Fee In Lieu; Minimum of 4 units required
Fourth Plain Corridor	25%	90 dwelling units/acre	
Mill Plain Corridor	25%	90 dwelling units/acre	
Upper Main Corridor	25%	90 dwelling units/acre	



Multifamily Tax Exemption Densities

-  Mill Plain MFTE Target Area Boundary
-  Density limited to residential zoning maximum (18-35 units/acre)
-  No density limit in commercial zoning



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Total Pages: 18 Rec Fee: \$320.50
VANCE DEVELOPMENT LLC
Recorded in Clark County, WA

AFTER RECORDING RETURN TO:

Jordan Ramis PC
Attn: James D. Howsley
PACWEST, 27th Floor
1211 SW Fifth Avenue
Portland, OR 97204

This space provided for recorder's use.

INSTRUMENT TITLE:	DEVELOPMENT AGREEMENT
GRANTOR:	Vance Development LLC, a Washington limited liability company; Larry Nielsen, Rochelle Nielsen, and Brenda Holbrook, individuals; Jens C. Nielsen Irrevocable Trust
GRANTEE:	City of Vancouver, a Washington municipal corporation
PROPERTY ADDRESS:	Northwest corner of SE 192 nd Ave. and SE 15 th St. in Vancouver, WA 98683
FULL LEGAL DESC:	See EXHIBIT A to This Document <i>Nielsen Short Plat Lots 1, 2, and 3 Book 2, page 634</i>
ASSESSOR'S PROPERTY TAX PARCEL ACCOUNT NUMBERS:	177224000, 177224005, 177224010, 177240000, 177242000, 177238000, 177239000
REFERENCE NUMBER OF RELATED DOCUMENTS:	N/A

DEVELOPMENT AGREEMENT

Effective Date: March 12, ²⁰²⁴~~2023~~

PARTIES

Larry Nielsen, Rochelle Nielsen, and Brenda Holbrook, Jens C. Nielsen Irrevocable Trust and Vance Development LLC (collectively "Grantor") hold interest in APNs 177224000, 177224005, 177224010, 177240000, 177242000, 177238000, and 177239000, and approximately 12,015 square feet of unimproved right-of-way (collectively the "Property"), located at the northwest corner of SE 192nd Ave. and SE 15th St. in Vancouver, WA 98683. The legal description for the Property is attached as **EXHIBIT A**. Vancouver is a Washington municipal corporation (the "City"), and is responsible for land use planning and permitting pursuant to the Growth Management Act. Grantor and City are individually referred to as Party and collectively referred to as the Parties. The Parties wish to enter into a development agreement (the "Agreement") as described in detail below.

RECITALS

Whereas, pursuant to RCW 36.70B.170, a development agreement may set forth the development standards and other provisions that will apply to, govern and vest the development, use and mitigation of the development of real property for the duration specified in the agreement, which statute provides:

- (1) A local government may enter into a Development Agreement with a person having ownership or control of real property within its jurisdiction. A city may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. A development agreement must set forth the development standards and other provisions that will apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement will be consistent with applicable development

regulations adopted by a local government planning under chapter 36.70A RCW;

Whereas, the legislative findings supporting the enactment of this section provide:

The legislature finds that the lack of certainty of the approval of development projects can result in a waste of public and private resources, escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all as set forth in a development agreement, will strengthen the public planning process, encourage private, participation and comprehensive planning, and reduce the economic cost of development. Further, the lack of public facilities and services is a serious impediment to development of new housing and commercial uses. Project applicants and local governments may include provisions and agreements whereby applicants are reimbursed over time for financing public facilities. It is the intent of the legislature by RCW 36.70B.170 through 36.70B.210 to allow local governments and owners and developers of real property to enter into development agreements;

WHEREAS, Grantor plans to submit the necessary land use and building permit applications in order to build approximately 210-223 residential dwelling units (the "Project") on the Property, a preliminary draft proposed site plan for which is attached as **EXHIBIT B, which future development will generally conform to;**

WHEREAS, pursuant to Chapter 20.250 Vancouver Municipal Code (VMC), City wishes to facilitate the Project pending applicable land use and building permit approvals;

WHEREAS, the Parties have agreed to a number of items in order to facilitate the Project;

WHEREAS, City agrees to support a comprehensive plan designation change on the Property from Urban Low Density Residential to Urban High Density Residential;

WHEREAS, City agrees to support a zone change on the Property from R-6 to R-22;

WHEREAS, City and Grantor agree to establish the green building standards for the Project;

WHEREAS, Grantor agrees to limit access to the Project site;

WHEREAS, Grantor agrees to site the Project with setbacks beyond those required;

WHEREAS, Grantor agrees to include enhanced landscaping ; and

WHEREAS, Grantor agrees to include affordable housing in the Project.

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

Section 1. Development Agreement. This Agreement is a development agreement to be implemented under the authority of and in accordance with RCW 36.70B.170 – 210 and Chapter 20.250 VMC. It will become a contract between the Parties pursuant to the Effective Date clause below.

Section 2. Term of Agreement. This Agreement will commence on the Effective Date and will remain in effect twenty (20) years, unless extended, amended or terminated by mutual written consent of the Parties.

Section 3. Enhanced Project Setbacks. Grantor agrees, regardless of the applicable criterion, that the Project will include enhanced setbacks from adjacent property lines. All 1- and 2-story buildings will be set back at least 35-feet from the northern and western edges of the Property. All 3-story buildings will be set back at least 120-feet from the western and northern edges of the Property. No building in the Project will be greater than 3 stories. However, if the City does not approve the vacation of the approximately 12,015 square feet of right-of-way along

the western edge of the Property, the Project shall include no enhanced setbacks along the western edge of the Property adjacent to the right-of-way.

Section 4. Enhanced Landscape Buffer. Grantor agrees, that regardless of the applicable criterion, the Project will include a landscape buffer at least 20-feet in width along the western and northern edges of the Property, except for southern part of the western edge of the Property (west and southwest of the existing home) where a stormwater facility is planned, as shown in Exhibit B. As part of this landscape buffer, the Project will include, maintain, and enhance as many of the Property's existing mature trees as reasonably practicable. However, if the City does not approve the vacation of the approximately 12,015 square feet of right-of-way along the western edge of the Property, the Project shall include no enhanced landscape buffer along the western edge of the Property adjacent to the right-of-way.

Section 5. Affordable Housing. Grantor agrees to include affordable dwelling units in the Project. Specifically, 5% of the total number of dwelling units in the Project will be covenanted affordable housing available to those households earning no more than 80% of area medium income for a period of at least twenty-five (25) years. Prior to the issuance of the first building permit, Grantor shall execute and record against the property an affordable housing covenant to the City that has been approved by the City. This covenant shall ensure affordability throughout the affordability period, provide for annual monitoring by the City (with an annual monitoring fee paid to the City), and provide adequate legal and equitable remedies to the City in the event of non-compliance and/or breach of the covenant.

Section 6. Green Building.

Grantor agrees that new buildings in the project will undertake the below pursuant to the City of Vancouver Interim Green Building Policy:

- A. Buildings shall comply with the Washington Energy Code
- B. Apartment buildings shall be fully electric, with an exception for water heaters if they are shared with multiple units on a single tank and heater system

- C. EnergyStar appliances, low flow plumbing fixtures and high efficiency LED light fixtures shall be utilized to the fullest extent possible
- D. At least 110 parking stalls will be provided with a conduit from electrical panels capable of supporting a load to ensure electric vehicle readiness, and at least 22 stalls will have installed and operational electric vehicle charging stations
- E. Outdoor bike racks and covered bike parking area shall be provided
- F. Dark sky lighting will be provided to minimize light pollution
- G. Drought resistant vegetation and light colored paving surfaces shall be utilized in open spaces

Section 7. SITE ACCESS

Except as the City requires, Grantor agrees to design the Project in a manner such that there will be no vehicular access between the Project and SE 191st Ave and no pedestrian or vehicular access between the Project and SE 13th St.

MISCELLANEOUS PROVISIONS

Recitals. Each of the recitals contained herein are intended to be, and are incorporated as, covenants between the Parties and will be so construed.

Counterparts. This Agreement may be executed in counterparts; however all signature pages will be recorded together, and the complete recorded Agreement will constitute the final instrument.

Effective Date. This Agreement is effective upon the later of 1) recording, which shall occur within thirty (30) days of Vancouver City Council approval by resolution, or 2) the City's adoption of a comprehensive plan designation change on the Property from Urban Low Density Residential to Urban High Density Residential, a zone change on the Property from R-6 to R-22.

Termination. This Agreement will terminate upon the mutual agreement of the Parties in writing, which will be recorded, or upon expiration of the Term, whichever first occurs.

City's Reserved Authority. Notwithstanding anything in this Agreement to the contrary, the City will have the authority to impose new or different regulations to the extent required by a serious threat to public health and safety as required by RCW 36.70B; provided, however that traffic congestion is not a serious threat to public health and safety, and that such action will only be taken by legislative act of the Vancouver City Council after appropriate public process.

Authorization. The persons executing this Agreement on behalf of the Parties are authorized to do so and, upon execution by such parties, this Agreement will be a valid and binding obligation of such parties in accordance with its terms. The Parties have each obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby.

Run with the Land. This Agreement will run with the land and be binding on the Parties' successors and assigns, and will be recorded with the City.

Public Hearing. The Vancouver City Council has approved execution of this Agreement by resolution after a public hearing.

Specific Performance. The Parties specifically agree that monetary damages are not an adequate remedy for breach of this Agreement. Therefore, the Parties are entitled to seek specific performance of all material terms of this Agreement, including but not limited to the development standards established in the Enhanced Project Setbacks, Enhanced Landscape Buffer, Affordable Housing, and Green Building sections of this Agreement, by any Party in breach.

Dispute Resolution. Should a disagreement arise between the Parties, the Parties agree to attempt to resolve the disagreement by first meeting and conferring. If such meeting proves unsuccessful to resolve the dispute, the disagreement may be resolved by a civil action.

Venue. This Agreement will be construed in accordance with the laws of the State of Washington, and venue is in the Clark County Superior Court.

Attorneys' Fees. If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party will be entitled to recover its attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary, as determined by the court at trial or on any appeal or review, in addition to all other amounts provided by law.

Enforcement. Failure by any Party at any time to require performance by the other Parties of any of the provisions hereof will not affect the Parties' rights hereunder to enforce the same, nor will any waiver by a Party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this clause.

Severability. If any portion of this Agreement will be invalid or unenforceable to any extent, the validity of the remaining provisions will not be affected thereby. If a material provision of this Agreement is held invalid or unenforceable such that a Party does not receive the benefit of its bargain, then the other Parties will renegotiate in good faith terms and provisions that will effectuate the spirit and intent of the Parties' agreement herein.

Vesting. The specific development standards set forth in this Agreement govern the Property for the Term of the Agreement as of the Effective Date, pursuant to VMC 20.250.040.

Amendments. This Agreement may only be amended by mutual written agreement of the Parties, and all amendments will be recorded with the Assessor's Office in Clark County, Washington.

Survival. Any covenant or condition set forth in this Agreement, the full performance of which is not specifically required prior to the expiration or earlier termination but which by its terms is to survive the termination of this Agreement, will survive the expiration or earlier termination of this Agreement and will remain fully enforceable thereafter.

No Benefit to Third Parties. The Parties are the only parties to this Agreement and are the only parties entitled to enforce its terms, except as otherwise specifically provided in this Agreement. There are no third-party beneficiaries.

Entire Agreement. This Agreement constitutes the entire agreement between the Parties as to the subject matter.

Notices. All notices will be in writing and may be delivered by personal delivery, by overnight courier service, or by deposit in the United States Mail, postage prepaid, as certified mail, return receipt requested, and addressed as follows:

City	Vancouver City Council Councilors Attn.: Eric Holmes, City Manager 415 West 6th Street, 2 nd Fl. Vancouver, WA 98660
Grantor	Larry Nielsen, Rochelle Nielsen, Brenda Holbrook, and Jens C. Nielsen Irrevocable Trust 19004 SE 15 th St. Vancouver, WA 98683
Grantor	Vance Development Attn.: Gary Vance 2005 SE 192 nd Ave., Ste. 200 Camas, WA 98607
With a copy to:	Jordan Ramis, PC Attn.: James D. Howsley PACWEST, 27 th Fl. 1211 SW Fifth Ave. Portland, OR 97204

Notices will be deemed received by the addressee upon the earlier of actual delivery or refusal of a Party to accept delivery thereof. The addresses to which notices are to be delivered may be changed by giving notice of such change in address in accordance with this notice provision.

Non-waiver. Waiver by any Party of strict performance of any provision of this Agreement will not be deemed a waiver of or prejudice a Party's right to require strict performance of the same or any other provision in the future. A claimed waiver must be in writing and signed by the Party granting a waiver. A waiver of one provision of this Agreement will be a waiver of only

that provision. A waiver of a provision in one instance will be a waiver only for that instance, unless the waiver explicitly waives that provision for all instances.

Headings, Table of Contents. The section headings are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

Interpretation of Agreement; Status of Parties. This Agreement is the result of arm's-length negotiations between the Parties and will not be construed against any Party by reason of its preparation of this Agreement. Nothing contained in this Agreement will be construed as creating the relationship of principal and agent, partners, joint venturers, or any other similar relationship between the Parties.

Future Assurances. Each of the Parties will promptly execute and deliver such additional documents and will do such acts that are reasonably necessary, in connection with the performance of their respective obligations under this Agreement according to the Schedule so as to carry out the intent of this Agreement.

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Signatures appear on the following pages.

LARRY NIELSEN



03/08/2024
Date

ROCHELLE NIELSEN



03/08/2024
Date

BRENDA HOLBROOK



03/08/2024
Date

JENS C. NIELSEN IRREVOCABLE TRUST

 03/08/2024  03/08/2024
By: BRENDA K HOLBROOK Date By: LARRY C. NIELSEN Date
Its: CO-TRUSTEE Its: CO-TRUSTEE

VANCE DEVELOPMENT, LLC


By: Gary G. Vance
Its: Manager

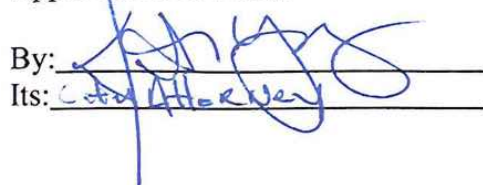
03/08/2024
Date

CITY OF VANCOUVER

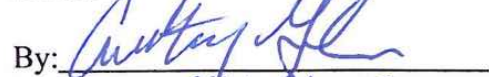

By: ERIC J. HOLMES
Its: CITY MGR

3.12.24
Date

Approved as to Form:


By: City Attorney
Its: City Attorney

Attest:


By: Deputy City Clerk
Its: Deputy City Clerk

NOTARY ACKNOWLEDGEMENTS

State of Washington)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that Larry Nielsen is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Owner to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 08 March, ²⁰²⁴2023. RH

(Seal or stamp)



Rebecca Hamilton
Signature
My Commission Expires: 12/02/2024

State of Washington)
) ss.
County of)

I certify that I know or have satisfactory evidence that Rochelle Nielsen is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Owner to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 08 March, ²⁰²⁴2023. RH

(Seal or stamp)



Rebecca Hamilton
Signature
My Commission Expires: 12/02/2024

State of Washington)

) ss.
County of Clark)

I certify that I know or have satisfactory evidence that Brenda Holbrook is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the owner to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 08 March, ²⁰²⁴~~2023~~ RH

(Seal or stamp)



Rebecca Hamilton
Signature
My Commission Expires: 12/02/2024

State of Washington)

) ss.
County of Clark)

I certify that I know or have satisfactory evidence that ^(RH) Larry Nielson, Co-Trustee is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Co-Trustee Jens C. Nielson to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 08 March, ²⁰²⁴~~2023~~ (RH)

(Seal or stamp)



Rebecca Hamilton
Signature
My Commission Expires: 12/02/2024

State of Washington)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that Brenda K. Holbrook is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Co-Trustee Dens C. Nielsen trust to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 08 March, ~~2023~~ ²⁰²⁴ RH

(Seal or stamp)



Rebecca Hamilton
Signature
My Commission Expires: 12/02/2024

State of Washington)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that Gary G. Vance is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Vance Development, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 08 March, ~~2023~~ ²⁰²⁴ RH

(Seal or stamp)



Rebecca Hamilton
Signature
My Commission Expires: 12/02/2024

State of Washington)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that Eric J Holmes is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Vancouver City Manager to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 3/12/2024, ²⁰²⁴2023.



[Signature]
Signature
My Commission Expires: Oct. 20, 2025

State of Washington)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 2023.

(Seal or stamp)

Signature
My Commission Expires: _____

EXHIBIT INDEX

EXHIBIT INDEX

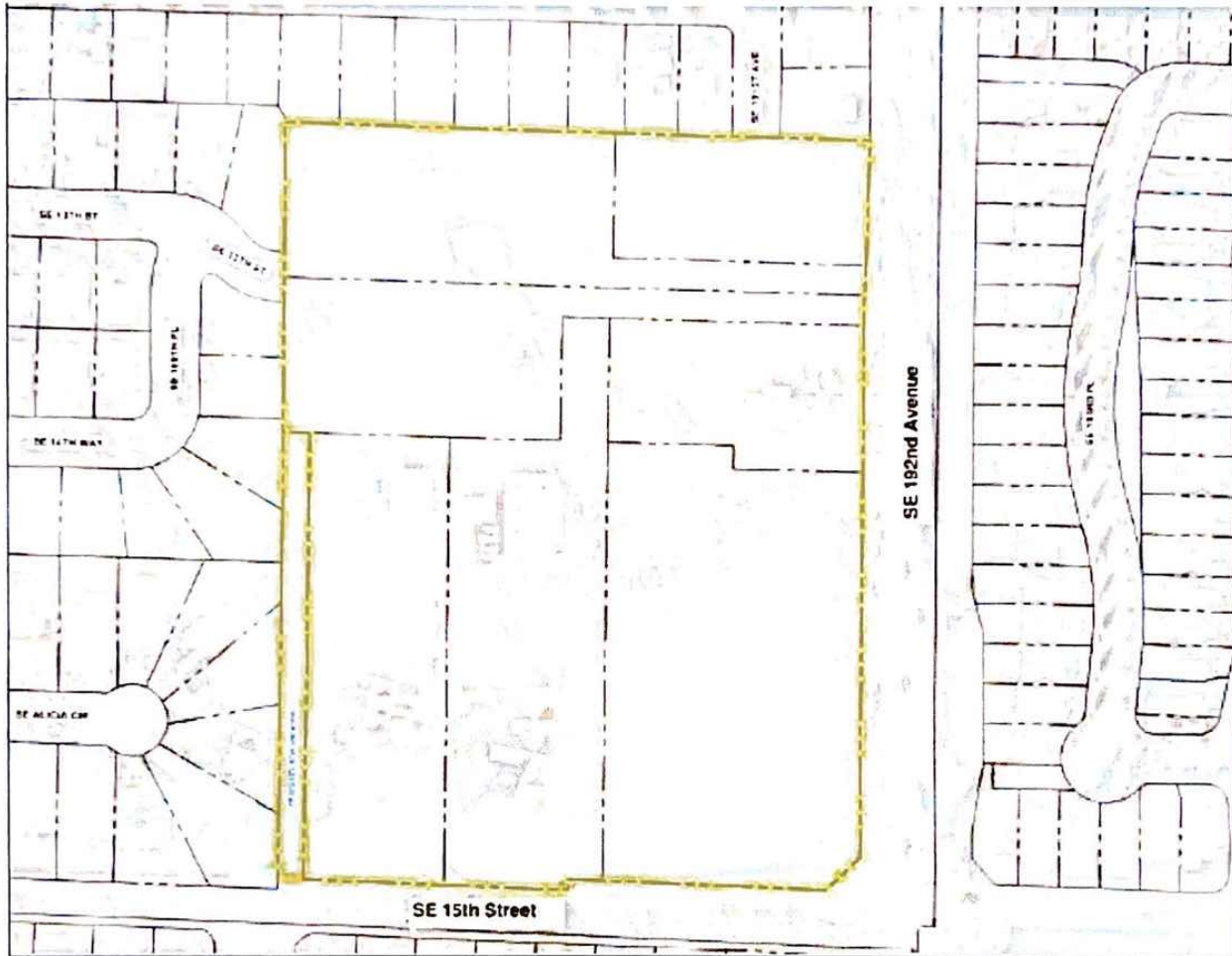
EXHIBIT A – Legal Description and Site Map

EXHIBIT B – Proposed Development Map

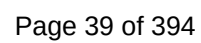
EXHIBIT A

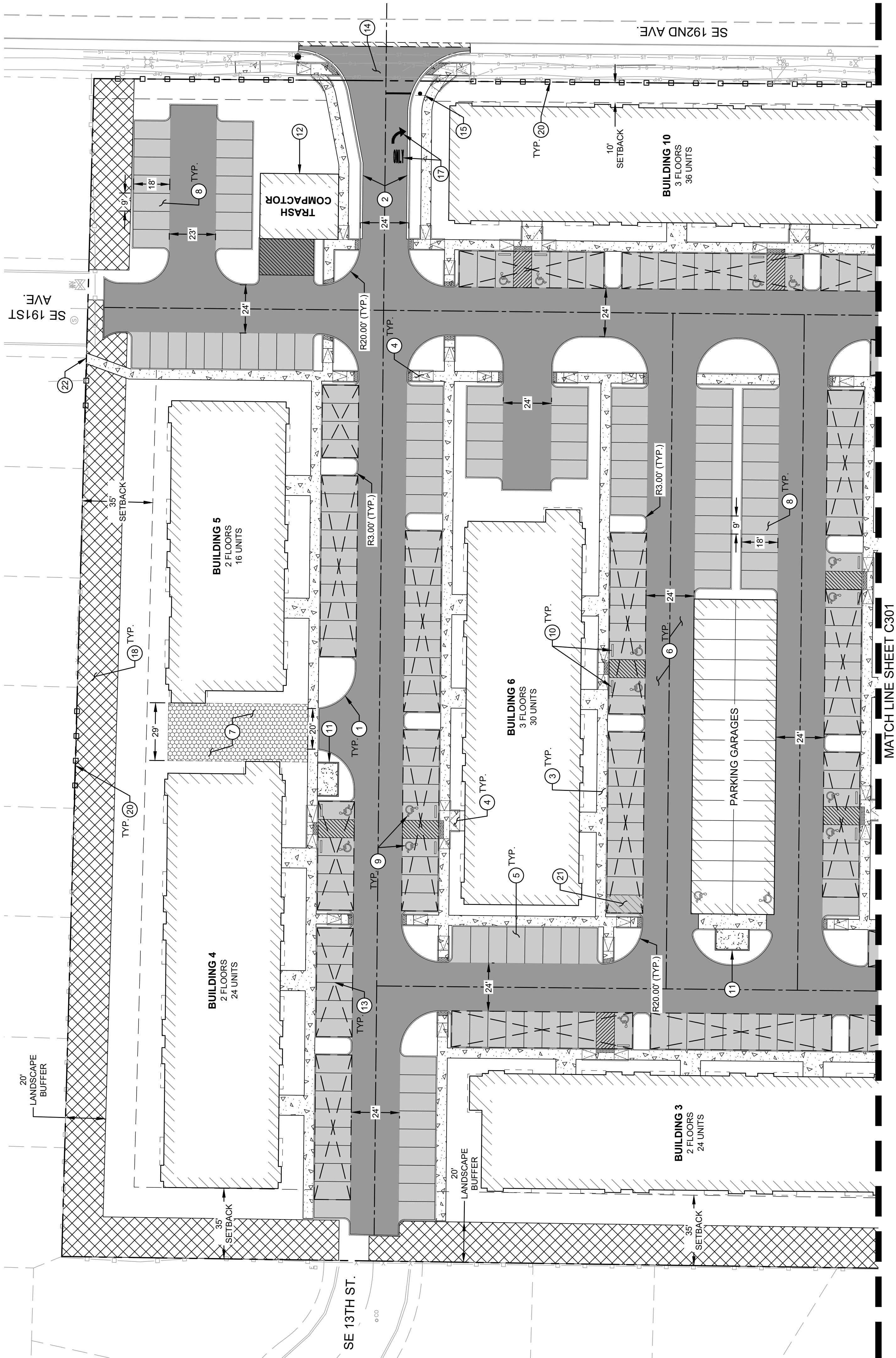
Legal Description and Site Map

The project site consists of tax lots 177224000, 177224005, 177224010, 177240000, 177242000, 177238000, and 177239000 together with a 27-foot-wide by approximately 445-foot-long unimproved right-of-way (ROW), further identified as Lots 1, 2, and 3 in the Nielsen Short Plat (Book 2, Page 634).



Draft Proposed Site Plan





CONSTRUCTION KEYNOTES

- 1 CONSTRUCT STANDARD CURB.
- 2 CONSTRUCT STANDARD CURB AND GUTTER.
- 3 CONSTRUCT CONCRETE SIDEWALK.
- 4 CONSTRUCT ADA RAMP.
- 5 CONSTRUCT LIGHT ASPHALT PAVING.
- 6 CONSTRUCT HEAVY ASPHALT PAVING.
- 7 CONSTRUCT GRASSCRETE.
- 8 CONSTRUCT STANDARD PARKING STALL.
- 9 CONSTRUCT STANDARD ADA PARKING STALL AND INSTALL SIGNAGE.
- 10 INSTALL CURB STOP.
- 11 CONSTRUCT TRASH ENCLOSURE.

- 12 CONSTRUCT TRASH COMPACTOR. SEE ARCHITECTURAL PLANS FOR MORE DETAILS.
- 13 CONSTRUCT CARPORT. SEE ARCHITECTURAL PLANS FOR MORE DETAILS.
- 14 CONSTRUCT RESIDENTIAL DRIVEWAY. SEE SHEETS C700 & C800 FOR MORE DETAILS.
- 15 INSTALL RIGHT TURN ONLY SIGN.
- 16 NOT USED.
- 17 PAVEMENT MARKING.
- 18 LANDSCAPE BUFFER.
- 19 NOT USED.
- 20 INSTALL 6' TALL FENCE.
- 21 CONSTRUCT COVERED BICYCLE PARKING.
- 22 CONSTRUCT PEDESTRIAN GATED ACCESS.

SITE INFORMATION

19002 SE 15TH ST.
VANCOUVER, WASHINGTON 98684
177224000, 177224005, 17724010, 177239000,
177239000, 177239000, 177240000, 177240000, AND
VACATED PUBLIC ROW STRIP
URBAN HIGH DENSITY RESIDENTIAL
R-22

COMPREHENSIVE PLAN DESIGNATION:
ZONING:

GROSS SITE AREA: 439,884 SF (10.10 AC)
NET SITE AREA: 439,884 SF (10.10 AC)
NET SITE AREA: 439,856 SF (10.07 AC)

STANDARD DWELLING UNITS: 210 UNITS
ACCESSIBLE DWELLING UNITS: 12 UNITS
TOTAL DWELLING UNITS: 222 UNITS

PROPOSED DENSITY: 22 UNITS PER NET ACRE	
LOT COVERAGE (APARTMENTS):	93,879 SF (2.16 AC)
LOT COVERAGE (PARKING GARAGE):	6,488 SF (0.15 AC)
LOT COVERAGE (TRASH ENCLOSURES):	893 SF (0.02 AC)
LOT COVERAGE (TRASH COMPACTOR):	1,267 SF (0.03 AC)
LOT COVERAGE (MALLOX):	559 SF (0.01 AC)
TOTAL LOT COVERAGE AREA:	103,086 SF (2.37 AC)
TOTAL REQUIRED LANDSCAPE:	43,866 SF (10.00%)
TOTAL LANDSCAPE PROVIDED:	127,296 SF (29.01%)

GROSS BUILDING AREAS

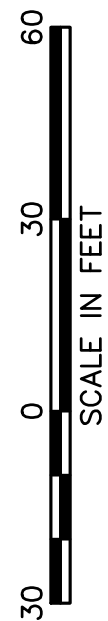
BUILDING 1:	8,944 SF
BUILDING 2:	13,665 SF
BUILDING 3:	24,594 SF
BUILDING 4:	24,594 SF
BUILDING 5:	17,238 SF
BUILDING 6:	36,891 SF
BUILDING 7:	38,625 SF
BUILDING 8:	25,857 SF
BUILDING 9:	25,857 SF
BUILDING 10:	38,625 SF
TOTAL:	254,910 SF

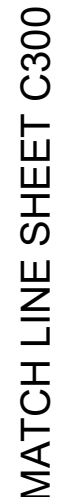
SITE PARKING STATISTICS

TOTAL PARKING STALLS PROVIDED:	419
TOTAL PARKING STALLS REQUIRED:	167 (0.75 PER DWELLING UNIT)
STANDARD PARKING STALLS:	395 TOTAL (INCLUDING GARAGES)
COMPACT PARKING STALLS:	0 TOTAL
ACCESSIBLE PARKING STALLS:	24 TOTAL (22 REQUIRED)
STALLS PER DWELLING UNIT RATIO:	1.89 STALLS/DU
COVERED BICYCLE PARKING:	8 TOTAL
UNCOVERED BICYCLE PARKING:	8 TOTAL
TOTAL BICYCLE PARKING:	16 TOTAL

GENERAL NOTES

1. PRIVATE COMMUNITY AMENITY SPACE TO INCLUDE A POOL, HOT TUB, FIRE PIT, BBQ AREA, CHILD PLAY AREA, UNCOVER BICYCLE PARKING, LAWN AND OTHER AMENITIES.





SITE INFORMATION

SITE ADDRESS:	19002 SE 15TH ST. VANCOUVER, WASHINGTON 98684
TAX LOTS:	177224000, 177224005, 177224010, 177238000, 177239000, 177240000, 177242000, AND VACATED PUBLIC ROW STRIP
COMPREHENSIVE PLAN DESIGNATION: ZONING:	URBAN HIGH DENSITY RESIDENTIAL R-22
GROSS SITE AREA:	439,884 SF (10.10 AC)
ROW DEDICATION AREA:	1,026 SF (0.02 AC)
NET SITE AREA:	438,858 SF (10.07 AC)
STANDARD DWELLING UNITS:	210 UNITS
ACCESSIBLE DWELLING UNITS:	12 UNITS
TOTAL DWELLING UNITS:	222 UNITS

PROPOSED DENSITY: 22 UNITS PER NET ACRE

UNITS	NUMBER	MFTE UNITS (20%)	DA UNITS (5%)
1 bed	88	18	5
2 bed	114	23	6
3 bed	20	4	1
Total	222	45	12

SITE PARKING STATISTICS

TOTAL PARKING STALLS PROVIDED:	419
TOTAL PARKING STALLS REQUIRED:	167 (0.75 PER DWELLING UNIT)
STANDARD PARKING STALLS:	395 TOTAL (INCLUDING GARAGES)
COMPACT PARKING STALLS:	0 TOTAL
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GENERAL NOTES

1. PRIVATE COMMUNITY AMENITY SPACE TO INCLUDE A POOL, HOT TUB, FIRE PIT, BBQ AREA, CHILD PLAY AREA, UNCOVERED BICYCLE PARKING, LAWN AND OTHER AMENITIES.

January 27, 2025

Workshops: 4:30-6:00 p.m.

Vancouver City Hall - Council Chambers - 415 W 6th Street, Vancouver WA

Workshops were conducted in person in the Council Chambers of City Hall. Members of the public were invited to view the meeting in person, via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, or www.facebook.com/VancouverUS.

View the CVTV video recording, including presentations and discussion, for workshops at: https://www.cvtv.org/vid_link/37091?startStreamAt=0&stopStreamAt=5061

Homeless Situation Report Update

(approximately 45 minutes)

Jamie Spinelli, Homeless Response Manager, jamie.spinelli@cityofvancouver.us

Staff led Council through a discussion of the Homeless Situation Report Update.

Councilmember Hansen joined the meeting remotely.

Green Building Program - Building Policies Review

(approximately 45 minutes, to immediately follow the previous workshop)

Rebecca Small, Senior Policy Analyst, Chad Eiken, Community Development Director, rebecca.small@cityofvancouver.us, chad.eiken@cityofvancouver.us

Staff led Council through a discussion of the Green Building Program - Building Policies Review.

Councilmember Hansen joined the meeting remotely.

Council Dinner / Executive Session Re: Pending or Threatened Litigation RCW 42.30.110(1)(i)(iii) (30 Min)

Mayor McEnery-Ogle announced the Council would be entering into executive session from 6:00-6:30 p.m. to discuss Pending or Threatened Litigation.

Regular Council Meeting

6:30 PM

Vancouver City Hall - Council Chambers - 415 W 6th Street, Vancouver WA

This meeting was conducted as a hybrid meeting with in person and remote viewing and participation over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting in person, via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, www.facebook.com/VancouverUS. Public access and testimony on Consent Agenda items and under the Community Forum were also facilitated in person and via the GoToMeeting conference call.

Vancouver City Council meeting minutes are a record of the action taken by Council. To view the CVTV video recording, including presentations, testimony and discussion, for this meeting please visit:

[https://www.cvtv.org/vid link/37093?startStreamAt=0&stopStreamAt=4225](https://www.cvtv.org/vid_link/37093?startStreamAt=0&stopStreamAt=4225)

Electronic audio recording of City Council meetings are kept on file in the office of the City Clerk for a period of six years.

Pledge of Allegiance

Call to Order and Roll Call

The regular meeting of the Vancouver City Council was called to order at 6:30 p.m. by Mayor McEnerny-Ogle. This meeting was conducted as a hybrid meeting, including both in person and remotely over video conference.

Present: Councilmember Harless, Councilmember Perez, Councilmember Fox, Councilmember Paulsen, Councilmember Stober, Councilmember Hansen, Mayor McEnerny-Ogle

Absent: None

Councilmember Hansen joined the meeting remotely.

Approval of Minutes

Minutes - January 6, 2025

Motion by Councilmember Fox, seconded by Councilmember Paulsen, and Yes: 6, No: 0, Abstaining: 1, to approve the Meeting Minutes of January 6, 2025. Absent from vote: Councilmember Stober. Councilmember Stober was not in Council Chambers during the vote.

Minutes - January 13, 2025

Motion by Councilmember Paulsen, seconded by Councilmember Perez, and Yes: 6, No: 1, Abstaining: 0, to approve the Meeting Minutes of January 13, 2025. Absent from vote: Councilmember Stober. Councilmember Stober was not in Council Chambers during the vote.

Community Communication

This is the place on the agenda where the public is invited to speak to Council regarding any matter on the Agenda not already scheduled for Public Hearing. (Separate instructions are provided for offering testimony on Public Hearing when applicable.) This includes the option to testify about Workshops. Members of the public addressing Council are requested to give their name and city of residence for the audio record. Speakers are to limit their testimony to a total of three minutes for all items combined.

Mayor McEnerny-Ogle opened Community Communication and received testimony from the following community members regarding any matter on the agenda not scheduled for a Public Hearing:

- *Kimberlee Goheen Elbon, La Center, WA*
- *Carmen DeLeon, Vancouver*
- *Josh Artenstein, Vancouver*
- *Shannon Stamp, Vancouver*
- *Matt Trevino, Vancouver*

There being no further testimony, Mayor McEnerny-Ogle closed Community Communication.

Consent Agenda

The following items will be passed by a single motion to approve all listed actions and resolutions. There will be no discussion on these items unless requested by Council. If discussion is requested, the item will be moved from the Consent Agenda and considered separately – after the motion has been made and passed to approve the remaining items.

Council pulled items 3, 6, and 7 for discussion.

Motion by Councilmember Paulsen, seconded by Councilmember Fox, and Yes: 7, No: 0, Abstaining: 0, to approve items 1, 2, 4, 5, 8 and 9 on the Consent Agenda.

Motion by Councilmember Fox, seconded by Councilmember Paulsen, and Yes: 7, No: 0, Abstaining: 0, to approve Item 3 on the Consent Agenda.

Motion by Councilmember Fox, seconded by Councilmember Perez, and Yes: 7, No: 0, Abstaining: 0, to approve Item 6 on the Consent Agenda.

Motion by Councilmember Fox, seconded by Councilmember Paulsen, and Yes: 7, No: 0, Abstaining: 0, to approve Item 7 on the Consent Agenda.

1. Construction Acceptance - Water Station 1 Replace Drinking Water Wells 3-5

Staff Report: 010-25

Request: On Monday, January 27, 2025, accept the new wells as constructed by Holt Services, Inc., of Edgewood, WA and authorize release of the contractor's retainage, subject to receipt of all documentation required by law.

Patrick Craney, Water Resource Engineer,
patrick.craney@cityofvancouver.us

Motion approved the request.

2. Bid Award - West 4th Plain (BNSF Crossing) Water Transmission Main - ITB 24-49

Staff Report: 011-25

Request: On Monday, January 27, 2025, award a construction contract for the W 4th Plain (BNSF Crossing) Water Transmission Main project to the lowest responsive and responsible bidder, Tapani Incorporated of Battle Ground, Washington, at their bid price of \$2,427,936.24, which includes Washington State sales tax.

Mehrin Selimgir, Civil Engineer, Mehrin.Selimgir@cityofvancouver.us

Motion approved the request.

3. Bid Award - Oakbrook Park Development Project - ITB #25-03

Staff Report: 012-25

Request: On Monday, January 27, 2025, award a construction contract for Oakbrook Park development to the lowest responsive and responsible bidder, Capture Energy, of Woodland, Washington and authorize the City Manager, or designee, to execute a contract and approve any required amendments for the bid amount of \$1,890,181.72 including Washington State sales tax.

David Perlick, Director of Parks, Recreation and Cultural Services,
Roman Gutierrez, Park Developer 2, david.perlick@cityofvancouver.us,
Roman.Gutierrez@cityofvancouver.us

Motion approved the request.

4. Easement Release - 2301 NE 18th St - AFN G662733

Staff Report: 013-25

Request: On Monday, January 27, 2025, authorize the City Manager, or designee, to sign the attached easement release.

Nick Massey, Civil Engineer, Nick.Massey@cityofvancouver.us

Motion approved the request.

5. 2025 Washington Traffic Safety Commission Grant - Law Enforcement Liaison

Staff Report: 014-25

Request: On Monday, January 27, 2025, authorize the City Manager, or designee, to approve the 2024-2025 Washington Traffic Safety Commission Law Enforcement Liaison Grant in the amount of \$3,000.

Daphine Harris, Finance and Logistics Supervisor, Troy Price, Police Chief, daphine.harris@cityofvancouver.us, troy.price@cityofvancouver.us

Motion approved the request.

6. Resolution to Accept Bequests/Cash Donations

A RESOLUTION accepting a donation resulting from the bequest of Clement Joseph Epping to support Vancouver Police Department.

Staff Report: 015-25

Request: On Monday, January 27, 2025, adopt a resolution to accept \$312,613.70 from the Estate of Clement Joseph Epping.

Daphine Harris, Finance and Logistics Supervisor, Troy Price, Police Chief, daphine.harris@cityofvancouver.us, troy.price@cityofvancouver.us

Motion adopted Resolution M-4322 to approve the request.

7. Multi-Family Tax Exemption Boundary Expansion

AN ORDINANCE of the City of Vancouver relating to changes to the City's Multi-Family Housing Tax Exemption Program (MFTE); adopting amendments to the Mill Plain Target Area Boundary amending Section 3.22.030, of the Vancouver Municipal Code (VMC); providing for severability; and setting an immediate effective date.

Staff Report: 016-25

Request: On Monday, January 27, 2025, advance the ordinance, setting the date for the second reading and public hearing for February 3, 2025.

Bryan Monroe, Associate Housing Project Coordinator,
bryan.monroe@cityofvancouver.us

Mayor McEnerny-Ogle read the title of the ordinance into the record.

Motion approved the request.

8. 2024 Comprehensive Plan and Zoning Text Changes

AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and the Vancouver Municipal Code (VMC) Title 20; amending the Capital Facilities Plan 6-year project list, a part of the Vancouver Comprehensive Plan 2011-2030; amending VMC 20.210, 20.245, 20.290, 20.320, 20.330, and 20.430; providing for severability; and establishing an effective date.

Staff Report: 017-25

Request: On Monday, January 27, 2025, advance the first reading of the ordinance, setting a second reading for February 3, 2025.

Bryan Snodgrass, Principal Planner,
bryan.snodgrass@cityofvancouver.us

Mayor McEnerny-Ogle read the title of the ordinance into the record.

Motion approved the request.

9. Approval of Claim Vouchers

Request: Approve claim vouchers for January 27, 2025.

Motion approved claim vouchers in the amount of \$20,764,089.03.

Communications

A. From the Council

B. From the Mayor

C. From the City Manager

Community Forum

This is the place on the agenda where the public is invited to speak to Council regarding any matter. Members of the public addressing Council are requested to give their name and city of residence for the record. Speakers are to limit their testimony to a total of three minutes. Up to 90 minutes will be allotted for the Community Forum.

Mayor McEnerny-Ogle opened the Community Forum and received testimony from the following community members regarding any matter:

- Jim Williamson, Vancouver
- Carmen DeLeon, Vancouver
- Kimberlee Goheen Elbon, La Center, WA

There being no further testimony, Mayor McEnerny-Ogle closed Community Forum.

Adjournment

7:49 p.m.

Anne McEnerny-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

The written comments below are those of the submitter alone and are not representative of the views of CVTV or the City of Vancouver, its elected or appointed officials, or its employees.

From: [James Wu](#)
To: [City Council](#)
Subject: Comment for City Council meeting 1/27
Date: Sunday, January 26, 2025 10:26:16 PM

You don't often get email from [REDACTED]. [Learn why this is important](#)

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Bike stall requirements are a step in the right direction, however what we need to focus on is the addition of protected bike lanes in order to encourage more bike usage. Currently many of the roads in Vancouver do not have protected bike lanes and thus it feels dangerous to even consider taking a bike to destinations.

The addition of bike parking should only be to accommodate where there is a lack of bike parking in places, but currently it feels like people would be more incentivized to drive everything as opposed to biking due to the dangers of biking in unprotected lanes.

As such I would like to see more projects to increase bike lanes, maybe we can allocate unused parking spaces to such projects? Just as a suggestion.

James Wu
[REDACTED], Vancouver, WA 98665

From: [PETER BRACCHI](#)
To: [City Council](#)
Subject: City Council 1/27 Wa State mayor & council member Handbook
Date: Sunday, January 26, 2025 7:28:22 PM
Attachments: [mayorcouncilmemberhandbook.pdf](#)
[image0.png](#)

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Dear Mayor and Council please read this guide.



Peter Bracchi

Mayor & Councilmember Handbook



Mayor & Councilmember Handbook



MRSC Report No. 44
Revised September 2023

Mayor & Councilmember Handbook

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AWC's mission is to serve our members through advocacy, education, and services.

Association of Washington Cities
1076 Franklin St. SE, Olympia, WA 98501
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wacities.org

MRSC's mission is to support effective local government in Washington through trusted consultation, research, training, and collaboration.

Municipal Research & Services Center of Washington
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mrsc.org

Last updated September 2023

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Introduction

While this handbook is primarily intended to serve as a reference guide for mayors and councilmembers in Washington cities and towns operating under the mayor-council form of government, mayors and councilmembers in cities operating under the council-manager form of government will also find this handbook full of relevant and useful information.

A mayor in a mayor-council form of government wears many hats. As the chief executive officer of the city, you will deal with human resources, contracts, budgeting, labor relations, and a host of other issues. When chairing council meetings and public hearings, or when dealing with the press, you will have to choose your words carefully, deciding when is the appropriate time to be tactful or more direct.

It's no wonder that mayors and councilmembers often feel overworked and underpaid! Those who come to the job without having substantial experience in city government have a lot to learn. We hope this publication serves as both a basic primer on the role of a mayor and councilmember and as a resource with answers to some frequent problems.

Use this publication to learn how to get information, assistance, and advice. When your questions are not answered by the text, it will hopefully guide you to either the relevant statutes and publications, or to those people who can best answer your questions.

Being an effective leader is not something that just magically happens when you are elected to office. Leadership skills must be learned. Mayors and councilmembers need to listen to the residents of the city, develop goals, and then work effectively with each other to achieve your objectives. There are a lot of people counting on you. They want you to succeed and so do we. Good luck!

Note: Unless the context or the references specifically indicate otherwise, the use of the term "city" or "cities" in this publication is meant to include "town" or "towns."

Remember – when you have a particular problem, chances are somebody else, whether it be another councilmember, a mayor of a different city, or a member of the city leadership team, has already dealt with the same issue. Use your professional network of city leaders for guidance on problems that arise.

Know your form of government

It is important to know your city's classification. Also important are the different forms (sometimes called "plans") of government in Washington: mayor-council, council-manager, and commission. This section explains some of the basics. The city clerk can tell you your city's classification. MRSC's web page Washington City and Town Profiles also lists each city classification and form.

Almost all cities have an elected official with the title of "mayor," but the authority of the mayor depends upon the form of the government. Mayors in mayor-council cities are sometimes referred to as "strong mayors" because they have considerably more authority than mayors in council-manager cities. The distinction is explained further below under Forms of City Government.

City classification

City and town governments in Washington are classified according to their population at the time of organization (usually incorporation) or reorganization. There are four basic classifications for municipalities in the State of Washington: first class cities, second class cities, towns, and code cities.

4 classes of cities

- First class cities
- Second class cities
- Towns
- Code cities

Although some of the state laws (statutes) are the same for all classes of cities, many of the laws are different. State laws are located in different chapters of the Revised Code of Washington. The Revised Code of Washington (RCW) is the compilation of the laws passed by the state Legislature. "Statutes" are the laws contained in the RCW.

In 1890, the Legislature established four classes of municipal corporations: first, second, and third class cities, and fourth class municipalities, known as towns.¹ However, in 1994 the Legislature eliminated the third class city classification and those cities automatically became second class cities. Reference to fourth class municipalities was also dropped – they are now referred to exclusively as towns. An additional classification, the optional municipal code city, was provided in 1967 to grant broad powers of local control similar to first class cities.²

One city, Waitsburg, remains as an unclassified city operating under a territorial charter. Unclassified cities are holdovers from the pre-statehood era, when cities could adopt their own territorial charters.

¹ First Class Cities: RCW 35.22; Second Class Cities: RCW 35.23; Third Class Cities: formerly RCW 35.24; Towns: RCW 35.27.

² Optional Municipal Code Cities: RCW 35A Optional Municipal Code

Comparison of powers

Key differences between second class cities, code cities, and towns.

First class cities are not listed as their powers and structures are derived from their charters, which vary depending on the city. Generally they have broad home rule powers governing matters of local concern and all powers granted to any class of city. (MRSC - City and Town Classification)

Powers	Code city	Second class city	Town
Home rule authority	Broad authority in all matters of local concern.	Only those powers expressly or implicitly granted by legislature.	Only those powers expressly or implicitly granted by legislature.
Construction of powers	Requires liberal construction of powers granted to it.	Governed by rule of strict construction of powers granted to it.	Governed by rule of strict construction of powers granted to it.
Limits of power	All powers granted to any class of city and any not specifically denied.	Only powers granted specifically to this class or all classes.	Only powers granted specifically to this class or all classes.
Limitations on special meetings	No approval of an ordinance or resolution granting a franchise.	No approval of: an ordinance or resolution granting a franchise; or an ordinance, contract, or bill for the payment of money.	No approval of: an ordinance or resolution granting a franchise; or a resolution or order for the payment of money.
Emergency clauses	Authority to include in most types of ordinances for protection of public health, safety, property, or peace.	Specific authority only for emergency expenditures in specified situations.	Specific authority only for emergency expenditures in specified situations.
Mayoral veto power over ordinances*	Yes	Yes	No
Mayor has tie-breaking vote*	Yes, except on issues of payment of money or franchises.	No	Yes, except on issues of payment of money or franchises.
Initiative and referendum	May adopt	May not adopt	May not adopt
Allowance of wards	Yes, with no restrictions.	Yes, with a maximum number of wards permitted.	Cannot have wards.

What difference does it make?

Depending on the city classification, there are some important differences with respect to the power and authority of the city government. Some of the differences are highlighted in this chapter. Note: See Appendix 1 for details regarding the specific powers and responsibilities of a mayor by city classification. The information in Appendix 1 will be an important reference to make decisions and then take action in the days ahead.

Optional municipal code cities

The optional municipal code, Title 35A RCW, was devised in 1967 as an alternative to the existing statutory system of municipal government in Washington. The basic objective of the code was to increase the abilities of cities to cope with complex urban problems by providing broad statutory home rule authority in matters of local concern to all municipalities, regardless of population.

Cities operating under the optional municipal code are commonly referred to as code cities.

Under the optional municipal code, cities may take any action on matters of local concern so long as that action is neither prohibited by the Washington State Constitution nor in conflict with the general law of the state. The powers granted to code cities include all the powers granted to any other class of city in any existing or future legislative enactment, unless the Legislature specifically makes a statute inapplicable to code cities.

Charter cities

The Washington State Constitution provides that cities and towns with a population of 10,000 or more can frame a charter for their own government, subject to all the general laws of the state.³ All of the 10 first class cities have charters at this time. Only one code city, Kelso, has adopted a charter. As with code cities, the powers granted to first class cities are broad home rule authority in matters of local concern and include all the powers granted to any other class of city.

Understand local authority or home rule powers

As one of the country's first home rule states, Washington city officials should understand the key legal concept of home rule.

Home rule is the right to locally govern on issues of local concern: "the authority of a local government to control its local affairs without interference from the state."⁴ With home rule powers, a city may exercise the same powers as the state, except for any powers specifically denied in law. If either the state constitution or state statutes are silent about a city's power on a specific local issue, then under home rule, a city has the authority to pass laws to address the issue.

Importantly, the city does not need the state to grant it permission to act. The essence of home rule power is that the city already possesses the power. The city—not the state—decides when and how to wield it based on local circumstances.

³ Constitution, Article XI, Section 10, as amended by Amendment 40.

⁴ First, second class cities, and towns: laws governing the mayor-council plan are found in the respective RCW chapters for each class of city: RCW 35.22, RCW 35.23, and RCW 35.27. Optional Municipal Code cities: RCW 35A.12.

Forms of municipal government

There are three basic forms of municipal government in Washington: mayor-council, council-manager (also known as the city manager plan), and commission form. Sometimes the “form” of government is also referred to as the “plan of government” or “organization.” (See Appendix 1 for more details on the mayor’s powers in each form of government.)

Mayor-council form of government

In the mayor-council form, policy and administration are separated. All legislative and policymaking powers are vested in the city council. The administrative authority, including a veto power (except in towns), is vested in the mayor.

Council-manager form of government

All legislative and policymaking powers are vested in the city council. The council employs a professionally trained public administrator, the city manager, to carry out the policies it develops. The city manager is the head of the administrative branch of city government. By statute, the mayor is selected by the city council from among its members, although this may also be done by election.

The mayor’s responsibilities are primarily to preside at council meetings, and act as head of the city for ceremonial purposes and for purposes of military law. The mayor votes as a councilmember and does not have any veto power (RCW 35.18.190; RCW 35A.13.030-.033 Optional Municipal Code cities).

Commission form of government

Currently, there are no cities that operate under the commission form of government. The commission form gives one elective body combined authority over the executive and legislative functions of municipal government. The commissioners, sitting as a body, are authorized to determine by ordinance the powers and duties of all officers and employees of each department. Each commissioner administers a separate department. The mayor has essentially the same powers as other members of the commission. The mayor has no veto power or any power to direct general city administration other than in their own department (RCW 35.17).

3 forms of government

- Mayor-council
- Council-manager
- Commission

Additional resources:

Washington City & Town Officials Directory Mobile App, MRSC

Code City Handbook, MRSC

The Closest Governments to the People: A Complete Reference Guide to Local Government in Washington State (2015), Steve Lundin, MRSC

"Home Rule" vs. "Dillon's Rule" for Washington Cities, Hugh Spitzer, 38 Seattle U.L. Rev. 809 (2015)

Change in classification or form of government

The classification of a city or town can be changed. Cities and towns have the power to advance their classification when the population increases sufficiently and there is an election (RCW 35.06). A city or town with at least 10,000 inhabitants may become a first class city by adopting a charter. A town with at least 1,500 inhabitants may become a second class city (RCW 35.06.010).

Any incorporated city or town may become a noncharter code city by following the procedures in RCW 35A.02.

Any city may also change its form of government. In general, the procedure may be initiated either by a resolution adopted by the city council or by a petition process, both followed by an election.

Washington cities classification & form of government summary*

Class	Mayor-council	Council-manager	Total
First	6	4	10
Second	5	0	5
Town	68	0	68
Code	147	50	197
Unclassified	1	0	1
Total	227	54	281

*As of February 2023

See MRSC's *Washington City & Town Officials Directory Mobile App* for specific data on each city, its population, classification, and form of government.

Getting started

By their action at the polls, the people of your community have given you a vote of confidence and expressed faith in your ability to act in their best interest. And you don't want to let them down. But as the election campaign fades in your memory, the magnitude of your new job begins to sink in. Whether you come to this job after years of service to the city or were elected with no prior background in city government, there's still a lot to learn.

As a new mayor or councilmember, you have a lot to learn about providing leadership and governing. But don't take yourself or the business of government so seriously that you don't enjoy it. It should be a fun and rewarding experience.

Your first days on the job

The role of mayor varies greatly from city to city, depending on the form of government, history, and level of involvement. Some new mayors are overwhelmed by the amount of administrative work that their job entails. Many councilmembers also feel overwhelmed by everything they need to learn and are sometimes surprised to discover that there are limits on their role in making decisions and setting city policy.

What is clear, however, is that it is a very big job. Here are some tips for getting started.

Getting oriented

First on the agenda should be a thorough orientation session – a broad overview of the functions of the city to include finance, public works, public safety and other departments. The mayor or city manager will want to arrange time to sit down with the city clerk and key department heads. Take this opportunity to learn all you can about your city, its history, its operation, and its financing.

Your orientation should also include a tour of the physical facilities of the city. A firsthand inspection is often the best way to acquaint yourself with the city's operations.

“When the burdens of the presidency seem unusually heavy, I always remind myself it could be worse. I could be a mayor.”

– Lyndon B. Johnson

Keeping some perspective

- **Pace yourself.** Recognize that life – and the city – is dependent on a lot of things over which we have little control. Set some priorities, recognize the need to spend time with your family, and don't burn yourself out.
- **Develop a thick skin.** Remember that they don't dislike you personally, they just don't like your ideas.
- **The job of mayor** is a unique combination of stress and joy.
- **Nurture your personal life.** Cutting back on family hours won't make you a better mayor.
- **Be yourself.** Don't try to be something you are not.

Review key documents

The following is a list of key city documents you will want to review. Ask your clerk or other staff if they exist and to help you locate them. Also, ask them to suggest other useful documents.

- Current operating and capital budgets
- Information on key programs and services
- Comprehensive annual financial report
- Organizational chart, staff roster and phone list
- The organization's primary planning documents
- Map showing city boundaries, buildings and facilities
- Mission statement and goals
- Council rules/meeting procedures
- Meeting minutes for last twelve months
- Work program and significant staff reports from last twelve months
- Human resource policies and other administrative policies
- Facts about your city: population, form of government, incorporation date, number of employees, total budget, total debt, etc.
- List of governmental agencies providing services or impacting your organization
- Calendar of important events

Don't be afraid to ask questions. You are not expected to know all the answers immediately. The mayor will want to find out about council salaries and benefits, employee vacation and sick leave policies, purchasing procedures within departments, proposed development projects – anything you need to know for a better understanding of city operations and issues currently facing your community.

Legal restrictions

Keep in mind that your city's adopted ordinances, typically codified as your municipal code, must be followed until the council takes action to amend them. And that's just the beginning – the number of federal and state laws and regulations that also govern your actions can be mind-boggling! If you are unsure of your responsibilities or authority in certain areas, be sure to seek clarification from your city attorney.

Mayor's role in working with staff

Whether you can spend a lot of time at city hall or have a full-time job in addition to your mayoral responsibilities, you'll soon come to depend heavily on your key administrative staff.

In almost all cities, the city clerk performs a multitude of tasks. This is particularly true in the smaller jurisdictions. A city administrator often oversees administration in larger cities.

Value and respect your staff

If your city is fortunate enough to have experienced staff, recognize these individuals as a valuable resource – don't take them for granted or casually replace them.

A good clerk and administrator can be your lifeline, helping you to fulfill your legal responsibilities and ensure that the city functions smoothly. Staff who have been with the city for some time have some valuable historical perspectives, and can help "fill in the gaps" for a new mayor.

Make sure your staff are well trained and keep up in their field – encourage your clerk (and/or administrator) to attend training sessions and professional meetings of their peers. These sessions are well worth the investment – staff can learn from their peers around the state, avoid reinventing the wheel, and share challenges and solutions.

Resist the urge to drastically change the organization before you know how it really works. Many of your city's policies have evolved over the years through trial and error. While some methods may appear to need an immediate overhaul, it pays to watch the operation for a while before trying new methods. Don't seek change simply to do things differently!

Give yourself at least six months to learn the fundamentals of the task you have undertaken. Many potentially fine public servants have come to an unhappy ending because of errors in judgment they made by being overly aggressive during those first six months. Even if you come to the mayor's job with many years of service on the council, you will find there is still a lot to learn.

Public and private sector differences

A word of caution: You may have run for office with the pledge to "run the city more like a business." While there are certainly similarities, there are some important differences between the public and private sectors that will become apparent as you get used to your new role.

Here are just a few of those differences:

- Much of your work will be done in the public eye. Consequently, things may move more slowly and take more time. All deliberations of council are done in public meetings and most public records are available to anyone.
- City revenues are limited by laws. You can only raise taxes so high, so you can't always pass on the costs directly to the consumer.
- There are more unions in the public sector. Salaries are often compared to employees in other cities. It is common for employees to expect an annual cost of living increase.
- Public employees have different constitutional rights and more legal protections. With additional laws governing your actions as an employer, you can expect more grievances, claims and litigation.
- Some things that you may just consider "good business sense" could run afoul of our state constitution's prohibition against "gifts of public funds." (See Article VIII, § 7 of the state constitution.)
- Public works projects and contracting often must go through a public bidding process. This takes more time and sometimes costs more.

Additional resources:

Racial Equity Toolkit,
Government Alliance on Race &
Equity (GARE)

Diversity, Equity, and
Inclusion Resources for Local
Governments, MRSC

How to get started in diversity,
equity, inclusion, and
belonging (DEIB), AWC

The value of building a diverse, equitable, and inclusive city

As one of the governments closest to the people, cities and their leaders should make efforts to foster an inclusive community and city hall. One important goal of democracy is to have a government that reflects the community it serves.

This enables the community's wisdom to make government more effective and responsive to people's needs, with services more closely matched to the people who make up the community.

Mayors and councilmembers can be agents of change at the local level—listen to your residents, work to translate community concerns into actionable policy ideas, and then collaborate to find potential solutions. Many city leaders have listened to their communities and agree that more needs to be done to advance racial equity. Right now is always a good time to start turning talk into action.

Internal and external solutions to inequities can be as unique and diverse as our community members who have been historically excluded from full societal benefits and participation. Take stock of the policies and practices in place at your city and consider how each might impact every resident of your city. Start community conversations and intentionally include and collaborate with people from all backgrounds.

Every community has underrepresented populations who can be unintentionally left out of policies and practices. Take time to research your city's historical disparities and then use that information to generate ideas for future improvements—no matter your city's size or location.

How to get started in diversity, equity, inclusion, and belonging (DEIB)

Creating a clear vision for DEIB practices in cities

Cities and towns are intentionally and strategically making diversity, equity, inclusion, and belonging a priority in their local policies, planning, procedures, and programs.

There is no perfect formula for getting started, but we can learn a lot from those already on this journey and what's working for them. Key actions that can be taken include the following:

- Creating a clear vision
- Developing goals and outcomes
- Incorporating vision and goals into work and business plans
- Providing training for all stakeholders
- Developing a means to assess progress
- Continually engaging your community on progress
- Requesting feedback

The most critical of all these action items is creating a clear vision for your DEIB program. A DEIB vision serves as a frame and guide for your goals, strategies, outcomes, and indicators of success.

Practical advice

Helpful pointers from other elected officials.

Initial words of wisdom ...

- **Listen.** Listen to everyone. Listen until your ears fall off. Soak it up. After six months in office, you will round out the picture of the complexities of city government and your role.
- **Take notes for the first six months on relevant city business items.**
- **Don't be afraid to say, "I don't know."**
- **Don't make promises you can't deliver!** Most major decisions and actions require approval of the council.
- **Gear your mind to process a tremendous amount of seemingly conflicting information.**
- **Don't enter office with an unmovable set agenda.** Learn as much as possible before taking on a major program or effort. Don't be strangled by campaign promises that were made without sufficient information.
- **If you come on board as a big critic of the "way things have been done,"** you may be surprised to find how hard the job really is. You'll soon gain better appreciation for those who came before you.
- **The job can be very complex.** Try to stay focused on the big issues.

Mayors will want to...

- **Meet with each department head separately.** Learn all you can. Spend time with the previous mayor, if feasible.
- **Ask for help when you need it.** Don't be afraid to use outside resources (your attorney, AWC, MRSC, a neighboring city or county).
- **Don't be intimidated by larger cities.** Bigger cities have many of the same problems and may be willing to lend expertise or staff resources.
- **Network with others in the same boat.** Have monthly lunches with mayors from neighboring communities. They can provide support, new ideas, and an opportunity to vent.
- **Find an experienced mentor from another city.** Ask for advice when you need help. You'll get empathy and a clearer vision from someone who has been there.
- **Ask opinions, and listen.** Spend time with those individuals who have different opinions than yours (maybe even your opponent in the election). Listen, don't argue the points, then rethink your positions.
- **Don't reinvent the wheel.** Someone has probably done it elsewhere. Use information available from MRSC and AWC. Attend workshops and conferences, especially the AWC Annual Conference.

The mayor's leadership role

See if you can develop a vision of what your city should look like in the future, and work with others to that end.

The mayor occupies the highest elective office in the municipal government and is expected to provide the leadership necessary to keep the city moving in the proper direction. Effective mayors see themselves not only as leaders staking out policy positions, but also as facilitators of effective teamwork.

As a mayor, you have a special set of long-term responsibilities not shared by many others. You are supposed to be a community leader and a political leader. Yet most of the trials and tribulations you will face during your term of office will deal with city housekeeping. These day-to-day activities are of immediate concern to most residents, and sometimes solving the little problems are the most fun.

But you need to find time to deal with the important policy issues and some of the long-term future concerns. Try to make your city a better place to live tomorrow, not just today.

If you can leave something of long-term consequence to improve your community, you will at least have the satisfaction of a job well done, and that is the principal reward of public service.

Setting goals

The role of the city council in cities of all sizes is becoming more demanding and complex. In order to get anything accomplished, elected officials must work together to define and agree upon mutual goals. This is one of the most challenging aspects of being a mayor and working with a city council.

Goal setting provides a framework for city action. By setting short-term and long-term goals, and then deciding which are most important, you and the council can define what your city government will try to achieve. Staff then have clear guidelines regarding what you and the council want to accomplish, and you have a way of evaluating your programs and services.

Establishing goals will keep you on track and minimize distraction from the brush fires.

Some cities plan goals through council retreats. Some use outside facilitators to assist with this process.

A simple goal-setting process

The basic idea is to start with the big picture and work to ensure that your day-to-day tasks relate back to that big picture. Periodically, you'll want to look back at your goals and evaluate what you've accomplished, and decide what changes you want to make, if any.

Step 1. Identify issues and needs

Before you can set goals, you have to come to some agreement on what needs to be done. As a group, come up with an overall list of issues and needs, including councilmembers' ideas and residents' concerns. Narrow down that list to a workable number of problems and needs to be addressed.

Step 2. Set goals

Once you've developed a focused list of needs or problems, describe what you hope to do to eliminate each problem or meet each need. The goals you express may be both community goals and goals for your particular governing body to accomplish.

Step 3. Set objectives

Objectives are the specific short-term strategies to meet your goals. They are statements of accomplishments to reach within a specific time frame. By setting objectives, the council can focus on a series of realistic goals and can then determine the resources needed to accomplish them.

Step 4. Set priorities

Setting priorities is the most important step in the goal-setting process. Comprehensive goal setting results in more objectives to accomplish than is possible in the time available, so you've got to set priorities. Decide what areas need attention now and which ones can be delayed. A simple rating and ranking exercise can help you determine which areas are of highest concern.

Step 5. Start an action program

Once you've decided on goal priorities, work with staff to develop specific programs and timelines to meet your goals.

Step 6. Evaluate the results

You'll want to establish a formal process for evaluating goal progress. Are you reaching them? Are they still appropriate? Do any need to be dropped or altered?

Additional resource:

Center for Government
Innovation, Washington State
Auditor's Office

Public relations

- Remember that what you say, privately and publicly, will often be news. You live in a glass house. Avoid over-publicizing minor problems.
- Don't give quick answers when you are not sure of the real answer. It may be embarrassing later on.

Some of the mayor's leadership roles

Ceremonial role

The mayor's participation in local ceremonial events is a never-ending responsibility. On a daily basis, the mayor is expected to cut ribbons at ceremonies to open new businesses, break ground for construction of new city facilities, and regularly appear at fairs, parades, and other community celebrations. The mayor also issues proclamations for a variety of purposes. As featured speaker before professional clubs, school assemblies, and neighborhood groups, the mayor can expect to be interviewed, photographed, and otherwise placed on extensive public display by the media.

Intergovernmental relations

Your city does not operate in a vacuum. Cities must work within a complex intergovernmental system. Keep in contact and cooperate with your federal, state, county, and school officials. Get to know the officials of neighboring and similarly sized cities.

Mayors take the lead in representing their local government to those from outside the community who are interested in joint ventures – including other local governments, regional organizations, and federal and state government representatives. In this area, mayors promote a favorable image of their local government and pursue resources that will benefit the community.

Public relations

Mayors inform the public, the media, and staff about issues affecting the community. This role is critical in building public support and facilitating effective decision-making by the council.

Working with residents

The most important trait a new official can cultivate is the simple ability to listen. You will quickly find that when frustrated city residents call on you to complain, they do not come to listen – they come to talk. So let them.

Make an effort to keep your constituents informed and encourage participation. Expect and respect complaints. Make sure your city has a way to effectively deal with them.

Sitting in your position of new responsibility does not allow you to forget the people who elected you to office. They expect you to keep them informed and to give them an opportunity to express themselves. If you do this, you will surely increase your chances for success as a public official.

Dealing with the media

The media is your best contact with the public – it informs the community about what is happening and why. A good working relationship is mutually beneficial to both you and the media. Through the media, you have the opportunity to comment publicly on local issues and inform residents of city activities. If you work hard to cultivate that relationship, you can ensure that the media have all the facts and provide accurate, fair coverage of city issues.

Practical advice

Helpful pointers from other Washington mayors.

Leadership ...

- **Lead by example.** Be honest, consistent, and flexible. Don't play games.
- **Use common sense.** If your heart, mind, and gut agree, then go for it.
- **Don't get stampeded into action by the strong demands of special interest groups.** Your job is to find the entire community's long-term public interest, and you may be hearing from a vocal minority.
- **Be clear on what you stand for.** List ten things you believe in.
- **A new mayor should have goals.** Make a list of things you want to accomplish. But don't act rashly and assume that only you know the best way to accomplish things. Every issue will benefit from additional discussion. Your perceptions may change.
- **Sometimes we underestimate the potential impact of a mayor's leadership.** Use the dignity of your office to help the community get past contentious issues.
- **There is a tremendous amount of discomfort in making very public decisions.** Sometimes the decisions feel like the end of the earth. It's easy to fear the political consequences. But it is important to look a little more long-term in perspective, weigh everything, and reach good decisions.
- **Know that you won't be able to satisfy everyone.** If you try, you won't be able to demonstrate leadership. Listen fairly, listen thoughtfully, and then do what's right.
- **Most of the easy decisions got made a long time ago.** Many decisions that need to be made can be very painful – but you can't solve those big problems without pain.
- **See if you can develop a vision of what your city should look like in the future, and work with others to that end.**

"We're busy electing

barometers, when what we

really need are compasses."

– Author unknown

The mayor as chief executive

Most people understand that, except under a council-manager form of government, the mayor is the chief executive of the city. When there is a serious emergency, such as a flood, residents properly assume that it is the mayor who has the authority to take charge. Unfortunately, it is also assumed by some mayors that their power is almost supreme, even in the absence of an emergency.

Though the mayor has executive authority in a mayor-council city, that authority is defined by state law and must be exercised in a manner consistent with policy decisions made by the city council. There are statutory limitations both on what you can do and how you can do certain things. Appendix 1 lists the specific statutes that grant powers and responsibilities to the mayor. This chapter provides an overview of your chief executive responsibilities.

Administrative/policymaker distinction

Again, it is the council's role to adopt policies for the city and it is the mayor's role to administer or carry out those policies. The distinction sounds simple, but it can cause confusion and animosity.

Though a mayor does not set policy, as the elected chief executive it is certainly appropriate for the mayor to bring policy options and recommendations to the council. That is part of the leadership role of the mayor. That leadership role is particularly evident in the budget process, where the mayor submits a preliminary budget to the council as a proposed guideline for city priorities.

So, who actually runs the city?

In many of the smaller towns and cities in Washington, the city clerk is the person at city hall who does a lot of the day-to-day administration of the city. The clerk's duties are established by state statutes and city ordinances – this person is typically in charge of administration when the mayor is not at city hall.

In many cities, the mayor is employed full-time in another job and does not have the time to be at city hall taking care of administrative details. The mayor's salary in most municipalities clearly indicates that the job is not full-time.

As cities grow and the complexities of city administration become more difficult for a part-time mayor and a city clerk to handle, some cities choose to create a new position titled "administrative assistant," "city administrator," or "executive assistant" to help with city administration, under the direction of the mayor. The individual in such a position is generally appointed by the mayor and performs tasks within the statutory authority of the mayor. While the council can establish the qualifications and the duties of the position, it cannot take powers delegated by statute to the mayor and give those to the city administrator.

Only about a dozen Washington cities currently have full-time mayors, though a growing number of cities have individuals who work full-time as city administrators for the mayor, as described above.

Some cities have chosen to change to a council-manager form of government when there is a consensus that a professional administrator could better handle the city administration. The decision of whether a city should have a professional city administrator or city manager is complex, involving politics, finances, and the views of the people.

Responding to resident complaints

Residents often contact the mayor when they have a problem, whether it involves a land use matter, a barking dog, or a pothole. Work with staff to resolve problems, keeping in mind that you are not the individual with all the answers.

For instance, as land use planning becomes more complex, don't be tempted to give a quick answer or promise to a landowner before checking with the city's planning department or reviewing the city's development regulations. Consider referring callers to the staff person with the expertise, then follow up to make sure the matter has been handled appropriately. If a matter is normally handled by the police department, direct the complainant to the police department.

City staff will appreciate your involvement if you make the proper referrals, and if you are careful to not make promises that are inconsistent with city procedures or policies.

If word gets out that complaining to the mayor gets a more prompt response to minor nuisance problems, you are bound to receive a lot of those calls. Did the people elect you to solve the barking-dog problem, or did they elect you to make sure that city staff properly handle these minor issues?

Relationship with the city attorney

In most cities, the mayor appoints the city attorney, whether that position is full-time or part-time. In some cities, the council takes an active role to arrange for the provision of legal services through a contract. Regardless of how the position is established, remember that although the mayor typically has more contact with the city attorney than the councilmembers or city staff, the city attorney's job is to advise all city officials. Sometimes councilmembers feel that the city attorney is the mayor's attorney, particularly if the city attorney generally supports the mayor's position in situations where the answer is unclear.

A mayor cannot prohibit the council from accessing the city attorney for advice. For financial reasons, the mayor may feel that questions to the city attorney should be channeled through the mayor, to avoid possible duplication and to make sure that the questions are presented clearly. Ultimately it is up to the council to establish procedures on how to provide city attorney services.

Make your attorney's job easier

Inform the city attorney ahead of time when you see a legal issue brewing. No attorney wants to be asked a complex question at a council meeting without prior warning. Don't be surprised if your attorney tells you they need to research the issue or discuss it with you (and council) in an executive session.

Instead of asking the city attorney without warning: "Can we do ____?", ask: "How can we do ____?" and give your attorney time to research the issue. City attorneys often get frustrated by frequently informing the mayor and council that they cannot do something. They would rather use their creativity to come up with alternate ways to legally accomplish an objective.

The attorneys at MRSC are another good source of legal expertise, but they are not a substitute for your city attorney, and your conversations with them are not subject to attorney-client privilege. Please keep in mind that their consultation is based on the facts you provide. Sometimes there are special factors involved, perhaps unique to your city. That is why MRSC will always advise you to review an issue with your city attorney.

Public records disclosure

You are legally obligated to disclose city documents to the public upon request. For example, when there is a request from the public to disclose a city document, the city must respond to the disclosure request in writing within five working days. The short turnaround time requires that city staff have clear guidelines for how to process these requests. Most cities have adopted public disclosure procedures. If your city has not yet adopted public disclosure policies, consider making that recommendation to the council.

Many city records are exempt from disclosure, and there are even statutes that prohibit disclosure of some records. (See Appendix 3, Public records disclosure, for more details on what is disclosable.) The Open Government Trainings Act requires elected officials to receive training on public records, the Open Public Meetings Act (OPMA), and records retention within 90 days of taking office and every four years thereafter.

In partnership with MRSC, AWC provides the courses for free online. The eLearnings are available to watch anytime, and they meet the Open Government Trainings Act requirement.

Emergency management

In mayor-council cities, the mayor is statutorily in charge when there is an emergency or disaster. RCW 38.52 contains the state statutes requiring that every city and town adopt an emergency management plan. Some cities choose to join with other cities or the county to create a joint emergency management agency. Together they select a director and grant them extensive authority to cope with an emergency.

The city clerk can provide you with a copy of your city's emergency management plan. Read it. Keep a copy readily available in both your office and at home. When a disaster happens, you may need to coordinate the emergency response. Depending on the emergency type and its duration, you may want to seek consultation or approval of the council for certain actions, if feasible. (See Appendix 1, Overview of statutes, for further discussion of emergency management.)

And remember that while you have operational control during an emergency, the council always has final control of the city's budget. It is a good practice to keep them informed and get them to ratify purchasing and other budget-related decisions as soon as practicable during an emergency.

Human resources management

The statutes generally give the mayor or city manager, as chief executive, broad authority to hire and fire employees. (See Appendix 1, Overview of statutes.) Realize, however, that employee lawsuits can be one of your largest areas of potential liability. There are legal limitations on the actions you take in hiring, discipline, and discharge:

- **State and federal laws, court decisions** – Laws relating to anti-discrimination, overtime compensation, safety, sexual harassment, and many others.
- **The city's personnel policies** – Policies passed either as an ordinance or adopted as administrative policies.
- **Civil service** – Except for very small cities, most police and fire employees are protected by civil service. Some charter cities also provide civil service coverage for other city employees. Civil service governs hiring processes and provides hearings for disciplinary actions. Your actions may be subject to appeal to the local civil service commission (RCW 41.08 and 41.12).
- **Union contracts** – The terms of the labor contract prevail over other local regulations, including civil service rules and personnel rules. In many contracts, a grievance procedure provides for disciplinary appeals to an outside arbitrator.

Before you jump...

Prior to taking any serious disciplinary action, consult with your attorney. Your liability insurance carrier may also provide some preventative legal assistance.

Another tip is to have good and consistent personnel policies. Current and clearly written policies help avoid lawsuits, promote consistency, and contribute to employee morale.

**In any disciplinary action –
hasten slowly.**

Labor relations

Unions have a significant presence in Washington cities. Most city employees have the right to organize under the state Collective Bargaining Act and have joined statewide unions or have formed local associations (RCW 41.56).

In particular, most police and fire departments are well-organized. Except for very small cities, police and fire are also subject to interest arbitration when an impasse in bargaining occurs. This can create a unique dynamic in police and fire negotiations.

Labor relations advice

- Know the terms of your labor contracts.
- You can't change wages, hours or working conditions without bargaining these issues with the union. This means you can't unilaterally implement a change in benefits, for example, without risking an unfair labor practice.
- You may or may not choose to be on the bargaining team. Be aware of the disadvantages – the process is very time-consuming and may affect your day-to-day relationships with employees. Because city employees are often your constituents, you may have unions putting political pressure on you. Some cities hire professional consultants to bargain on behalf of management.

Practical advice

Helpful pointers from other Washington mayors.

Working with staff ...

- **Hiring good people is what it's all about.** Get the best that you can. Take your time. It can be incredibly costly to undo a bad hiring decision.
- **Get to know staff.** Learn what they do.
- **Listen to your staff.** Give them as much responsibility as they can handle. Task your employees with the responsibility to create new ideas and better ways to get stuff done.
- **Keep perspective.** The people who helped get you elected may not always be the right people to help you run the city.
- **Say thank you!** Let folks know how much you appreciate them and give credit where credit is due.
- **Treat staff with respect.** They are a very valuable asset.
- **Be consistent.** Treat everyone the same.
- **Formalize your city's human resources rules and regulations.** Make sure the rules are clear.
- **Keep your employees informed.** Stay in touch with decision-makers on the front line and those who are in frequent contact with the people.
- **Budget money for and encourage your staff to attend professional meetings and seminars.** These learning and networking opportunities can be invaluable to your city.

The job of a councilmember

The principal job of a city or town council is to set policy. A policy is a course of action for a community. Policymaking often takes the form of passing ordinances or resolutions. After policy decisions are made by the legislative body, others perform the administrative task of implementing the policies. The distinction between formulation and implementation may not always be clear, necessitating open communication between legislators and administrators.

Adopting policy

The council does not make policy in a vacuum. Councils rely on ideas from many sources, including the council staff, community groups, advisory committees, chambers of commerce, and others. It is the council's responsibility to consider the merits of each idea and then approve, modify, or reject them. In doing so, councilmembers analyze community needs, program alternatives, and available resources. The decision often takes the form of an ordinance or resolution, although it may take the form of a rule, regulation, motion, or order. The budget and comprehensive plan are powerful policy tools that are adopted by ordinance.

So, who actually runs the city?

It is important to recognize that it is not the role of the councilmember to administer city affairs. The council sets policy, but it is either the mayor (in mayor-council cities) or the city manager (in council-manager cities) who actually implements the policies. This means that it is not the role of the councilmember to supervise city employees on-the-job or become involved in the day-to-day administration of city affairs. This can be a source of conflict between the executive and legislative branches of city government.

Responding to constituent complaints

Residents often contact a councilmember when they have a problem, whether it involves a land use matter, a barking dog, or a pothole. Don't hesitate to send them to the appropriate city staff person for resolution of their problems. Keep in mind that you lack the authority to take action in administrative matters.

Relationship with the city attorney

In most cities, the mayor appoints the city attorney, whether that position is full-time or part-time. In some cities the council takes an active role to arrange for the provision of legal services through a contract. Regardless of how the position is established, remember that although the mayor or city manager typically has more contact with the city attorney than the councilmembers or city staff, the city attorney's job is to advise all city officials. Sometimes councilmembers feel that the city attorney is the mayor's or manager's attorney, particularly if the city attorney generally supports the mayor's or manager's position in situations where the answer is unclear.

Question & answers

Q. What is the role of the city council regarding employee discipline, and what input can the council have concerning performance appraisals of employees?

A. Though the council may be concerned about employee discipline and how certain employees are performing their duties, the council should not be involved in any individual situations. While the council can establish personnel policies and voice their concerns to the mayor, it is solely the mayor's job to discipline and supervise city employees, including conducting performance evaluations.

Q. Is the mayor or city manager required to inform councilmembers prior to terminating or disciplining a city employee?

A. No. However, when a particular termination or discipline is likely to be controversial, the mayor may want to notify the council and explain the decision in an executive session. Disciplinary and termination decisions should be reviewed with the city attorney first. The mayor and councilmembers should be careful to not discuss specific cases outside of an executive session.

Neither the mayor nor the city manager can prohibit the council from accessing the city attorney for advice. For financial reasons, the mayor or manager may feel that questions to the city attorney should be channeled through the executive's office, to avoid possible duplication and to make sure that the questions are presented clearly. Ultimately, it is up to the council to establish procedures on how to provide city attorney services.

Some smaller cities try to minimize legal service fees by having the city attorney skip regular council meetings. That can be thrifty, but shortsighted, particularly when the council is dealing with controversial matters such as land development, or complex procedural issues such as LIDs.

Human resources management

The statutes generally give the mayor or city manager, as chief executive, the broad authority to hire and fire employees.

The city council, however, determines the number of employees that can be hired and those employees' duties. The council establishes salaries and other forms of compensation paid to city workers. The council may also establish job qualifications.

One piece of advice is to have good, consistent personnel policies. Up-to-date, clearly written policies help avoid lawsuits, promote consistency, and contribute to employee morale.

Labor relations

Unions have a significant presence in Washington cities. Most city employees have the right to organize under state law and have joined statewide unions or formed local associations. The city must negotiate labor contracts with these unions over wages, hours and working conditions.

In particular, most police and fire departments are unionized. Except for very small cities, police and fire unions have access to interest arbitration when an impasse in bargaining occurs. This can create a unique dynamic in police and fire negotiations, given the potential for an outside arbitrator to make decisions regarding wages, benefits and contract language.

Open government laws

Compliance with public disclosure and open meetings builds trust with your community. The Open Government Trainings Act requires elected officials to receive training on public disclosure, the Open Public Meetings Act (OPMA), and records retention within 90 days of taking office and every four years thereafter.

In partnership with MRSC, AWC provides the courses for free online. The eLearnings are available to watch anytime and they meet the Open Government Trainings Act requirement.

Local laws – ordinances and resolutions

How does the council adopt policy? Typically, a council will adopt policy by passing ordinances and resolutions at council meetings.

Difference between ordinances and resolutions

An ordinance is a local law of a municipal corporation, prescribing general rules of conduct. Ordinances are used for a variety of purposes, including administrative actions such as establishing offices and setting salaries, or they may be used for actions that control the conduct of the public. An ordinance is a legislative enactment, within its sphere, as much as an act of the state Legislature.

A resolution, on the other hand, is typically an act that is less solemn or formal than an ordinance. Resolutions reflect the council's expression of policy and sometimes provide direction to the administration and staff. Legislation must be enacted via ordinance. Deciding what constitutes legislation may require reference to case law, but the general guiding principle is that "[a]ctions relating to subjects of a permanent and general character are usually regarded as legislative, and those providing for subjects of a temporary and special character are regarded as administrative..." (*Durocher v. King County*, 80 Wn.2d 139, 153, 492 P.2d 547, 1972).

When deciding whether to use an ordinance or a resolution, first refer to the city charter and state law (RCW). Some state statutes clearly define which action is needed, while others leave it to the discretion of the legislative body. If the charter and the code are silent as to the mode of decision-making, and the action is not "legislation," then either a resolution or an ordinance may be used.

Rules for adopting ordinances

The state statutes for each class of municipality do contain some procedural requirements which govern the ordinance adoption. However, these procedural requirements are generally not complicated and do not require an elaborate adoption procedure. For a comprehensive discussion of adoption procedures, including information on requirements for signatures on ordinances and publication of ordinances, see *MRSC Local Ordinances for Washington Cities and Counties*.

Many cities and towns have adopted local rules of procedure that relate to the adoption of ordinances, and these, of course, must be followed. For example, although the state statutes do not require that an ordinance be read more than once (in most circumstances) prior to adoption, many local rules of procedure do contain such a requirement. Therefore, it is important that councilmembers familiarize themselves with the local rules of procedure as well as the state statutory requirements for the adoption of ordinances.

An ordinance is a local law of the city.

A resolution is typically an act that is less formal than an ordinance.

Practical advice

Helpful pointers from other elected officials.

Leadership ...

- **Lead by example.** Be honest, consistent, flexible. Don't play games.
 - **Use common sense.**
 - **Don't be stampeded.** You may receive strong demands from special interest groups. Your job is to find the long-term public interest of the entire community.
 - **Be clear on what you stand for.** List 10 things you believe in.
 - **A new councilmember should have goals.** These are things you want to accomplish. But don't act rashly and assume that only you know the best way to accomplish things. Every issue will benefit from additional discussion. Your perceptions may change.
 - **Use your role as a leader.** The dignity of your office can help the community get past contentious issues.
 - **It can be uncomfortable to make very public decisions.** Sometimes the decisions feel like the end of the earth. It's easy to fear the political consequences. But it is important to look a little more long-term in perspective, weigh everything, and reach good decisions.
 - **Know that you can't satisfy everyone.** Listen fairly and thoughtfully, and then do what's right.
-

Working with staff ...

- **Get to know staff and what they do.**
- **Say thank you!** Let folks know how much you appreciate them and give credit where credit is due.
- **Treat staff with respect** – they are a very valuable asset.
- **Be consistent.** Treat everyone the same.
- **Budget money for and encourage your staff to attend professional meetings and seminars.** These learning and networking opportunities can be invaluable to your city.

Legislative advocacy

Many city officials don't realize just how much influence they have to help make changes at the state level. You are one of your legislator's constituents, and the experiences and city stories you share can yield positive results. Building good relationships and having strong communication with your legislators is key to being a good advocate for your city.

Use the time between legislative sessions (interim) to meet with your legislators. During the legislative session, you are lucky to have 15 minutes for a meeting, yet this is when most people try to talk to their legislators. Think differently! Schedule meetings with your legislator throughout the year, particularly during the interim. Once you have a meeting with your legislator, it's important that you make the most of it. Come prepared and consider the following:

- Brief legislators about your challenges and opportunities.
- Ask for monthly meetings or calls with your city, or a group of cities.
- Tell stories about real impacts on your constituents.
- Keep materials clear and concise.
- Ask for clear commitments to work on your issues.
- Connect with legislative assistants. Be clear about when you are representing your city's position and when you are speaking as an individual.

Develop a legislative agenda

Tell your legislators what you need from them. You can do this simply and effectively by developing and sharing your city's legislative agenda. City councils can vote to take official positions on state issues that affect the city. A legislative agenda is a good way to get your legislator's attention and tell them your priorities. When you talk to your legislators, be clear when you are communicating your personal opinion as opposed to the city's official position as voted on by you and your colleagues,

- Keep it short and simple.
- Get your city council to adopt it in the fall, before session begins.
- Include capital needs along with policy priorities.
- Incorporate AWC's Legislative Priorities into your agenda.
- Share it with your residents. Post it on your city's website, put it in your newsletters, and insert it into utility bills.
- Work with your local media for coverage.
- Share it with your legislators as soon as possible – it takes time to develop legislation and generate support.

Additional resources:

City Action Days (every winter in Olympia), AWC

Legislative Bulletin, delivered weekly during the legislative session and monthly the rest of the year, AWC

Strong cities advocacy guide, AWC

Public Agency Lobbying Handbook, PDC

Public Disclosure Commission

Communicate with your constituents

If you aren't communicating with your constituents about how your legislative agenda is faring, then who is? You and your legislators have the same constituents. Make sure your shared constituents know how decisions made in Olympia affect them at home. This is a powerful way to create legislator accountability.

- It is your responsibility to tell the public how their legislators are supporting your community. No one else will do this.
- Communicate with your constituents through city council meetings, public access TV, social media, and newsletters.
- Use your influence with community groups to make sure they know the full story.

If you lobby, you may need to report to the PDC

Cities that conduct lobbying activities either through a contract lobbyist, directly with in-house staff, or with city councilmembers may need to report to the Public Disclosure Commission (PDC). Those that hire a contract lobbyist must file a report. Cities that have in-house staff who spend more than four days a quarter directly lobbying the Legislature may need to complete a report. For more information on reporting requirements and how to file, visit the PDC's website. Cities that fail to comply with reporting requirements on lobbying activities may be subject to penalties from the PDC.

Budget basics

The budget is one of the city's strongest policymaking tools. Spending guidelines reflect numerous policy decisions and priorities. The budget message can give a clear view of city policy on many issues. It describes in narrative form significant items in the budget, financial trends, and the policy implications.

Setting policy through the budget is a continuous, year-long process. It involves setting goals and establishing priorities. Public participation is critical to the budget process, and is required by law, because of the many policy decisions involved. Once a budget is adopted, the mayor or city manager is responsible for carrying out the budget and councilmembers are responsible for monitoring program progress through periodic reports from staff and from the community. If programs are not effectively implementing policy decisions, revisions can be made.

The three types of budgets:

- **Operating budget** – These funds are for delivering services like police, fire, parks and library. The operating budget enables you to set policy. When most people think about their city's budget, they're referring to the operating budget. The operating budget is financed from the city's ongoing general revenue sources.
- **Utility services** – These city-provided services are separately funded through user fees and taxes. Most cities provide sewer/water, many provide garbage and a few cities provide electricity, natural gas, and/or transit.
- **Capital budget** – This budget determines what capital improvements will be bought or built over several years, and how they will be financed.

The legal document

State law governs municipal budgets. Although no uniform budget document exists for cities, cities must use uniform revenue and expenditure categories specified by the state auditor (known as the BARS system). Cities can use either annual or biennial budgets, but most use annual.

In Washington, budgets must be balanced – anticipated revenues must equal forecasted expenditures. Unexpected revenues can be appropriated by a supplemental budget modification or can be allocated to reserve funds or to the following year's beginning balance. Expenditures which exceed revenues can be made only by the council transferring funds from reserve accounts (subject to council approval) or by issuing interest bearing warrants.

**In Washington, budgets must
be balanced – anticipated
revenues must equal
forecasted expenditures.**

Additional resources:

Budget Suggestions, MRSC

Budgeting basics eLearning,
AWC

*A Revenue Guide for Washington
Cities and Towns*, MRSC

Center for Government
Innovation, Washington State
Auditor's Office

Financial Intelligence Tool,
Washington State Auditor's
Office

Budgeting methods

Cities and towns typically use one of three budgeting methods:

- **Line-item or incremental budgets** are used by most local governments. The budgets are prepared by adding proposed spending increases to current expenditure levels. It lists how much money will be spent on every item in a department. While this is the easiest budget method, it makes it difficult to analyze service delivery.
- **Priority-based budgeting/Program budgets** focus on specific services or outputs and involve allocating resources to obtain desired goals. This approach makes it easier to set priorities and select among competing programs and service alternatives, but it is more staff-intensive.
- **Zero-base budgeting** is a nontraditional budget process in which “decision packages” are prepared for various levels of service for each activity. Programs and activities are reviewed and ranked according to how they meet the city's goals. The lowest-ranking programs may be reduced or discontinued. Zero-base budgeting requires a high level of analysis and preparation.

The budget calendar

State law defines a city budget calendar, which specifies the timetable for completing the various steps leading to the budget's adoption. Many cities supplement the calendar with increased budget preparation during the summer, finance committee meetings during the fall, and ongoing budget reviews throughout the year.

Although many cities start the process earlier, the law requires department heads to prepare expenditure estimates for the coming year no later than the second Monday in September. The process ends when the final budget is adopted on or before December 31. Between these two dates, the clerk or other staff prepares the proposed preliminary budget for the mayor, the mayor or staff drafts the proposed budget and presents it to the council, and public hearings are held. The complete budget calendar, as spelled out in the statutes, along with the dates for the current year, is published each year in MRSC's *Budget Suggestions*.

The mayor/city manager's role

The state statutes provide details concerning the mayor/city manager's responsibility to prepare the preliminary budget and a “budget message.” Their authority to make transfers within individual funds is also spelled out in the statutes. (See Appendix 1.)

The council's role

The council's role starts with establishing strategic goals and priorities to provide a framework for the budget. The council then discusses and adopts the final budget, and amends the budget as needed. The council also sets city tax rates and fees.

Putting the budget together

Let's look at the actual budget process. It is definitely a team effort involving the mayor or city manager, council, and staff and reflecting the community's priorities.

Setting policy

The council sets public policy in two major ways: by enacting ordinances during the year, and by establishing budgetary (taxing and spending) policies. Your city administration influences policy through budget implementation and recommendations to the council as to what is needed. The city's strategic goals also guide budget priorities.

Estimating expenditures

Department heads prepare estimates based upon a projection of current trends, a forecast of the effect of new programs, and an estimate of what is needed to pay remaining bills.

Reviewing estimates

The mayor or city manager (in a council-manager city) reviews the department requests, taking into account policy objectives and priorities for new or expanded programs. It's a give-and-take process, sometimes with department heads lobbying for their program or service. What develops is a preliminary budget.

Estimating revenues

While expenditures are being estimated, the city's finance officer looks at revenues. Two key questions are raised: What factors impact future revenue flows, and what are the estimated level of revenues for the upcoming budget period? Once these questions are answered, revenue estimates should not be changed to accommodate additional spending desires.

Forecasting budgets

Although it's an optional step, forecasting your projected revenues and expenditures for up to five years helps determine whether your city can maintain its service levels. This long-term analysis helps pinpoint whether any corrective actions are necessary.

Preparing the document

The mayor/staff prepares the draft budget for council review. The actual budget document typically contains four parts: a budget message; a summary schedule of revenues and expenditures; detailed revenue elements; and expenditure details, with dollar and workload implications.

Adopting the budget

The mayor or city manager presents the budget to the council and the public for review and adoption. Some cities use a budget committee for review. Hearings are held with department heads and with the public to review expenditure requests. Once the hearings are completed, a budget ordinance is enacted. The ordinance authorizes funding specific expenditures with specific resources.

Budget do's & don'ts

Do:

- Find good basic training. AWC offers the Municipal Budgeting & Fiscal Management workshop annually.
- Evaluate materials and data carefully before you speak.
- Show your appreciation for staff. Respect their experience.
- Explore creative ways to meet your city's needs.

Don't:

- Expect to be an instant expert.
- Drown in details.
- Criticize previous budgets until you know all the facts and can correctly interpret them.
- Try to immediately change traditional budget practices.

Implementing the budget

The mayor/city manager's job is to implement the budget adopted by the council and to provide the council with periodic reports that show a comparison of accrued revenues and expenditures to the budget projections and appropriations. The law also requires the city to present a report of remaining expectation and unexpended balance for each appropriation to the council on a quarterly basis, however depending upon the financial condition of the city, it may be appropriate to provide a report more frequently. It is important to carefully monitor these budget results, which may be a function of the mayor's office.

State audit

Each city is audited by the Washington State Auditor's Office (SAO), and the audit includes an assessment of the internal control procedures over this monitoring routine. The financial condition of each of the city's individual funds should be reviewed in a documented procedure that will provide SAO with the information needed for this audit assessment.

In particular, the auditor's office reviews budget adjustments and strategies to resolve shortfalls and unanticipated expenses. Documented communications between the mayor's office and the council will demonstrate these strategies and assist with the auditor's evaluation of financial condition and internal controls over the implementation and monitoring of the budget. A copy of the report should be on file in your city's administrative office and are also available online (sao.wa.gov).

An inside look

Now that you know how the budget works, it is important to understand what the budget is – and what it is not.

The budget:

- Expresses your community's priorities.
- Works as a plan to identify resources and expenditure flows.
- Operates an annual work program by identifying objectives, guiding program management, and evaluating existing expenditures.
- Responds to change. The budget process is dynamic – it must be flexible to meet public needs, keep up with technology, and adjust to financial circumstances.

But the budget can't do it all. It will not:

- Be precisely accurate. The budget relies on estimates based on forecasts.
- Create efficiency. The budget is a resource allocation plan. It can't overcome obstacles in your management or staff structure.
- Establish public policy. Public policy is established through careful discussion before the budget is prepared.
- Make everyone happy. There will be winners and losers!

Resolving and preventing mayor-council conflict

It is essential that mayors and councilmembers understand their roles and how they relate to each other and staff. Many conflicts in city governments happen due to role confusion, resulting in overstepping the boundaries between the respective roles.

Although the boundaries are not always clear, the basic roles of the mayor and council are derived from the basic structure of city government, whether yours is the mayor-council or council-manager form. There is some variation in the powers and duties of mayors and councils between classes of cities, so be aware of the specific rules applicable to your class of city.

Separation of powers

Like the federal and state governments, a city government's powers are distributed among three separate branches: legislative, executive, and judicial.

- The city council is similar to the state Legislature or Congress.
- The mayor or manager, like the governor and the president, heads the executive branch.
- The municipal court (or the district court by contract) exercises judicial functions, although in a more limited way than the state or federal courts.

Under the "separation of powers doctrine," each of the three branches exercises certain defined powers, free from unreasonable interference by the others; yet all three branches interact with each other as part of a "checks and balances" system. The powers of these branches in city government are defined for the most part by state statute.

The mayor or city manager's authority

As the chief executive and administrative officer of the city, the mayor or city manager is in charge of carrying out the policies set by the council and seeing that local laws are enforced. The mayor or city manager is basically in charge of the day-to-day operation of the city, including the supervision of all appointed officials and employees. The mayor or city manager oversees the hiring and firing of all appointed officers and employees, subject to civil laws, where applicable. Except for those in towns, councils have some authority to require confirmation of the appointment of certain officials. Councils may not, however, require confirmation of firings by the mayor or city manager.

The mayor or city manager is basically in charge of the day-to-day operation of the city, including the supervision of all appointed officials and employees.

In general, the mayor or city manager also has the authority to:

- Enforce contracts.
- Bring lawsuits, with council approval.
- Preside over council meetings and, in some classes of cities, exercise some tie-breaking authority with respect to council votes and veto authority over ordinances.
- Call special meetings of the council.
- Prepare a proposed budget.
- Report to the council on the financial and other affairs and needs of the city.
- Approve or disapprove all official bonds and contractor's bonds.
- The mayor performs as ceremonial head of the city.

Consistent with the separation of powers doctrine, the council is not authorized to interfere with the mayor's administration of city government. Councilmembers may not give orders to department heads or to other city employees. To do its job, however, the council needs information on how the city is operating. The mayor, either directly or through other city staff, must provide that information and should do so in a timely and useful fashion.

Council powers

In general, it is the council's role to adopt policies for the city and it is the mayor's role to administer or carry out those policies. The council, being legislative, has the power to enact laws and policies, consistent with state law, usually through the enactment of ordinances and resolutions. The council also has specific authority to:

- Enact a city budget.
- Define the powers, functions, and duties of city officers and employees.
- Fix the compensation of officers and employees.
- Establish the working conditions of officers and employees.
- Maintain retirement and pension systems.
- Impose fines and penalties for violation of city ordinances.
- Enter into contracts.
- Regulate the acquisition, sale, ownership, and other disposition of real property.
- Provide governmental, recreational, educational, cultural, and social services.
- Impose taxes, if not prohibited by state law.
- Cause the city to own and operate utilities.
- Approve claims against the city.
- Grant franchises for the use of public ways.
- License, for the purpose of revenue and regulation, most any type of business.

In addition, the council is authorized to enact rules governing its procedures, including for public meetings and hearings.

The blurred line between policy and administration

Of course, things do not always run smoothly between the council and the city administration, and the line between policy and administration is sometimes not very clear.

One frequent source of conflict is personnel matters. The council may not like a mayor or city manager's appointment to a particular position, or it may be dissatisfied with the performance of certain officers or employees. An employee may complain to and seek relief from the council about some aspect of employment. On the other hand, the executive may believe that certain personnel policies interfere with their supervision of employees and hiring and firing authority.

The mayor or city manager may direct that all communications with city staff go through the mayor's office. The council, in response, may feel that the mayor is unlawfully restricting its access to city personnel for information purposes.

Whose role is it?

The remedy for some of these situations may be to review the respective roles of the mayor and the council and to understand the limitations of their respective authorities. For example, if the council is not happy with a mayoral appointment, there may be nothing the council can do directly within the bounds of its authority. However, if it has the authority to confirm a particular appointment, it can reject the appointee and force the mayor to choose another. If the council does not have confirmation authority, it can express its dissatisfaction to the mayor, but it can do nothing else with respect to that particular appointment.

The council may, however, provide for a detailed personnel system that establishes specific qualifications for positions, requiring publication and public posting of job opening announcements. Moreover, the mayor or city manager, at least in code cities, is required by statute to make appointments "on the basis of ability and training or experience."

Similarly, if the council feels that an officer or employee is performing poorly and should be disciplined or fired, it can say so to the mayor or city manager, but it has no power to do anything else. Although it controls the salaries paid to city officers and employees, it may not lower a salary with the purpose of causing the person holding that position to quit.

A rule to follow is that the council (and the mayor) may not do indirectly what it cannot do directly.

Council and staff communication

On the issue of communication between the council and city officers and employees, the mayor or city manager may not prevent councilmembers from gaining information, although they could reasonably regulate the process by which requests or questions are made. If councilmember inquiries of city employees are interpreted as harassing or unreasonable and may take them away from their duties, it may be necessary for the mayor or city manager to require those inquiries to be channeled through the mayor's or a department head's office, if that can be done without unduly encumbering council access to information.

"The most important single ingredient in the formula of success is knowing how to get along with people."

– Franklin D. Roosevelt

Additional resources:

Knowing the Territory - Basic Legal Guidelines for Washington City, County, and Special District Officials, MRSC

Conflict in the finance arena

Finance and budgets is another fertile area for conflict. For example, the mayor or city manager may decide not to take full advantage of the budget authorized by the council. The council may authorize a certain position at a certain salary, and the executive may decide either not to fill the position or may do so at half time and half salary. The mayor or city manager may cite financial emergencies, such as revenues falling short of projections, and may conclude that the city cannot afford someone filling this position full time. The council, on the other hand, may not agree that the conditions warrant such action or may determine that a different cost-saving measure is appropriate and should be instituted.

Resolution of this type of issue may prove particularly tricky. Although the mayor or city manager may not pay an employee less than is authorized by the council in the budget or in a separate salary ordinance, under certain financial circumstances, they may be able to partially fill a position, proportionately reducing the salary for the position. Legal authority, however, is hazy on such issues. The best strategy would be for the mayor or city manager and the council to work out a mutually agreeable accommodation.

Resolving conflicts

There are other issues that will likely arise (and that have arisen in other cities) where it is not clear who has the ultimate authority to act, the mayor or city manager or council. In these situations, the council and the city administration could draw their respective battle swords and charge; or, one or both sides could first analyze the issue, perhaps seeking counsel of the city attorney or the consultants at MRSC. Some cities have also brought in an outside facilitator to help them resolve their conflicts.

When the roles are not clearly defined in a particular situation, and the law is not clear, compromise may be in order. All sides need flexibility to meet the challenges of a well-functioning city government. If the focus is on providing good government rather than on turf wars, councilmembers, mayors, and staff can better fulfill their roles as public servants.

The municipal/district court's authority over employees

The presiding judge in municipal or district court is delegated the authority to supervise court employees and control the daily operation of the court in General Rule 29 of the Washington Court Rules (GR 29). Separation of powers issues can arise when the executive branch (i.e., the mayor) desires to terminate, appoint or otherwise discipline a court employee. These types of actions are not within the authority of the executive branch because RCW 3.50.080 and GR 29 reserve this authority for the presiding judge. The city council does retain the authority to set salaries and establish benefits for court employees.

Note however, that courts must engage in good faith collective bargaining with court employees. The Washington Supreme Court has determined that the requirement to bargain does not take away the court's inherent power to control the daily operation of the court and supervise court employees. *Washington State Council of County and City Employees v. Hahn*, 151 Wn. 2d 163 (2004).

Questions & answers

Q. If the mayor is out of town on an extended absence, should the mayor still be paid the regular salary?

A. Yes, if the salary is paid monthly and is not based on attendance at council meetings. It would be possible for a city council to pass an ordinance suspending salaries when elected officials are absent on extended trips, but the ordinance would only apply to officials elected after the effective date of the ordinance.

Q. Can councilmembers contact the city attorney directly, or do they have to go through the mayor?

A. Councilmembers have the right to seek advice directly from the city attorney. However, for practical reasons, some cities have established procedures whereby the questions to the city attorney are routinely funneled through the mayor or city manager, or the executive's permission needs to be obtained prior to calling the city attorney.

Q. Does the council have the authority to declare certain police cars to be surplus, and then sell them, even if the mayor/city manager disagrees?

A. Yes, because the decision to surplus major pieces of equipment is a policy decision, not an administrative decision.

Q. Can the city council fire an employee?

A. No, termination decisions are the sole responsibility of the mayor/city manager, though a mayor's decision to terminate a civil service employee is generally appealable to the local civil service commission. Union employees may also be able to appeal such decisions to an arbitrator, if the labor contract provides for this.

Q. Can the mayor (or city manager) of a code city authorize the purchase of a computer over the city council's objection?

A. The city council has final authority over budgeting and contracting. If the executive would like to purchase a computer for use by a particular staff member, council approval is still required. The council can delegate purchasing authority to the mayor and administrative staff. Routine purchases which are clearly within the budget limits should be administrative decisions.

Q. May the mayor (or city manager) refuse to carry out the directives of the council?

A. In general, no. The executive's job is to carry out the policies enacted by the council. If a mayor believes that the city council is acting beyond its authority, or has adopted a policy which violates a statute or constitutional provision, the city attorney should be asked to provide a detailed opinion to guide the officials.

Q. In the strong-mayor form of government, can the city establish a city administrator position and transfer some of the mayor's duties to that person?

A. Though the council can establish the position and define the responsibilities of the job, the council has no authority to take powers from the mayor which have been granted to the mayor by state statutes. All staff work under the supervision of the mayor, and any city administrator is ultimately an assistant to the mayor.

Q. If the mayor or city manager believes that it is crucial for certain city staff to attend training sessions held outside the city, can the council prohibit such trainings?

A. Because the council controls the budget, sets policy and approves contracts, the council could prohibit expenditures for such trainings. The executive would need to convince the council that the training is a priority, perhaps proposing other spending cuts which would free up money for the training.

Practical advice

Helpful pointers from other elected officials.

Relationships within council ...

- **Appreciate each councilmember's special skills.** Get to know them personally. Find out what they think is important. Ask for their opinion.
- **Keep disagreements from getting too personal.** As one councilmember said, "If we can't sit up here and argue and then go out with the same people and have a cup of coffee, then we have no business being on the council."
- **Always be courteous to other councilmembers.** This includes new councilmembers who come on board with an agenda. Keep that door open.
- **A mayor needs to be open and honest.** Give councilmembers all the background information they need on issues. Don't do things behind people's backs. Keep everyone informed.
- **Address conflict head-on.**
- **Give the council enough information to make a knowledgeable decision.** But don't overdo it so much that they feel compelled to "micromanage."
- **Laugh together.** Share thoughts and dreams, and tell stories about yourself. Bring donuts!

Roles of the mayor and council

Policymaking & implementation

Mayor

- Keep council informed on city affairs.
- Propose policy.
- Implement policy adopted by council.
- Report back to council regarding policy implementation and possible improvements.

Council

- Listen to city residents – keep track of their concerns and wishes.
- Discuss, develop, and adopt city policies governing many aspects of city operations.

Human resources matters

Mayor

- Hire, fire, supervise, and discipline all city employees (in some cities, council confirmation of certain appointments can be required). Civil service rules and labor contracts must be followed, if applicable.
- Negotiate labor contracts (sometimes mayor is not a member of negotiating team).

Council

- Adopt personnel policies, establish positions, set wages and benefits – council should not meddle in mayor's supervision of employees or interfere with work of employees.
- Establish bargaining parameters and approve final labor contract.

City budget

Mayor

- Work with staff to develop preliminary budget.
- Lead council in process of establishing goals and priorities for the city.
- Implement budget adopted by council, provide regular financial reports, and present alternatives when council needs to deal with budget problems.

Council

- Establish goals and priorities which provide framework for budget – discuss and adopt final budget – amend budget as needed.
- Set city tax rates, to the extent permitted by statutes.
- Set utility rates and other fees as required.

Council meetings

Mayor

- Prepare agenda, preside over meetings, report to council about city administration, propose policy initiatives or changes.
- Vote on measures allowed by the statutes. Veto ordinances, as permitted by statutes.
- As presider, facilitate an orderly meeting.

Council

- Adopt council rules of procedure.
- Participate in preparation of council meeting agenda as provided in council rules.
- Discuss all policy matters and make decisions following the adopted rules.

Land use and planning

Mayor

- Supervise planning staff, who make recommendations to the planning commission and council on a broad range of planning issues.
- Supervise staff who enforce building codes and other development regulations.

Council

- Adopt and amend zoning, development regulations, and comprehensive plan after receiving input from staff, residents, planning commission, and others.
- Act in quasi-judicial capacity to decide land use issues.
- Amend planning documents as necessary.

City expenditures, contracts

Mayor

- Sign contracts, supervise contract performance, enforce contracts.

Council

- Approve contracts and all city expenditures.

Relationships with other entities

Mayor

- Represent city as official spokesman, in accordance with views or goals set by council.
- Act as official head of city for ceremonial events such as ribbon cuttings and sister-city contacts.

Council

- Decide whether city will participate in optional government organizations, provide guidance to mayor or other city representatives.
- May serve as city representative on certain intergovernmental bodies where mayor is not designated member.

Council meetings

The mayor's role in the council meeting

The mayor, as presiding officer, holds the key to an effective council meeting that runs smoothly and produces results. They not only participate in the meeting but also manage the process, the agenda items, and the people involved.

Will the meeting come to order?

As presiding officer, the duties of the mayor are to:

- Open the meeting on time and call the meeting to order.
 - Announce business on the agenda in the proper sequence.
 - Recognize members for motions and statements and allow audience participation at the appropriate times.
 - State and vote on all legitimate questions that arise during the meeting. If a motion is out of order, the mayor should rule it out of order.
 - Protect the council from frivolous or delaying motions by refusing to recognize them.
 - Enforce the rules of debate, make sure that speakers limit their remarks to the item being considered, and keep order at the meeting.
 - Expedite business in a way that is consistent with the rights of the members.
 - Decide all questions of order.
 - Respond to inquiries of members.
 - Declare the meeting adjourned.
-

Legal requirements for meetings

The mayor should become familiar with legal meeting requirements imposed by state law. This includes knowing adoption procedures for ordinances and resolutions, when executive sessions are appropriate, and what is involved in a quasi-judicial hearing.

The city attorney can help with these matters, but if the mayor knows the basics, it saves time and avoids illegal or incomplete actions. (See Appendix 4 for more details on what is required under the Open Public Meetings Act, and Appendix 7 for guidance on the appearance of fairness doctrine.)

Council rules of procedure

It is up to every council to establish rules for the conduct of its meetings. Some councils adopt standard rules, such as Robert's Rules of Order or some other rules of parliamentary procedure; and others develop their own customized bylaws which govern how council meetings proceed. Local rules are valid so long as they don't infringe on constitutional rights or conflict with state law. (See Appendix 6 for sample council procedures.)

Additional resources:

Robert's Rules of Order

*American Institute of
Parliamentarians Standard Code
of Parliamentary Procedure*

*Mastering Council Meetings: A
guidebook for elected officials
and local governments*
Ann Macfarlane & Andrew
Estep

What is parliamentary procedure and why should you use it?

Parliamentary procedure is the set of rules or customs that regulates the procedure of legislative bodies. It governs how to make, amend, approve, or defeat a motion. There is no need to be intimidated – a mayor need not become a certified parliamentarian to effectively use the basic rules of procedure. Observing parliamentary procedures makes council meetings more efficient and reduces the chances of council actions being declared illegal or challenged for procedural deficiencies. (See Appendix 10 for a quick summary of parliamentary procedure.)

Motions

Business is brought before the council by motions, which are formal procedures for taking actions. To make a motion, a member must first be recognized by the presiding officer. After the member makes a motion (and after the motion is seconded if required), the chair must then restate it or rule it out of order, and then call for discussion. Most motions require a second, although there are some exceptions:

- Nominations;
- Points of order;
- Questions of privilege; and
- Calls for the order of the day.

Voting and vetoes

The mayor's ability to vote on and veto motions varies, according to the city's classification and form of government. (See Appendix 2, Voting and Vetoes.)

Whose meeting is it anyway?

In general, mayors should remember that the council meeting is just that – it's the council's meeting, not the mayor's meeting. The council sets its own rules and has ultimate control over the agenda. The mayor's role is to chair the meeting.

The mayor must balance the benefits of efficient meetings with the importance of involving all members in the meeting. To be effective, the mayor needs the support of the councilmembers. Trust is built by showing evenhandedness and fairness to all participants. Trust also requires that the chairperson not use the powers of the chair unfairly to win a point or argument.

In addition to maintaining order and decorum at council meetings, the mayor must ensure that all motions are properly dealt with as they arise.

The mayor's refusal to allow a motion to be considered is subject to appeal, as are all of the mayor's decisions regarding procedures.

A simple majority vote is all that is required to overrule the mayor's decision on procedural issues, including adjournment. If the decision of the chair is sustained, no further action is taken; but if the decision of the chair is overruled by the council, the council goes forward with the discussion of the motion or other matter before it.

The mayor as meeting participant

The mayor chairs all council meetings and, in some circumstances, is allowed to vote. The mayor might also wish to join the council in its discussions and deliberations. When mayors choose to participate, they have two competing goals: (1) as moderator, to make sure that the group achieves its goal; and (2) as an elected official, to both participate in the debate and help determine policies. Participation requires a balancing act between the moderator role and that of active engagement in debate. When the mayor decides to participate, they should exercise restraint. Overly forceful participation can dampen council discussions and result in some councilmembers deferring to the mayor's comments, simply due to the perceived role as the mayor as boss.

Remember – It's the council's meeting, not the mayor's meeting.

The council meeting agenda

There is no required format or order for the council meeting agenda. However, a typical agenda for a city council meeting looks like this:

- Call to order
- Roll call/Pledge of Allegiance
- Approval of agenda/minutes
- Comments from the public
- Consent agenda
- Ordinances & resolutions
- Public hearings
- Unfinished business
- New business
- Council action/discussion
- Committee reports
- Executive session
- Adjournment

The council's role in the council meeting

A city or town council meeting is the place to get the critical job of decision-making accomplished. A smoothly managed and productive council meeting does not necessarily guarantee good results, but it certainly helps.

Although the mayor presides over council meetings, the council as a body has ultimate authority over the matters that arise at a council meeting. As moderator, the mayor should facilitate the meeting while allowing full council participation, maintain order and decorum, and see that all motions are properly dealt with as they arise.

The agenda

One of the most crucial tools for orderly meetings is a well-organized and well-prepared agenda. The agenda ensures that councilmembers receive adequate information in advance on items for consideration.

The council should provide the opportunity for appropriate public participation and is required to take public comment at regular meetings where “final action” is taken. State law requires each city to establish a procedure to notify the public of the agenda for upcoming council meetings. Items on the agenda should be prioritized and organized as efficiently as possible, allocating enough time for major issues and minimizing time spent on trivial, noncontroversial issues. In addition, the city must make preliminary agendas available online at least 24 hours prior to a meeting unless limited exceptions for emergencies or small jurisdictions apply.

Who determines the agenda content?

Although the council has ultimate control over the agenda, typically it’s left to the mayor, city manager, or clerk to draw up the agenda, based on council input. Some cities assign this task to an agenda committee or to a councilmember who assists the mayor or manager. At the start of a regular council meeting, a council can, by motion, change the agenda, change its order of business, or add a new item of business.

Streamlining council meetings

Even the best planned council meetings can deteriorate into endurance contests. Often, these are not productive meetings – exhausted people don’t always make the best decisions. Here are some tips on things you can do to “shorten” meetings.

Regulating talk

Too much talking is the most common cause of lengthy meetings. If members of the public addressing the council ramble, the mayor might tell them to confine their remarks to the subject at hand and conclude as quickly as possible. Many council procedures limit public comment to 3-5 minutes and limit the number of speakers on any one topic. Another idea is to include an approximate starting time for each major agenda item. This information may be useful to city residents attending the meeting.

If the problem is created by a talkative councilmember, a simple statement such as “it’s getting late and we must move along” usually will work, though a private conversation later on may be needed to handle chronic talkers.

Shortening the agenda

An important consideration in making the agenda manageable is to keep it as short as possible. The council agenda is the place for formal actions on the part of the governing body. In general, every regular meeting agenda item should include an instrument for council action. Items that are solely for the information and advice of the council should be provided outside the formal agenda process.

“Consent” agendas

The consent agenda helps streamline council meetings. Routine, noncontroversial items are listed collectively on the agenda and are passed with a single motion and vote.

In some cities, the actual items placed on each consent agenda are selected at a weekly city department heads’ meeting. In others, an agenda committee chooses the consent items.

- Commonly, there is no debate allowed on the consent agenda or on any item included in it.
- Consent items may be read by title only.
- Any councilmember can have an item removed from the consent agenda for separate consideration. In addition, some cities allow any person attending the regular council meeting to request that an item be voted on independently. The remainder of the consent agenda can be voted on, omitting the challenged items.

Setting up a consent agenda system may require preliminary action by the council in the form of adopting an ordinance or resolution or amending the council rules.

Council work sessions

Informal council work sessions may be needed occasionally to study certain matters in detail. These are often held in conjunction with budget review. Work sessions also are useful when major policy questions must be decided, or when a complicated ordinance, such as a building code, comes before the council.

Note: The Washington Open Public Meetings Act applies to all council meetings and work sessions, whether formal or informal. (See Appendix 4, Open Public Meetings Act.)

The subcommittee*

Many elected bodies divide into subcommittees to study specific issues. Elected bodies may have both standing and ad hoc subcommittees. Subcommittees can either facilitate the decision-making process or consume unwarranted amounts of time and effort. Here are some pointers on the use of subcommittees:

1. **Clearly define the mission** before creating a subcommittee.
2. **Set deadlines** for reports.
3. **Monitor assignments** to check on progress.
4. **Establish expiration** provisions and enforce them.
5. **Rotate membership** periodically.
6. **Keep nonmembers informed** of meetings and actions.
7. **Monitor the amount of staff effort** required.
8. **Review the list of subcommittees annually** and delete those that are no longer necessary.

*Source: *Elected Official’s Little Handbook*, Len Wood.

Meeting diagnosis*

- Meetings start on time.
- Meetings end at a reasonable hour.
- The council sticks to the agenda.
- The public is encouraged to participate.
- The council does not attempt to engineer “how-to” details at the meeting.
- No one tends to dominate the discussion.
- All members participate.
- Members do not engage in side conversations during the meeting.
- Members actively listen to each other.
- Members do their homework.
- Unnecessary meetings are not called.
- Packed audiences do not unduly sway the council.

**Source: Elected Official's Little Handbook, Len Wood.*

Voting guide

Quorum

The general rule governing the transaction of council business is that a majority of councilmembers must be present at the meeting to constitute a quorum. This means four members of a seven-member council and three members of a five-member council.

Abstentions

In the absence of a local rule to the contrary, councilmembers are free to abstain from voting on any issue before the council. Some cities have adopted local rules of procedure allowing abstentions only when the councilmember states their reason for abstaining. Other cities require councilmembers to vote on all matters before the council unless a conflict of interest exists. When a conflict of interest exists, a councilmember should refrain from voting. Generally, however, other councilmembers cannot restrain a councilmember from voting due to a conflict of interest or for any other reason.

The effect of an abstention on a vote is not specified by state law. Municipalities are free to adopt local rules of procedure stating the effect of an abstention. See Appendix 6, Sample City Council Rules of Procedure (Rule 5.4) for an example of a rule which provides that failure to vote when there is no valid disqualification is counted as an affirmative vote on the question. If a city does not have a rule, abstentions by one or more councilmembers may make it impossible for final action to be taken on a matter, particularly where a majority vote of the full council is needed.

Voting by proxy, attending meetings remotely

It is a fundamental rule of parliamentary law that the right to vote is limited to those members who are present at the time a vote is taken at a legal meeting (either physically, by phone, or through a virtual meeting service such as Zoom). Therefore, as a general rule, proxy votes are not permitted.

Prior to the COVID-19 pandemic, the general rule was that councilmembers must be physically present at council meetings unless the council authorized a councilmember to participate remotely by phone or a computer link. During a significant portion of the COVID-19 pandemic, governing bodies were required to meet virtually pursuant to emergency proclamations issued by the governor. As a result, cities and other forms of local governments became more accustomed to working with virtual meeting technology. In 2022, the Legislature amended the OPMA to clarify that agencies may permit members of a governing body to participate remotely in a meeting with no declared emergency.

Mayor's authority to vote

Charter cities

In charter cities, each city charter governs the voting powers of the mayor.

Mayor-council form

Under the mayor-council form of government, the mayor may vote only in case of a tie vote of the council. However, statutes for each class of city may further limit the mayor's tie-breaking authority, as follows:

Second class cities. Because at least four councilmember votes are required to pass any ordinance, resolution, or order (RCW 35.23.211), the mayor cannot break a tie vote on those matters.

Towns. At least three councilmembers must vote to pass any resolution or order for the payment of money (RCW 35.27.270) or to pass an ordinance or resolution granting a franchise (RCW 35.27.330). Thus, the mayor's vote cannot be used to break a tie vote on these issues.

Code cities. A majority of the entire membership of the council is required to vote to pass any ordinance, grant, revocation of franchise or license, or any resolution for the payment of money (RCW 35A.12.120). Therefore, the mayor may not break a tie vote on these matters.

Council-manager form

In all cities operating under the council-manager form of government, the mayor is eligible to vote in their capacity as councilmember.

Mayor's veto power

- In **charter cities**, each city charter governs the veto powers of the mayor.
- In **council-manager cities**, the mayor votes as a councilmember and has no veto power.
- In **second class mayor-council cities**, the mayor may veto an ordinance, but the mayor's veto can be overruled by five members of the council (RCW 35.23.211).
- In **towns**, the mayor has no veto power.
- In **mayor-council code cities**, the mayor may veto an ordinance, but the mayor's veto can be overruled by a majority plus one of the entire council membership (RCW 35A.12.100).

Questions & answers

Q. Can a meeting of the city council be opened with a prayer?

A. Courts have ruled that beginning a local government public meeting with a nondenominational prayer, or a silent meditation of a short duration, does not violate the U.S. Constitution. Keep in mind, however, that many residents have strong feelings about their own particular religious beliefs, and some residents adamantly feel that religion and government should not be mixed. The decision concerning whether meetings open with an invocation should be made by the council, not by the mayor. Most cities in Washington have chosen to not commence their meetings with an invocation.

Q. Who, if anyone, can make a motion for reconsideration where a matter was defeated by a tie vote?

A. Under Robert's Rules, §36, anyone who was on the prevailing side of a vote can make a motion to reconsider, and the prevailing side need not be a majority, such as when a tie vote functions to defeat a matter. In that case, those who voted no would be entitled to make the motion to reconsider.

Q. Can the mayor unilaterally adjourn a council meeting?

A. No, not in normal circumstances. The mayor can request that a councilmember move that the meeting be adjourned, but the motion and subsequent vote are up to the council. If there is a disruption during a council meeting which requires a break in the meeting to restore order, it would be appropriate for the mayor to announce that the meeting is adjourned for ten minutes, but other than that, it is up to the council whether they wish to continue dealing with business.

Q. May a councilmember who was absent when a vote was taken move to reconsider that vote?

A. No. An absent member could not have been on the prevailing side, or any side, for that matter.

Q. If the council passes an ordinance at one meeting, can that ordinance be reconsidered at the subsequent meeting?

A. If the ordinance was passed and signed by the mayor, then the ordinance can subsequently be amended or repealed, but not reconsidered.

Q. Does the mayor in a code city have veto power over ordinances?

A. Under RCW 35A.12.100, the mayor in a council-mayor code city has the power to veto ordinances passed by the city council, although a mayor's veto may be overridden by a majority of the council plus one. This is not a "line item" veto, but rather a veto over an entire ordinance only.

Practical advice

Helpful pointers from other Washington mayors.

Presiding over meetings ...

- **Work at running an efficient meeting.** Even if you live in a small town, it's important to run your meetings professionally and act professionally.
- **It is very important to have formal meetings and know Roberts Rules of Order.** One of the mistakes (particularly in small cities) is trying to be very informal. Recognize "Councilmember Smith" rather than "George." This also helps keep the debate from getting too personal.
- **Be careful with executive sessions.** Only use executive sessions for issues that are specifically allowed.
- **Bring some humor to the council meetings.** Keep your cool!
- **Insist upon decorum in council meetings.** Be courteous to members of the public and let them know you appreciate their comments.
- **Don't spring surprises on your councilmembers or city staff,** especially at public meetings. If a matter is worth discussing, it is worth putting on the agenda. Surprises may get you publicity, but they may embarrass others and tend to erode the "team" approach to governance.
- **Have your city attorney attend your council meetings,** but don't expect the attorney to know all the answers right on the spot. Give the attorney time to research issues.

Community participation at council meetings

The public evaluates the performance of its elected officials to a great extent by what happens at meetings. Many residents form their total opinions of the city government on the basis of having attended just one council meeting. This is the time to impress your community favorably and show them that the council is capable of doing its job.

The public comment period is a time slot set aside on the agenda for city residents to address the council on any subject. It is not to be confused with a public hearing, which is a formal proceeding conducted for the purpose of discussing a specific topic, such as the city budget or a proposed rezoning.

Local practices vary considerably with respect to reserving a place on the agenda for public participation. Many councils will provide an opportunity for members of the public to address the council toward the top of the agenda, so that residents can make an appearance early in the meeting and then go about their business. Other councils reserve a place for public comment at the very end of the agenda. The presiding officer should inform visitors of the place on the agenda where they will be recognized to speak. If an exceptionally controversial item draws a large crowd, it is generally wise to state the approximate time the item will come up for discussion.

Move the agenda along

In the interest of time, some councils limit public comment to three or five minutes. A council should enforce comment time limits in a consistent and evenhanded manner.

Don't allow verbal exchanges between residents and councilmembers, especially if they concern administrative problems that can be solved by the staff during regular city hall hours. Public comment is a time for members of the public to voice concerns to the council, but debate between commenters and councilmembers is rarely a productive use of time.

When a city conducts public comment, speakers enjoy free speech rights under the First Amendment. That means that the council should not interrupt or cut off a speaker merely because it disagrees with the content or manner of their speech. Rather, a speaker's comments may be halted only if they cause an "actual disruption" of the meeting. See *Acosta v. City of Costa Mesa*, 718 F.3d 800 (9th Cir. 2013).

**Many residents form their
total opinion of the city
government based on having
attended just one council
meeting.**

Ask the public...

- How will this proposal affect you?
- What do you think about the proposed action?
- What are your concerns?
- What other ways can you suggest for solving the problem?

Dealing with critics and advocacy groups

Criticism of government and a lack of confidence in our country's elected leaders are rampant these days, even at the local level. External conflict, while stressful, can help frame the issues and provide other perspectives. Most important, it often shows that people feel left out and alienated from the governing body.

Providing for public comment at council meetings ensures that the needs of advocacy groups are appropriately balanced with the organization's mission and the greater needs of the community. How the governing body reacts will determine whether the conflict is diffused or spills over to other issues.

The mayor's role in managing difficult meetings*

From time to time, elected bodies are faced with conducting highly charged, controversial meetings, full of aggression and hostility. Such meetings really test the elected body and staff. Here are some ideas on handling those difficult meetings:

Before the meeting

- Try to get the participants to designate a spokesperson.
- Make agendas and back-up reports easily available to participants.
- Make sure adequate seating is available. Consider moving to larger quarters if necessary.
- Make sure sound and recording equipment is adequate and operational.

During the meeting

- Explain the issues, the possible actions and the procedures that will be followed at the meeting.
- Don't waste time or try the patience of participants at the beginning of the meeting on routine items such as correcting the minutes.
- Have speakers address the elected body and not the audience. Some speakers are very adept at inciting audiences, especially if they are permitted to face the audience.
- Explain at the beginning why clapping, shouting and other such demonstrations are counterproductive and stop such actions as soon as they occur.
- Use recesses to help diffuse hostility or aggressiveness.
- Consider limiting speakers to a set time such as three to five minutes. If such a procedure is used, make sure it's applied consistently.
- Consider using speaker cards that are filled out and turned in at the beginning of the meeting. The cards can help identify how many people wish to speak and whether they support or contest an issue. They are also invaluable in recording the names and addresses of speakers. Recognize, however, that persons not wishing to fill out a card may still have the legal right to speak.
- Make sure elected members address colleagues and not the audience. Directly addressing the audience can result in loss of control of the meeting.
- Immediately continue items that cannot be decided at the meeting. This does not preclude the elected body from allowing anyone who wishes to speak on the issue to do so.

**Source: Elected Official's Little Handbook, Len Wood.*

Ethical issues

Part of being a public official is subjecting yourself to public scrutiny. Like it or not, the public expects you to behave according to higher standards than the next person on the street.

The following list includes some of the more common problems that get newspaper coverage. At the very least, most will result in public criticism. They can also be terminal to your career.

- **Credit cards.** Using city credit cards for an unauthorized expenditure or to charge a personal item (even if the amount is repaid later).
- **Travel and conferences.** Submitting inflated or false travel expenses. This includes using agency funds for personal trips or vacations.
- **Use of letterhead.** Using official letterhead to endorse another political candidate or to achieve a personal or business gain.
- **Use of agency vehicles.** Using an agency vehicle for personal trips, vacations or political campaign activities.
- **Phones and computers.** Using official equipment for personal purposes or political campaigning.
- **Agency staff.** Using agency staff and resources for personal services or political campaigning.
- **Confidentiality.** Divulging privileged personnel, legal, or executive session information.
- **Sexual harassment.** Telling inappropriate jokes at meetings, making improper comments, or touching staff.

State and local ethics laws

State law provides a specific code of ethics for city officials. RCW 42.23.070 prohibits a municipal official from:

- Using their position to secure special privileges or exemptions for themselves or others.
- Directly or indirectly, giving or receiving any compensation, gift, gratuity, or reward from any sources, except the employing city, for a matter related to the official's services.
- Accepting employment or engaging in business that the officer might reasonably expect would require them to disclose confidential information acquired by reason of their position.
- Disclosing confidential information gained by reason of the officer's position or using such information for personal gain.

If you're not sure what to do, ask:

- Is it legal?
- Is it ethical?
- Is it the right thing to do?

Additional resource:

Knowing the Territory, MRSC

Private interest in public contracts

State law also forbids city officials from having personal financial interests in public contracts under their jurisdiction, regardless of whether or not they vote on the matter. There are a few exceptions, some based on contract amounts. Review the statute carefully and when in doubt, consult with your city attorney (RCW 42.23.030).

Local ethics codes

Be aware that your city may have a local ethics code that interprets or supplements the state laws. There are also requirements for cities to establish their own whistleblower process, providing a means for employees to report improper governmental actions. Ask your clerk or attorney for a copy of any local ordinances or guidelines relating to ethics and conflict of interest.

Questions & answers

Q. Are elected officials prohibited from accepting even promotional gift items of minimal intrinsic value from someone who does or may seek to do business with the city?

A. Many officials, either because of the broad language of the ethics statute or on principle, refuse to accept even a business lunch under those circumstances. Others might regard items of only token or trivial value to be “de minimis”, i.e., of insufficient amount to cause legal concern.

In any case, prudence is always advisable to avoid even the appearance of impropriety. Also, because the words “token” and “trivial” may have varying interpretations, a city council may wish to provide more specific guidance in a local code of ethics.

Q. Can the mayor hire a councilmember to work part-time for the city?

A. It depends. Even if a councilmember has special skills of benefit to the city, RCW 42.23.030 restricts the amount of money which can be paid to a councilmember by a city over the course of a year. For a city with a population of 10,000 or more, the amount that can be paid is zero. Additionally, a councilmember may not hold another “office” of the city. Finally, be aware that it can be awkward to have the mayor supervising a councilmember in an employer/employee relationship. Review any plans to employ a councilmember, in any capacity, with the city attorney.

Q. Can the city do business with a company owned by a mayor or councilmember?

A. Watch out! If the amount of the overall contract exceeds \$36,000 (zero if the city’s population is 10,000 or more), there can be serious consequences, including forfeiture of office (RCW 42.23.050). For example, a city councilmember cannot be a subcontractor on a city construction project if the overall project cost exceeds \$36,000 (RCW 42.23.030). If the city’s population is 10,000 or more, there can be no interest in a contract.

Resources

Who to contact when you need help

Municipal Research & Services Center of Washington (MRSC)

Here's the first place to start when you don't know where to go. Several consultants at MRSC can answer your questions over the phone or in writing. Staff experience includes municipal law, budgeting & finance, planning & growth management, public works & utilities, and public policy. MRSC's library is full of useful reference materials and includes actual city policies and ordinances. MRSC has a great website containing a wealth of information relevant to local governments in Washington state. The site also includes links to other useful websites such as state agencies.

MRSC

2601 4th Avenue, Suite 800
Seattle, WA 98121-1280
206.625.1300
1.800.933.6772
Fax 206.625.1220
mrsc@mrsc.org
www.mrsc.org

Association of Washington Cities (AWC)

AWC serves its members through advocacy, education, and services. Founded in 1933, AWC is a private, nonprofit, nonpartisan corporation that represents Washington's cities and towns before the state legislature, the state executive branch, and with regulatory agencies. AWC also provides training, data and publications, and programs such as the AWC Employee Benefit Trust, AWC Risk Management Service Agency, AWC Workers' Comp Retro, AWC Drug & Alcohol Consortium, and AWC GIS Consortium.

AWC

1076 Franklin Street SE
Olympia, WA 98501-1346
360.753.4137
1.800.562.8981
Fax 360.753.0149
wacities.org

Other ideas for helpful contacts

Here are some other ideas for you to contact when you have a problem or need information:

Neighboring jurisdictions

Many cities in the state have formed regional groups of mayors and other elected officials that meet periodically. Or call an experienced mayor with a neighboring city (they are usually honored to be called upon as an "expert").

Your liability insurance provider

Most cities in the state are covered by one of three insurance pools that provide property and liability insurance. Find out from your city clerk who your provider is. Depending on the pool, they offer a variety of resources. For example, if you're doing something where you expect a lawsuit might be filed, contact your risk pool before you take action. They can provide invaluable advice, legal resources, sample policies, and training resources.

Forging partnerships

Introduce yourself to and meet with other public agencies in your region. They may be able to help, share resources, or co-sponsor training. Examples: county, port, local economic development agency, public utility district, fire district, state agencies with an office in your area, and school districts. It may also help to contact any jurisdictions that provide contractual services to your jurisdiction.

MRSC publications

MRSC maintains the following selected resources for city officials and staff at mrsc.org. Any of the publications below can be downloaded at mrsc.org/Home/Publications.aspx or found by browsing the MRSC website using the search toolbar.

Budget Suggestions

This annual publication contains the latest information about things that might impact your city budget such as state-shared revenue distributions, new legislation, and economic trends. Highlights include revenue forecasts, CPI and IPD information, budget calendars, fire insurance premium tax estimates, and more.

Candidate Information Resources for Local Government Elective Offices

This web page provides candidate information resources of special interest to candidates for local government elected office in Washington state.

The City Bidding Book

This book helps city officials determine whether competitive bids are required for acquiring purchases, services, or contracting for public works.

Code City Handbook

A handbook providing essential information for code city officials and indicating their powers, duties, and alternatives that are available under the applicable forms of municipal government.

Knowing the Territory – Basic Legal Guidelines for City, County, and Special District Officials

A guideline detailing the dos and don'ts regarding the exercise of governmental powers including conflicts of interest, the Open Public Meetings Act, appearance of fairness doctrine, and similar laws. It also points out immunities and protections for public officials.

The Open Public Meetings Act: How it Applies to Washington Cities, Counties, and Special Purpose Districts

This publication covers the requirements under the Open Public Meetings Act – including procedural requirements, executive sessions, appearance of fairness, exemptions, and penalties – and identifies relevant case law and attorney general opinions.

Public Records Act for Washington Cities, Counties, and Special Purpose Districts

This frequently updated publication provides a basic outline of the Public Records Act (PRA) and the procedures to follow when responding to public records requests for documents.

Quick Guide for Newly Elected City Officials

The web guide provides a quick introduction to the core duties and responsibilities of newly elected city officials in Washington state, along with recommended resources for more information.

A Revenue Guide for Washington Cities and Towns

This guide describes the major, and many of the minor, revenue sources that can be used for general government purposes. It includes common questions and answers.

Washington City & Town Officials Directory Mobile App

Download MSRC's directory of Washington city and town officials as a mobile app. Visit mrsc.org to browse the directory of city officials, city halls, phone numbers, emails, population, and city class/form of government. Or use the same website to download the app under "Research Tools" and "Washington City and Town Profiles."

AWC publications

The following publications are available from AWC online or in print. Ask your city clerk or call AWC to request any publication. Visit wacities.org and browse these publications and more under the “Data & Resources” tab.

Cityvision magazine

An award-winning magazine that examines municipal issues and trends from a high level, with articles that analyze and offer insight. The magazine creates a voice for city officials and provides another leadership tool and resource to build awareness of city issues with readers outside of city hall.

CityVoice newsletter

A weekly electronic publication sent on Wednesdays to all city officials and AWC partners. The newsletter delivers information relevant to cities including breaking news, state and federal updates, tools and resources, research and data, training opportunities, grant notices, and AWC JobNet postings.

Elected officials’ road map

A visual road map to help guide elected officials through their roles, including what the city does and what to know about working in elected office.

Equity Resource Guide: Tools and case studies for Washington cities

This resource guide outlines policy opportunities and intentional actions that cities can use to promote racial diversity, equity, and inclusion (DEI) for all residents.

Exploring Washington’s Cities and Towns

This high-level resource offers a clear and persuasive description of the essential role they play. Find ready-to-share information and graphics that help educate your community about how cities budget and spend, what city governments do, and what city employees do every day to make our communities shine.

Homelessness & housing toolkit for cities

This publication provides real-world examples of tools and actions Washington cities have used in responding to the issues of homelessness and affordable housing.

Legislative Bulletin

This electronic publication is delivered weekly throughout the legislative session and monthly the rest of the year. The newsletter covers major issue areas and provides quick referencing by issue area.

Small City Resource Manual

This easy-to-use guide helps elected and appointed officials navigate the complexities of policymaking, governance, and operational matters in a small- to medium-sized city.

So you want to be an elected official...

Cities can give this resource to prospective candidates for municipal office. The pamphlet provides general information about how to work as part of a team, what cities do, roles and responsibilities, and where to find more information.

Strong cities advocacy guide

What can you do to help promote a strong city-state partnership? This online guide contains tips for simple actions that city officials can take to advocate for strong cities, like maintaining and building stronger relationships with your legislators and working with constituents keep the Legislature accountable.

Tax and User Fee Survey

Municipal water, sewer, and stormwater rates collected via member survey, compiled and posted on AWC’s website as an aid to benchmarking, policy discussions, and utility rate setting. Historical rates are available from 2006-present.

Washington City & County Employee Salary & Benefit Survey

Find comprehensive salary and benefits data for over 120 job classifications from nearly every city and county in the state. Data is collected annually and made available to those who represent management via an online reporting tool.

Washington State Public Employer Overtime Guide

The Overtime Guide outlines the major provisions of the Fair Labor Standards Act (FLSA) and Washington Minimum Wage Act. It provides practical advice for public employers to comply with complex laws and minimize overtime liability.

You have it, use it: Home rule in Washington

This report explores the existing authority that cities have to make decisions and laws close to home, along with the history of local control and legal attempts to clarify or undermine this authority.

Appendices

Appendix 1 – Overview of statutes defining and limiting the authority of a mayor

Appendix 2 – Voting & vetoes: A guide for mayors

Appendix 3 – Public records disclosure

Appendix 4 – Open Public Meetings Act

Appendix 5 – Public hearings

Appendix 6 – Sample city council rules of procedure for mayor-council code cities

Appendix 7 – Sample procedures: Appearance of fairness and quasi-judicial hearing

Appendix 8 – Public participation: Tips for talking with the council

Appendix 9 – Meeting tips

Appendix 10 – Parliamentary procedure

Appendix 11 – Keeping out of trouble

Appendix 12 – Initiative, referendum, and recall

Appendix 13 – The mayor pro tempore

Definitions

Overview of statutes defining and limiting the authority of a mayor

Text in italics is taken directly from the state statutes (RCW) or state administrative code (WAC).

First class cities – mayor’s authority (RCW 35.22)

Currently first class cities in Washington have their government structured in accordance with their charters. Because of the variance in charter provisions, this appendix does not deal with the role of a mayor in a first class city.

Second class cities – mayor’s authority (RCW 35.23)

No second class cities in Washington operate under the council-manager form of government.

Appointment and termination authority

*The mayor shall appoint and at his or her pleasure may remove all appointive officers except as otherwise provided herein: PROVIDED, that municipal judges shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering the judge incapable of performing the duties of his or her office. Every appointment or removal must be in writing signed by the mayor and filed with the city clerk.*¹

Though the mayor has broad authority to terminate employees, because such action sometimes results in litigation we recommend that the mayor review termination decisions and procedures carefully with the city attorney prior to taking action.

Authority to fill vacancies in appointive positions

Vacancies in offices other than that of mayor or city councilmember shall be filled by appointment of the mayor.

*If there is a temporary vacancy in an appointive office due to illness, absence from the city or other temporary inability to act, the mayor may appoint a temporary appointee to exercise the duties of the office until the temporary disability of the incumbent is removed.*²

Authority over police

*The department of police in a city of the second class shall be under the direction and control of the chief of police subject to the direction of the mayor.*³

Authority to call special meetings of the city council

*Special meetings may be called by the mayor by written notice as provided in RCW 42.30.080. No ordinances shall be passed or contract let or entered into, or bill for the payment of money allowed at any special meeting.*⁴

Note that a statute in the Open Public Meetings Act also authorizes a majority of the city council to call a special meeting:

*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 personally or by mail written notice to each member of the governing body ...*⁵

Authority to administer oaths and sign specified documents

*The mayor and the mayor pro tempore shall have power to administer oaths and affirmations, take affidavits and certify them. The mayor or the mayor pro tempore when acting as mayor, shall sign all conveyances made by the city and all instruments which require the seal of the city.*⁶

Vacancies in council positions

*The council of a second class city may declare a council position vacant if the councilmember is absent for three consecutive regular meetings without permission of the council. In addition, a vacancy in an elective office shall occur and shall be filled as provided in RCW 42.12.*⁷

Authority to preside at city council meetings, break tie votes

*All meetings of the council shall be presided over by the mayor, or, in the mayor’s absence, by the mayor pro tempore. The mayor shall have a vote only in the case of a tie in the votes of the councilmembers.*⁸

Note that because at least four councilmember votes are required for the passage of any ordinance, resolution, or order, the mayor cannot break a tie vote on those matters, but can break a tie on other matters.

¹RCW 35.23.021, in part

²RCW 35.23.101, in part

³RCW 35.23.161, in part

⁴RCW 35.23.181

⁵RCW 42.30.080, in part

⁶RCW 35.23.191, in part

⁷RCW 35.23.101, in part

⁸RCW 35.23.201

Authority to sign and veto ordinances

Every ordinance which passes the council in order to become valid must be presented to the mayor; if the mayor approves it, the mayor shall sign it, but if not, the mayor shall return it with written objections to the council and the council shall cause the mayor's objections to be entered at large upon the journal and proceed to a reconsideration thereof. If upon reconsideration five members of the council voting upon a call of yeas and nays favor its passage, the ordinance shall become valid notwithstanding the mayor's veto. If the mayor fails for ten days to either approve or veto an ordinance, it shall become valid without the approval of the mayor.

Every ordinance shall be signed by the mayor and attested by the clerk.⁹

Though the statutes defining the role of the mayor in a second class city are limited, it is clear that the mayor is to function as the chief executive and administrative officer of the city. The powers of the city council in a second class mayor-council city are listed primarily in RCW 35.23.440 and 35.23.452. Though the city council has many powers, it is the mayor who appoints the other officers and subordinate employees who carry out the policies adopted by the council.

Preliminary budget preparation

RCW 35.33 sets out the budget responsibilities of a mayor in a second class city or town. First, there is a definition providing that the mayor is the "chief administrative officer" of the city as that term is used in the budget statutes:

"Chief administrative officer" as used in this chapter includes the mayor of cities or towns having a mayor council form of government, ... or the budget or finance officer designated by the mayor ... to perform the functions, or portions thereof, contemplated by this chapter.¹⁰

The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or additions to the reports of the department heads deemed advisable by such chief administrative officer and at least sixty days before the beginning of the city's or town's next fiscal year he or she shall file it with the clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's or town's next fiscal year.¹¹

Budget message to council

In every city or town a budget message prepared by or under the direction of the city's or town's chief administrative officer shall be submitted as a part of the preliminary budget to the city's or town's legislative body at least sixty days before the beginning of the city's or town's next fiscal year and shall contain the following:

- (1) An explanation of the budget document;*
- (2) An outline of the recommended financial policies and programs of the city for the ensuing fiscal year;*
- (3) A statement of the relation of the recommended appropriation to such policies and programs;*
- (4) A statement of the reason for salient changes from the previous year in appropriation and revenue items; and*
- (5) An explanation for any recommended major changes in financial policy.*

Prior to the final hearing on the budget, the legislative body or a committee thereof, shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs.¹²

Mayor's authority to make transfers within any one fund

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.¹³

⁹RCW 35.23.211, in part

¹⁰RCW 35.33.011(4)

¹¹RCW 35.33.055

¹²RCW 35.33.057

¹³RCW 35.33.121, in part

Council control over appropriations to any one fund

*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.*¹⁴

*The city or town council must also approve of any emergency expenditures not reasonably foreseen at the time of the filing of the preliminary budget, and such expenditures must be passed by a vote of one more than the majority of all members of the legislative body.*¹⁵

Selection of mayor pro tem and authority of mayor pro tem

The members of the city council, at their first meeting each calendar year and thereafter whenever a vacancy occurs in the office of mayor pro tempore, shall elect from among their number a mayor pro tempore, who shall hold office at the pleasure of the council and in case of the absence of the mayor, perform the duties of mayor except that he or she shall not have the power to appoint or remove any officer or to veto any ordinance. If a vacancy occurs in the office of mayor, the city council shall elect a mayor, who shall serve until a mayor is elected and certified at the next municipal election.

*The mayor and the mayor pro tempore shall have power to administer oaths and affirmations, take affidavits and certify them. The mayor or the mayor pro tempore when acting as mayor, shall sign all conveyances made by the city and all instruments which require the seal of the city.*¹⁶

Role of mayor in council-mayor second class city

The limited role of a mayor in a council-manager second class city is defined in RCW 35.18.200.

Emergency management

The authority of the mayor to function as the “executive head” in case of emergency or disaster is the same in all cities and towns. See the “Emergency Management” section at the end of this appendix.

Towns – Mayor’s authority

RCW 35.27

Appointment and termination authority

*The government of a town shall be vested in a mayor and a council consisting of five members and a treasurer, all elective; the mayor shall appoint a clerk and a marshal; and may appoint a town attorney, pound master, street superintendent, a civil engineer, and such police and other subordinate officers and employees as may be provided for by ordinance. All appointive officers and employees shall hold office at the pleasure of the mayor and shall not be subject to confirmation by the town council.*¹⁷

A significant aspect of this statute is the unqualified power of the mayor to hire and fire all appointees and employees of the town. The town council has no power to confirm mayoral appointments, except mayoral appointments to the town planning commission (see RCW 35.63.020). This differs from the statutes governing a mayor’s appointment power in second class and code cities.¹⁸

Though the mayor has broad authority to terminate employees, because such action may result in litigation, termination decisions and procedures should be carefully reviewed with the town attorney prior to taking action.

Authority to preside at council meetings, sign warrants and contracts, and administer oaths

The mayor shall preside over all meetings of the council at which he or she is present. A mayor pro tempore may be chosen by the council for a specified period of time, not to exceed six months, to act as the mayor in the absence of the mayor. The mayor shall sign all warrants drawn on the treasurer and shall sign all written contracts entered into by the town. The mayor may administer oaths and affirmations, and take affidavits and certify them. The mayor shall sign all conveyances made by the town and all instruments which require the seal of the town.

*The mayor is authorized to acknowledge the execution of all instruments executed by the town which require acknowledgment.*¹⁹

¹⁴RCW 35.33.121, in part
¹⁵See RCW 35.33.081 and RCW 35.33.091

¹⁶RCW 35.23.191

¹⁷RCW 35.27.070, in part

¹⁸See RCW 35.23.021 and RCW 35A.12.090

¹⁹RCW 35.27.160

Authority over police

*The department of police in a town shall be under the direction and control of the marshal subject to the direction of the mayor.*²⁰

Authority to call special meetings of town council

*Special meetings may be called at any time by the mayor or a majority of the councilmembers, by written notice as provided in RCW 42.30.080.*²¹

An overlapping statute on this issue is found in the Open Public Meetings Act:

*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 personally or by mail written notice to each member of the governing body ...*²²

Authority to preside at council meetings and break tie votes

*The mayor shall preside at all meetings of the council. The mayor shall have a vote only in case of a tie in the votes of the councilmember. In the absence of the mayor the council may appoint a president pro tempore; in the absence of the clerk, the mayor or president pro tempore, shall appoint one of the councilmembers as clerk pro tempore.*²³

Note that a mayor's vote cannot be used to break a tie vote on passage of any resolution or order for the payment of money or for the passage of an ordinance or resolution granting a franchise (RCW 35.27.270, RCW 35.27.330).

Requirement that mayor sign ordinances – no veto power

*Every ordinance shall be signed by the mayor and attested by the clerk.*²⁴

Note that the mayor in a town does not have authority to veto ordinances passed by the town council. The mayor is required to sign all ordinances passed by the council, even those with which he disagrees. The signing of ordinances by the mayor is a ministerial act.

Budget responsibilities

The budget responsibilities of a town mayor are the same as those for the mayor in a second class city. Refer to above section on second class cities.

Selection and authority of mayor pro tem

A mayor pro tempore may be chosen by the council for a specified period of time, not to exceed six months, to act as the mayor in the absence of the mayor.²⁵

Emergency management

The authority of the mayor to function as the “executive head” in case of emergency or disaster is the same in all cities and towns. See the “Emergency Management” section at the end of this appendix.

Powers of the council

The specific powers of the town council are listed in RCW 35.27.370 and in the subsequent statutes of RCW 35.27. As mentioned above in regard to second class cities, the mayor and the individuals appointed and hired by the mayor are responsible for carrying out the policies adopted by the council.

²⁰RCW 35.27.240

²¹RCW 35.27.270

²²RCW 42.30.080

²³RCW 35.27.280

²⁴RCW 35.27.290

²⁵RCW 35.27.160

Mayor-council code cities – Mayor’s authority

RCW 35A.12

Residency requirement for mayor and councilmembers

*No person shall be eligible to hold elective office under the mayor council plan unless the person is a registered voter of the city at the time of filing his or her declaration of candidacy and has been a resident of the city for a period of at least one year next preceding his or her election. Residence and voting within the limits of any territory which has been included in, annexed to, or consolidated with such city is construed to have been residence within the city.*²⁶

Prohibition on holding any other office or employment

*A mayor or councilman shall hold within the city government no other public office or employment except as permitted under the provisions of RCW 42.23.*²⁷

Oath of office

*The mayor and councilmembers shall qualify by taking an oath or affirmation of office and as may be provided by law, charter, or ordinance.*²⁸

Filling vacancy in office of mayor or councilmember

*The office of a mayor or councilmember shall become vacant if the person who is elected or appointed to that position fails to qualify as provided by law, fails to enter upon the duties of that office at the time fixed by law without a justifiable reason, or as provided in RCW 35A.12.060 or 42.12.010. A vacancy in the office of mayor or in the council shall be filled as provided in RCW 42.12.*²⁹

Appointment and termination authority

The mayor shall have the power of appointment and removal of all appointive officers and employees subject to any applicable law, rule, or regulation relating to civil service. The head of a department or office of the city government may be authorized by the mayor to appoint and remove subordinates in such department or office, subject to any applicable civil service provisions. All appointments of city officers and employees shall be made on the basis of ability and training or experience of the appointees in the duties they are to perform, from among persons having such qualifications as may be prescribed by

*ordinance or by charter, and in compliance with provisions of any merit system applicable to such city. Confirmation by the city council of appointments of officers and employees shall be required only when the city charter, or the council by ordinance, provides for confirmation of such appointments. Confirmation of mayoral appointments by the council may be required by the council in any instance where qualifications for the office or position have not been established by ordinance or charter provision. Appointive offices shall be without definite term unless a term is established for such office by law, charter or ordinance.*³⁰

The above-quoted statute gives to mayors in mayor-council code cities sole authority to terminate city appointive officers and employees (subject to any applicable civil service rule or subject to any other specific statute). The statute does, however, allow the city council to provide for confirmation of mayoral appointments if the council has not previously established specific qualifications for the position through passage of an ordinance. If the council has established qualifications for a particular position, then those qualifications act as a limitation of the mayoral appointment authority. Note that in order to take advantage of this statutory authority, the council must first pass an ordinance providing for such confirmation powers.

Though the mayor has broad authority to terminate employees, because such action may result in litigation, termination decisions and procedures should be carefully reviewed with the city attorney prior to taking action.

General administrative authority

*The mayor shall be the chief executive and administrative officer of the city, in charge of all departments and employees, with authority to designate assistants and department heads. The mayor may appoint and remove a chief administrative officer or assistant administrative officer, if so provided by ordinance or charter. He or she shall see that all laws and ordinances are faithfully enforced and that law and order is maintained in the city, and shall have general supervision of the administration of city government and all city interests.*³¹

²⁶RCW 35A.12.030, in part

²⁷RCW 35A.12.030, in part

²⁸RCW 35A.12.040, in part

²⁹RCW 35A.12.050

³⁰RCW 35A.12.090

³¹RCW 35A.12.100

Approval of official bonds, contract enforcement, instituting litigation

*All official bonds and bonds of contractors with the city shall be submitted to the mayor or such person as he may designate for approval or disapproval. He or she shall see that all contracts and agreements made with the city or for its use and benefit are faithfully kept and performed, and to this end he or she may cause any legal proceedings to be instituted and prosecuted in the name of the city, subject to approval by majority vote of all members of the council.*³²

Presiding at council meetings, casting tie-breaking votes, reports to council, preparation of proposed budget, veto power

*The mayor shall preside over all meetings of the city council, when present, but shall have a vote only in the case of a tie in the votes of the councilmember with respect to matters other than the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money. He or she shall report to the council concerning the affairs of the city and its financial and other needs, and shall make recommendations for council consideration and action. He or she shall prepare and submit to the council a proposed budget, as required by RCW 35A.33. The mayor shall have the power to veto ordinances passed by the council and submitted to him or her as provided in RCW 35A.12.130 but such veto may be overridden by the vote of a majority of all councilmembers plus one more vote.*³³

The tie-breaking power of the mayor has generated confusion, partly because of the phrase “a tie in the votes of the councilmember with respect to matters other than the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money.” Clearly the mayor cannot break a tie vote on an ordinance; nor can the mayor break a tie vote on the granting or revoking of a franchise or license.

MRSC has interpreted the phrase “resolution for the payment of money” quite narrowly, limiting it to resolutions such as those approving the payment of vouchers or other city claims. That narrow interpretation means that the mayor can cast the tie-breaking vote on a resolution concerning matters such as whether to proceed with a specific public works project, which will at a later date result in the expenditure of city funds. There are no state appellate court cases or Attorney General opinions which provide guidance on this issue.

Ceremonial role

*The mayor shall be the official and ceremonial head of the city and shall represent the city on ceremonial occasions, except that when illness or other duties prevent the mayor's attendance at an official function and no mayor pro tempore has been appointed by the council, a member of the council or some other suitable person may be designated by the mayor to represent the city on such occasion.*³⁴

Authority to call special meetings of city council

*Special meetings may be called by the mayor or a majority of the council by written notice delivered to each member of the council at least twenty-four hours before the time specified for the proposed meeting.*³⁵

Mayoral authority to call a special meeting is also provided by one of the statutes in the Open Public Meetings Act: *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 personally or by mail written notice to each member of the governing body...*³⁶

Preparation of preliminary budget

RCW 35A.33 sets out the responsibilities of the mayor in a code city in regard to budgeting. By definition, the term “chief administrative officer” as used in the budget statutes refers to the mayor in a code city operating under the mayor-council form of government:

*“Chief administrative officer” as used in this chapter includes the mayor of cities having a mayor council form of government, the commissioners in cities having a commission form of government, the city manager, or any other city official designated by the charter or ordinances of such city under the plan of government governing the same, or the budget or finance officer designated by the mayor, manager or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.*³⁷

The chief administrative officer (mayor) is required to prepare the preliminary budget in detail and submit it by a certain date.

³²RCW 35A.12.100, in part

³³RCW 35A.12.100, in part

³⁴RCW 35A.12.100, in part

³⁵RCW 35A.12.110

³⁶RCW 42.30.080, in part

³⁷RCW 35A.33.010(4)

The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or addition to the reports of the department heads deemed advisable by such chief administrative officer and at least sixty days before the beginning of the city's next fiscal year he shall file it with the city clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's next fiscal year.³⁸

Budget message to council

In every code city, a budget message prepared by or under the direction of the city's chief administrative officer shall be submitted as a part of the preliminary budget to the city's legislative body at least sixty days before the beginning of the city's next fiscal year and shall contain the following:

- (1) An explanation of the budget document;
- (2) An outline of the recommended financial policies and programs of the city for the ensuing fiscal year;
- (3) A statement of the relation of the recommended appropriation to such policies and programs;
- (4) A statement of the reason for salient changes from the previous year in appropriation and revenue items; and
- (5) An explanation for any recommended major changes in financial policy.

Prior to the final hearing on the budget, the legislative body or a committee thereof, shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs.³⁹

Expenditure limitations

The expenditures as classified and itemized in the final budget shall constitute the city'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 code city, the expenditure of city funds or the incurring of current liabilities on behalf of the city 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 35A.33.105; and

- (2) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal years pursuant to RCW 35A.33.150; 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 35A.33.080 and 35A.33.090.⁴⁰

Transfers between individual appropriations within any one fund

Transfers between individual appropriations within any one fund may be made during the current fiscal year by order of the city's chief administrative officer subject to such regulations, if any, as may be imposed by the city council. 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 which may be affected.⁴¹

Council control over appropriations to any one fund

The city council, upon a finding that it is to the best interests of the code city 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.⁴²

The budget responsibilities for mayors in mayor-council code cities operating under a biennial budget process are similar, but with a different timetable.⁴³

³⁸RCW 35A.33.052

³⁹RCW 35A.33.055

⁴⁰RCW 35A.33.120, in part

⁴¹RCW 35A.33.120, in part

⁴²RCW 35A.33.120, in part

Appointment and authority of mayor pro tem

Biennially at the first meeting of a new council, or periodically, the members thereof, by majority vote, may designate one of their number as mayor pro tempore or deputy mayor for such period as the council may specify, to serve in the absence or temporary disability of the mayor; or, in lieu thereof, the council may, as the need may arise, appoint any qualified person to serve as mayor pro tempore in the absence or temporary disability of the mayor. In the event of the extended excused absence or disability of a councilmember, the remaining members by majority vote may appoint a councilmember pro tempore to serve during the absence or disability.⁴⁴

Note that unlike RCW 35.23.191, which defines the role of a mayor pro tem in a second class mayor-council city, RCW 35A.12.065 does not specifically limit the power of the mayor pro tem to appoint or remove officers, or to veto ordinances. This has led to some confusion concerning the powers of a mayor pro tem in a code city, and several code cities have passed ordinances specifically limiting the power of a mayor pro tem to appoint and remove officers or to veto ordinances.

Emergency management

The authority of the mayor to function as the “executive head” in case of emergency or disaster is the same in all cities and towns. See the “Emergency Management” section at the end of this appendix.

Emergency management – all cities & towns

In mayor-council cities and towns the mayor is the “executive head” who is authorized to take charge when there is an emergency or disaster; in council-manager cities, the city manager is the executive head.⁴⁵ All cities are directed to establish a local organization for emergency management and adopt an emergency management plan which is certified as being consistent with the state emergency management plan.⁴⁶ Chapter 118 in the Washington Administrative Code (WAC) contains the rules adopted by the State Division of Emergency Management which apply to all municipalities. Because each city and town has its own unique situation, emergency plans vary considerably. While some cities have chosen to establish emergency management director positions and have delegated extensive authority to those individuals, many smaller cities have chosen to coordinate their plan with the county and rely heavily upon the county for assistance in the event of an emergency.

Emergency management ordinance/resolution.

Each political subdivision must establish an emergency management organization by ordinance or resolution passed by the legislative body of the political subdivision. Two or more political subdivisions may join in the establishment of an emergency management organization.

- (1) Each political subdivision must establish said organization by ordinance or resolution.*
- (2) Each political subdivision shall specify in the ordinance or resolution establishing the organization, how the costs of supporting the organization shall be shared between the constituent political subdivision.*

- (3) If two or more political subdivisions cannot agree on the sharing of costs to support the emergency management organization established by the constituent political subdivisions, the director shall refer the matter to the council. The council shall consider the matter at either a regular or special meeting. The council may request additional information from the constituent political subdivisions, the director, or other interested party(s). The council shall arbitrate the matter, and its decision shall be final.*
- (4) When two or more political subdivisions submit ordinances or resolutions establishing a single emergency management organization which meets the criteria set forth, the director shall inform the executive heads of the constituent political subdivisions that the emergency management organization is acceptable and authorized. Nothing in this code shall prevent one or more political subdivisions from contracting with another subdivision for emergency management activities under the provisions of chapter 39.34 RCW, the Interlocal Cooperation Act.*
- (5) Each political subdivision must specify in the ordinance or resolution establishing the emergency management organization, that the agency shall be headed by a director of emergency management who shall be appointed by and directly responsible to the executive head of the political subdivision.*

⁴³See RCW 35A.34.080 and RCW 35A.34.090

⁴⁴RCW 35A.12.065

⁴⁵RCW 38.52.010(13) and WAC 118.30.030(5)

⁴⁶RCW 38.52.070(1)

- (6) *In the case of an emergency management organization established by two or more political subdivisions, such political subdivisions shall specify in the ordinance or resolution establishing the organization, that the local government agency shall be headed by a local director of emergency management who shall be appointed by the joint action of the executive heads of the constituent political subdivisions. The political subdivisions shall specify by ordinance or resolution that the emergency management director shall be directly responsible to the executive authority of the constituent political subdivisions.*
- (7) *Each political subdivision shall specify by ordinance or resolution that the local director of emergency management shall be directly responsible for the organization, administration, and operation of the emergency management organizations.*
- (8) *Each political subdivision shall submit a copy of the ordinance or resolution establishing its emergency management organization to the director for evaluation and approval of the organizational plan or structure.*
- (9) *Such ordinance or resolution shall constitute an approved organization for the purposes of RCW 38.52.195 and 38.52.260(2). Use of emergency workers is governed by chapter 118-04 WAC.⁴⁷*

Read your city's or town's emergency management plan thoroughly. If you have questions concerning your role and authority, review the plan with your city or town attorney. If you feel that changes should be made, review proposed amendments with your council.

The state legislature has granted broad authority to cities and towns to take all necessary action to deal with a disaster:

- (2) *In carrying out the provisions of this chapter each political subdivision, in which any disaster as described in RCW 38.52.020 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of an extreme emergency situation without regard to time consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements), including, but not limited to, budget law limitations, requirements of competitive bidding and publication of notices, provisions pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds.⁴⁸*

⁴⁷WAC 118.30.050
⁴⁸RCW 38.52.070(2)

Voting & vetoes – A guide for mayors

Quorum

The general rule governing the transaction of council business is that a majority of councilmembers must be present at the meeting to constitute a quorum. This means four members of a seven-member council and three members of a five-member council.

The mayor's authority to vote

Charter

In charter cities, each city charter governs the voting powers of the mayor.

Mayor-council

Under the mayor-council form of government, the mayor may vote only in case of a tie vote of the council. However, statutes for each class of city may further limit the mayor's tie-breaking authority, as follows:

- **Second class cities.** Because at least four councilmember votes are required for the passage of any ordinance, resolution, or order (RCW 35.23.211), the mayor cannot break a tie vote on those matters.
- **Towns.** At least three councilmembers must vote for passage of any resolution or order for the payment of money (RCW 35.27.270) or for the passage of an ordinance or resolution granting a franchise (RCW 35.27.330). Thus, the mayor's vote cannot be used to break a tie vote on these issues.
- **Code cities.** A majority of the entire membership of the council is required to vote for passage of any ordinance, grant, revocation of franchise or license, or any resolution for the payment of money (RCW 35A.12.120). Therefore, the mayor may not break a tie vote on these matters.

Council-manager

In all cities operating under the council-manager form of government, the mayor is eligible to vote in their capacity as councilmember.

The mayor's veto power

- **Council-manager cities.** The mayor votes as a councilmember and has no veto power.
- **Second class mayor-council cities.** The mayor may veto an ordinance, but the mayor's veto can be overruled by five members of the council (RCW 35.23.211).
- **Towns.** The mayor has no veto power.
- **Mayor-council code cities.** The mayor may veto an ordinance, but the mayor's veto can be overruled by a majority plus one of the entire council membership (RCW 35A.12.100).

Abstentions

In the absence of a local statute to the contrary, councilmembers are free to abstain from voting on any issue before the council. Some cities have adopted local rules of procedure allowing abstentions only when the councilmember states their reason for abstaining. Other cities require councilmembers to vote on all matters before the council unless a conflict of interest exists. When a conflict of interest exists, a councilmember should refrain from voting. Generally, however, other councilmembers cannot restrain a councilmember from voting due to a conflict of interest or for any other reason.

The effect of an abstention on a vote is not specified by state law. Municipalities are free to adopt local rules of procedure stating the effect of an abstention. See Appendix 5, Sample City Council Rules of Procedure (Rule 5.4) for an example of a rule which provides that failure to vote when there is no valid disqualification is counted as an affirmative vote on the question. If a city does not have a rule, abstentions by one or more councilmembers may make it impossible for final action to be taken on a matter, particularly where a majority vote of the full council is needed.

Voting by proxy

It is a fundamental rule of parliamentary law that the right to vote is limited to those members actually present at the time a vote is taken at a legal meeting. State law is silent as to proxy voting by councilmembers. As a general rule, proxy votes are not permitted. If the city or town has not adopted a rule of procedure to the contrary, councilmembers must be present at the time the vote is taken. There is no Washington court case law on this issue. Remote participation at a meeting is a legal alternative.

Questions & answers

Q. If there is a quorum at the start of a council meeting but one of the councilmembers gets ill and has to leave, eliminating the quorum, can the meeting continue?

A. No. The council meeting must either be closed or adjourned to a stated date and time.

Q. Who, if anyone, can make a motion to reconsider where a matter was defeated by a tie vote?

A. Under Robert's Rules, §36, anyone on the prevailing (winning) side of a vote can make a motion to reconsider, and the prevailing side need not be a majority, such as when a tie vote functions to defeat a matter. In that case, those who voted "no" would be entitled to make the motion to reconsider. (If an ordinance was passed at one meeting, it cannot be reconsidered, although it could, of course, be amended or repealed.)

Q. Can the mayor make and second motions, and debate issues with the council?

A. In council-manager cities the mayor has the same rights to make motions and debate issues as any other councilmember. There is no statute concerning this issue for mayors in mayor-council cities. The councils in mayor-council cities can adopt rules restricting the authority of the mayor to make or second motions, and require the mayor to turn over the running of the meeting to a councilmember if they wish to vigorously participate in the debate of an issue. (See Appendix 5, Sample City Council Rules of Procedure, Rule 3.6.)

Public records disclosure

The Public Records Act deals with the public's right to inspect and/or copy public records (RCW 42.56). These state statutes were designed to ensure public confidence in government by allowing full access to information concerning the administration and conduct of government.

The definition of "public record" is quite broad. A public record includes "any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics" (RCW 42.56.010(3)). Papers, photos, maps, videos, and electronic records are all covered by the state law.

As a general rule, all city records are available for review by the public, unless they are specifically exempted or prohibited from disclosure by state law. Because the public records disclosure statutes are sometimes difficult to interpret and are often a source of litigation, MRSC has prepared thorough information on its website and in a publication that reviews all of the relevant statutes, exemptions and prohibitions to disclosure, and procedures to be followed when handling a request for disclosure. (See MRSC's [Public Records Act web page](#) and the publication *Public Records Act for Washington Cities, Counties, and Special Purpose Districts*.) MRSC and AWC have also produced a [free elearning course on the Public Records Act](#) for city and town councilmembers and mayors. The eLearning course is available to watch on demand on both the AWC website and the MRSC website.

Frequently asked questions

Q. How soon must a city respond to a request for public records?

A. State law requires that responses to requests for public records be made "promptly." Specifically, cities must respond within five business days of receiving a request by either (1) providing the record, (2) acknowledging receipt of the record and providing a reasonable estimate of the time in which a response will be made, (3) denying the request, or 4) request clarification of a request, coupled with giving an estimated response time if the request is not clarified. Additional response time beyond five days may be based upon a need to clarify the request, to locate and assemble the records requested, to notify people and agencies affected by the request, or to determine whether any of the requested records are exempt from disclosure (RCW 42.56.520).

Q. What can a city charge for providing copies of public records?

A. Cities are not allowed to charge for the staff time spent in locating a public record, or for making a record available

for inspection. A city can, however, charge for the actual costs connected with copying public records, including the staff time spent making the copies. A city cannot charge more than fifteen cents a page for photocopying unless the city has calculated its actual costs per page and determined that they are greater than fifteen cents. Actual costs for postage and delivery can be included, as well as the cost of any envelopes. If a city has to pay an outside source for making duplicates of records such as photographs, blueprints or tape recordings, the city can also pass those costs on to the requestor (RCW 42.56.070(7) and RCW 42.36.120).

Additionally, cities are expressly authorized to charge for copying and producing electronic records. A city can charge actual costs incurred for providing electronic copies, including costs related to production, file transfer, storage, and transmission. If a policy establishes that calculating actual costs would be unduly burdensome, then the following default charges may be charged: ten cents/page for records scanned into electronic format,

five cents for every four electronic files or attachments uploaded to an email, cloud storage service, or other electronic delivery system, and ten cents/gigabyte for transmitting records electronically (RCW 42.56.120).

Q. What constitutes a public record?

A. The state statutes broadly define public records. "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics" (RCW 42.56.010).

The term "writing" encompasses a wide range of communication forms or representation. Writing includes, but is not limited to, any form of letters, words, pictures, sounds, or symbols and all papers, maps, tapes, films, prints, motion picture, film, and video recordings (RCW 42.56.010).

Some records held by volunteers are excluded from the definition, if the volunteers meet certain stated

conditions (they do not serve in an administrative capacity; have not been appointed by the city to an agency board, commission, or internship; and do not have a supervisory role or delegated agency authority.)

Q. Does a councilmember or mayor have greater access to public records than the public?

A. As a general rule, a councilmember or mayor does have greater access to public records than the public. However, a councilmember's or mayor's access should relate to the duties of that office.

Q. What public records are exempt from disclosure?

A. Public records exemptions from public disclosure are contained primarily in RCW 42.56.210-42.56.640, but there are other exemptions under state and federal law. Reference must be made to these statutes to determine on a case-by-case basis whether a particular record is exempt.

Q. Are employment applications exempt from disclosure?

A. Yes, such applications are exempt from disclosure, including the names of applicants, resumes, and other material related to the applications (RCW 42.56.250). Although the statutory exemption does not specifically refer to applications for public appointive office, its legislative history indicates that it was intended to also apply to applicants for offices, such as the office of city manager or city clerk.

Q. Is personal information contained in employee personnel files exempt from disclosure?

A. Some information in employee personnel files is exempt, but not all. RCW 42.56.230(3) exempts records in an employee's personnel file "to the extent disclosure would violate [the employee's] right to privacy." What constitutes a violation of a person's right

to privacy is defined by statute to mean the disclosure of information that would be (1) "highly offensive to a reasonable person" and (2) "not of legitimate concern to the public" (RCW 42.56.050). This is a stringent test, and not all records found in personnel files would meet this test. Consult your attorney for further guidance.

Q. Must a city disclose records which reveal the salary and benefits that a particular employee or official receives?

A. Yes. There is no disclosure exemption that applies to such records.

Q. Must a city disclose utility billing records?

A. Yes, except for billing information in increments less than a billing cycle. No other exemption applies. However, the city should not disclose the residential addresses, telephone numbers, or additional contact information and permit meter data of utility customers that may be contained in such records (RCW 42.56.330).

Q. Must the city track the public records requests it receives?

A. Yes. Cities are required to maintain a log that identifies the requestor (if provided), the date and text of request, a description of records produced in response to request, a description of records redacted or withheld and the reasons for redaction/withholding, and the date of final disposition of the request.

Q. Must a city respond to a request for "all records"?

A. A city may deny a request for all or substantially all records not relating to a particular topic. Additionally, a city can also deny automatically generated (bot) requests received from the same requestor within a 24-hour period, if the requests cause excessive interference with the other essential functions.

Q. Must a city provide public records if they are being requested for commercial purposes?

A. In addition to the statutory exemptions from disclosure that a city must consider in responding to a particular request, a city is prohibited from providing or giving access to "lists of individuals" if requested for commercial purposes (RCW 42.56.070). The Attorney General's Office has interpreted this provision to refer only to lists of natural persons, rather than, for example, to lists of businesses. Public records other than "lists of individuals" requested for commercial purposes should be provided upon request if they are not statutorily exempt from disclosure.

Q. Are emails on city business sent from a personal email account of an elected or appointed city official subject to disclosure under the Public Records Act?

A. Yes, as a general rule, emails that pertain to city business that are sent by city appointed or elected officials are public records subject to disclosure under the PRA even if they are sent from the private email account of the official. That is because the term public record includes any email that relates to the conduct of government or performance of any governmental or proprietary function sent by a city official or employee, even if that email is sent from their private email account. It is subject to disclosure unless protected by one of the exemptions in the PRA itself. In addition, text messages and voicemails on a personal device that are related to city business are also likely a public record subject to disclosure.

Open Public Meetings Act

General rule

The general rule for open public meetings, with only a few minor exceptions, is that all meetings of the governing bodies of public agencies are to be open and accessible to the public. Not only must ordinances and rules be adopted at public meetings in order to be valid, but deliberations must be conducted openly, and all members of the public must be allowed to attend (RCW 42.30, Open Public Meetings Act).

A summary of open public meeting requirements is provided here. For a more complete discussion, review the MRSC publication, *The Open Public Meetings Act: How it Applies to Cities, Counties and Special Purpose Districts*.

What meetings are covered?

The Open Public Meetings Act applies to nearly all meetings of public agency governing bodies, including cities. This includes regular and special meetings of all multi-member governing bodies and subagencies (city councils, planning commissions, library or park boards, etc.). The Act applies to the meetings of committees, subcommittees, and other groups created by a governing body pursuant to its executive authority when they act on behalf of the governing body, conduct hearings, or take public testimony, whether the committee is composed of members of the governing body or not (*Citizens Alliance v. San Juan County* (2015)). Because the Act is to be liberally construed, meaning that courts will take a broad view of what constitutes a meeting, the Act should be assumed to apply unless the meeting is of a type specifically excluded by statute.

The fact that a meeting is called a workshop, study session, or retreat does not mean it may be automatically closed to the public.

What meetings are not covered?

Several types of local government meetings are not covered under the Open Public Meetings Act:

- Quasi-judicial proceedings are excluded, where the decision being made affects only individual rights and not the general public.
- Committee meetings are excluded when the committee does not exercise actual or implied decision-making power, unless the meeting is comprised of a majority of the members of a governing body. The Attorney General's office and the Washington Supreme Court have taken the position that a committee does not fall into this category when its powers are only advisory.

- Social gatherings are excluded, as long as the attendees do not take any official action or discuss the business of the governing body.
- Certain proceedings for licensing and disciplinary action and meetings for formulating collective bargaining strategies are excluded.

Executive sessions (RCW 42.30.110)

Executive sessions are portions of regular or special meetings that may be closed to the public. Only specific issues may be considered, where public disclosure would harm individual interests or legitimate interests of the governing body. An executive session may be held in the following cases:

- To consider the selection of a site or the acquisition of real estate when public knowledge would cause likelihood of increased price;
- To consider the minimum price at which real estate will be offered for sale or lease when public knowledge would cause a likelihood of decreased price;
- To receive and evaluate complaints or charges brought against a public officer or employee. Note however, upon the request of the officer or employee, a public hearing or meeting open to the public must be conducted upon the complaint;
- To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee;
- To evaluate the qualifications of a candidate for appointment to elective office, such as when filling a councilmanic vacancy. However, the interview of the candidate and final action must be in an open meeting;
- To discuss with legal counsel representing the agency, matters relating to agency enforcement actions, or litigation or potential litigation to which the agency is a party.

An executive session may be held during any regular or special meeting. Before convening the executive session, the presiding officer is to publicly announce the purpose for excluding the public and the time when the executive session will be concluded.

Requirements for notice of meetings

The public must be informed of the time and place of meetings, both “regular” meetings and “special” meetings, except in emergencies.

- Regular meetings are recurring meetings with a time and place fixed by ordinance or rule. “Workshop” meetings of the council, if routinely held at a time and place set by ordinance, are still “regular” meetings and are subject to the Open Public Meetings Act.
- Special meetings, called by the presiding officer or a majority of the members of the governing body, must be announced in writing to all members of the governing body and members of the news media who have requested notice (RCW 42.30.080). Special meeting notices must be delivered to members of the governing body personally or by mail, fax, or email at least 24 hours in advance and posted on a website and prominently displayed at the principal meeting location (and at the meeting site if it is not held at the principal location), specifying the time and place of the meeting and the business to be transacted. Only business described in the special meeting notice can be decided, although other business can be discussed. Many cities provide notice

to the public when special meetings are called if there is enough time. For instance, some cities post notice of special meetings at several places in the city, and some cities publish notice in the local newspaper.

Conclusion

The requirements of the Open Public Meetings Act are pervasive and relatively inflexible. In deciding to hold an executive session or a closed meeting, local officials should be prepared to justify the decision under a specific exemption. Officials should be alert to situations where the Open Public Meetings Act could be inadvertently violated, such as social settings, public hearings, and council retreats and workshops.

Additional resources

The Open Public Meetings Act, How it Applies to Washington Cities, Counties, and Special Purpose Districts, MRSC

MRSC and AWC’s [free elearning course on the Open Public Meetings Act](#) for city and town councilmembers and mayors. The eLearning course is available on demand on both the AWC website and the MRSC website.

MRSC’s [Open Public Meetings Act web page](#)

Frequently asked questions

Q. What can be done if a meeting becomes disorderly?

A. The mayor should instruct audience members on rules of courtesy; if rules are not followed, the speaker may lose the right to speak at the meeting or even be ejected for disorderly conduct. The meeting may be adjourned temporarily or moved to another location if order cannot be restored by removal of the disorderly individuals.

Q. What if a majority of the city council get together for coffee every week at the local coffee shop? Is that considered a public meeting?

A. No, not unless city business is discussed. Use extreme caution though; if a majority of the council is seen together, the public may assume that city business is the topic and allege a violation has occurred.

Q. What happens if the Open Public Meetings Act is violated?

A. There are several potential consequences for violating the procedural requirements of the Open Public Meetings Act. Most importantly, actions taken in meetings that violate the Act are null and void, including the passing of ordinances and resolutions. In addition, knowing attendance by a member at a meeting in violation of the Act is punishable by a civil fine of \$500 for the first violation and \$1,000 for subsequent violations. A violation of the Act by an elected official may also provide basis for recall. The party that prevails in an action for violation of the Act may recover reasonable expenses and attorneys’ fees under certain circumstances.

Q. If a majority of the city council are included on an email related to city business, is the Open Public Meetings Act violated?

A. Yes, there likely is a violation of the OPMA if a quorum of the city council exchange emails in which they discuss public business. However, if one member emails the other members to share relevant information but there is no exchange of information, then likely there is no OPMA violation. In other words, if there is just passive receipt of the email, there has been no meeting. It is the exchange of emails or dialogue between the councilmembers that triggers the likelihood of an OPMA violation.

Public hearings

The principal difference between council meetings and public hearings is their purpose and the public participation requirement. The two types of proceedings may seem similar to an outsider, but council meetings are conducted primarily to make decisions, while public hearings are held to gather the data and opinions from the public that facilitate the decision-makers at the council meeting.

What is the difference between a public meeting and a public hearing?

In Washington, all meetings of governmental bodies at which decisions are made are public meetings, under the Open Public Meetings Act. At a public meeting, anyone may attend the meeting, observe, and comment.

The Legislature amended the OPMA in 2022 to require governing bodies to provide public comment, either orally, in writing, or both. During a public hearing, the public is invited to speak to the council on a specific topic or matter, and the council primarily listens and receives public input. No decisions are made by the governing body until after the public hearing portion of the proceedings has been closed.

A public hearing may be held as part of a regularly scheduled public meeting, but the two phases are conducted separately.

When is a public hearing required?

There are relatively few situations that actually require a public hearing, although there are many occasions when public hearings may be advisable. The most typical circumstances requiring public hearings are listed below.

Annexation proceedings

- Direct petition method of annexation

Budget process

- Following preliminary budget filing
- Emergency expenditures

Planning and zoning

- Adoption or amendment of a comprehensive plan
- Adoption or amendment of a zoning code

Street vacations

Local improvement districts

- Creation of a local improvement district
- Development of the assessment role
- Assessment of an omitted property

Arterial street construction

Sale of public utility property

Creation of a parking and business improvement area

Approval of preliminary plats

Removal of city manager (if requested)

What is the required notice for public hearings?

For some types of public hearings, there are specific statutory provisions containing notice requirements. Many of the public hearing statutes include notice requirements. Where no specific statutory standards regarding notice are provided, each city must establish a procedure for notifying the public of upcoming hearings. The procedures may include written notification to the city's official newspaper, publication of a notice in the official newspaper, and such other processes as the city determines will satisfy the notice requirement.

What rules govern a public hearing?

The governing body holding the public hearing may establish rules of procedure for its conduct. These rules may include limiting the time allowed for public presentations, as long as they are reasonable and fair. At the commencement of the hearing, the rules that will govern should be explained. The same quorum rules for public meetings apply to public hearings: a quorum of the decision-making body is required for the transaction of business.

Sample city council rules of procedure for mayor-council code cities

MRSC has on file numerous examples of council rules of procedures from both mayor-council and council-manager cities. This sample is not a “model” which we are recommending. We suggest that you review the rules printed here as well as other examples. Some cities have more detailed rules. You can review and download additional sets of rules of procedure through the MRSC website.

City council rules of procedure

1. General rules

- 1.1 Meetings to be public:** All official meetings of the council shall be open to the public with the exception of executive sessions for certain limited topics (as defined in RCW 42.30) and closed sessions authorized by RCW 42.30.140. The journal of proceedings (minute book) shall be open to public inspection.
- 1.2 Quorum:** Four councilmembers shall be in attendance to constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance will be named and they shall adjourn to a later time, but no adjournment shall be for a longer period than until the next regular meeting.
- 1.3 Attendance, excused absences:** RCW 35A.12.060 provides that a councilmember shall forfeit his/her office by failing to attend three (3) consecutive regular meetings of the council without being excused by the council. Members of the council may be so excused by complying with this section. The member shall contact the chair prior to the meeting and state the reason for the member’s inability to attend the meeting. If the member is unable to contact the chair, the member shall contact the city clerk or deputy city clerk, who shall convey the message to the chair. The chair shall inform the council of the member’s absence, state the reason for such absence and inquire if there is a motion to excuse the member. Upon passage of such motion by a majority of members present, the absent member shall be considered excused and the recorder will make an appropriate notation in the minutes. If the motion is not passed, the recorder will note in the minutes that the absence is unexcused.

1.4 Journal of proceedings: A journal of all proceedings of the council shall be kept by the city clerk and shall be entered in a book constituting the official record of the council.

1.5 Right of floor: Any member desiring to speak shall be recognized by the chair and shall confine his/her remarks to one subject under consideration or to be considered.

1.6 Rules of order: Robert’s Rules of Order Newly Revised shall be the guideline procedures for the proceedings of the council. If there is a conflict, these rules shall apply.

2. Types of meetings

2.1 Regular council meetings: The council shall meet on the ____ of each month at 7 pm. When a council meeting falls on a holiday, the council may determine an alternate day for the meeting or cancel the meeting. The council may reschedule regular meetings to a different date or time by motion. The location of the meetings shall be the council chambers at city hall, unless specified otherwise by a majority vote of the council. All regular and special meetings shall be public.

2.2 Special meetings: Special meetings may be called by the mayor or any four (4) members of the council. The city clerk shall prepare a notice of the special meeting stating the time, place and business to be transacted. The city clerk shall attempt to notify each member of the council, either by telephone or otherwise, of the special meeting. The city clerk shall give at least 24 hours’ notice of the special meeting to each local newspaper of general circulation and to each local radio and/or television station which has filed with the clerk a written request to be notified of special meetings. No subjects other than those specified in the notice shall be considered. The council may not make final disposition on any matter not mentioned in the notice.

Special meetings may be called in less than 24 hours, and without the notice required in this section, to deal with emergencies involving injury or damage to persons or property or the likelihood of such injury or damage if the notice requirements would be impractical or increase the likelihood of such injury or damage.

2.3 Continued and adjourned sessions: Any session of the council may be continued or adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting.

2.4 Study sessions and workshops: The council may meet informally in study sessions and workshops (open to the public), at the call of the mayor or of any three or more members of the council, to review forthcoming programs of the city, receive progress reports on current programs or projects, receive other similar information from city department heads or conduct procedures workshops, provided that all discussions and conclusions thereon shall be informal and do not constitute official actions of the council. Study sessions and workshops held by the council are "special meetings" of the council, and the notice required by RCW 42.30.080 must be provided.

2.5 Executive sessions: Executive sessions or closed meetings may be held in accordance with the provisions of the Washington State Open Meetings Act (RCW 42.30). Among the topics that may be discussed are: (1) personnel matters; (2) consideration of acquisition of property for public purposes or sale of city-owned property; and (3) potential or pending litigation in which the city has an interest, as provided in the Revised Code of Washington. The council may hold an executive session during a regular or special meeting. Before convening in executive session the chair shall publicly announce the purpose for excluding the public from the meeting place and the time when the executive session will be concluded. If the council wishes to adjourn at the close of a meeting from executive session, that fact will be announced along with the estimated time for the executive session. The announced time limit for executive sessions may be extended to a stated later time by the announcement of the chair.

2.6 Attendance of media at council meetings: All official meetings of the council and its committees shall be open to the media, freely subject to recording by radio, television and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings.

3. Chair and duties

3.1 Chair: The mayor, if present, shall preside as chair at all meetings of the council. In the absence of the mayor, the mayor pro tem shall preside. In the absence of both the mayor and mayor pro tem, the council shall elect a chair.

3.2 Call to order: The meetings of the council shall be called to order by the mayor or, in the mayor's absence, by the mayor pro tem. In the absence of both the mayor and mayor pro tem, the meeting shall be called to order by the city clerk or clerk's designee for the election of a temporary chair.

3.3 Preservation of order: The chair shall preserve order and decorum, prevent attacks on personalities or the impugning of members' motives and confine members in debate to the question under discussion.

3.4 Points of order: The chair shall determine all points of order, subject to the right of any member to appeal to the council. If any appeal is taken, the question shall be "Shall the decision of the chair be sustained?"

3.5 Questions to be stated: The chair shall state all questions submitted for a vote and announce the result. A roll call vote shall be taken upon all questions.

3.6 Mayor – powers: The mayor may not make or second motions, but may participate in debate to the extent that such debate does not interfere with chairing the meeting. If the mayor wishes to participate vigorously in the debate of an issue, the mayor shall turn over chairing of that portion of the meeting to the mayor pro tem, or to another councilmember if the mayor pro tem is absent. The mayor's voting rights and veto power are as specified in RCW 35A.12.100.

4. Order of business and agenda

4.1 Order of business: The order of business for all regular meetings shall be transacted as follows unless the council, by a majority vote of the members present, suspends the rules and changes the order:

- (1) Call to order
- (2) Pledge of allegiance
- (3) Council discussion/agenda review/set time restrictions (See Rules 6.1 and 7.4)
- (4) Comments from city residents
- (5) Consent agenda
- (6) Mayor's reports
- (7) Department head/council committee/board/commission reports
- (8) Other business
- (9) Continued comments from city residents
- (10) Councilmember comments
- (11) Adjournment

The consent agenda may contain items which are of a routine and noncontroversial nature which may include, but are not limited to, the following: meeting minutes, payroll, claims, budget amendments, park use requests and any item previously approved by council with a unanimous vote and which is being submitted to council for final approval. Any item on the consent agenda may be removed and considered separately as an agenda item at the request of any councilmember or any person attending a council meeting.

4.2 Council agenda: The mayor shall prepare the agenda for council meetings. Subject to the council's right to amend the agenda, no legislative item shall be voted upon which is not on the council agenda, except in emergency situations (defined as situations which would jeopardize the public's health, safety or welfare).

4.3 Mayor and councilmember comments and concerns: The agenda shall provide a time when the mayor ("Mayor's reports") or any councilmember ("Comments from councilmembers") may bring before the council any business that he/she feels should be deliberated upon by the council. These matters need not be specifically listed on the agenda, but formal action on such matters may be deferred until a subsequent council meeting, except that immediate action may be taken upon a vote of a majority of all members of the council. There shall be no lectures, speeches or grandstanding.

5. Consensus and motions

5.1 Consensus votes: When a formal motion is not required on a council action or opinion, a consensus voice vote will be taken. The chair will state the action or opinion and each councilmember will state the councilmember's name and vote by saying "aye" or "nay".

5.2 Motions: No motion shall be entertained or debated until duly seconded and announced by the chair. The motion shall be recorded and, if desired by any councilmember, it shall be read by the recorder before it is debated and, by the consent of the council, may be withdrawn at any time before action is taken on the motion.

5.3 Votes on motions: Each member present shall vote on all questions put to the council except on matters in which they have been disqualified for a conflict of interest or under the appearance of fairness doctrine. Such member shall disqualify themselves prior to any discussion of the matter and shall leave the council chambers. When disqualification of a member or members results or would result in the inability of the council at a subsequent meeting to act on a matter on which it is required by law to take action, any member who was absent or who had been disqualified under the appearance of fairness doctrine may subsequently participate, provided such member first shall have reviewed all materials and listened to all tapes of the proceedings in which the member did not participate.

5.4 Failure to vote on a motion: Any councilmember present who fails to vote without a valid disqualification shall be declared to have voted in the affirmative on the question.

5.5 Motions to reconsider: A motion to reconsider must be made by a person who voted with the majority on the principal question and must be made at the same or succeeding regular meeting. No motion to reconsider an adopted quasi-judicial written decision shall be entertained after the close of the meeting at which the written findings were adopted.

6. Public hearing procedures

6.1 Speaker sign-in: Prior to the start of a public hearing the chair may require that all persons wishing to be heard sign in with the recorder, giving their name and whether they wish to speak as a proponent, opponent or from a neutral position. Any person who fails to sign in shall not be permitted to speak until all those who signed in have given their testimony. The chair, subject to the concurrence of a majority of the council, may establish time limits and otherwise control presentations. (Suggested time limit is three minutes per speaker or five minutes when presenting the official position of an organization or group.) The chair may change the order of speakers so that testimony is heard in the most logical groupings (i.e. proponents, opponents, adjacent owners, etc.).

6.2 Conflict of interest/Appearance of fairness: Prior to the start of a public hearing the chair will ask if any councilmember has a conflict of interest or appearance of fairness doctrine concern which could prohibit the councilmember from participating in the public hearing process. A councilmember who refuses to step down after challenge and the advice of the city attorney, a ruling by the mayor or chair and/or a request by the majority of the remaining members of the council to step down is subject to censure. The councilmember who has stepped down shall not participate in the council decision nor vote on the matter. The councilmember shall leave the council chambers while the matter is under consideration, provided, however, that nothing herein shall be interpreted to prohibit a councilmember from stepping down in order to participate in a hearing in which the councilmember has a direct financial or other personal interest.

6.3 The public hearing process: The chair introduces the agenda item, opens the public hearing and announces the following Rules of Order:

- (1) All comments by proponents, opponents or other members of the public shall be made from the podium; any individuals making comments shall first give their name and address. This is required because an official recorded transcript of the public hearing is being made.
- (2) No comments shall be made from any other location. Anyone making "out of order" comments shall be subject to removal from the meeting. If you are disabled and require accommodation, please advise the recorder.
- (3) There will be no demonstrations during or at the conclusion of anyone's presentation.
- (4) These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard, and to ensure that no individual is embarrassed by exercising the right of free speech.
 - The chair calls upon city staff to describe the matter under consideration.
 - The chair calls upon proponents, opponents and all other individuals who wish to speak regarding the matter under consideration.
 - The chair inquires as to whether any councilmember has questions to ask the proponents, opponents, speakers or staff. If any councilmember has questions, the appropriate individual will be recalled to the podium.
 - The chair continues the public hearing to a time specific or closes the public hearing.

7. Duties and privileges of community members

7.1 Meeting participation: The public is welcome at all council meetings and are encouraged to attend and participate prior to the deliberations of the council. Recognition of a speaker by the chair is a prerequisite and necessary for an orderly and effective meeting, be the speaker an attendee, councilmember or staff member. Further, it will be expected that all speakers will deliver their comments in a courteous and efficient manner and will speak only to the specific subject under consideration. Anyone making out-of-order comments or acting in an unruly manner shall be subject to removal from the meeting. Use of cellular telephones is prohibited in the council chambers.

7.2 Subjects not on the current agenda: Under agenda item "Comments from city residents," the public may address any item they wish to discuss with the mayor and council. They shall first obtain recognition by the chair, state their name, address and subject of their comments. The chair shall then allow the comments, subject to a three (3) minute limitation per speaker, or other limitations as the chair or council may deem necessary. Following such comments, if action is required or has been requested, the chair may place the matter on the current agenda or a future agenda or refer the matter to staff or a council committee for action or investigation and report at a future meeting.

7.3 Subjects on the current agenda: Any member of the public who wishes to address the council on an item on the current agenda shall make such request to the chair or presiding officer. The chair shall rule on the appropriateness of public comments as the agenda item is reached. The chair may change the order of speakers so that testimony is heard in the most logical grouping (i.e. proponents, opponents, adjacent owners, etc.). All comments shall be limited to three (3) minutes per speaker, or other limitations as the chair or council may deem necessary.

7.4 Manner of addressing the council – time limit:

Each person addressing the council shall step up to the podium, give the person's name and address in an audible tone of voice for the record and, unless further time is granted by the council, shall limit the person's remarks to three (3) minutes. Agenda items "Comments from city residents" and "Continued comments from city residents" shall be limited to a total of 30 minutes each unless additional time or less time is agreed upon by the council (dependent upon the length of the council agenda). All remarks shall be addressed to the council as a body and not to any member thereof. No person, other than the chair, members of the council and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the council. No questions shall be asked of the councilmembers, except through the chair. The council will then determine the disposition of the issue (information only, place on present agenda, workshop, a future agenda, assign to staff, assign to council Committee or do not consider).

7.5 Personal and slanderous remarks: Any person making personal, impertinent or slanderous remarks or who shall become boisterous while addressing the council may be requested to leave the meeting and may be barred from further audience before the council during that council meeting by the chair or presiding officer.

7.6 Written communications: Interested parties, or their authorized representatives, may address the council by written communication in regard to any matter concerning the city's business or over which the council had control at any time. The written communication may be submitted by direct mail or by addressing the communication to the city clerk who will distribute copies to the councilmembers. The communication will be entered into the record without the necessity for reading as long as sufficient copies are distributed to members of the audience/public.

7.7 Comments in violation of the appearance of

fairness doctrine: The chair may rule out of order any comment made with respect to a quasi-judicial matter pending before the council or its boards or commissions. Such comments should be made only at the hearing on a specific matter. If a hearing has been set, persons whose comments are ruled out of order will be notified of the time and place when they can appear at the public hearing on the matter and present their comments.

7.8 “Out of Order” comments: Any person whose comments have been ruled out of order by the chair shall immediately cease and refrain from further improper comments. The refusal of an individual to desist from inappropriate, slanderous or otherwise disruptive remarks after being ruled out of order by the chair may subject the individual to removal from the council chambers.

These rules are intended to promote an orderly system of holding a public meeting and to give every person an opportunity to be heard.

8. Filling council vacancies and selecting mayor pro tem

8.1 Notice of vacancy: If a council vacancy occurs, the council will follow the procedures outlined in RCW 42.12.070. In order to fill the vacancy with the most qualified person available until an election is held, the council will widely distribute and publish a notice of the vacancy and the procedure and deadline for applying for the position.

8.2 Application procedure: The council will draw up an application form which contains relevant information that will answer set questions posed by council. The application form will be used in conjunction with an interview of each candidate to aid the council's selection of the new councilmember.

8.3 Interview process: All candidates who submit an application by the deadline will be interviewed by the council during a regular or special council meeting open to the public. The order of the interviews will be determined by drawing the names; in order to make the interviews fair, applicants will be asked to remain outside the council chambers while other applicants are being interviewed. Applicants will be asked to answer questions submitted to them in advance of the interview and questions posed by each councilmember during the interview process.

The councilmembers will ask the same questions of each candidate. Each candidate will then be allowed two (2) minutes for closing comments. Since this is not a campaign, comments and responses about other applicants will not be allowed.

8.4 Selection of councilmember: The council may recess into executive session to discuss the qualifications of all candidates. Nominations, voting and selection of a person to fill the vacancy will be conducted during an open public meeting.

8.5 Selecting mayor pro tem and alternate mayor pro tem: The mayor pro tem and Alternate mayor pro tem will be selected by the councilmembers.

9. Creation of committees, boards and commissions

9.1 Community committees, boards and

commissions: The council may create committees, boards, and commissions to assist in the conduct of the operation of city government with such duties as the council may specify not inconsistent with the city code.

9.2 Membership and selection: Membership and selection of members shall be as provided by the council if not specified otherwise in the city code. Any committee, board, or commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the council. No committee so appointed shall have powers other than advisory to the council or to the mayor except as otherwise specified in the city code.

9.3 Removal of members of boards and commissions: The council may remove any member of any board or commission which it has created by a vote of at least a majority of the council (this rule does not apply to the civil service commission or any other such body which has statutory procedures concerning removal).

10. Suspension and amendment of these rules

10.1 Suspension of these rules: Any provision of these rules not governed by the city code may be temporarily suspended by a vote of a majority of the council.

10.2 Amendment of these rules: These rules may be amended or new rules adopted by a majority vote of all members of the council, provided that the proposed amendments or new rules shall have been introduced into the record at a prior council meeting.

Sample procedures: Appearance of fairness and quasi-judicial hearing

For a complete explanation of the appearance of fairness doctrine and related hearing procedures, see the MRSC publication, *Appearance of Fairness Doctrine in Washington State*. The following sample procedures provide an example of a process for complying with the appearance of fairness doctrine in quasi-judicial hearings. They are provided as an example only – please do not copy without checking with your legal counsel. MRSC has samples of other council rules of procedure which include alternative wording.

Appearance of fairness doctrine defined

“In short, when the law which calls for public hearings gives the public not only the right to attend but the right to be heard as well, the hearings must not only be fair but must appear to be so. It is a situation where appearances are quite as important as substance” (*Zehring v. Bellevue*, 99 Wn.2d 488, 1983). The court went on to say that “[t]he test of whether the appearance of fairness doctrine has been violated is as follows: Would a disinterested person, having been apprised of the totality of a board member’s personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist? If answered in the affirmative, such deliberations, and any course of conduct reached thereon, should be voided” (*id*).

Types of hearings to which doctrine applies

The appearance of fairness doctrine applies to land use decisions of the Council which are quasi-judicial in nature. Quasi-judicial actions are proceedings of the city council which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested proceeding. Quasi-judicial actions do not include legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance (RCW 42.36.010). Some examples of quasi-judicial actions which may come before the council are: rezones or reclassifications of specific parcels of property, appeals from decisions of the hearing examiner, substantive appeals of threshold decisions under the State Environmental Protection Act, subdivisions, street vacations, and special land use permits.

General guidelines

A conflict of interest, but whether there is an appearance of conflict of interest to the average person. This may involve the councilmember, or a councilmember’s business associate, or a member of the councilmember’s immediate family. It could involve ex parte communications, ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the councilmember’s employer with the proponents or opponents, announced predisposition, and the like.

Prior to any quasi-judicial hearing, each councilmember should give consideration to whether a potential violation of the appearance of fairness doctrine exists. If the answer is in the affirmative, no matter how remote, the councilmember should disclose such facts to the mayor who will seek the opinion of the city attorney as to whether a potential violation of the appearance of fairness doctrine exists. The Mayor shall communicate such opinion to the councilmember.

Anyone seeking to disqualify a councilmember from participating in a decision on the basis of a violation of the appearance of fairness doctrine must raise the challenge as soon as the basis for disqualification is made known or reasonably should have been made known prior to the issuance of the decision; upon failure to do so, the Doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify the councilmember shall state with specificity the basis for disqualification; for example: demonstrated bias or prejudice for or against a party to the proceedings, a monetary interest in outcome of the proceedings, prejudgment of the issue prior to hearing the facts on the record, or ex parte contact.

Should such challenge be made prior to the hearing, the mayor shall direct the city attorney to interview the councilmember and render an opinion as to the likelihood that an appearance of fairness violation would be sustained in superior court. Should such challenge be made in the course of a quasi-judicial hearing, the presiding officer shall call a recess to permit the city attorney to make such interview and render such opinion.

The mayor shall have sole authority to request a councilmember to excuse themselves on the basis of an appearance of fairness violation. Further, if two (2) or more councilmembers believe that an appearance of fairness violation exists, such individuals may move to request a councilmember to excuse themselves on the basis of an appearance of fairness violation. In arriving at this decision, the mayor or other councilmembers shall give due regard to the opinion of the city attorney.

Notwithstanding the request of the mayor or other councilmembers, the councilmember may participate in any such proceeding.

Hearing procedure

1. The mayor or other individual chairing the meeting will start by first describing the purpose of the meeting and will then read RCW 42.36.060:

During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

 - (1) Places on the record the substance of any written or oral ex parte communications concerning the decision of action; and
 - (2) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a resident and their elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.
2. The chairperson will then ask each councilmember to state for the record what ex parte contacts they have had, whether written or oral, concerning the matter to be decided.

3. The chairperson will then ask the following questions:
 - (a) Does any member of this council have knowledge of having conducted business with either the proponents or opponents of this [name type of project or proceeding]?
 - (b) Does any member of this council have either a pecuniary or a nonpecuniary interest in the outcome of this proceeding?
 - (c) Does any member of this council know whether or not their employer has a financial interest in the land or area which will be impacted by the decision in this proceeding?
 - (d) Does any member of this council live or own property within 300 feet of the area which will be impacted by the decision in this proceeding?
 - (e) Does any member of this council have any special knowledge about the substance of the merits of this proceeding which would or could cause the councilmember to prejudge the outcome of this proceeding?
 - (f) Is there any member of this council who believes that they cannot sit and hear this matter fairly and impartially, both as to the respective positions of the proponents and the opponents in this proceeding?
 - (g) Is there any member of the audience who because of the "appearance of fairness doctrine" wishes to disqualify any member of the council from hearing this matter? If so, please state the name of the councilmember and the reason or reasons why you believe that councilmember should be disqualified.

After the above procedure has been followed and all requests for disqualification have been handled, the mayor or other person chairing the meeting will proceed with the hearing in accordance with the agenda.

Additional resources

Public Hearings – When and How to Hold Them, MRSC Focus

Knowing the Territory, MRSC

The Appearance of Fairness Doctrine in Washington State, MRSC

Public participation: Tips for talking with the council

The following is part of one city's guidance to the public on how they can provide input at council meetings. Similar language appears on several city web pages on the Internet.

- The city council welcomes participation in all public meetings. Arrangements for a sign language interpreter, hearing assistance and other assistance can be made by calling the council secretary at _____ or the deputy city clerk at _____.
- When you feel strongly about a public issue or a local concern, the council encourages you to share your information and thoughts with them. If you are unable to attend a meeting or would rather not give testimony at the meeting, you are encouraged to send/fax a letter which would be made a part of the official record.
- To speak during the public comment period, you do not have to sign up in advance, and you may talk on any item and/or concern not scheduled for a public hearing.
- If you want to speak on the topic at a public hearing scheduled for that evening, you must comment during the public hearing portion of the meeting, however, you need not sign up in advance.
- When you talk with the council, step up to one of the microphones and identify yourself by stating your name and address so they will know who you are. Be sure your microphone is on and speak into it clearly (it is not necessary to try to adjust the microphone to your height).
- During the public comment period, your comments are limited to three minutes. These are guidelines to help councilmembers hear as many different viewpoints as possible in the limited time available. If you are speaking for a group, you must tell the council how the group developed the position that you are presenting.
- If previous speakers have already made the comments you wish to make, feel free simply to identify yourself and indicate your agreement with what has already been said.
- During the public comment periods, residents have called the council's attention to a wide variety of issues concerning the city. Residents' views have ranged from concerns about parking in front of their homes to improving wheelchair accessibility throughout the city.

Suggested presentation model for precise, well organized proposals

- **Point.** What is the idea you wish to present? Begin with an "I statement" outlining your idea, such as, "I am here to (support/oppose)..."
- **Reason.** Why you are making this point. This is an important step so the listener does not make assumptions about your motives.
- **Example.** Brief and relevant example to clarify and make your point concrete.
- **Summary.** What condition will be changed or improved if your point is adopted?
- **Action.** (If appropriate, depending on the situation) What needs to be done and who will do it.

Public hearings

A public hearing offers you a formal opportunity to give your views to the Council on the subject of the hearing.

- To give testimony, step up to one of the microphones and identify yourself by stating your name and address for the record. When you talk to the council during a public hearing, councilmembers, staff and the audience will remain silent. After the last person has spoken, the hearing will be closed. The city council will then discuss and will often decide on the issue.
- The audience may not comment during council's deliberations unless a councilmember requests more information from a speaker.
- Again, you are also encouraged to submit your written comments on the subject to the council secretary or city clerk before the meeting so they can be included in the record and distributed to the council.

Meeting tips

Meeting savvy

Consider these pieces of advice when preparing for a meeting:

- **Give colleagues time to assimilate things.** You'll notice that an idea rejected one day may be presented by the one who opposed it earlier.
- **Don't try to please everyone.** This simply does not work and makes you look weak and indecisive.
- **Confront meeting disrupters immediately.** Don't let them take control of the meeting or set its tone.
- **"We've always done it this way."** Don't become so enamored with precedent that it keeps the group from moving forward.
- **Don't waste quality meeting time dealing with routine complaints that can be resolved by staff outside the meeting.**
- **Apply rules equally with all participants.** Don't strictly enforce a time limit for one person and be lax with another.
- **Be careful about using first names of audience members you know and last names of those you don't.** It may be interpreted as bias.
- **Alert staff before the meeting if you intend to bring up an important issue.** This simple courtesy will help staff prepare background information and avoid embarrassment.
- **Be sensitive to audience perceptions regarding your neutrality during a recess, especially during hot meetings.** If you meet with one group and not with another, you may be perceived as favoring that group.
- **If you disagree with a significant statement or proposal made by a colleague or staff member at a meeting, express that disagreement.** Silence may be interpreted by staff as agreement and they may take action based upon that assumption.

Chairperson faux pas

Acting as the chair for a group is a demanding task. Here are some common mistakes:

- Failing to remain impartial during a heated discussion.
- Forgetting to relinquish the gavel when the chair becomes emotionally involved in an issue.
- Treating members unevenly.
- Cutting off discussion before members are ready.
- Failing to close discussion in a timely manner.
- Failing to establish or follow the agenda.
- Allowing the meeting to become too informal; letting the meeting drift.
- Neglecting to explain the process being followed.
- Failing to restate audience questions so all in the audience can hear.
- Failing to recognize and deal with councilmember objections to procedure or process.
- Failing to protect members and staff from verbal attack.
- Losing track of amendments to motions.
- Failing to restate motions before they are voted upon.
- Forgetting to call recesses during long meetings.
- Neglecting to reconvene the meeting at the specified time after a recess.

Resist the temptation to be a dictator at council meetings. Remember: it's the council's meeting, not the mayor's meeting.

The art of asking questions: How to aid discussion by asking the right questions

Questions are one of the most important tools you can use to obtain information, focus the group and facilitate decision-making. Here are some samples:

Asking of colleagues

- How do you feel about this item?
- What do you think the proposed action will accomplish?
- Would you please elaborate on your position?
- What results are we looking for?

Asking of staff

- What other alternatives did you consider?
- Why has this item come to be on our agenda?
- What are we trying to accomplish with this law/policy?
- What are the benefits and drawbacks?
- Will you please explain the process?
- Have we ever made an exception to this policy?
- What would it take for you to support this?
- What type of feedback have you received from the residents?

Asking of the public

- How will this proposal affect you?
- What do you think about the proposed action?
- What are your concerns?
- What other ways can you suggest for solving the problem?

To broaden participation

- We've heard from some of you. Would others who have not yet spoken like to add their ideas?
- How do the ideas presented thus far sound to those of you who have been thinking about them?
- What other issues related to this problem should we discuss?

To limit participation

- We appreciate your contributions. However, it might be well to hear from some of the others.
- You have made several good statements, and I am wondering if someone else might like to ask a question or make a statement.
- Since all of the group have not yet had an opportunity to speak, I wonder if you could hold your comments until a little later?

To focus discussion

- Where are we now in relation to the decision we need to make?
- Would you like to have me review my understanding of what's been said and where we are?
- Your comment is interesting. However, I wonder if it relates to the problem before us?
- As I understand it, this is the problem...Are there additional comments before we come to a decision?

To help the group move along

- I wonder if we've spent enough time on this and are ready to move along to...?
- Have we gone into this part of the problem far enough so that we can shift our attention to...?
- In view of the remaining agenda items, would it be well to go to the next question before us?

To help the group reach a decision

- Do I sense an agreement on these points...?
- What have we accomplished up to this point?
- Should we look at our original objective and see how we close we are to it?
- Would someone care to sum up our discussion on this issue?

To lend continuity

- At our last meeting we discussed this issue. Anyone care to review what we covered then?
- Since we cannot reach a decision at this meeting, what issues should we take up at the next one?
- Are there points that need further study before we convene again?

Source:
Elected Official's Little Handbook, Len Wood
If You Only Had More Time – But You Don't, International City Management
Association

Parliamentary procedure

Parliamentary procedure provides the process for proposing, amending, approving and defeating legislative motions. Although following parliamentary procedure is not required, it can make council meetings more efficient and reduce the chances of council actions being declared illegal or challenged for procedural deficiencies.

A city may adopt, by ordinance or resolution, its own set of rules governing the conduct of council meetings, or it may adopt by reference formalized rules such as Robert's Rules of Order. Many Washington cities have adopted Robert's Rules, supplementing those rules with additional rules on issues such as voting abstentions and motions for reconsideration. (See Appendix 6, Sample Council Rules of Procedure.)

Motions

Business is brought before the council by motions, a formal procedure for taking actions. To make a motion, a councilmember must first be recognized by the mayor. After the councilmember has made a motion (and after the motion is seconded if required), the chair must then restate it or rule it out of order, then call for discussion. Most motions require a second, although there are a few exceptions.

Exact wording of motions and amendments is important for clarity and recording in the minutes. If it's a complex motion, the motion should be written down for the chair to read.

Robert's Rules

The following summarizes important points from Robert's Rules of Order. Other parliamentary rules or your own council rules of procedure may contain different provisions.

- Only one subject may be before a group at one time. Each item to be considered is proposed as a motion which usually requires a "second" before being put to a vote. Once a motion is made and seconded, the chair places the question before the council by restating the motion.
- "Negative" motions are generally not permitted. To dispose of a business item, the motion should be phrased as a positive action to take, and then, if the group desires not to take this action, the motion should be voted down. The exception to this rule is when a governing body is asked to take action on a request and wishes to create a record as to why the denial is justified.
- Only one person may speak at any given time. When a motion is on the floor, an order of speaking is prescribed by Robert's Rules, allowing the mover of a motion to speak first, so that the group understands the basic premise of the motion. The mover is also the last to speak, so that the group has an opportunity to consider rebuttals to any arguments opposing the motion.
- All members have equal rights. Each speaker must be recognized by the moderator prior to speaking. Each speaker should make clear their intent by stating, "I wish to speak for/against the motion" prior to stating arguments.
- Each item presented for consideration is entitled to a full and free debate. Each person speaks once, until everyone else has had an opportunity to speak.
- The rights of the minority must be protected, but the will of the majority must prevail. Persons who don't share the point of view of the majority have a right to have their ideas presented for consideration, but ultimately the majority will determine what the council will or will not do.

Types of motions

Robert's Rules of Order provides for four general types of motions.

Main motions

The most important are main motions, which bring before the board, for its action, any particular subject. Main motions cannot be made when any other motions are before the group.

Subsidiary motions

Subsidiary motions are motions which direct or change how a main motion is handled. These motions include:

Tabling. Used to postpone discussion until the group decides by majority vote to resume discussion. By adopting the motion to "lay on the table", a majority has the power to halt consideration of the question immediately without debate. Requires a second, nondebatable, not amendable.

Previous question or close debate. Used to bring the body to an immediate vote. It closes debate and stops further amendment. Contrary to some misconceptions, the majority decides when enough discussion has occurred, not the moderator. The formal motion is to "call for the question" or "call for the previous question," or simply, "I move to close debate." The motion requires a second, is not debatable and requires a two-thirds majority.

Limit/extend debate. May be desired if the group has adopted a rule limiting the amount of time that will be spent on a topic, or if the group desires to impose a time limitation.

Postpone to a definite time. Similar to tabling, except that the motion directs that the matter will be taken up again at some specific date and time.

Refer to committee. Directs that some other body will study the matter and report back.

Amendment. Used to "fine tune" a motion to make it more acceptable to the group. The amendment must be related to the main motion's intent and cannot be phrased in a way that would defeat the main motion. Two amendments may be on the floor at one time: the first amendment modifies the main motion, and the second amendment must relate to the first amendment. When an amendment is on the floor, only the amendment may be debated. The amendments are voted on in the reverse order in which they were made, as each amendment changes to some degree the intent of the main motion. As each amendment is voted on, an additional primary or secondary amendment may be introduced. Requires a second, debatable, majority vote.

Postpone indefinitely. This motion effectively kills a motion, because, if adopted, a two-thirds vote is subsequently required to take the matter up again.

Incidental motions

Incidental motions are housekeeping motions which are in order at any time, taking precedence over main motions and subsidiary motions. These motions include:

Point of order. To bring to the group's attention that the rules are being violated. You don't need not to be recognized prior to making a point of order. This is not really a motion, but requires the moderator to make a ruling as to whether or not immediate consideration is proper.

Appeal from the decision of the chair. The group can overrule the chair on any decision. While the motion must be seconded, it cannot be amended. When this motion is moved and seconded, the moderator immediately states the question, "Shall the decision of the chair stand as the judgment of the council?" If there is a tie vote, the chair's decision is upheld. The motion is not debatable when it applies to a matter of improper use of authority or when it is made while there is a pending motion to close debate. However, the motion can be debated at other times. Each person may speak once, and the moderator may also state the basis for the decision.

Parliamentary inquiry. Not a motion, but a question as to whether an action would be in order.

Point of information. A person may rise to offer information that is considered necessary for the group. This provision is not used to offer debate.

Division of assembly. To require a more precise method of counting votes than by a voice vote, such as having persons raise hands, or stand. No second, not debatable, no vote required.

Request to withdraw a motion. Contrary to popular misconception, a motion cannot be withdrawn by its mover. This request requires majority approval.

Suspension of the rules. When matters are to be taken out of order, or a particular task can be better handled without formal rules in place, this motion can be approved by a two-thirds vote of the group. However, until the rules are restored, only discussion can occur; no decisions can be made. Second required, not debatable, not amendable.

Object to consideration of a question. When a motion is so outrageous, intended to distract the group from resolving legitimate business. The motion can be objected to and ruled out of order without debate. However, if the chair does not rule the motion out of order, a two-thirds vote of the group can block further consideration

Renewal motions

Once the group has taken action, renewal motions require the group to further discuss or dispose of a motion. The motions include:

Reconsider. When the group needs to discuss further a motion that has already been defeated at the same meeting. A majority of the council must approve taking additional time to debate the motion again. The motion can be made only by a person who voted on the prevailing side earlier on the question. Contrary to another popular misconception, the motion may be brought up again at a subsequent meeting. If the moderator believes that there is no indication that the group's wishes have changed, however, the motion can be ruled out of order, subject to an appeal from the decision of the chair.

Take from the table. Unless the original motion to table directed that the motion be brought back at a specific date and time, a majority of the group must pass a motion to take from the table. Such a motion is nondebatable.

Rescind. When the group wishes to annul some action, a motion to rescind is in order at any time. If prior notice has been given to the group that this action will be considered, the motion to rescind can pass with a simple majority vote; however, if no prior notice has been given, the vote requires a two-thirds majority.

Questions of privilege

Finally, there are a few questions of privilege that are in order at any time and must be disposed of prior to resuming discussion on the matter at hand:

Fix the time for next meeting. This is in order at any time, including when a motion to adjourn is pending. Second required, not debatable, amendable.

Adjourn. To bring the meeting to a halt. Second required, not debatable, not amendable. Alternatively, instead of a motion, the chair can ask if there is any further business. If no response, the chair can say, "since there is no further business, the meeting is adjourned."

Recess. A temporary break in the meeting; should state a time at which the meeting will resume. Second required, not debatable, not amendable.

Point of privilege. A matter that concerns the welfare of the group. Can be raised even when another person is speaking. No second, not debatable, no vote required.

Call for the orders of the day. A demand that the group return to the agenda. Can be taken when another person is speaking, no second required, not debatable, no vote required.

Keeping out of trouble

Public officers have the duty of serving the public with undivided loyalty, uninfluenced by any private interest or motive. Care must be taken not to violate this duty of trust, either in appearance or in fact. The behavior of public officers is often scrutinized by the public and is the subject of a profusion of laws. The statutory provisions and common law doctrines that public officials should be familiar with include:

- Conflict of interest
- Incompatible offices
- Appearance of fairness
- Public records disclosure
- Financial disclosure
- Salary increase prohibitions

Keep in mind that there may be overlap between these topics. For example, an activity that passes the conflict of interest test may violate appearance of fairness. It is beyond the scope of this publication to discuss most of these doctrines in any detail. However, be aware that more detailed information is available on these doctrines in the MRSC publication *Knowing the Territory*.

A brief discussion of financial disclosure requirements and the salary increase prohibitions will be provided here because these doctrines are not discussed in *Knowing the Territory*.

Financial disclosure by public officials

Another component of “open government” is personal disclosure of the financial affairs of elected officials. The disclosures of political campaign financing and legislative lobbying are other important areas, but they will not be discussed here. Presumably, councilmembers have been exposed to those requirements as part of their campaign process.

Financial disclosure is required of all elected officials and members of their immediate families, except in small cities and towns. (RCW 42.17A.710). A statement of financial affairs for the preceding calendar year must be filed between January 1 and April 15. Financial disclosure is also required of an appointee in an elective office vacancy.

Q. Is any financial disclosure required of nonelected officials?

A. The only appointed city official who is required to make personal financial disclosures is the treasurer. (RCW 42.17A.570). Cities and towns with populations of 1,000 or fewer are exempt. The scope of the financial disclosure required of treasurers is more limited than for elected officials, consisting of information about financial institutions where the treasurer holds an office, directorship, or ownership interest and where public funds are held.

Q. What small cities and towns are exempt from disclosure requirements?

A. Officials in cities and towns with fewer than 2,000 registered voters as of the date of the most recent general election are exempt from the financial reporting requirements. (RCW 42.17A.135). However, officials in these municipalities can be required to file financial disclosures upon petition of 15 percent of the registered voters or upon adoption of an ordinance or resolution to that effect.

Salary increases for elected officials

Q. May a councilmember receive a salary increase immediately?

A. The general rule is that salary increases, adopted by ordinance, may not raise the salaries of current councilmembers. The state constitution prohibits an increase (or decrease) in the salary of city or town councilmembers after election or during their term of office. This means that the city or town council can vote to increase salaries, but the new salaries may not take effect until after the next election, and even then would be effective only for those councilmembers who are up for re-election. As long as the salary increase ordinance was passed prior to the election, councilmembers are eligible to receive the pay increase as soon as they begin a new term of office. There is one exception. If salaries are set by a salary commission, an increase can go into effect immediately.

Q. May a mayor in a mayor-council city receive a salary increase immediately?

A. The salary of mayors may be raised during their term of office, as long as their vote was not required to pass the applicable ordinance. The state constitution contains an exception allowing salary increases during an official's term in office if that official does not fix their own compensation. The exception cannot be triggered by an official abstaining from the vote for a salary increase because it is a councilmember's authority to fix compensation that is determinative. This exception would allow the salary of a mayor in a mayor-council city to be increased during their term of office, provided that the vote of the mayor is not necessary for the passage of the applicable ordinance. (Attorney General's Opinion, AGO 1968 No. 36).

Q. May a person appointed to fill a council vacancy receive a salary increase immediately, if the increase was enacted prior to the appointment?

A. No, because the Washington Supreme Court has held that the constitutional provision forbidding change in the compensation of a public officer during a term of office refers to the term itself, not to the individual. Therefore, the salary increase is not effective as to an officer appointed or elected to fill out the unexpired term of their predecessor, in situations where the predecessor had been elected prior to the time the salary increase was adopted. (State ex rel. Wyrick v. Ritzville, 16 Wn.2d 36, (1942)).

Are mayor and councilmember emails, texts, and social media subject to public disclosure?

It is important for councilmembers to understand that emails they send, which qualify as public records, are subject to public disclosure under the state Public Records Act (RCW 42.56). Under the Act, a "public record" is broadly defined to include electronic records "containing information relating to the conduct of government or the performance of any proprietary function . . ." Email, text messages, social media, like any other written correspondence and memoranda, which falls within this definition, with few exceptions stated by the Public Records Act, are public records.

This means that email, text, and social media communications between councilmembers, councilmembers and community members, councilmembers and other officials, councilmembers and members of boards and commissions, and councilmembers and city staff may be subject to disclosure. Caution: Keep this in mind as you communicate, recognizing that your audience may ultimately be broader than the direct recipients of your communication.

Initiative, referendum, and recall

Initiative and referendum

The powers of initiative and referendum are means by which residents can impact legislation directly. Initiative is the power of the public to initiate ordinances by petition. Referendum is the means by which the public can have enacted ordinances referred to them for review. These powers of the public are not universally available. In fact, the powers of initiative and referendum are only available in first class cities, code cities, and cities organized under the commission form of government. Code cities do not automatically have the powers of initiative and referendum, but may adopt them, either by voter resolution or by resolution of a majority of the city council.

(First class cities - RCW 35.22.200 (and the charters); code cities - RCW 35A.11.080 - .100).

How are the powers of initiative and referendum exercised?

Initiative and referendum procedures in first class cities are controlled by each city's charter. Voters of a commission city or a code city which has acquired the powers of initiative and referendum may initiate ordinances or have certain ordinances which have been passed by the legislative body referred to them for affirmation or rejection at an election. In either instance, the process is begun by petition. In a commission city, a petition is filed, signed by registered voters equal in number to 25 percent of the votes cast for mayoral candidates at the last preceding city election. In a code city, the petition requires signatures of registered voters equal to 15 percent of the number of registered voters in the city as of the date of the last preceding city general election.

Certain ordinances are not subject to referendum. The following ordinances are excepted from the process in both commission and code cities:

- Ordinances initiated by petition
- Ordinances necessary for the immediate preservation of public peace, health, and safety, or for the support of city government and its existing public institutions, which contain a statement of urgency and are passed by a unanimous vote of the commission or council
- Ordinances providing for local improvement districts

In addition, the following types of ordinances are exempt from referendum in a code city:

- Ordinances appropriating money
- Ordinances providing for or approving collective bargaining
- Ordinances providing for the compensation of or working conditions of city employees
- Ordinances authorizing or repealing the levy of taxes

If a valid petition is filed seeking a referendum, the ordinance does not go into effect until it has received a majority of the votes cast at the election.

If a valid initiative petition is filed (accompanied by a proposed ordinance), the commission or council shall either pass the ordinance within 20 days of the clerk's certification of the petition, or else submit the ordinance to the voters at a general or special election called for that purpose. (RCW 35.17.260).

Recall

Elected officials are subject to voter petition for recall under state law (RCW 29A.56.110-29A.56.270). The procedures require that a petition be filed setting forth charges that an elected public official has committed an act, or acts, of malfeasance, or has violated their oath of office. "Misfeasance" or "malfeasance" means performance of a duty in an improper manner or wrongful conduct that interferes with performance of official duty. "Violation of the oath of office" means the willful neglect or failure by an elective public officer to faithfully perform a duty imposed by law. The petition for recall must state specific conduct that clearly amounts to misfeasance, malfeasance, or violation of the oath of office. In addition, the person making the charge must have knowledge of the underlying facts. If the court finds the petition sufficient, then the sponsors of the recall must obtain a set number of supporting signatures before the recall election is conducted. A majority vote in favor of recall results in the official's discharge from office.

Voter actions such as recall are rarely initiated. The availability of such extreme remedies, however, serves to emphasize the accountability of elected officials to the public. This accountability, which is at the core of our political system, places certain expectations on the behavior of elected officials. Some of these expectations are explicitly formulated into rules, an understanding of which is necessary to keep elected officials out of trouble.

The mayor pro tempore

On occasion, a councilmember may need to serve in the role of mayor. The mayor pro tempore (also called the mayor pro tem or the deputy mayor) is appointed by the council to serve in the absence of the mayor. The mayor pro tempore presides at meetings of the council, administers oaths, and signs instruments in the absence of the mayor. A councilmember acting as mayor pro tempore generally retains their councilmanic vote. The mayor pro tempore generally serves only when the mayor's absence is temporary. When a vacancy occurs in the office of mayor, a new mayor is appointed by the council. The authority of a mayor pro tempore varies somewhat according to the city classification.

- **First class cities:** The powers of the mayor pro tempore are controlled by the city charter.
- **Second class cities:** The mayor pro tempore is a councilmember elected by the members of the council. The mayor pro tempore may not appoint any officer or veto any ordinance. (RCW 35.23.191).
- **Towns:** The mayor pro tempore is chosen by the council for a specified period of time, not to exceed six months. (RCW 35.27.160).
- **Code cities:** The Optional Municipal Code calls for the designation by the city council of a councilmember or "any qualified person" to serve as mayor pro tempore. (RCW 35A.12.065).

Definitions

Administrative. Pertaining to management and carrying out of laws and functions, as opposed to legislative and judicial.

Agency and trust funds. Funds established to account for cash and other assets held by a municipality as agent or trustee. Such funds are not assets of the municipality but, through the operation of law or by agreement, the municipality is responsible for their accountability. Examples are the Fireman's Relief Fund and the Police Pension Fund.

Allocation of funds. To set aside funds for a specific purpose or program.

Amendment. A change or addition which changes the meaning or scope of an original formal document. Often these are laws or regulations. However, plans or specifications can also be amended.

Appropriation. A sum of money authorized by a legislative body to be spent for a certain purpose.

Assessment. The value placed on an item of real or personal property for property tax purposes. The rate of tax times the value equals the amount of tax levied on the property. Also a special tax levied on the property within a special assessment district.

Audit. An examination of the financial activities of an agency and the report based on such examination.

Bond. A debt instrument issued by a municipality. Bonds normally bear interest. They are a common way of raising money for capital improvements.

Budget. A plan for spending and receiving money to sustain municipal operations during a fiscal year or years. A capital budget is a plan for financing purchases or construction of items of high cost and long life, such as fire engines, streets, and buildings.

Capital outlay. Expenditures made to acquire fixed assets or additions to them. They are recorded in the general fund or utility fund where the assets are to be used. Ultimately, under good property accounting, such assets acquired through the general fund should be reflected in the general fixed assets group of accounts.

Capital program or capital budget. A schedule of purchase or construction of items of high cost, such as fire engines, streets, and buildings, over a period of years (normally five) together with a plan for spending and receiving the money to pay for the items.

Capital reserve fund. Established to account for resources legally set aside for anticipated capital expenditures, including construction, purchase or replacement of, or additions to, municipal building, equipment, machinery, motor vehicles or other capital assets.

Certification. A formal, written declaration that certain facts are true or valid.

City manager. The chief administrator of a municipality in the council-manager form of government, appointed by the council as the city's chief executive.

Civil service system. A means of hiring & disciplining employees, usually pertaining to police and fire, whereby a civil service commission hears appeals on complaints brought by employees and applicants.

Cluster development. A type of residential development where the overall density conforms to typical standards but allows for the concentration of structures on a portion of the tract while leaving the remaining open space for common resident usage. This type of development should be sympathetic to environmental conservation and protection.

Collective bargaining. A process by which an employee organization/union negotiates with an employer to reach agreement on wages, hours, and terms and conditions of employment.

Comprehensive plan. A generalized, coordinated land use policy statement of the governing body of a city, town, or county, consisting of a map or maps and descriptive text covering objectives, principles and standards used to develop the plan. A GMA comprehensive plan must include a plan, scheme, or design for (at least) the following elements: land use; housing; capital facilities; utilities; natural resource lands and critical areas; and rural areas (counties only).

Conditional use. A use which is not appropriate to a particular zone district as a whole, but may be suitable in certain localities within the district only when specific conditions and factors prescribed for such cases within the zoning ordinance are present. Conditional uses are allowed or denied by a board of adjustment, planning commission, city council or hearings examiner.

Council. The governing body of a city which sets legislative policy for the city.

Debt service. Payments to creditors, primarily the holders of municipal bonds. Debt service includes principal, interest and minor incidentals such as agents' fees.

Developer. Any landowner, agent of such landowner or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

Development plan. The provisions for the development of a tract of land, including a subdivision plat, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities.

Easement. A right-of-way for public or quasi-public use. Normally, they are used for utilities, bridle paths, parkways, floodways, scenic uses, and other purposes. The fee title to land in the easement areas remains tied to the adjacent land, and the easement rights are relinquished when the public or quasi-public use ceases.

Effluent. A term applied to the water discharged from a sewage treatment device.

Eminent domain. The concept of the power of certain governmental entities to acquire, for public use, privately owned real estate, by means of legal processes and adjudicated compensation to the private owner.

Executive. The power to carry out laws and functions, veto legislation, appoint planning commissioners and perform other duties as prescribed by law. If a municipality has a city manager, the administrative portion of the executive function is the responsibility of the manager.

Executive session. A meeting closed to the public; they can legally be held only for certain purposes.

Feasibility study. A preliminary survey to determine the design, aesthetics, construction and economic aspects of a proposed project.

Flood plain. The area along a natural watercourse subject to periodic overflow by water.

General fund. Used to account for all revenues and the activities financed by them, which are not accounted for in some special fund.

General obligation bond. A financial instrument giving borrowing power to a municipality, based upon pledging of taxing power to retire the debt and pay interest.

General obligation bond funds. Established to account for the proceeds from bond sales and other revenues properly allocated to these funds and the costs of projects financed by them.

Impact fees. Fees imposed on new development activities as partial financing for public improvements (public streets and roads, publicly owned parks, school facilities, etc.).

Improvements. Those physical changes to the land necessary to produce usable and desirable lots from raw acreage including but not limited to; grading, paving, curb, gutter, storm sewers and drains, improvements to existing watercourses, sidewalks, crosswalks, street signs, monuments, water supply facilities and sewage disposal facilities.

Industrial park. A planned industrial area where consideration has been given to human and aesthetic values, such as vegetation, open space and buffer zones.

Interest arbitration. A process by which an impartial third party decides the content of a collective bargaining agreement when the employer and the employee group reach impasse in negotiations. Pertains only to full-time fire departments and police departments in cities with greater than 2,500 population.

Job description. An outline of the duties assigned a class of personnel positions together with the training and experience normally required to qualify for the class.

Judicial. The power to judge, to administer justice and interpret laws and ordinances.

Land development. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving (a) group of two or more buildings or (b) the division or allocation of land or space between or among two or more existing or prospective occupants to include streets, common areas, leaseholds, condominiums, building groups or other features; a subdivision of land.

Legislative. Pertaining to the power to make laws as opposed to administrative, executive and judicial.

Mayor. The chief executive of the city in the strong-mayor form, the ceremonial head in a council-manager form.

Meeting. A gathering of elected officials set or called in accordance with prescribed laws or charter provisions and where business may be transacted.

Mill. A property tax equal to one dollar of tax per one thousand dollars of assessment.

Nonconforming use. A use, whether of land or of structure, not complying with the applicable use provisions in a zoning ordinance or amendment.

Nonconforming structure. A structure or part of a structure manifestly not designed to comply with the applicable use provisions in a zoning ordinance or amendment as enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment to its location. Such nonconforming structures include, but are not limited to, nonconforming signs.

Official. A person who occupies a municipal legislative, judicial, administrative, executive or enforcement position.

Ordinance. A law or statute enacted by a city, town or county. See Resolution.

Personnel system. A method of recruiting, selecting and promoting people to perform the work of a municipal organization and the method of classifying and assigning pay scale to their jobs together with related personnel activities concerning hours of work, training, grievance procedures, and union relationships.

Planned residential development (Planned unit development). An extension of cluster development including detached, semi-detached, attached and multi-storied structures, and may include land uses other than residential to the extent they are designed to serve the residents.

Planning. A process of deciding what is to be done and how it is to be accomplished; the process of deciding how land should be used and where public facilities should be located.

Planning commission. A planning agency, authorized by law to prepare and recommend plans for the development of physical, social, economic and cultural resources/facilities within a city.

Plat. The official map of a subdivision of land.

Public hearing. A meeting or portion of a meeting set up to give members of the public a chance to speak on a particular subject such as a proposed ordinance.

Regulation. A rule, procedure or other formal requirement passed to carry out the purpose of the law. It carries the same legal power as the law. However, the rule or formal requirement may only be used to carry out the purpose of the law under which it is passed.

Revenue bonds. A borrowing tool with higher interest rates than general obligation bonds, but does not need voter approval. Based on a revenue-producing project and not municipal taxing power.

Resolution. An act that is typically less formal than an ordinance, expressing the opinion or mind of the legislative body, and generally dealing with matters of a special or temporary character.

Revisions. Written or added changes, corrections or improvements to a plan, specification or drawing.

Revolving funds. Special purpose funds providing a constant source of funds for assessable public improvements. General obligation bonds, repayable from general revenues, as well as assessed taxes, may be used as sources for establishing such a fund.

Right-of-way. The right of passage over the property of another. The public may acquire it through direct dedication from land subdivision or through implied dedication – accepted access over a period of time to a beach or shoreline. The pathways over which utilities and drainage ways run are often referred to as easements.

Sinking fund. Established to account for the accumulation of money providing for the retirement of bonds and the payment of interest.

Soil percolation test. A field test conducted to determine the absorption capacity of soil to a specific depth in a given location for the purpose of determining suitability of soil for on-site sewage disposal.

Special assessment bond funds. Similar to general obligation bond funds, however, the cost of public improvements provided by the bond proceeds are assessed against owners of properties benefited by the improvements.

Special revenue funds. These funds are established to account for revenues specifically raised for a particular purpose. A special fund is usually created for each purpose (light tax fund, water tax fund).

Specifications. The written instructions which accompany and supplement the drawings in a contract.

Subdivision. The division of a single tract or other parcel of land into two or more lots. (Specific definitions will vary in specific ordinances or regulations.)

Subdivision and land development regulations.

Procedures and requirements which must be met before the subdivision or development of land is permitted.

Taking. Subject to much litigation and court interpretation, this term refers to the taking and appropriation of private property for public use, with "just" compensation paid to the property owner.

Temporary funds. Created to accommodate a specific need that may arise. Must include a system of complete accountability and be closed promptly upon completion of its purpose. Remaining assets should be distributed in accordance with the intentions of the elected officials as set forth at the time the fund was created.

Urban growth area. Areas defined, under the Growth Management Act, by cities and counties for projected growth and provision of urban services.

Utility funds. These funds account for the financial transactions of utility services rendered to the general public financed by specific user charges (water fund, electric fund, sewer fund).

Variance. The permission granted by a city council, board of adjustment or hearing examiner, following a public hearing, for an adjustment to some regulation in a zoning ordinance to alleviate an unnecessary hardship. The permission granted must not be contrary to the public interest and maintain the spirit and original intent of the ordinance.

Zoning. The regulation by a municipality (city, town, or county) of the use of land within its jurisdiction, and of the buildings and structures located thereon, in accordance with a general plan and for the purposes set out in the enabling statute.



Association of Washington Cities
1076 Franklin St. SE
Olympia, WA 98501-1346
360.753.4137 or 1.800.562.8981

www.wacities.org



Municipal Research and Services Center
2601 Fourth Ave., Suite 800
Seattle, WA 98121-1280
206.625.1300 or 1.800.933.6772

www.mrsc.org

original

JANUARY 13, 2025 Vancouver City Council meeting ~ ~ ~

I am requesting that the following emails be put on RECORD and to the minutes of the Vancouver City Council meeting of January 13, 2025.

- I will state a Thank You to Sarah as she now has mentioned that I can email her immediately if I have issues as I Speak over the phone at times. • I also will make note that I DID NOT receive a second email for that meeting as Sarah stated she sent to those who signed up to Speak such as Myself. • But I will also state that this is the fifth time that I was unable to Speak at a meeting and should it happen again ~ I am now
- REQUESTING that Sarah Dollar call Me immediately on My cell phone number that is accessible to her; and let Me know if and when there will be issues for those of US who call in to Speak at Council meetings. I will greatly Appreciate that call; as this is the Cities issue and not under My control. Thank You and I'm Hoping for a Wonderful, Constitutional Godly New Year Amen.

Kimberlee Goheen Elbon

 (do not black out My email)

① of 5

RE: Form Submission: Council Meeting Testimony Registration

From: Dollar, Sarah (sarah.dollar@cityofvancouver.us)

To: [REDACTED]

Date: Monday, January 13, 2025 at 10:35 AM PST

Hello,

Your message has been received and forwarded to the City Council for their consideration.

As for the issue with the meeting you were on, there were technical difficulties and an email with the new meeting credentials was sent to those signed up for remote testimony a little after 5 pm. In the future, please be aware that you can email me if you are having trouble with the login. You also have the ability to join the meeting in person or submit written public testimony to provide your comments to the City Council.

Thank you,

Sarah Dollar | Executive Assistant to the City Council

Pronouns: She/Her/Hers

CITY OF VANCOUVER, WASHINGTON

City Manager's Office (CMO)

Primary (Cell): 360-624-2949 | **Desk:** 360-487-8641

www.cityofvancouver.us

From: Kimberlee Elbon <[REDACTED]>

Sent: Saturday, January 11, 2025 12:11 PM

To: Dollar, Sarah <Sarah.Dollar@cityofvancouver.us>; Kimberlee HOME HOME Elbon <[REDACTED]>

Subject: Re: Form Submission: Council Meeting Testimony Registration

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

God Day ~ THIS EMAIL is to be sent also to all Council Members and the City manager !!! I intended to write this sooner - I was on the phone at the Vancouver City Council meeting January 6, 2025 a Monday and WAS NOT CALLED !!!!!!! I know My phone number shows up and I consider this continuous VIOLATION a strategy to stop Me and My First Amendment Rights to SPEAK !\$!\$

This was the first meeting of the New Year and I'm very upset that this happened again !\$!\$

2 of 5

I am now making a request/demand to the Council to allow Me those lost three minutes at the next City Council meeting this January 13th !!! Good Faith towards Me will be noticed and so will the denial of this extra three minutes as I will make a record either way !!! We'll see how the new manager handles this issue !\$\$

THIS VIOLATION MUST NOT HAPPEN AGAIN !!!

I am also signing up at this time for January 13, 2025 Monday VCC meeting - Speaking on Community Communications 1-5 and Public Hearings 6-7. I will be virtual again.

Kimberlee Goheen Elbon

[REDACTED]

[REDACTED]

_____/_____

Sent from my iPhone

On Jan 6, 2025, at 12:23 PM, Dollar, Sarah <Sarah.Dollar@cityofvancouver.us> wrote:

Good morning,

Thank you for registering to testify under Community Communications Items 1-12 and Public Hearings regarding Item 13 at the Vancouver City Council meeting this evening. Tonight's Council meeting will be conducted remotely over GoToMeeting. Instructions for connecting to the virtual meeting environment are below. ***Please note – a password will now be required to access the virtual meeting environment on a computer or mobile device.***

If you no longer wish to provide testimony during tonight's meeting, please respond to this email a.s.a.p. to be removed from the list.

Please try to connect to the meeting between 6:00 p.m. and the time listed below, and no later than 6:30 p.m. Participants who connect after the meeting begins at 6:30 p.m. may not be able to speak during this meeting.

1. **Connecting with a computer, tablet or smartphone – please connect by 6:20 p.m.**

③ of 5

1. Click on this link to connect: <https://meet.goto.com/819166269>
2. Enter the password: 2025-Jan
3. Follow the prompts to enter your name for identification purposes. Please use the same name you registered under.
4. You will have the option to use audio directly through your device, or to call in from a phone (see phone number and access code below).
5. You will automatically be muted when you enter the meeting. Please remain muted **with your webcam (if available) off** until your name is called by the Mayor at the time of testimony.
6. **The Mayor will call your name when it is your turn to testify. Please unmute yourself at that point.** You may also turn on your webcam at this point, if desired.
7. Please keep your comments to 3 minutes or less.
8. You will be muted once your comments have concluded.
9. **Please turn your webcam back off** once you have finished your testimony.

TIP: If you have the live television or Facebook coverage on in the background, please mute the device it is playing on.

2. **Connecting by telephone only – please call in by 6:15 p.m.**

- a. Call: 1 877 309 2073
- b. Enter access code 819-166-269# when prompted
- c. You will be given the option to enter an audio PIN. You do not need a PIN for this meeting. Press # when prompted.
- d. You will hear a chime when you have entered the meeting. Please state your name when you enter the meeting so a staff member can identify you.
- e. Once you have been identified, you will be placed on mute until your name is called by the Mayor at the time of testimony.
- f. The Mayor will call your name when it is your turn to testify, and staff will unmute your line at that point.
- g. Please keep your comments to 3 minutes or less.
- h. You will be muted once your comments have concluded.

TIP: Please be sure your phone is not on speaker to avoid extraneous noise on the call. If you have the live television or Facebook coverage on in the background, please mute the device it is playing on.

Sarah Dollar | Executive Assistant to the City Council

Pronouns: She/Her/Hers

CITY OF VANCOUVER, WASHINGTON

(4) of 5

City Manager's Office (CMO)

Primary (Cell): 360-624-2949 | **Desk:** 360-487-8641

www.cityofvancouver.us

From: City of Vancouver, WA <noreply@cityofvancouver.us>

Sent: Monday, January 6, 2025 10:43 AM

To: Dollar, Sarah <sarah.dollar@cityofvancouver.us>

Subject: Form Submission: Council Meeting Testimony Registration

Council Meeting Testimony Registration

Name

Kimberlee Gohgeen Elbon

Address

n/a
LA Center, WA
United States
[Map It](#)

Email

[REDACTED]

Phone

[REDACTED]

Topic I wish to speak about

Community Commination's Items #1-12
Public hearing #13

I plan to attend the Council meeting

Remotely

5 of 5

Staff Report: 018-25

To: Mayor and City Council
From: City Manager
Date: February 3, 2025

Subject

Construction Acceptance - Water Station 4 Wellhouse 4B Replacement - ITB# 23-40

Key Points

- Odyssey Contracting, LLC completed the construction of a replacement well house on the Water Station 4 drinking water production site to protect Well 4B.
- Acceptance of the construction improvements facilitates the release of the contractor's bond.
- The contractor exceeded the apprenticeship requirement of 3%.

Strategic Plan Alignment

Safe and Prepared Community – a safe place to live, work, learn and play

Present Situation

Odyssey Contracting, LLC of Yacolt, Washington completed the construction of the Water Station 4 Wellhouse 4B Replacement project. The project is located at 4203 East 5th Street, site map attached. Well 4B is one of six wells on the Water Station 4 site and the wellhouse protecting well 4B had signs of structural failure. The wellhouse had been temporarily shored up for safety purposes prior to it being demolished and replaced. The project also installed electrical upgrades which provide water operations staff the ability to monitor power and flow for energy efficiency. The work was completed satisfactorily in accordance with the plans and specifications. Contract costs are summarized below:

TOTAL CONTRACT COSTS	
Labor, Equipment and Material	\$465,300.00
Sales Tax	\$40,481.10
Total	\$505,781.10

The original contract amount for this project was \$505,348.38. The final cost is \$505,781.10 which is less than 1% increase in the contract amount.

Odyssey Contracting, LLC exceeded the 3% Apprenticeship Utilization Goal for this project with 8% by using 81.5 apprenticeship hours out of the total 1,028 project hours.

Advantage(s)

- The new seismically resilient building protects the existing well, well pump, and related equipment.
- Upgrades to instrumentation provides for maintaining energy efficiencies.
- Provides for a security around the well head.

Challenge(s)

None

Budget Impact

The funds for this project were budgeted in the 2023-2024 Water Capital Improvement Budget.

Prior Council Review

- Approved in the 2023-2024 Water Capital Budget
- Staff Report 039-23, March 20, 2023, Bid Award

Action Requested

On Monday, February 3, 2025, accept the facilities as constructed by Odyssey Contracting, LLC of Yacolt, Washington, and authorized release of the contractor's bond, subject to receipt of all documentation required by law.

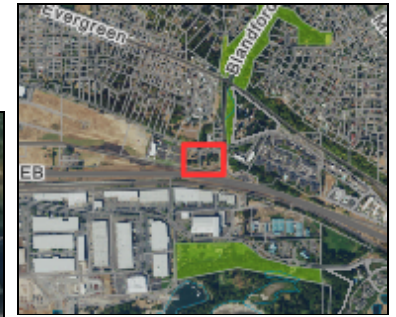
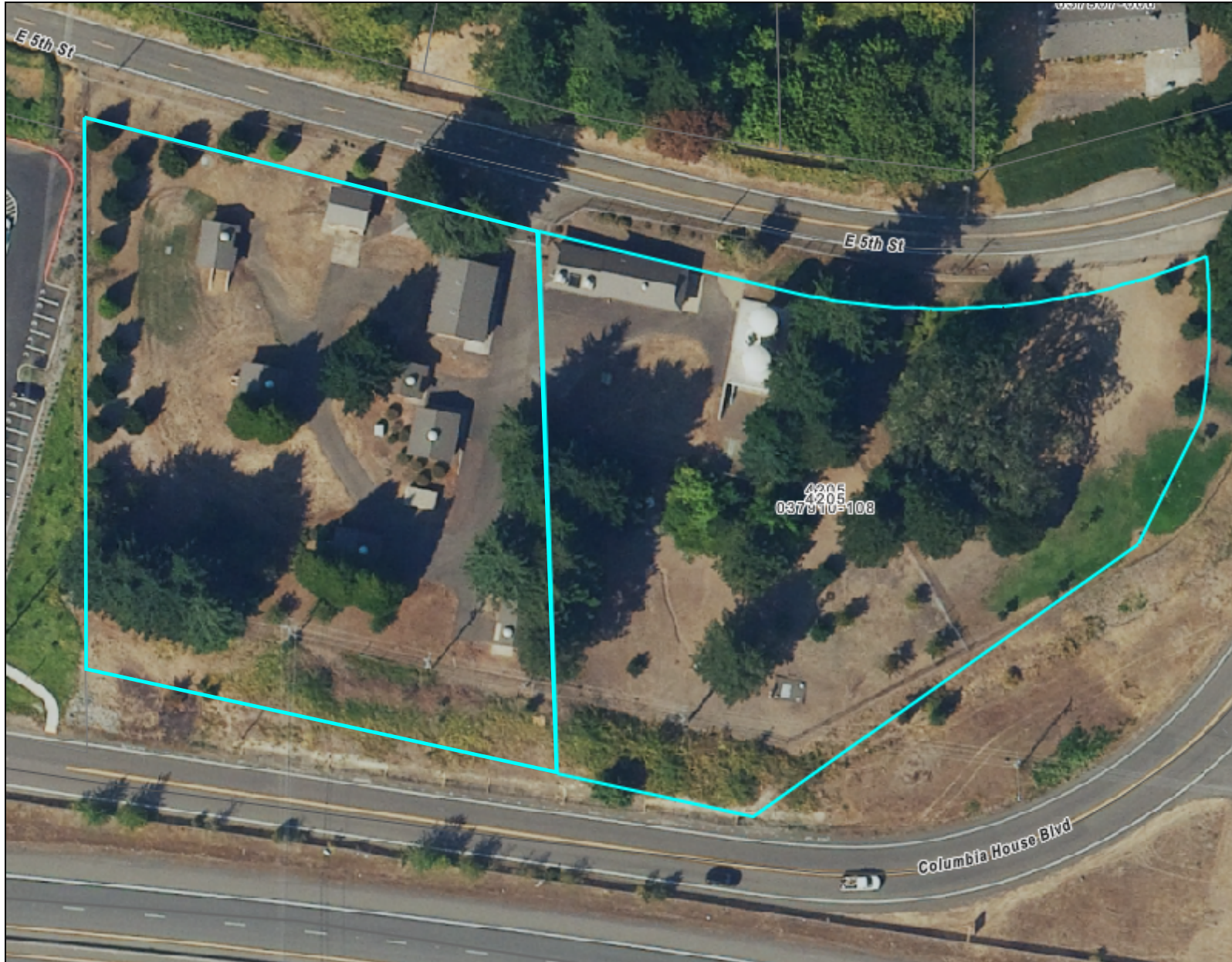
Staff Contact

Mehrin Selimgir, Civil Engineer, Mehrin.Selimgir@cityofvancouver.us

Attachments:

1. Site Map

Water Station 4



d632638e36e34d2db24891f14:



7f74e744d84645e69ae485014f

-  > 78 – 105
-  > 57 – 78
-  > 44 – 57
-  > 35 – 44
-  > 26 – 35
-  11 – 26

Map Generated on 10/10/2023

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Notes

Staff Report: 019-25

To: Mayor and City Council
From: City Manager
Date: February 3, 2025

Subject

Contract Award - Water Station 9 Per- and polyfluoroalkyl substances (PFAS) Treatment System
Preliminary Design - RFQ 56-24

Key Points

- **Compliance with Regulations:** This project will ensure Water Station 9 complies with state and federal PFAS standards for safe drinking water.
- **Grant Opportunities:** The City has applied for a \$12 million forgivable loan from the Drinking Water State Revolving Fund (DWSRF) and is pursuing additional grant funding.
- **Competitive Selection:** Following RFQ 56-24, Brown and Caldwell was chosen from four qualified proposals based on their expertise in similar municipal water projects.
- **Project Phases:** This agreement covers Phase 1 – preliminary design and permitting. Phase 2, the final design, will require a separate council approval later this year.

Strategic Plan Alignment

Safe and Prepared Community – a safe place to live, work, learn and play

Present Situation

Water Station 9 is a key component of the City's drinking water system, with five groundwater wells supplying treated water to the Heights High Pressure Zone. Recent monitoring has identified PFAS contaminants in the groundwater, requiring mitigation to meet state and federal regulatory standards.

To address this, the City issued RFQ 56-24 in September 2024 to select a qualified firm for the design of a PFAS treatment system. Four proposals were received, and Brown and Caldwell was selected based on their expertise and successful track record with similar municipal water projects. This contract will cover Phase 1 of the project, including preliminary design and initial permitting tasks, with an expected completion timeline of five months.

Phase 2, involving final design and construction-ready plans, will be brought to Council for approval later this year.

Advantage(s)

- Ensures compliance with PFAS regulations by 2029.
- Leverages grant funding opportunities to minimize costs to the City.
- Provides a comprehensive design foundation for future construction phases.

Challenge(s)

- Maintaining compliance with funding and regulatory timelines.

- Addressing potential uncertainties in the selection of PFAS treatment technology.

Budget Impact

The total project cost is included in the 2024-2025 Capital Water Budget under PRJ101064, with future funding identified in the long-term capital improvement program.

The City has applied for a \$12 million forgivable loan from the Drinking Water State Revolving Fund (DWSRF) and is actively pursuing additional funding sources, including federal grants through the Water Infrastructure Finance and Innovation Act (WIFIA). Approval of this preliminary design contract ensures the City can meet critical deadlines associated with these funding opportunities.

Prior Council Review

- Approved in the 2024-2025 Capital Water Budget.
- Council PFAS Update Workshops on Dec 18th, 2023 and May 13th, 2024.

Action Requested

On Monday, February 3, 2025, authorize the City Manager, or designee, to execute a professional services agreement between the City of Vancouver and Brown and Caldwell for an estimated amount not to exceed \$1,332,000; authorize the City Manager to take any legal action necessary to enforce the terms of the same.

Staff Contact

Mehrin Selimgir, Civil Engineer, Mehrin.Selimgir@cityofvancouver.us

Attachments:

1. Services Contract draft
2. Site Map



**CITY OF VANCOUVER
SERVICES AGREEMENT
No. C-101850
WATER STATION 9 PFAS TREATMENT SYSTEM DESIGN**

This Services Agreement (the “Agreement”), effective on the date last signed below (the “Effective Date”) is entered by the City of Vancouver, Washington, a municipal corporation organized under the laws of the State of Washington (the “City”) and Brown and Caldwell a corporation entity organized under the laws of the State of Oregon (the “Contractor”). The City and Contractor are collectively referred to as the “Parties” or individually as a “Party”.

RECITALS

- A. The City desires to engage the Contractor to perform Services as described in this Agreement; and
- B. The City advertised and issued a request for proposals, numbered RFQ 56-24 (the “Solicitation”) and after evaluation of the Contractor’s responsive proposal, found the Contractor capable of performing the required Services.

AGREEMENT

In consideration of the terms and conditions in this Agreement, the Parties agree as follows:

- 1. SCOPE OF SERVICES:** The Contractor agrees to provide the City with all services and materials provided in the Scope of Services, attached as Exhibit "A", and in the City’s Solicitation, if any, and the Contractor’s responsive proposal to the City’s Solicitation, if any (the “Services”). Contractor shall obtain City Project Manager’s written approval prior to starting the Services.
- 2. COMPENSATION:** Payment to the Contractor for the Services described in this Agreement shall not exceed \$1,332,000.00 USD.

This payment shall be the maximum compensation for all Services including labor, materials, supplies, equipment, and incidentals necessary to complete the Services. And it shall not be exceeded without the City's prior written authorization in the form of a negotiated and executed amendment. Contractor agrees this compensation is adequate and sufficient for the timely provision of all Services under this Agreement.

City will limit compensation to the amount specified for each phase, unless amended in writing. Contractor shall complete the Services stated within the number of hours identified for each phase. If compensation is made on an hourly basis and the Services requires fewer hours than those estimated, the Contractor will be paid for the actual worked hours necessary to complete that phase. If Contractor underestimated the number of hours required to perform the Services, Contractor shall be paid up to the maximum number of hours stated for the phase. Compensation may be amended, at the City's sole discretion, for documentable circumstances not reasonably foreseeable to either party at the time the phase is initiated, or for changes to the scope of services requested by City. All Deliverables (as defined in Section 8) must be acceptable to City in its sole discretion.

City will reimburse Contractor for the following travel expenses identified in its proposal upon submission of receipts to City: airfare, mileage at the approved IRS rate and lodging at the U.S. General Services Administration rates. For the avoidance of doubt, City will not reimburse Contractor wages incurred during travel time.

- 3. PAYMENT FOR CONTRACTOR SERVICES:** The Contractor shall submit monthly invoices to City covering both professional fees and project expenses, if any, from the previous month. Invoices must be submitted to the Project Manager, Mehrin Selimgir, by email to mehrin.selimgir@cityofvancouver.us and accpay@cityofvancouver.us or by mail to City of Vancouver, Mehrin Selimgir, PO Box 1995, Vancouver, WA 98668.

City shall pay Contractor within 30 days of receipt of Contractor's invoice. The City will pay Contractor pursuant to Exhibit "B." The City may correct any invoice overpaid in error.

During the life of this Agreement, and in consideration of the City's business needs, the Contractor may make requests for compensation adjustments. In consideration of market conditions, the City may allow an annual adjustment to compensation paid supported by the Consumer Price Index for the Seattle-Tacoma-Bellevue area for the previous four quarters. Contractor shall submit the request for consideration,

together with supporting documentation, before the anniversary date of this Agreement. The City will review the request and, at its sole discretion, make a decision. If accepted, the adjustment shall become effective on the anniversary date of the Agreement and will be firm for the remainder of the contracted period. All adjustments will be authorized by written contract amendment.

The Parties agree that any amount paid in error by City does not alter the fee schedule. City's contract/purchase order (PO) number on the notice to proceed must be referenced on any invoice submitted for payment.

4. **TERM OF AGREEMENT:** The term of this Agreement begins on February 15, 2025 and continues until February 14, 2026. The Parties may agree in writing to renew the Agreement up to four additional years. However, the total term, including any renewal(s), shall not exceed five years. The term and any renewal term are collectively the "Term."

5. CITY DATA; DATA SECURITY

5.1 City Data. Contractor may obtain and process City Data in connection with the Services. "City Data" means the data City provides to Contractor in connection with the receipt of the Services and any data generated by Contractor in connection with providing the Services to City. City owns all City Data. City licenses City Data to Contractor solely for the purposes of providing the Services to City or improving the Services for City. Contractor shall not use City Data for any other purpose, including as artificial intelligence training data. Contractor acknowledges that compliance with Applicable Laws under Section 31 of the Agreement includes compliance with all applicable federal, state, and local data protection laws in its provision of the Services.

5.2 Data Security. If Contractor maintains City Data on Contractor systems it will comply with the following data security requirements.

5.2.1 Security Practices. Contractor shall develop, implement, and maintain appropriate administrative, physical, and technical safeguards that are designed to ensure the confidentiality, integrity and availability of City Data. Contractor will enact safeguards that are compliant with industry best practices for the specific City Data obtained by Contractor in connection with the Services.

5.2.2 Location of City Data. Contractor shall maintain City Data solely in data centers located in the United States.

5.2.3 Security Breaches. A “Security Breach” is any suspected or actual unauthorized access to or use of City Data in Contractor’s possession.

- a. Notice. Contractor will notify City within 72 hours of any Security Breach. Notice will include details regarding the Security Breach including impacted parties, specific data, and mitigation. Contractor will call 360.487.8888 (if after hours, follow prompt to connect to on-call personnel); email City with a read receipt to help.desk@cityofvancouver.us; and email to the City personnel contact for the Agreement.
- b. Coordination. Immediately after Contractor provides notification of a Security Breach the Parties will begin working together to contain, mitigate, investigate, respond to and remediate the Security Breach. Contractor will cooperate with all City requests in relation to the Security Breach in compliance with Applicable Law.
- c. Root Cause Analysis. As soon as possible following the Security Breach, Contractor will complete a root cause analysis and will provide a plan to City for remediation and prevention.
- d. Third-Party Notice. Contractor will work together with City to ensure compliance with RCW 19.255.010 if necessary and will make no statement or send notice to any third party regarding the Security Breach without City’s prior written consent.
- e. Costs. In addition to its indemnification obligations, Contractor will reimburse City for all costs City incurs associated with any Security Breach, including forensic investigation, costs of providing notice to impacted parties, call centers and credit monitoring as applicable. Contractor will pay or reimburse City for all regulatory fines and other legal costs the City incurs associated with the Security Breach.

6. DELIVERABLES - INTELLECTUAL PROPERTY Contractor may create documents or other work product in connection with providing the Services (“Deliverables”). Contractor assigns and will assign to City all right, title, and interest in and to any Deliverables it creates in connection with providing the Services. Contractor may retain a copy of any Deliverable for its internal business purposes. Contractor’s know-how, methodologies and processes are Contractor intellectual property. Contractor grants City a perpetual, irrevocable, royalty-free, worldwide license to use all Contractor intellectual property in connection with the Deliverables for any City purpose.

7. AUDIT RIGHTS: Contractor shall maintain records of all matters related to this Agreement in accordance with generally accepted accounting principles.

Contractor shall provide the records to City or any other governmental agency with jurisdiction for audit, at such reasonable times and places as City designates.

8. PUBLIC DISCLOSURE COMPLIANCE: Records relating to Agreement are subject to the following:

8.1 Confidential Information. Any record of City business, including this Agreement, related records, and City Data, is a public record under the Washington Public Records Act, codified at chapter 42.56 RCW ("PRA"). City may be required to disclose this Agreement or related records, including records in Contractor's possession, pursuant to a public disclosure request. City will provide third-party notice to Contractor before disclosing records. Public records may be subject to exemptions from disclosure under the PRA. City agrees to withhold its release of the requested records in dispute for a reasonable amount of time (approximately 10 days) to allow Contractor an opportunity to seek judicial protection pursuant to RCW 42.56.540 as adopted or amended.

8.2 Public Disclosure Compliance. City will comply with the PRA in its receipt of and response to any public disclosure request for responsive records related to this Agreement, subject to applicable exemptions. Under RCW 42.56.060, City will have no liability to Contractor for disclosure of Contractor information acting in good faith pursuant to its obligations under the PRA.

8.3 Subpoenas. If either Party receives a subpoena requiring the disclosure of the other Party's information, that Party will notify the other party and provide a reasonable time for the affected party to obtain a protective order prior to disclosing information. If a Party is prohibited by a court with jurisdiction over the matter from disclosing the subpoena, that Party will provide only the specific information required to be released under the subpoena on the advice of counsel.

8.4 City Data Confidentiality. Notwithstanding Section 8.1-3, Contractor will maintain the confidentiality of all City Data in its possession in conformance with Section 8.

9. STANDARD OF CARE: Contractor shall exercise the degree of skill and diligence normally employed by consultants in the same industry, performing the same or similar services. Contractor will re-perform any Services that breach this provision at no cost to City.

10. DISPUTE RESOLUTION: City and Contractor agree to negotiate in good faith for a period of 30 days from the date of notice of all disputes between them prior to exercising their rights under this Agreement or under law. All disputes between City and Contractor not resolved by negotiation between the Parties may be mediated only by mutual agreement of both Parties. If not mutually agreed to resolve the

claim by mediation, the claim will be resolved by legal action. The Parties agree that if litigation is necessary to enforce any of the provisions of this Agreement, each party shall pay all of their own attorney fees and costs related to the litigation.

- 11. TERMINATION FOR CONVENIENCE:** City may terminate this Agreement at any time for convenience. City will pay Contractor for all Services completed up to the date of termination for convenience. A decision by City to terminate for convenience does not waive any legal rights City has to enforce the Agreement.
- 12. TERMINATION FOR MATERIAL BREACH:** If Contractor materially breaches by failing to perform any of the obligations of the Agreement, including violating any law, regulation, rule, or ordinance applicable to this Agreement, or becomes insolvent or declares bankruptcy, or makes an assignment for the benefit of creditors, Contractor shall not be entitled to receive any further payments under the Agreement until the Services are completed to City's satisfaction. City may provide Contractor a cure period in its sole discretion or may terminate the Agreement and, at City's option, obtain performance of the Services elsewhere.
- 13. INDEMNIFICATION:** Contractor shall indemnify, defend, and hold harmless City and its officers, councilmembers, commissioners, employees, volunteers, and agents, from any claim, liability, loss, cost, expense, suit, and damages, including reasonable attorney's fees and consulting fees arising from (a) a third party claim for intellectual property infringement relating to the Contractor's Services or the Deliverables; (b) Contractor's negligence or willful misconduct; (c) Contractor's material breach of the Agreement; (d) Contractor's non-compliance with applicable law; (e) a third-party Washington Public Records Act claim involving Contractor information; and (f) Contractor's court action to enjoin release of Contractor information under the Washington Public Records Act.

City will promptly notify Contractor of a claim under this Section 13 and will provide reasonable cooperation to Contractor in the defense of the claim. Contractor will have control over defense and settlement of the claim, except that Contractor will not enter any settlement or related agreement without City's prior written consent. Notwithstanding the preceding sentence, City may participate in the defense or settlement of any claim with counsel of its own choosing.

Solely for negligence indemnification claims under (b) above, if Contractor is providing architectural, landscape architectural, engineering, or land surveying services as the Services under this Agreement, and Contractor and City are

concurrently negligent, then Contractor will be required to indemnify City only to the extent of Contractor's negligence and will have no obligation to indemnify City for City's sole negligence, pursuant to RCW 4.24.115.

If Contractor or Contractor's employee is a licensed architect, professional engineer, land surveyor, or landscape architect and the Services are related to a construction project, Contractor expressly waives its industrial insurance immunity under the Washington Industrial Insurance Act Title 51 RCW. Contractor acknowledges this waiver has been mutually negotiated and the Parties desire to incorporate this waiver pursuant to RCW 4.24.115(1)(b).

- 14. INSURANCE:** Contractor shall maintain liability insurance for all claims for damages to the City, persons or property that arise from Contractor's performance during the Term of this Agreement.

Contractor shall maintain the following insurance coverage.

COVERAGE	LIMITS OF LIABILITY
I. Commercial General Liability:	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	\$1,000,000
General Aggregate Per Occurrence	\$2,000,000
Products & Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability	\$1,000,000
II. Commercial Automobile Liability	
Policy shall include Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles arising from the performance of this Agreement.	
Combined Single Limit	\$1,000,000
III. Workers' Compensation (applicable to the State of Washington)	
Per Occurrence	
Employer's Liability	\$1,000,000
Disease Each Employee	\$1,000,000
Disease Policy Limit	\$1,000,000
Each Claim	\$1,000,000
Annual Aggregate	\$1,000,000
IV. Umbrella Liability	
	\$2,000,000
V. Professional Liability	

Policy shall include coverage for all claims for damages to person or property arising from the performance of this Agreement.	\$1,000,000
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In addition to the coverage and limits listed above, the Contractor's insurance must contain the following:

- a. Compliance with other Insurance Policies - Contractor will remain compliant with all other insurance obligations it may have pursuant to its personnel or applicable law.
- b. Coverage Trigger - Contractor's General Liability insurance must be on an "occurrence" basis rather than claims made. This type of coverage must be indicated on the Certificate of Insurance.
- c. Additional Insured Requirement – For policies in I, II and IV above, the City of Vancouver, its Agents, Representatives, Officers, Directors, Elected and Appointed Officials, and Employees must be named as additional insureds where permissible under applicable law. The required Additional Insured endorsements shall be at least as broad as ISO CG 20 10 11 85, or its equivalent CG 20 10 07 04 and CG 20 37 07 04 must be included with the Certificate of Insurance.
- d. Certificates - The City of Vancouver shall be listed on the Certificate of Insurance as the Certificate Holder. Contractor will provide the Certificate of Insurance to City upon request on an ACORD or comparable form.

All policies shall be issued by an insurance company authorized to do business as an insurance company in the State of Washington.

15. RELATIONSHIP OF THE PARTIES. The relationship of the Parties under this Agreement is that of independent contractors. Contractor is solely responsible for the manner, method, and means of providing the Services. Contractor and its employees are not City employees and will not be entitled to or receive any benefits under this Agreement. Contractor will pay all Contractor personnel and pay all taxes, contributions, and benefits that may be required related to its personnel. Neither Party may bind the other except as expressly stated in this Agreement.

16. SUBCONTRACTING: Contractor may subcontract for Services with City's prior written approval in its sole discretion. Contractor is solely responsible for its

subcontractors' compliance with this Agreement and will pass through the terms of this Agreement to all subcontractors.

- 17. COMPLIANCE WITH APPLICABLE LAW:** Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations ("Applicable Laws"). Contractor shall modify the Services as necessary to comply with Applicable Laws.
- 18. E-VERIFY:** Contractor shall enter into and register a Memorandum of Understanding with the Department of Homeland Security E-Verify program within 60 days of executing this Agreement. Contractor shall ensure all Contractor employees and any subcontractors assigned to perform Services under this Agreement are eligible to work in the United States. Contractor shall provide compliance verification upon City's request.
- 19. TITLE VI COMPLIANCE:** Depending on the Services Contractor provides, the City may use federal funds to compensate Contractor. If federal funds are used, the City, Contractor, and any approved subcontractor must comply with the provisions of Title VI of the Civil Rights Act of 1964, (78 Stat. 252, 42 U.S.C. 2000d to 2000d-4) (CRA) and the Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, 102 Stat. 28 (1988) (CRRRA). Contractor must confirm with City whether Title VI is applicable under this Agreement.
- 20. EQUAL EMPLOYMENT OPPORTUNITY:** The City is an equal opportunity employer. Contractor shall not discriminate against any of its employees or applicants for employment on the basis of race, color, creed, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, citizenship or immigration status, age (40 or older), the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, genetic information, honorably discharged veteran or military status, or any other class protected by federal, state, or local employment discrimination laws.
- 21. ANTI-KICKBACK.** City officers and employees shall not have or acquire an interest in the Agreement or solicit, accept, or give any item of value from a person or entity with an interest in this Agreement.
- 22. PERMITS, LICENSES, AND CERTIFICATIONS.** Contractor is solely responsible for any license, permit or certificate that may be required by any federal, state or local law

in connection with the performance of Contractor's obligations under this Agreement, including any business license. Contractor may contact the State of Washington Business License Service (BLS) at: 800-451-7985, www.bls.dor.wa.gov/cities/vancouver.aspx or visit the City's website found at www.cityofvancouver.us/businesslicense for assistance with the determination.

23. COOPERATIVE PURCHASING: The Washington State Interlocal Cooperation Act, chapter 39.34 RCW, authorizes public agencies to cooperatively purchase goods and services if all parties agree. By executing this Agreement, Contractor agrees that other public agencies may purchase goods and services under this Agreement at their own cost. City will have no liability or obligation related to Contractor related to that separate agency agreement. Therefore, City agrees to allow other public agencies to purchase services under this Agreement so long as City is not held financially or legally liable for any separate agency services received pursuant to the Agreement, and that any public agency purchasing under this Agreement file a copy of it in accordance with RCW 39.34.040.

24. DEBARMENT: Contractor certifies that it is not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any federal, state or local department or agency.

25. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT: Supplier must agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

26. BYRD ANTI-LOBBYING AMENDMENT: Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Suppliers that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

27. PROCUREMENT OF RECOVERED MATERIALS: Supplier must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

28. NOTICES: All notices will be hand delivered, certified mail, or sent by electronic mail if agreed by the Parties. Notice will be effective when received if hand delivered, on the delivery date if certified mail, or when an email is sent. Notice must be addressed to the Parties at:

For the City:

Anna Vogel

City of Vancouver

415 W 6th Street

P O Box 1995

Vancouver WA 98668-1995

Email: anna.vogel@cityofvancouver.us

For the Contractor:

Kelly Kimball

Brown and Caldwell

6500 S Macadam Ave

Portland, OR 97239

Email: kkimball@brwncald.com

Either Party may update its address for notice by giving written notice to the other Party.

29. ASSIGNMENT. Contractor shall not assign this Agreement without the express written consent of City. Any assignment in violation of this subsection is void. All terms of this Agreement are binding on any assignee.

30. ORDER OF PRECEDENCE: If there is a conflict between the terms of any document, the order of precedence is as follows: Amendments to this Agreement; this Agreement; City Purchase Orders; Contractor's responsive proposal to City's solicitation; and City's solicitation. The Parties agree that terms included on any Purchase Order or other document provided by Contractor are not part of this Agreement.

31. SURVIVAL. Sections 15 - 35 will survive any termination of this Agreement.

32. WAIVER. A Party's waiver of any term of this Agreement must be in writing and signed by the Party waiving compliance.

33. THIRD PARTY BENEFICIARIES. There are no third-party beneficiaries under this Agreement.

34. GOVERNING LAW: This Agreement is governed by the laws of the State of Washington without regard to its conflicts of laws provisions. Venue for any action arising under this Agreement will be the state or federal courts for Clark County, Washington. The Parties waive any claim of inconvenient forum.

35. SEVERABILITY. If a court with jurisdiction over the matter determines any clause of this Agreement is unenforceable, it shall revise the clause to reflect the intent of the Parties as closely as possible. If revision is not possible, the Court shall strike the clause and the remainder of the Agreement will remain in full force and effect.

36. AMENDMENTS: Any amendments to this Agreement must be in writing and signed by all Parties to this Agreement.

37. ENTIRE AGREEMENT: This Agreement, together with any amendments, is the entire agreement between the Parties, and supersedes any other agreement or discussion between them, whether written or oral in nature.

38. COUNTERPARTS. This Agreement may be signed in counterparts. Each counterpart will be deemed an original and together the separate parts will form one Agreement.

City and Contractor enter the Agreement as of the Effective Date.

CITY OF VANCOUVER

A municipal corporation

CONTRACTOR:

Brown and Caldwell

Lon Pluckhahn, City Manager

Signature

Date

Printed Name /Title

Attest:

Date

Natasha Ramras, City Clerk

Approved as to form:

Nena Cook, Interim City Attorney



Exhibit A Scope of Work

6500 S Macadam Avenue, Suite 200
Portland, OR 97239
T: 503.244.7005

Water Station 9 PFAS Treatment System Design Project

City of Vancouver

Phase 1 Scope of Work

January 8, 2024

Project Overview

Per- and polyfluoroalkyl substances (PFAS) are present in the groundwater at Water Station 9 (WS-9) and the City of Vancouver (City) needs to comply with the Environmental Protection Agency's (EPA) PFAS maximum contaminant level (MCL) for drinking water. The City has tasked Brown and Caldwell (BC) to provide professional engineering services to design a PFAS water treatment system at WS-9 located at the Burton Water Works Park at the intersection of NE 39th Street and NE 145th Ave, in Vancouver, Washington. This scope of work describes BC ("Consultant") and the City activities that will occur during the WS-9 PFAS Treatment System Design Project ("Project") for treatment of PFAS in the City's groundwater wells at WS-9. BC will subcontract with Shannon & Wilson for geotechnical, Greenworks for landscape architecture, MWA Architects for architecture (as needed), Emerio for surveying, and ESA for permitting support.

Background

The City owns and operates the third largest state-regulated municipal water system in the State of Washington. Vancouver's source of drinking water is 100% groundwater. There are nine wellfields with a total of 40 wells in the City's system. These wells produce an average daily demand of 27 million gallons (MG) serving approximately 280,000 people. The City's service area covers approximately 72 square miles incorporating areas within the City limits and extending into unincorporated Clark County.

WS-9 is a critical water facility and is one of the most productive water sources for the City. The site is on a 14.31-acre parcel and contains five groundwater wells with a combined capacity of 9,800 gpm. The existing water right at WS-9 is 10,872 gpm.

Water Station 9 consists of the following major components:

- 5 groundwater wells with vertical turbine pumps
- Booster pump station with 10 pumps
- On-site sodium hypochlorite generation (OSHG) system for disinfectant residual
- Fluoride dosing equipment
- 7.0 MG ground level reservoir
- Standby generators

Raw water from the five wells flows through two flowmeters: Wells 3, 4 and 5 are piped to one flowmeter and Wells 6 and 7 are piped to another. Raw water is then piped to a single transmission



main, receives sodium hypochlorite, is fluoridated with sodium fluoride, and flows to the 7.0 MG ground level reservoir. Water is then pumped from the reservoir to the Heights High Pressure Zone. A summary of the WS-9 wells capacities are included below in Table 1.

Table 1: Summary of WS-9 Well Capacities	
Well	Capacity
3	1,600
4	800
5	2,600
6	2,400
7	2,400
Total	9,800

The booster pump station at WS-9 consists of 10 split-case centrifugal constant speed pumps that draw water from a clearwell beneath the current treatment building. The total booster pump capacity is 20,000 gpm (2,000 gpm per pump).

PFAS were first detected in the groundwater at WS-9 in 2021. In 2022, the City hired BC to complete a high-level treatment system conceptual layout and cost estimate to understand the feasibility and cost of adding PFAS treatment at WS-9. The City also completed rapid small-scale column tests (RSSCT) and a pilot test to identify design criteria for full-scale PFAS treatment systems, and the most effective filter media for PFAS removal. The results from these tests will be used to inform the proposed upgrades at WS-9.

Approach

BC will complete the project in three phases:

- Phase 1: Preliminary Design
- Phase 2: Final Design
- Phase 3: Services During Construction

City decisions on treatment approach and necessary design upgrades in Phase 1 will inform the scope of work for Phases 2 and 3. The first phase of the project will include the survey, site evaluation, preliminary design, initial permitting tasks including the assessment of the cultural review, land use pre-application, funding support, and public outreach.

BC will meet with the City early on to understand the current and potential funding sources for WS-9 and outline the compliance requirements and considerations to proactively mitigate potential roadblocks. BC will act in a support role to help the City to seek funding opportunities. The City's approach to securing funding involves evaluating and applying for DOH DWSRF and EPA WIFIA funding. The City has applied for DWSRF and BC is supporting a letter of interest for WIFIA funding under a separate project.

BC has gained knowledge of the City's design preferences through the PFAS treatment design project for Water Station 14 (WS-14) and the Design Standards TM that BC developed for the City. BC will use insights from this previous work to streamline preliminary design and continue developing the City's

PFAS design framework. This effort will provide the basis for selecting the treatment technology and solidify needs around pre-purchasing to inform Phase 2.

Some of the additional key decisions include confirmation of treatment selection and siting evaluation, capacity analysis, early procurement evaluation, ancillary improvements that may be needed, and method for discharge of rinse water. These decisions will be made in the Treatment Selection and Siting Workshop, Capacity and Other Upgrades Meeting, and Early Procurement Meeting. As a part of the meetings, BC will conduct an alternatives analysis that looks at trade-offs and impacts of the design decisions. Once these decisions are made, sizing criteria will be established and the rationale for the decisions will be documented in a Project Engineering Report (PER), including expectations for code requirements. BC will then advance the preliminary design deliverables (30% design level) including the Preliminary Drawings and a Class 4 cost estimate under Phase 1.

Phase 2 of the project will include the detailed design and final design efforts to develop construction documents, which are estimated to take approximately 8 months based on the design elements listed in this scope of work. Additional design elements could be realized through the preliminary design that may change this assumption and the subsequent project schedule. Phase 2 will involve development of the 60 percent design submittal, land use approval package, and 90 percent design submittal, followed by preparation of the 100 percent and final bid documents. BC will also provide bid support.

Phase 3 will include construction and commissioning services including services during construction (SDC) support and on-site construction management and commissioning and start-up support.

Scope of Work Summary and Work Breakdown Structure

The BC Team's scope of services for the WS-9 PFAS Treatment System Design Project is divided into the following phases and tasks:

Table 2: WS-9 PFAS Project Design Tasks		
Phase 1 – Preliminary Design		
Phase 110	Phase 1 Project Management	
	Task 111	Phase 1 Client Meetings
	Task 112	Phase 1 On-going Project Management
Phase 210	Phase 1 Site Assessment	
	Task 211	Survey and Basemap Preparation
	Task 212	Geotechnical Investigation
	Task 213	Review Site Background Information
Phase 310	Conceptual Design	
	Task 311	Treatment Selection and Siting Evaluation
	Task 312	Capacity Analysis and Ancillary Upgrades
	Task 313	Rinse Water Discharge Evaluation
	Task 314	Early Procurement Evaluation
Phase 410	Project Engineering Report (PER)	
	Task 411	Develop Draft PER
	Task 412	Draft PER for DOH

Table 2: WS-9 PFAS Project Design Tasks		
	Task 413	QA/QC
Phase 420	Preliminary Design Drawings and Specifications	
	Task 421	Internal Team Meetings and Design Management
	Task 422	Civil
	Task 423	Landscape
	Task 424	Architectural
	Task 425	Structural
	Task 426	Process/Process-Mechanical
	Task 427	Electrical
	Task 428	Instrumentation and Controls
	Task 429	External meetings
Phase 430	Preliminary Design Submittal, QA/QC, and Cost Estimating	
	Task 431	Preliminary Design Submittal
	Task 432	Cost Estimating
	Task 433	Preliminary Design QA/QC
Phase 510	Permitting & Public Outreach	
	Task 511	Funding Compliance
	Task 512	SEPA
	Task 513	Land Use
	Task 514	Community Outreach
	Task 515	DOH Engagement and Coordination
Phase 810	Phase 1 Unanticipated Services	
	Task 811	Phase 1 Unanticipated Services

This scope of services and level of effort includes the Phase 1 tasks only. Phase 2 will be scoped during Phase 1. This scope, schedule, and budget are expressly developed for the completion of the deliverables summarized herein for Phase 1. We have assumed input and support from City staff and that relevant information and data will be provided by the City. Professional services that may be required beyond this scope may require an amendment. Phase 810 is included to cover unanticipated services for Phase 1.

Phase 1: Preliminary Design

Phase 1 of the project includes the site assessment, conceptual design, PER, preliminary design, initial permitting, and public outreach as detailed in the following phases and tasks:

Phase 110: Project Management

This phase covers project management for Phase 1 efforts.

Tasks 111: Phase 1 Client Meetings

Activities: project kick-off and external PM meetings

Assumptions:

- A project kick-off meeting will be held, in hybrid format with in-person and virtual attendees, for 1.5 hours. The kick-off meeting will also be used to confirm fundamental design criteria and standards to accelerate schedule. Project kick-off is anticipated to be attended by Project Manager (PM), Deputy PM, Design Manager, Process-Mechanical Engineer, two Civil Engineers, Electrical Engineer, I&C Engineer, and Structural Engineer. At the project kick-off, the following foundational decisions will be verified:
 - Design criteria for the two media options
 - No building
 - Level of automation
 - Boom lift for access
- Key staff from the site assessment team will visit the site for the project kick-off.
- External PM meetings will be virtual and will occur weekly with a duration of 60 minutes, attended by 2 consultant staff. Additional time for meeting prep and circulation of post-meeting materials, as necessary, is included in this task budget.

Meetings:

- External project kick-off meeting and site visit
- Weekly virtual PM calls for duration of this phase (not to exceed 5 months). Preliminary design is anticipated to be delivered in 4 months.

City Responsibilities:

- Participate in project kick-off meeting and site visit
- Communicate issues that impact project at weekly PM meetings

Deliverables:

- Brief meeting agendas

Tasks 112: Phase 1 Project Management

Activities/Approach: Provide management, direction, coordination, and control of all work associated with the project schedule, budget, technical quality, and monthly invoices for the project, along with project meetings under this phase. This task includes the following activities:

- Task-level project and staff management
- Project file management
- Creation and maintenance of the project schedule
- Tracking project expenditures versus percent complete
- Communication and coordination with City staff
- Monthly progress report and invoice
- Development of a project management plan (PMP)
- Development and maintenance of the change management log

City Responsibilities:

- Review monthly status reports and supporting project documentation for invoice and payment approval

Deliverables:

- Monthly progress reports and invoices
- Project schedule

Phase 210: Site Assessment

Task 211: Survey and Basemap Preparation

Activities: The following activities will be performed by survey subconsultant Emerio Design LLC.

- Provide prioritized needs for survey effort.
- Complete survey to prepare a basemap for the treatment improvements with horizontal and vertical datum
- Survey to include:
 - Existing buildings exterior and roof overhangs
 - Property boundaries and easement boundaries, with information on the owner of each property and easement in favor of
 - Location and limits of all at-grade features, including but not limited to paved areas, curbs and gutters, fences, walls, outside structures, and vegetation
 - Spot elevations and contours of existing grade and existing features
 - Location of existing site underground utilities
 - Electrical and communications lines
 - Location of existing utilities in the right-of-way
 - To support additional sewer connection, NE 145th St. frontage including ground elevations, sidewalk, existing utilities and manholes, light poles, hydrants, fencing, and meters
 - To support entrance, ground elevations and existing utilities and manholes
 - DTM/TIN surface with elevations

- Existing trees 6" diameter breast height (DBH) and greater on City property and trees on adjacent properties where canopy overhangs City property and root zone could be impacted by improvements
- An allowance is included for potholing of critical water utilities on the site
- Survey location and elevation of geotechnical borings and cultural exploration locations in a separate trip
- Coordinate with other utilities for locates if there are other non-City owned utilities in an easement through the site

Assumptions:

- BC will use the subconsultant to conduct the site survey.

Deliverables:

- BC to develop site survey basemap in Civil 3D format for incorporation into the design.

Task 212: Geotechnical Investigation**Activities:**

- Review existing soils data and develop an exploration layout for up to two borings, two test pits for infiltration testing, and two shallow Dynamic Cone Penetrometers for pavement design.
- Develop site exploration plan for DOH SRF funding.
- Perform infiltration testing in the two test pits. The infiltration testing will be conducted in general accordance with the Small-Scale Pilot Infiltration Test procedure described in Appendix I-C of the 2021 Clark County Stormwater Manual.
- Develop a laboratory testing program based on the results of the geotechnical borings and test pits. For planning purposes we assume up to 8 grain size analyses, 4 Atterberg limits tests, and corrosion testing on two samples (DIPRA plus chlorides).
- Install a vibrating wire piezometer and one data logger to monitor groundwater levels for up to 6 months. Data will be collected from the data logger on two occasions.
- Perform geotechnical analysis and provide recommendations to support:
 - Foundations including both shallow and deep foundations (if required)
 - Meter vault subgrade/backfill/shoring/lateral earth pressures (including traffic surcharge pressures)/conceptual dewatering alternatives
 - Pipe bedding/backfill/conceptual shoring and dewatering alternatives
 - Pavement
 - Unfactored infiltration rates of soil
- Prepare a geotechnical data report (GDR) containing the boring logs and results of the laboratory testing.
- Evaluate the seismic hazards including the seismic site class, liquefaction potential to the depth explored, and lateral spread, and potential for surface fault rupture.

- Prepare a geotechnical engineering report (GER) containing the results of our geotechnical analyses to support design development and the City's permitting process.
- Review of geotechnical related plans and specs.

Assumptions:

- No contamination will be encountered, and soils can be disposed of at site that accepts clean fill.
- Test pits will be backfilled with soils from the excavation using minimal compaction.
- A 275-gallon water tank will be used to complete the infiltration testing. An on-site water source will be available to use to support the infiltration testing and drilling at no expense to subconsultant.
- Two borings will be advanced to maximum depths of 45 to 75 below ground surface or practical refusal using mud-rotary drilling techniques.
- Traffic loads will be provided by others for pavement design.
- Structures will have a period of less than 0.5 seconds, and Shannon & Wilson will provide a code-based design spectrum. No site-specific design spectrum will be required.
- If liquefaction is identified as a potential hazard, conceptual mitigation strategies will be provided and recommendations for shallow and deep foundations (if required). A discussion of conceptual ground improvement options can be provided, but our scope does not include final design of ground improvement systems.
- Dewatering and shoring evaluations will be conceptual in nature and the final design will be performed by the construction contractor and design professionals retained by the contractor.
- The City will support utility locates in terms of site access and utility communications. Any utility plan drawings shall be provided by the City prior to commencement of our exploration program.
- The City of Vancouver will provide access to the site and any permit fees required by drilling will be paid by others.
- New structures will not be buried greater than 10 feet in depth.

Deliverables:

- GDR, Draft
- GER, Draft

Task 213: Review Site Background Information

Activities:

- Collect and review background information:
 - City will provide best available existing site plans which include the electrical service location and other utilities, and data communication.
 - Record drawings for existing WS-9 facilities for all design disciplines
 - Buried utility maps
 - Existing supervisory control and data acquisition (SCADA) communication infrastructure
 - Pump curves for installed pumps
 - Water quality data for WS-9. The City will collect additional samples ahead of this task to confirm design criteria for new PFAS treatment system and potential OSHG improvements.
 - Existing on-site sodium hypochlorite generation system and fluoride dosing system design information
 - Existing Geotechnical Report(s)

Assumptions:

The City will provide the requested information that is available within 10 days of request in electronic format.

Phase 310: Conceptual Design

BC will prioritize key decisions in the conceptual design development for City consensus based on experience at WS-14. This will include targeted evaluations for treatment train selection and siting, capacity analysis, and pre-purchase evaluation. Outcomes will be further documented in the PER.

Task 311: Treatment Selection and Siting Evaluation

The City elected for GAC media with the flexibility to switch to IX media in the future at WS-14 and WS-4. This effort is to confirm whether the same approach should be pursued related to treatment selection.

Activities:

- **Treatment technology selection.** Present considerations for GAC vs. IX media for WS-9. Specific considerations that are unique to WS-9 will be considered, such as the available site space, hydraulic considerations, and number of treatment vessels required.
- **Treatment location within existing process.** Present two options to place PFAS treatment after the raw water pumps or after the booster pumps, including preliminary process flow diagrams (PFDs), and the trade-offs between these two options.
- **Treatment location on the site.** Complete early siting evaluation to present two different options for PFAS treatment for review and feedback.
- **Pretreatment.** Prefiltration is required for IX, but may not be required with GAC based on BC's preliminary reviews of water quality, historical sanding, and guidance from GAC media providers. Review additional water quality testing and evaluate the need for prefiltration based on the other additional decisions for treatment selection. The required space and access for prefiltration will be determined.
- **Rinse Water Storage.** City preference for one or two rinse water tanks will be discussed in the context of the treatment selection and start-up considerations. This decision may be decided at a later meeting.

BC will lead an in-person Treatment Selection and Sizing Workshop and hold a follow-up virtual call if there are any decisions that still need to be informed/decided.

Assumptions:

- BC will present the options at the Treatment Selection and Sizing Workshop via a PowerPoint presentation one week in advance of the meeting. No technical memorandums (TM) will be developed.
- Architectural: it is assumed that vessels and electrical equipment will be located outside and there will be no new building allowance for additional storage, lab sink, and/or office space, etc.
- Treatment Selection and Siting Workshop will last 2.5 hours in person. A second virtual meeting will be held if there is more information necessary to make an informed decision. Both meetings will be attended by 5 consultant staff.
- Any conceptual layouts will be markups of existing site plan in Bluebeam, prepared in PDF format, and presented during the meeting.

Deliverables:

- Treatment Selection and Siting Presentation (1 week ahead of meeting)
- Treatment Selection and Siting Workshop (in-person)
- Second Treatment Selection and Sizing Meeting (potential – virtual)
- Meeting minutes documenting key decisions for each meeting

Task 312: Capacity Analysis and Ancillary Upgrades

Activities: This task will identify any current or future actions necessary to support the operation of the PFAS treatment system and meet the City's production goals. This will involve the following activities:

- Provide design recommendations for modifications, assess their criticality for immediate implementation within the project, or determine if they can be deferred as a capital improvement project
- Chemical dosing analysis: confirm need to relocate existing chlorine and fluoride injection points. Determine if existing chlorine chemical dosing location could be leveraged for perchlorinating to reduce biological fouling.
- OSHG system upgrades: based on findings of analysis, site visit, condition assessment, and feedback from the City, determine need of implementing reverse osmosis (RO) pre-treatment upstream of the OSHG system and if major components of the existing OSHG should be replaced or upgraded.
- Hydraulic Assessment: Both GAC and IX technologies will remove PFAS, but these technologies add hydraulic losses. This task will involve the following activities:
 - Update BC Fathom hydraulic modeling completed as a part of the PFAS Treatment Feasibility Study and WS-14 to confirm that the current well pumps need to be upgraded (four of five well pumps were estimated to need upgrades).
 - Media Backwash/Flushing Design: Treatment media cleaning is an important consideration for either GAC or IX design. The existing distribution system pressure can be used as the supply to either backwash (GAC) or forward flush (IX). For GAC systems, the backwash design is an important consideration. This task will involve the following:
 - Evaluate system pressure to determine feasibility of backwash supply from system pressure or if additional pumping capacity and storage volumes are needed.
- Booster Pumps: Assess condition of existing booster pump station and the potential for improvements and upgrades.
- Stormwater: Identify low-maintenance system for site drainage management, in alignment with the City preferences for best management practices (BMPs), that can accommodate new structure runoff based on infiltration results and soils evaluation completed during the site assessment phase.
- Site Improvements: Present site improvement upgrade alternatives for truck access to WS-9 from NE 39th street. Discuss the City's preferred layout to access key facilities throughout the site.
- Electrical: Assess if the new loads, as defined by the process mechanical improvements defined above, can be supported by existing standby generators or if upgrades are required. Confirm if overall electrical system upgrades (normal utility power) are triggered by the process mechanical upgrades defined above.
- Control System Upgrades: Determine where upgrades are required (due to age, compatibility with recent WS-9 system upgrades, or to assist the City with standardization) to the existing control system. A component of the control system upgrade will include site security upgrades which shall

include access improvements as well as the addition of camera systems. These recommended upgrades will be discussed with the City and advanced to design stage, as requested by the City.

Assumptions:

- Cut sheets, electrical loads and one-line diagrams for existing equipment will be provided by the City.
- Two virtual, 2-hour meetings will be held and attended by up to 7 consultant staff.
- Any layouts and diagrams will be prepared/marked up using existing record drawings in Bluebeam PDF and presented at a planning level during the meeting.

Deliverables:

- Capacity Analysis and Ancillary Upgrades meeting agenda and minutes.
- Electrical, Instrumentation, and Control Workshop and meeting minutes.

Task 313: Rinse Water Discharge Evaluation

Activities: This task aims to determine the City's preferred approach for management and discharge of rinse water from the PFAS treatment system. The anticipated approach will be to design one or more rinse water tanks to settle solids and discharge to the City's sewer system. This task will involve the following activities:

- Review lessons learned and design standards established by WS-14 and WS-4.
- Evaluate rinse water storage, pretreatment, and pumping needs.
- Explore the option to discharge to stormwater through a WTP General Permit to discharge to an infiltration basin for surface dispersion
- Confirm infiltration basin feasibility based on site-specific soils evaluation. Task to be completed in tandem with Task 212.

Assumptions:

- Discharge location will be finalized in Phase 1.
- Two meetings will be held as virtual, 1-hour meetings, and attended by 5 consultant staff.
- If sewer discharge is preferred, a second meeting will be attended by a representative from the City sewer department that can provide feedback on the proposed design approach.

Deliverables:

- Two Rinse Water Discharge Design Meetings minutes and agendas

Task 314: Early Procurement Evaluation

Activities: This task will focus on supporting the City in evaluating pre-purchasing equipment based on lead times from equipment vendors and funding restrictions. This will involve the following activities:

- Develop equipment list with long lead times based on the findings from Tasks 311, 312, and 313.
- Assess if electrical service upgrades are required and develop upgrade plan with Clark Public Utilities (CPU) to minimize schedule impact.
- Evaluate pre-purchasing approaches, such as a separate bid package(s) or developing a master services agreement with a manufacturer that complies with funding requirements
- Coordinate with funding staff on compliance of pre-purchase options
- Assess benefits and risks of different approaches based on estimated equipment lead times, long-term standardization, and estimated contractor mark-up.
 - Team will assess specifically vessels, media, rinse water tank, electrical equipment, pumps and motors.

- Hold pre-purchasing meeting

Assumptions:

- Pre-purchasing meeting will be a virtual, 2-hour meeting, attended by 4 consultant staff.
- Meeting with CPU will be a virtual, 1-hour meeting, attended by 4 consultant staff.

Deliverables:

- Pre-purchasing Evaluation TM
- Preparatory materials and meeting minutes for the pre-purchasing meeting with the City and electrical service meeting with CPU.

Phase 410: Project Engineering Report (PER)

During this phase, BC will develop a PER for DOH approval. The PER document will serve as a basis of design, documenting the decisions in Phase 310.

Task 411: Develop Draft PER

Activities: The primary focus of this PER will be design documentation including the rationale for design decisions, including the following:

- An overall conceptual equipment layout on the site
- Preliminary construction sequencing plan for equipment installation
- Mechanical design criteria, including PFAS treatment system, rinse water handling, and piping and discussion of pumps and motors, piping and valves
- Structural design criteria, including codes and standards, design loads, seismic design requirements, safety factors, and materials.
- Electrical design criteria, including utility power supply, back-up power supply, site lighting, equipment, telemetry, and controls.
- Instrumentation and control (I&C) design criteria including level of automation, instruments and hardware, local and remote networking with existing SCADA.
- Site security improvements and subsequent design criteria.

Assumptions:

- The document and format will largely follow the PER submitted to the City and DOH for WS-14.
- PER meeting with City will be a virtual, 1-hour meeting.

Deliverables:

- PER, Draft for City Review
- PER discussion meeting agenda and minutes

Task 412: Draft PER for DOH

Activities:

- Address City comments on Draft PER
- Incorporate any changes from preliminary design document feedback from City

Assumptions:

- DOH meeting will be a virtual, 1-hour meeting.

Deliverables:

- PER, Draft for DOH Review
- DOH PER Discussion Meeting agenda and minutes

Task 413: QA/QC

Activities: Review PER and revisions by qualified, senior subject matter experts (SMEs).

Phase 420: Preliminary Design Drawings and Specifications

Activities/Approach: Once the conceptual design work and Draft PER are complete, BC will proceed with developing preliminary design documents. The preliminary design submittal will involve the following design activities, based on the listed activities and assumptions:

- Drawings will be prepared using BC CAD standards with the exception of the cover sheet. A combination of Revit and AutoCAD version 2023 will be used.
- Refer to Attachment A for a list of the anticipated Drawings to be provided with the Preliminary Design package.
- The City will provide a list of standard or preferred manufacturers for major equipment identified in Task 412.
- Each discipline lead will attend an internal kick-off meeting and select staff will complete a site visit (civil, process-mechanical, I&C/electrical, structural, and landscape architect) to capture information not previously covered in the kick-off meeting site-visit and to confirm design approach.
- List of anticipated specifications to be developed during Phase 2. Develop draft specifications for pressure vessel, treatment media, and major pump upgrades.

Preliminary Design Assumptions:

- A new building for the PFAS treatment equipment was not included for this preliminary design phase to reduce design and construction costs.
- Preliminary Design Review Workshop will be in a hybrid format, with in-person and virtual attendees, and last 2.5 hours for up to 10 Consultant staff.

Preliminary Design Deliverables:

- Preliminary design drawings
- Technical specifications table of contents
- Technical specification for pressure vessel, media, and major pump upgrades
- Preliminary Design Review Workshop

Task 421: Internal Team Meetings and Design Management Coordination

Activities:

- Weekly internal Team Meetings
- Design Management and Coordination
- Building Information Modeling (BIM)/CAD Management and Coordination
 - Produce BIM Execution Plan (BxP) describing CAD and modeling goals
 - Set-up of drawing package general sheets, and coordination between designer leads.
 - Bi-weekly designer coordination meetings over 1.5 months
 - Modeling for placement of equipment layout for PFAS Facility.
 - 3D model development to facilitate internal design reviews, and presentation to the City.
- **Assumptions:**
- Internal kick-off meeting: 1 hour
- Up to 20, 1-hour internal weekly design team meetings

Task 422: Civil

Activities:

- Develop the site layout, including conceptual yard piping, site drainage, and slopes, based on the project requirements identified in the PER.
- Prepare preliminary civil design of new access road to the new PFAS treatment system that is capable of handling a media slurry truck
- Prepare preliminary civil drawings for the 30 percent design submittal
- Prepare preliminary drainage plan
- Identify construction constraints, sequencing and lay-down areas.

Assumptions:

- Preparation of technical specifications will not be provided.
- Preliminary plan for site landscaping to be coordinated between civil discipline and landscape architect
- Street improvements in the ROW, curb and gutter, a driveway, or pavement is not required.
- The new pollution generating surface will be over 5,000 square-feet and will therefore require a SWPPP, a drainage Technical Information Report, and stormwater treatment BMPs for site runoff.
- No changes to pedestrian and vehicular access to the existing buildings will be provided.

Task 423: Landscape

Activities:

- Support pre-application meeting materials.
- Prepare plan for landscape, which is documented in PER.
- Prepare preliminary landscape planting plan for the preliminary design submittal.
- Identify preliminary irrigation point of connection.
- Develop a tree plan to identify species, native, healthy, remove, keep, etc.

Assumptions:

- Tree survey to include location and species of existing trees with 6" diameter breast high (DBH) and greater.
- Preparation of technical specifications will not be provided.
- Preliminary plan for site landscaping to be coordinated between civil discipline and landscape architect.

Task 424: Architectural

Activities:

- No activities are anticipated. Proposed equipment will be constructed outside or inside existing buildings.

Task 425: Structural

Activities:

- Review geotechnical findings under Task 213 as available
- Preliminary design of new concrete foundation slab for PFAS Treatment Area
- Preliminary design of new concrete foundation slab for two rinse water storage tanks

Assumptions:

- No building will be designed to house PFAS treatment equipment.

Task 426: Process/Process-Mechanical**Activities:**

- Develop treatment system design concept. The preliminary design drawings will be based on the decisions from Phase 310.
- Develop 3D model for the GAC or IX treatment system
- Chemical dosing: based on the findings from Task 320, potentially design reverse osmosis (RO) pretreatment upgrades for the OSHG system, relocate existing chlorine and fluoride injection points, and provide discussion and recommendations on perchlorinating to reduce biological fouling.
- Prepare bottom half of P&IDs.
- Advance equipment selection, sizing calculations, hydraulic modeling from conceptual design.
- Prepare process control narratives.
- Prepare preliminary process/mechanical drawings for the preliminary design submittal
- Prepare draft specifications for primary design elements including pump upgrades, pressure vessels, and media.

Assumptions:

- Distribution system can provide backwash flow, which will range from 400 to 1,200 gallons per minute (gpm), so no backwash pumps are required.
- District's asset numbering system used for WS-14 will be used on this project.
- Well pump upgrades for four well pumps are assumed. No upgrades for the booster pumps are included.
- No building mechanical or plumbing activities are anticipated in Phase 1.

Task 427: Electrical**Activities:**

- Review existing facility record drawings and electrical diagrams.
- Review electric utility service records.
- Conduct site visit to confirm power distribution systems for the existing WTP facilities and loads, and confirm existing one-lines, electrical equipment ratings and capacities, and demolition impacts.
- Provide code review of existing electrical system.
- Determine electrical requirements for new PFAS Treatment system, potential OSHG improvements, and potential pump upgrades. Determine best way to power new and existing equipment and advise on recommended improvements.
- Determine if existing backup generators are adequate to support the additional loads.
- Determine if existing electrical services are adequate to support the additional loads.
- Develop preliminary design criteria for electrical as part of PER.
- Develop preliminary electrical one-line drawing.

Assumptions:

- No electrical power system modeling or coordination/arc flash studies are included as part of this electrical scope.
- Existing utility maximum demand meter readings obtained from the City power utility for the prior 24 months will be provided to the consultant by the City. In addition, 30-day, demand meters may be requested to be installed on existing electrical distribution equipment, as determined by the consultant during preliminary design, and installed by the City's electrician.
- A preliminary site and lighting plan will be provided.
- No sound modeling will be performed in Phase 1 of this scope of work. If the generator requires replacement, then sound modeling will be incorporated into Phase 2.
- The site has two generators: one for the well pumps and one for the booster pumps.
- The site has three electrical services: two for the well pumps and one for the booster pumps.

Task 428: Instrumentation & Controls**Activities:**

- Determine any City preference for instrumentation and controls (I&C) as part of the PER and prepare specification sections required for Phase 2.
- Determine communication requirements for PFAS system to interface with City's existing SCADA system as part of developing preliminary SCADA communication network drawing.
- Develop preliminary design criteria for I&C and confirm what will be automated versus manual as part of the PER.
- Determine location of PFAS treatment control system as part of developing preliminary SCADA communication network drawing.
- Determine City's preferences for site security and remote monitoring as part of the PER and prepare specification sections and network drawing if required for Phase 2.
- Develop preliminary SCADA communication network drawing
- Develop preliminary process control descriptions as part of the PER and further detail as a specification section in Phase 2.
- Develop preliminary P&IDs for PFAS treatment system.

Assumptions:

- No SCADA integration programming work is envisioned for this project. The City will leverage their local system integrator for all programming and graphic development.
- Not all P&IDs will be in Phase 1. Phase 1 will target preliminary P&IDs that are required by Process/Process-Mechanical. The electrical interconnection from field device to SCADA will not be shown until Phase 2.
- PFAS Treatment control system will be PLC based on Siemens and may be a standalone PLC similar to previous projects (WS14) with networking into the site existing control system.
- Workshops will be a virtual, 1-hour meeting, attended by 3 consultant staff.
- Development of a site security network diagram if required will be provided as part of drawings for Phase 2.

Task 429: External Meetings

Activities:

- BC will facilitate a 2.5-hour workshop to discuss design progression with the City. The meeting will be held in-person with some team members attending virtually.
- BC will hold an asset naming convention and P&ID meeting that will be a virtual, 1-hour meeting, attended by 4 consultant staff.

Assumptions:

- Workshop attendees from BC will include 5 BC staff.
- An Asset Naming/P&ID virtual meeting will include 4 BC staff.
- A total of twenty-four (24) additional hours has been assumed for various discipline leads for meeting participation on an as-needed basis.

Deliverables:

- Preliminary Design Workshop agenda and minutes
- Asset Naming/P&ID Meeting agenda and minutes

Phase 430: Preliminary Design Submittal and Cost Estimating

Task 431: Preliminary Submittal Development

Activities:

- Prepare submittal package for City review

Assumptions:

- Refer to Attachment A for the Preliminary Design Drawing List and Specifications
- At the conclusion of the Preliminary design review, no changes are expected to the major equipment sizing and locations.
- City comments will be received within 10-working days as one set of comments.
- Comments will be resolved and incorporated into the intermediate design submittal.
- Submittals will be electronically delivered pdf files.

Deliverables:

- Preliminary Design Documents as defined in Attachment A
- Comment response log to preliminary design comments from the City
- Phase 2 scope of work, schedule, and budget

Task 432: Preliminary Cost Estimate

Activities:

- Develop a Class 4 opinion of probable construction cost (OPCC), as defined by the Association for the Advancement of Cost Engineering International (AACEI). The expected accuracy of this Class is from -30 to +50 percent.

Assumptions:

- BC will use preliminary equipment quotes where available for major equipment.

Deliverables:

- Class 4 Opinion of Probable Construction Cost and Basis of Estimate Memo

Task 433: QA/QC

Develop and implement a quality assurance/quality control (QA/QC) program to review calculations and work products from the project. Based on the Quality Management Plan, provide appropriate calculation and deliverable QA/QC reviews by in-house, senior staff members. Incorporate internal and City review comments to prepare and complete final work products.

Activities:

- Senior review of preliminary design package

Phase 510: Permitting and Outreach

This phase will support the land use permitting, funding compliance, and community engagement.

Task 511: Funding Compliance

Activities:

- Support City staff as requested to obtain funding and meet funding requirements through sources such as the Environmental Protection Agency (EPA) Water Infrastructure Finance and Innovation Act (WIFIA) and Department of Health (DOH) Drinking Water State Revolving Fund (DWSRF).
- If the decision is to move forward with some type of pre-purchase agreement, the City may need to confirm documentation requirements, integration of federal requirements into any pre-purchasing approaches and if sole sourced, identify what will be required to keep eligible. BC is available to support the pre-purchase agreement as requested.

Assumptions:

- Funding assistance effort to be not greater than 40 hours
- BC will act in a supporting role for City staff
- Support meetings with funding agencies

Deliverables:

- Funding meetings' presentation and meeting minutes.

Task 512: Permitting Matrix and SEPA

Washington's State Environmental Policy Act (SEPA) (RCW 43.21) requires local and state agencies to consider possible environmental impacts in their decision-making processes. A SEPA determination on whether environmental impacts are significant must be made by the City of Vancouver Community Development Department prior to issuing permits for the project, and that determination is also needed in order for WADOH to complete its environmental review for State Revolving Fund funding.

The following outlines a scope for ESA to complete a Draft SEPA Environmental Checklist during Phase 1 of the WS9 PFAS treatment project, based on the preliminary design. This would help ensure that the required environmental considerations are addressed in the preliminary design phase. A Final SEPA Checklist and SEPA Determination would be completed in Phase 2, as design detail advances and in support of the permitting process in Phase 2.

Activities:

- Complete background research and identify the necessary project permits through communication with state and City of Vancouver permit contacts.
- Develop a draft permitting matrix that summarizes the project project's applicable state and local environmental and land use permit requirements, permit triggers, key scheduling

milestones, submittal requirements, permitting contacts, and recommended timing of submittals.

- Coordinate directly with BC project management and design team as needed to fulfill environmental requirements and prepare permit matrix.
- Conduct research and use information from field investigations for other tasks to complete a Draft SEPA Environmental Checklist for the project's preliminary design.
- Prepare the Draft SEPA Environmental Checklist using the City of Vancouver's template, which is formatted to include the required information stated in WAC 197-11-960 and address subject areas including Earth, Air, Water, Plants, Animals, Energy and Natural Resources, Environmental Health, Noise, Land and Shoreline Use, Housing, Aesthetics, Light and Glare, Recreation, Historic and Cultural Preservation, Transportation, Public Services, and Utilities.

Assumptions:

- The duration of Phase I of the project is anticipated to be 5 months.
- No wetlands or streams are assumed to be on site. No field investigations or site visits are included in this scope.
- No additional traffic studies or counts will be conducted as part of preparing the SEPA Checklist documentation.
- The SEPA Environmental Checklist will be finalized in Phase 2 of the project, when design is advanced to a level suitable for permit application submittals. Comments received from the City of Vancouver will be addressed in the Final SEPA Environmental Checklist in Phase 2.
- The City will prepare and publish a Determination of Non-Significance, based on the Final SEPA Checklist (prepared in Phase 2).
- It is assumed an Environmental Impact Statement will not be required to satisfy SEPA review/documentation requirements for this project, and EIS preparation is not included in this scope.
- Cultural resources investigation will be summarized in the Draft SEPA Checklist based on work completed under separate tasks/contracts.
- SEPA review/filing fees will be paid by City of Vancouver in Phase 2.
- It is assumed the following City of Vancouver land use reviews/permits will be needed: Type I Conditional Use Permit; Type I Site Plan Review; SEPA Determination.

Deliverables:

- Draft permitting matrix
- Draft SEPA Checklist

Task 513: Land Use

Activities:

- Develop preliminary site plan for pre-application meeting.
- Develop two-page project narrative.
- Participate in pre-application meeting
- Review of post pre-application conference document
- Response to City comments

Assumptions:

- The City will submit the documentation to the Land Use Planning Department.
- Pre-Application Meeting will be a virtual, 1-hour meeting, attended by 4 consultant staff.

Deliverables:

- Develop preliminary site plan for pre-application meeting.
- Develop two-page project narrative.
- Pre-application meeting minutes

Task 514: Community Engagement

Given the public interest in PFAS, there may be significant interest in the WS-9 design. The BC team will use our in-house PFAS rendering and communications teams to support neighborhood meetings or additional outreach to the community.

Activities:

- Develop materials to communicate proposed design for Neighborhood Meetings, specifically design renderings
- General support to City to develop presentation materials for public outreach and engagement, as requested.

Assumptions:

- Graphics and presentations support estimated to be not greater than 40 hours.
- City Council meeting attendance is not required.
- Consultant staff will not attend Neighborhood Meeting and provide support for meeting materials only.

Deliverables:

- Presentation materials to include at least one existing site graphic and one site visualization graphic/rendering.
- One handout-type document

Task 515: DOH Engagement and Coordination

BC's approach is to bring DOH along from the beginning to introduce them to the project, meet with them around submittal of the PER.

Activities:

- Meet with DOH to discuss PFAS treatment design approach
- Meet with DOH to present preliminary design criteria in a DOH pre-design meeting

Assumptions:

- Initial meeting to discuss any concerns with GAC vs. IX treatment design and introduce design schedule.
- DOH coordination for the 106 determination is accounted for in Task 511.
- PER to be delivered to DOH as Phase 1 work transitions to Phase 2 work.

Deliverables:

- Meeting presentation and minutes

Phase 810: Unanticipated Services

Objective: Provide budget allowance for potential additional work requested by the City.

Task 811: Phase 1 Unanticipated Services

Activities/Approach: To be determined, based on City requests. No work will be completed under this task without written direction from the City. The budgeted amount for unanticipated services is as provided in Exhibit B.

Task Assumptions:

- Brown and Caldwell will prepare a Project Change Request (PCR) describing each additional and identifiable task under this allowance. The PCR will include a short description of the added scope with budget to be authorized prior to proceeding, unless otherwise directed in writing by the City.
- Effort for this task could include 3D scanning of existing facilities, upgrade of the booster pumps, design of the reverse osmosis (RO) system for the OSHG system, or upgrades to the existing electrical services or standby generators. An assessment is included above, but not a cost for the preliminary design of improvements.

City Responsibilities:

- Provide direction and authorization for requested additional work.

Meetings:

- To be determined.

Work Products:

- To be determined.

Schedule

The first PFAS sample to meet the PFAS maximum contaminant level (MCL) running annual average (RAA) occurs in the second quarter of 2028 (April thru June of 2028). The goal is for the PFAS treatment system to be online prior to this first RAA sampling.

Phase 1 of the project is estimated at 5 months with the key deliverables and meeting milestones dependent on the notice to proceed (NTP) timing. The predesign effort is anticipated to take 4 months with an additional month for permitting support. Phase 2 (final design) duration is estimated at 8 months following the preliminary design. Note that some of the permitting and community outreach tasks started under Phase 1 will continue under Phase 2. A detailed schedule is provided in Attachment B. Phases 1 and 2 of the design is targeting a duration of 12 months.

Budget

The budget is summarized in Exhibit B.

Attachment A

Proposed Preliminary Drawing List

Drawing Number	Drawing Title
G-000-001	COVER SHEET
G-000-002	DRAWING INDEX
G-000-101	GENERAL NOTES AND SYMBOLS
G-000-201	ABBREVIATIONS 1
G-000-202	ABBREVIATIONS 2
G-000-501	PROCESS FLOW DIAGRAM
G-000-502	DESIGN CRITERIA SUMMARY
G-000-503	PFAS TREATMENT HYDRAULIC PROFILE
G-000-504	RINSE WATER DISCHARGE HYDRAULIC PROFILE
C-000-001	CIVIL LEGEND AND GENERAL NOTES
C-000-101	SITE DEMOLITION PLAN
C-000-102	OVERALL SITE PLAN
C-000-201	ENLARGED SITE PLAN 1
C-000-202	ENLARGED SITE PLAN 2
C-000-301	TEMPORARY EROSION AND SEDIMENT CONTROL PLAN
C-000-302	PAVING PLAN
C-000-303	GRADING AND DRAINAGE PLAN
C-000-304	DRAINAGE PLAN
C-000-401	YARD PIPING AND UTILITY PLAN 1
C-000-402	YARD PIPING AND UTILITY PLAN 2
C-000-601	YARD PIPING PROFILES 1
C-000-602	YARD PIPING PROFILES 2
L-000-001	TREE REMOVAL AND PRESERVATION LEGEND AND NOTES
L-000-002	LANDSCAPE LEGEND AND NOTES
L-000-101	LEVEL II TREE VEGETATION, AND SOIL PLAN 1
L-000-102	LEVEL II TREE VEGETATION, AND SOIL PLAN 2
L-000-201	LANDSCAPE PLAN 1
L-000-202	LANDSCAPE PLAN 2
S-000-001	STRUCTURAL GENERAL NOTES 1
S-000-002	STRUCTURAL GENERAL NOTES 2
S-P01-101	PFAS TREATMENT FOUNDATION PLAN
S-P01-102	PFAS TREATMENT ENLARGED PLAN 1
S-P01-103	PFAS TREATMENT ENLARGED PLAN 2
S-P02-101	RINSE WATER TANK PLAN AND SECTION 1
S-P02-101	RINSE WATER TANK PLAN AND SECTION 2
D-000-001	PROCESS GENERAL NOTES, LEGEND, AND SYMBOLS
D-W04-102	WELL 4 PUMP IMPROVEMENTS PLAN AND SECTION
D-W05-103	WELL 5 PUMP IMPROVEMENTS PLAN AND SECTION
D-W06-104	WELL 6 PUMP IMPROVEMENTS PLAN AND SECTION
D-W07-105	WELL 7 PUMP IMPROVEMENTS PLAN AND SECTION

Drawing Number	Drawing Title
D-P01-101	PFAS TREATMENT OVERALL PLAN
D-P01-202	PFAS TREATMENT ENLARGED PLAN 1
D-P01-203	PFAS TREATMENT ENLARGED PLAN 2
D-P01-204	PFAS TREATMENT ENLARGED PLAN 3
D-P02-101	RINSE WATER TANK PLAN 1
D-P02-102	RINSE WATER TANK PLAN 2
D-P01-301	PFAS TREATMENT SECTIONS 1
D-P01-302	PFAS TREATMENT SECTIONS 2
D-P02-305	RINSE WATER TANK SECTIONS AND DETAILS 1
D-P02-306	RINSE WATER TANK SECTIONS AND DETAILS 2
D-P01-901	3D ISOMETRIC VIEW 1
D-P01-902	3D ISOMETRIC VIEW 2
D-P01-903	3D ISOMETRIC VIEW 3
E-000-001	LEGEND AND SYMBOLS 1
E-000-002	LEGEND AND SYMBOLS 2
E-000-003	ABBREVIATIONS AND GENERAL NOTES
E-000-101	SITE AND AREA LIGHTING PLAN
E-000-801	OVERALL SITE ONE-LINE DIAGRAM
E-P01-101	PFAS TREATMENT POWER, CONTROL, AND SIGNAL PLAN
E-P02-101	RINSE WATER TANK POWER, CONTROL, AND SIGNAL PLAN
E-W04-101	WELL 4 PLAN
E-W05-101	WELL 5 PLAN
E-W06-101	WELL 6 PLAN
E-W07-101	WELL 7 PLAN
I-000-001	LEGEND AND SYMBOLS 1
I-000-002	LEGEND AND SYMBOLS 2
I-000-003	LEGEND AND SYMBOLS 3
I-W04-101	WELL 4
I-W05-101	WELL 5
I-W06-101	WELL 6
I-W07-101	WELL 7
I-P01-101	PFAS TREATMENT CONTROL
I-P01-102	PFAS TREATMENT TRAIN 1
I-P01-103	PFAS TREATMENT TRAIN 2
I-P01-104	PFAS TREATMENT TRAIN 3
I-P01-105	PFAS TREATMENT TRAIN 4
I-P01-106	PFAS TREATMENT TRAIN 5
I-P01-107	PFAS TREATMENT TRAIN 6
I-P01-108	PFAS TREATMENT TRAIN 7
I-P01-109	PFAS TREATMENT TRAIN 8
I-P01-110	PFAS TREATMENT TRAIN 9

Drawing Number	Drawing Title
I-P01-111	PFAS TREATMENT TRAIN 10
I-P02-101	RINSE WATER TANK
I-P02-102	RINSE WATER DISCHARGE

Proposed Preliminary Specification List

Division 43 – Process Gas and Liquid Equipment

43 23 62 Variable Speed Vertical Turbine Pumps

43 31 13.13 Vertical Liquid Pressure Vessel System

Division 46 – Water and Wastewater Equipment

46 61 16 PFAS Treatment Media

Attachment B
WS9 PFAS Treatment Design Budget

ID	Task Name	Start	Finish	Rem. Dur.	Predecessors	Successors	Inter		1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			1st Quarter				
							Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb			
1	Vancouver WS9	Thu 12/12/24	Mon 7/21/25	158 days																					
2	Phase 1 NTP	Mon 2/17/25	Mon 2/17/25	1 day		4,5FS+5 da																			
3	Phase 110: Project Management	Tue 2/18/25	Mon 7/21/25	110 days																					
4	Project Initiation and Sub Agreements	Tue 2/18/25	Mon 3/3/25	10 days	2																				
5	BC Team Kickoff	Mon 2/24/25	Mon 2/24/25	0 days	2FS+5 days	30,51,86FS																			
6	Prepare BC PMP	Tue 2/18/25	Mon 2/24/25	5 days	2																				
7	Ongoing PM	Tue 2/18/25	Mon 7/21/25	110 days	2																				
8	Phase 210: Site Investigation	Thu 12/12/24	Tue 6/24/25	139 days																					
9	Task 211: Survey and Basemap Preparation	Tue 2/18/25	Mon 4/14/25	40 days																					
10	Field Survey and Utility Locate	Tue 2/18/25	Mon 3/17/25	20 days	2	11,12FS+5																			
11	Basemap Preparation	Tue 3/18/25	Mon 4/14/25	20 days	10																				
12	Survey Boring Location	Tue 3/25/25	Mon 3/31/25	5 days	10FS+5 days	13																			
13	Follow-up Survey if needed	Tue 4/1/25	Fri 4/4/25	4 days	12																				
14	Cultural Review and 106 Determination (Completed by Archeological Services, City, and SRF)	Thu 12/12/24	Wed 4/23/25	95 days																					
15	Archeological survey, monitoring plan, and DAHP/Tribe Consult	Thu 12/12/24	Wed 1/22/25	30 days	2FS-48 days	16																			
16	Tribe/DAHP Notification	Thu 1/23/25	Wed 2/19/25	20 days	15	17																			
17	Review Concurrence Letter	Thu 2/20/25	Wed 3/12/25	15 days	16	18																			
18	Public Comment on Published 106	Thu 3/13/25	Wed 4/23/25	30 days	17																				
19	Task 212: Geotechnical Investigation	Tue 2/18/25	Tue 6/24/25	91 days																					
20	Review Existing Information	Tue 2/18/25	Mon 3/10/25	15 days	2	21																			
21	Approval from DOH for Geotechnical Exploration	Tue 3/11/25	Tue 3/11/25	1 day	20	22																			
22	Soil Boring	Wed 3/12/25	Thu 3/13/25	2 days	21	23																			
23	Soil Analysis	Fri 3/14/25	Thu 3/20/25	5 days	22	24																			
24	Prepare GDR	Fri 3/21/25	Thu 4/17/25	20 days	23	25																			
25	Infiltration Field Analysis	Fri 4/18/25	Mon 4/21/25	2 days	24	26																			
26	Infiltration Lab Testing	Tue 4/22/25	Tue 4/22/25	1 day	25	27																			
27	Infiltration Analysis	Wed 4/23/25	Tue 4/29/25	5 days	26	28																			
28	Prepare Draft GDM	Wed 4/30/25	Tue 5/13/25	10 days	27	29FS+20 da																			
29	Prepare Final GDM	Wed 6/11/25	Tue 6/24/25	10 days	28FS+20 days																				
30	Task 213: Review Site Background Info	Tue 2/25/25	Mon 3/24/25	20 days	5																				
31	Phase 310: Conceptual Design	Tue 2/18/25	Mon 5/12/25	60 days																					
32	Task 311: Treatment Selection and Siting Evaluation	Tue 2/18/25	Mon 3/24/25	25 days																					
33	Review WQ Data for Pretreatment Analysis	Tue 2/18/25	Mon 3/17/25	20 days	2	35																			
34	Develop Layouts	Tue 2/18/25	Mon 3/10/25	15 days	2	35,47,38																			
35	Treatment Selection and Siting Workshop #1	Mon 3/17/25	Mon 3/17/25	0 days	34,33	36FS+5 day																			
36	Treatment Selection and Siting Workshop #2 (if needed)	Mon 3/24/25	Mon 3/24/25	0 days	35FS+5 days	60																			
37	Task 312: Capacity Analysis and Ancillary Upgrades	Tue 2/25/25	Mon 4/21/25	40 days		89																			
38	Chemical Dosing/OSHG Improvements Analysis	Tue 3/11/25	Mon 4/14/25	25 days	34	44																			
39	Hydraulic Assessment	Tue 2/25/25	Wed 3/19/25	17 days	35	44																			
42	Stormwater/Site Improvements Analysis	Tue 3/18/25	Mon 4/7/25	15 days	35	44																			
43	Electrical and Controls Analysis	Tue 3/18/25	Mon 4/7/25	15 days	35																				
44	Capacity Analysis and Ancillary Upgrades Workshop	Mon 4/14/25	Mon 4/14/25	0 days	38,39,42	45FS+5 day																			

Attachment B
WS9 PFAS Treatment Design Budget

ID	Task Name	Start	Finish	Rem. Dur.	Predecessors	Successors	3rd Quarter		4th Quarter		1st Quarter		2nd Quarter		3rd Quarter		4th Quarter		1st Quarter	
							Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
45	Electrical & I&C Workshop	Mon 4/21/25	Mon 4/21/25	0 days	44FS+5 days															
46	Task 313: Rinse Water Discharge Evaluation	Tue 3/11/25	Mon 4/21/25	30 days																
47	Rinse water discharge evaluation and alternatives analysis	Tue 3/11/25	Mon 4/7/25	20 days	34	49FS+10 days														
48	Rinse Water Discharge Workshop #1	Mon 4/14/25	Mon 4/14/25	0 days	47FS+5 days															
49	Rinse Water Discharge Workshop #2	Mon 4/21/25	Mon 4/21/25	0 days	47FS+10 days															
50	Task 314: Early Procurement Evaluation	Tue 2/25/25	Mon 5/12/25	55 days																
51	Develop Long-Lead Time Item Equipment List	Tue 2/25/25	Mon 3/3/25	5 days	5															
52	Electrical Service Evaluation	Tue 3/18/25	Mon 3/24/25	5 days	35	53,54														
53	Electrical Service Meeting with CPU	Mon 3/24/25	Mon 3/24/25	0 days	52	54														
54	Develop Pre-Purchasing TM	Tue 3/25/25	Mon 4/7/25	10 days	52,53	55FS+5 days														
55	Pre-Purchasing Meeting	Tue 4/15/25	Tue 4/15/25	0 days	54FS+5 days	56														
56	City Review TM	Tue 4/15/25	Mon 4/28/25	10 days	55	57														
57	BC Finalize TM	Tue 4/29/25	Mon 5/12/25	10 days	56															
58	Phase 410: Preliminary Engineering Report	Tue 3/25/25	Thu 7/10/25	78 days																
59	Task 411: Develop Draft PER	Tue 3/25/25	Thu 5/29/25	48 days																
60	Develop PER	Tue 3/25/25	Mon 4/28/25	25 days	36	61,70SS+15														
61	QA/QC Review	Tue 4/29/25	Mon 5/5/25	5 days	60	62														
62	Address Comments	Tue 5/6/25	Thu 5/15/25	8 days	61	63														
63	City Review	Fri 5/16/25	Thu 5/29/25	10 days	62	64SS+5 days														
64	PER Discussion Meeting	Thu 5/22/25	Thu 5/22/25	0 days	63SS+5 days	92,66,76														
65	Task 412: Draft PER for DOH	Fri 5/23/25	Thu 7/10/25	35 days																
66	Address Preliminary Design and PER Comments	Fri 5/23/25	Thu 6/5/25	10 days	64	68,67FS+2														
67	DOH Orientation Meeting	Mon 6/9/25	Mon 6/9/25	0 days	66FS+2 days															
68	DOH Review	Fri 6/6/25	Thu 7/10/25	25 days	66															
69	Phase 420: Preliminary Design Drawings and Specifications	Tue 4/15/25	Mon 6/16/25	45 days																
70	Develop Drawings	Tue 4/15/25	Mon 5/26/25	30 days	60SS+15 days	71,80,81														
71	Internal QA/QC	Tue 5/27/25	Mon 6/2/25	5 days	70	72														
72	Address Comments	Tue 6/3/25	Mon 6/16/25	10 days	71	75														
73	Phase 430 Preliminary Design Submittal, QA/QC, and Cost Estimation	Fri 5/23/25	Thu 7/17/25	40 days																
74	Task 431: Preliminary Submittal Development	Fri 5/23/25	Thu 7/17/25	40 days																
75	Submittal	Mon 6/16/25	Mon 6/16/25	0 days	72,82	78FS+8 days														
76	Scope Phase 2	Fri 5/23/25	Thu 6/19/25	20 days	64	77														
77	Deliver Phase 2 SOW	Thu 6/19/25	Thu 6/19/25	0 days	76															
78	Predesign Workshop	Thu 6/26/25	Thu 6/26/25	0 days	75FS+8 days	95,79FS+5														
79	Respond to City Comments	Fri 7/4/25	Thu 7/17/25	10 days	78FS+5 days															
80	Task 432: Preliminary Cost Estimate	Tue 5/27/25	Mon 6/16/25	15 days	70															
81	Develop cost estimate - goes to cost estimators	Tue 5/27/25	Mon 6/9/25	10 days	70	82														
82	Review and resolve estimate	Tue 6/10/25	Mon 6/16/25	5 days	81	75,83														
83	Submittal	Mon 6/16/25	Mon 6/16/25	0 days	82															
84	Phase 510: Permitting and Outreach	Tue 3/11/25	Mon 7/14/25	90 days																
85	Task 511: Funding Compliance	Tue 3/11/25	Thu 6/5/25	63 days																
87	Task 512: Land Use	Tue 4/22/25	Tue 5/6/25	11 days																

Attachment B

WS9 PFAS Treatment Design Budget

ID	Task Name	Start	Finish	Rem. Dur.	Predecessors	Successors	3rd Quarter		4th Quarter			1st Quarter		2nd Quarter			3rd Quarter			4th Quarter		
							Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
88	Preapplication Meeting and Support	Tue 4/22/25	Tue 5/6/25	11 days																		
89	Meeting	Tue 4/22/25	Tue 4/22/25	1 day	37	90																
90	Review and Follow-up	Wed 4/23/25	Tue 5/6/25	10 days	89																	
91	Task 513: Community Engagement	Fri 5/23/25	Thu 7/10/25	35 days																		
93	Task 514: DOH Engagement and Coordination	Tue 3/25/25	Mon 7/14/25	80 days																		
95	Phase 2: Final Design	Fri 6/27/25	Fri 2/27/26	176 days	78																	

EXHIBIT B: Vancouver WS9 PFAS Treatment Project

Brown and Caldwell
Budget

			Lynn Stephens	Brittany Bax	Kelly Kimball	Joanie Stultz	Tony Actis	Shania Lynch	Kyle Hay	Bill Persich	Tina Rossillon	Zack Schorr	Natalie Chow	Jacob Faust	Eric Stiles	Jim Cook	Nila Molodih	Bambang Nursuwito	Linnea Lubke	Thomas Neufeldt	Dan Jackson	Karen Brinker	Chadwick Johnson	Savannah Wujastyk	Tom Lemon	Dan Clayton
Phase	Task	Phase Description	PM	Project Analyst	PIC	Project Engineer	Design Manager	Design Coordinator	PFAS SME	QA/QC Lead	Senior Civil Eng	Civil Lead	Civil/Storm	Civil QC	Designer	Electrical Lead	Electrical	CAD	I&C Lead	I&C	Designer	Senior Proc Mech	Proc Mech Lead	Proc Mech	Designer	Hydraulics QC
			\$330	\$135	\$344	\$234	\$234	\$156	\$203	\$344	\$234	\$273	\$181	\$234	\$203	\$273	\$156	\$156	\$330	\$135	\$156	\$234	\$203	\$135	\$203	\$344
Phase 1																										
110		Project Management	177	80	16	137	75	0	0	0	2	4	4	0	0	4	0	0	2	0	0	2	12	0	0	0
	111	Phase 1 Client Meetings	42		4	27	27				2	4	4			4			2			2	12			
	112	Phase 1 On-going PM	135	80	12	110	48																			
210		Phase 1 Site Assessment	0	0	0	0	8	0	0	0	28	2	6		6	8	28	0	14	0	0	12	16	16	0	0
	211	Survey and Existing Conditions Modeling					4				16				4											
	212	Geotechnical Investigation					4				8				2											
	213	Review Site Background Information									4	2	6			8	28		14			12	16	16		
310		Conceptual Design	81	0	6	88	81	4	8	0	18	26	10	0	6	28	24	4	8	0	0	74	140	148	0	14
	311	Treatment Selection and Siting Evaluation	36			46	27		8		14	24	6		6							36	58	60		4
	312	Capacity Analysis and Ancillary Upgrades	20			16	32									12	24	4	8			16	68	64		10
	313	Rinse Water Discharge Evaluation	13			8	8				4	2	4									22	4			
	314	Early Procurement Evaluation	12		6	18	14	4								16							10	24		
410		Project Engineering Report (PER)	20	0	0	32	12	4	0	12	0	16	16	0	6	16	0	0	20	0	0	16	28	32	0	0
	411	Develop Draft PER	4			28	12					16	16		6	16			17			12	24	24		
	412	Draft PER for DOH	4			4		4											3			4	4	8		
	413	QA/QC	12							12																
420		Preliminary Design Drawings and Specifications	35	0	0	32	133	36	0	0	75	38	101	0	150	80	196	228	101	24	140	150	189	250	140	2
	421	Internal Team Meetings and Design Management	20			20	116	36			20	8	16		8	20		20	20			36	44	36	8	
	422	Civil									42	24	79		142											
	423	Landscape																								
	424	Architectural																								
	425	Structural																								
	426	Process/Process-Mechanical																				98	132	214	132	2
	427	Electrical														54	196	208								
	428	Instrumentation and Controls																	78	24	140					
	429	External Meetings	15			12	17				13	6	6			6			3			16	13			
430		Preliminary Design Submittal, QA/QC, and Cost Estimating	40	0	8	24	28	18	0	12	0	10	0	22	0	12	8	0	20	0	0	12	34	0	0	0
	431	Preliminary Design Submittal	24		8	20	16	18				8							8			12	28			
	432	Cost Estimating	4			4																	6			
	433	Preliminary Design QA/QC	12				12			12		2		22		12	8		12							
510		Permitting & Public Outreach	49	0	0	18	3	8	0	0	26	18	42	0	16	16	16	0	0	0	0	0	20	24	0	0
	511	Funding Compliance																					16			
	512	SEPA	8								8		8										4			
	513	Land Use	20			3	3	8			18	18	34		16	16	16						4			
	514	Community Engagement	4			2																				
	515	DOH Engagement and Coordination	17			13																	12	8		
810		Unanticipated Services																								
	801	Phase 1 Unanticipated Services																								
PHASE 1 TOTAL			402	80	30	331	340	70	8	24	149	114	179	22	184	164	272	232	165	24	140	266	439	470	140	16

Brown and Caldwell
Budget

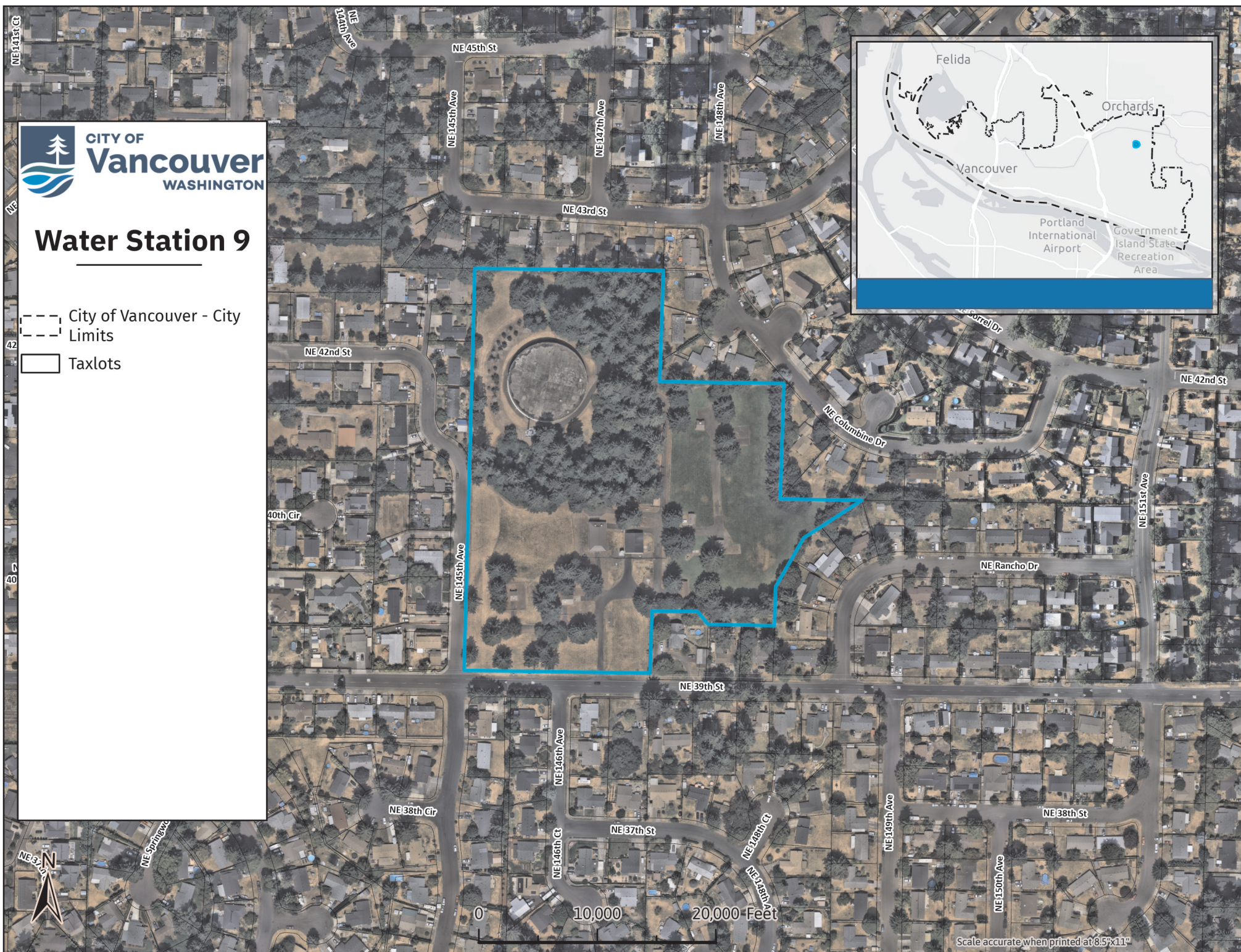
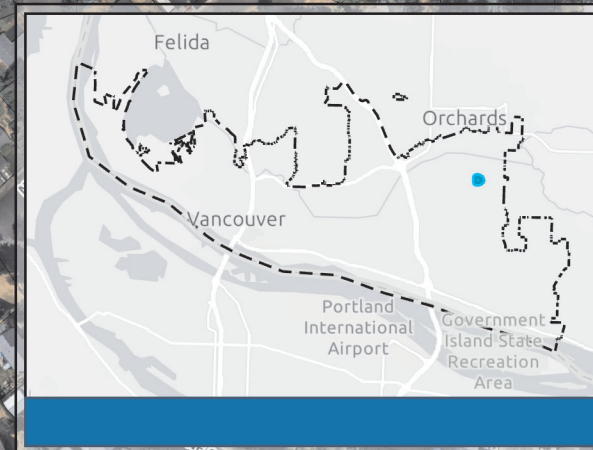
			Joe Reardon	Jay Hesby	Jon Harper	Ashraf Qadan	Evan Schoel	William Agster	David Shroyer	Dan Goodburn	Adam Lambert	Dade Irwin	Pepe Viteri	Jerome Duletzke	Kyle Nelson	Seema Chavan	Rachel Garrett	John Duran	Steve Vasquez		
Phase	Task	Phase Description	Hydraulics	Proc Mech QC	Structural Lead	Structural	Designer	Cost Estimating QC	Electrical Cost Estimator	Cost Estimating	BIM Manager	BIM Lead	BIM	Const Mgmt	Operations	Funding SME	Communi cations	Graphic Artist	Billing	Total Labor Hours	Total Labor Effort
			\$203	\$344	\$330	\$234	\$203	\$273	\$234	\$273	\$234	\$203	\$181	\$330	\$234	\$344	\$330	\$181	\$156		
Phase 1																					
110		Project Management	4	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	16	537 \$ 135,037
	111	Phase 1 Client Meetings	4			2														136 \$ 36,092	
	112	Phase 1 On-going PM																	16	401 \$ 98,945	
210		Phase 1 Site Assessment	16	2	8	10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	180 \$ 39,578
	211	Survey and Existing Conditions Modeling																		24 \$ 5,492	
	212	Geotechnical Investigation			4	2														20 \$ 5,002	
	213	Review Site Background Information	16	2	4	8														136 \$ 29,084	
310		Conceptual Design	98	17	0	0	0	2	12	12	0	0	0	8	4	0	0	0	0	921 \$ 206,058	
	311	Treatment Selection and Siting Evaluation		6											4					335 \$ 75,392	
	312	Capacity Analysis and Ancillary Upgrades	84	4																362 \$ 76,172	
	313	Rinse Water Discharge Evaluation	12	3																80 \$ 19,668	
	314	Early Procurement Evaluation	2	4				2	12	12				8						144 \$ 34,826	
410		Project Engineering Report (PER)	8	12	6	8	4	0	0	0	0	0	0	0	0	0	0	0	0	268 \$ 65,262	
	411	Develop Draft PER	8		6	8	4													201 \$ 46,348	
	412	Draft PER for DOH																		31 \$ 6,698	
	413	QA/QC		12																36 \$ 12,216	
420		Preliminary Design Drawings and Specifications	44	14	20	110	90	0	0	0	16	100	9	0	0	0	0	0	0	2,503 \$ 505,181	
	421	Internal Team Meetings and Design Management	16	4		20					16	100	9							593 \$ 129,421	
	422	Civil																		287 \$ 59,505	
	423	Landscape																		0 \$ -	
	424	Architectural																		0 \$ -	
	425	Structural			20	90	90													200 \$ 45,930	
	426	Process/Process-Mechanical	28	10																616 \$ 115,226	
	427	Electrical																		458 \$ 77,766	
	428	Instrumentation and Controls																		242 \$ 50,820	
	429	External Meetings																		107 \$ 26,513	
430		Preliminary Design Submittal, QA/QC, and Cost Estimating	4	12	20	6	0	12	20	65	4	8	0	12	12	2	0	0	0	425 \$ 112,429	
	431	Preliminary Design Submittal	4		8	6		4			4	8				2				178 \$ 44,416	
	432	Cost Estimating						8	20	65										107 \$ 28,083	
	433	Preliminary Design QA/QC		12	12									12	12					140 \$ 39,930	
510		Permitting & Public Outreach	0	0	0	0	0	0	0	0	0	8	0	0	0	24	10	24	0	322 \$ 75,868	
	511	Funding Compliance														24				40 \$ 10,416	
	512	SEPA				0														28 \$ 6,772	
	513	Land Use										8								164 \$ 37,080	
	514	Community Engagement															10	24		40 \$ 9,432	
	515	DOH Engagement and Coordination																		50 \$ 12,168	
810		Unanticipated Services																			
	801	Phase 1 Unanticipated Services																			
PHASE 1 TOTAL			174	57	54	136	94	14	32	77	20	116	9	20	16	26	10	24	16	5,156 \$ 1,139,413	

Brown and Caldwell
Budget

				MWA	Greenworks	Emerio	Shannon & Wilson	ESA					
Phase	Task	Phase Description	Expenses	Architecture	Landscape Architecture	Survey/3D Scan	Geotech	SEPA / Permitting Support	Total Sub Cost	Total Sub Effort	Total Expense Effort	Total Effort	
Phase 1													
110		Project Management	\$ 5,000	\$ -	\$ -		\$ -	\$ -	\$ -	\$ -	\$ 5,000	\$ 140,037	
	111	Phase 1 Client Meetings	\$ 5,000								\$ 5,000	\$ 41,092	
	112	Phase 1 On-going PM										\$ 98,945	
210		Phase 1 Site Assessment	\$ -	\$ -	\$ -	\$ 24,596	\$ 50,517	\$ -	\$ 75,113	\$ 78,869	\$ 78,869	\$ 118,447	
	211	Survey and Existing Conditions Modeling				\$ 24,596			\$ 24,596	\$ 25,826	\$ 25,826	\$ 31,318	
	212	Geotechnical Investigation					\$ 50,517		\$ 50,517	\$ 53,043	\$ 53,043	\$ 58,045	
	213	Review Site Background Information										\$ 29,084	
310		Conceptual Design	\$ 3,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,000	\$ 209,058	
	311	Treatment Selection and Siting Evaluation	\$ 3,000								\$ 3,000	\$ 78,392	
	312	Capacity Analysis and Ancillary Upgrades										\$ 76,172	
	313	Rinse Water Discharge Evaluation										\$ 19,668	
	314	Early Procurement Evaluation										\$ 34,826	
410		Project Engineering Report (PER)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 65,262	
	411	Develop Draft PER										\$ 46,348	
	412	Draft PER for DOH										\$ 6,698	
	413	QA/QC										\$ 12,216	
420		Preliminary Design Drawings and Specifications	\$ 5,000	\$ -	\$ 10,365	\$ -	\$ -	\$ -	\$ 10,365	\$ 10,883	\$ 15,883	\$ 521,064	
	421	Internal Team Meetings and Design Management										\$ 129,421	
	422	Civil										\$ 59,505	
	423	Landscape			\$ 10,365				\$ 10,365	\$ 10,883	\$ 10,883	\$ 10,883	
	424	Architectural										\$ -	
	425	Structural										\$ 45,930	
	426	Process/Process-Mechanical										\$ 115,226	
	427	Electrical										\$ 77,766	
	428	Instrumentation and Controls										\$ 50,820	
	429	External Meetings	\$ 5,000								\$ 5,000	\$ 31,513	
430		Preliminary Design Submittal, QA/QC, and Cost Estimating	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 112,429	
	431	Preliminary Design Submittal										\$ 44,416	
	432	Cost Estimating										\$ 28,083	
	433	Preliminary Design QA/QC										\$ 39,930	
510		Permitting & Public Outreach	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 16,033	\$ 16,033	\$ 16,835	\$ 16,835	\$ 92,703	
	511	Funding Compliance										\$ 10,416	
	512	SEPA						\$ 16,033	\$ 16,033	\$ 16,835	\$ 16,835	\$ 23,607	
	513	Land Use										\$ 37,080	
	514	Community Engagement									\$ -	\$ 9,432	
	515	DOH Engagement and Coordination										\$ 12,168	
810		Unanticipated Services	\$ 73,000								\$ 73,000	\$ 73,000	
	801	Phase 1 Unanticipated Services	\$ 73,000										
PHASE 1 TOTAL			\$ 86,000	\$ -	\$ 10,365	\$ 24,596	\$ 50,517	\$ 16,033	\$ 101,511	\$ 106,586	\$ 192,586	\$ 1,332,000	



--- City of Vancouver - City Limits
 Taxlots



Staff Report: 020-25

To: Mayor and City Council
From: City Manager
Date: February 3, 2025

Subject

Regional Transportation Council Signal Timing Participation Agreement

Key Points

- The City has an extensive history of collaboration with the Southwest Washington Regional Transportation Council (RTC) implementing measures design to make our transportation system safe and effective for all users.
- RTC has received grant funding to conduct a pilot study that would analyze the signal operations at key intersections throughout the city with an emphasis on reducing the carbon intensity associated with vehicular transportation.
- City staff will collaborate with RTC to conduct the pilot project and review the results of the study.

Strategic Plan Alignment

Transportation and Mobility – a safe, future-ready and convenient transportation system

Climate and Natural Systems – environmental stewardship and efforts to address climate change to ensure a sustainable future

Present Situation

The City of Vancouver and the Southwest Washington Regional Transportation Council (RTC) have an extensive history of collaboration on efforts designed to improve the safety and efficiency of the city's transportation system for all users, regardless of the mode of travel they choose. RTC was recently awarded grant funding from a federal carbon reduction program and is planning to use those funds to conduct a pilot study that would evaluate the traffic signal operations of several key corridors throughout the city. The purpose of the study is to determine whether changes to signal timing on these corridors can result in improved traffic operations and a reduction in carbon emissions associated with vehicular transportation.

RTC has identified several key city transportation corridors where they plan to conduct the pilot study. RTC will work with city traffic engineering and signal operations staff to evaluate existing signal timing plans and develop revised plans that can be implemented and analyzed for impacts on traffic flow along the corridors. Corridors that are subject to recently completed, current or near-term Complete Street improvements will not be included in the RTC study so as not to interfere with the complete street evaluation process.

The attached Signal Timing Participation Agreement and the Exhibit A attachment set forth the conditions and requirements associated with the pilot project.

Advantage(s)

1. Fosters an opportunity to evaluate signal operations with a goal of improving traffic flows and

reducing vehicular emissions.

2. Provides the city with outside expertise in the evaluation of signal timing and operations at no cost to the City.

Challenge(s)

Changes to signal timing and/or operations will result in a change to traffic flow. The goal is to foster a positive change and improve traffic flow. However, these changes could also result in a worsening of traffic flow. In those instances, the signal operations would be returned to baseline (current) operations.

Budget Impact

There is no budget impact to the City stemming from this Agreement. RTC is utilizing a federal grant to pay for all work and materials associated with the pilot study.

Prior Council Review

There has been no prior Council action in regard to this item.

Action Requested

On Monday, February 3, 2025, authorize the City Manager, or designee, to execute the Agreement on behalf of the City of Vancouver and delegate approval of all task orders issued under this agreement to the City Public Works Director or their designee.

Staff Contact

Ryan Lopossa, Streets and Transportation Manager, ryan.lopossa@cityofvancouver.us

Attachments:

1. RTC Signal Timing Participation Agreement 01082025
2. Signal Timing Participation Agreement Exhibit A

VOLUNTARY PARTICIPATION AGREEMENT
Regional Signal Timing Plans: Clark County Urban Area Study

This VOLUNTARY PARTICIPATION AGREEMENT (Agreement) is made by and between Southwest Washington Regional Transportation Council (hereinafter “RTC”) and the City of Vancouver (hereinafter “PARTICIPATING AGENCY”).

WHEREAS, RTC was awarded federal Carbon Reduction Program (CRP) grant funds plan and implement projects and programs to reduce carbon emissions from the transportation sector, and

WHEREAS, to advance the purpose of the CRP, the state of Washington consulted with Metropolitan Planning Organizations and prepared the Washington State Transportation Carbon Reduction Strategy (TCRS), wherein it enumerated specific implementation strategies which included moving people and goods more efficiently, and reducing the carbon intensity of transportation, and

WHEREAS, RTC in coordination with Vancouver Area Smart Trek (VAST) partners, has designed a Pilot Study to implement specific TCRS strategies to improve transportation system efficiency and reduce greenhouse gas emissions by updating signal timing plans along Congestion Management Process (CMP) corridors in Clark County, and

WHEREAS, Major tasks for the Pilot Study include: updating CMP corridor traffic signal timing plans; field implementation of signal timing plans, and producing before and after performance reports.

WHEREAS, VAST partner agencies can self-nominate their participation in a voluntary agreement to implement signal timing plan upgrades on select CMP corridors, and

WHEREAS, VAST partner agencies can self-nominate their participation in a voluntary agreement to implement signal timing plan upgrades on select CMP corridors, and

WHEREAS, the “PARTICIPATING AGENCY” agrees to the terms of this Agreement, for the express purpose of implementing the Pilot Study and specific corridor timing plans as described in a Corridor Task Order.

NOW THEREFORE, RTC and the “PARTICIPATING AGENCY” voluntarily enter into this Agreement and agree to support implementation and reporting for the Pilot Study.

Participating Agency and RTC enter into the Agreement as of the date of the last signed below.

**Southwest Washington
Regional Transportation Council**

City of Vancouver

Executive Director

Lon Pluckhahn, City Manager

Date

Date

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Nena Cook, Interim City Attorney

Attachment: Exhibit A

Regional Signal Timing Plans: Clark County Urban Area Study VOLUNTARY PARTICIPATION AGREEMENT

In 2021, the federal government established the Carbon Reduction Program (CRP) as part of the Bipartisan Infrastructure Law (BIL). The purpose of the CRP is to plan for and implement projects and programs to reduce carbon emissions from the transportation sector. The CRP requires each state to develop a carbon reduction strategy (CRS) in consultation with the state's metropolitan planning organizations (MPOs). The CRS is designed to identify projects and strategies that reduce carbon emissions from transportation.

In response to this requirement, the Washington State Department of Transportation, in partnership with MPOs, as well as state agencies, tribes, local agencies, industry, and community groups, developed the [Washington State Transportation Carbon Reduction Strategy \(TCRS\)](#). The TCRS identified how to advance two overarching state policies from the State Energy Strategy. The TCRS's primary goals are to: 1) [move people and goods more efficiently and equitably](#), and, 2) [reduce the carbon intensity of transportation](#).

Within the TCRS are specific implementation actions. Agencies across the state are implementing actions which advance the TCRS. For RTC, the following TCRS implementation actions were the genesis of a grant application, which has formed the Regional Signal Timing Plans: Clark County Urban Area Study (Pilot Study).

Implementation Actions:

- Efficient system operations and user fee strategies reduce congestion and manage traffic flow in high-volume areas.
- Efficient system operations increase the amount of travel supported by existing transportation infrastructure and can improve vehicle efficiency.

RTC Program Framework

RTC's [Congestion Management Process \(CMP\)](#) and [Vancouver Area Smart Trek \(VAST\)](#) programs harness regional data to propose methods and strategies for reducing traffic congestion, greenhouse gas emissions, fuel consumption and improving safety along regional transportation routes within the Clark County urban area.

Candidate corridors for the Pilot Study are drawn from the region's CMP¹. RTC's routine monitoring of corridor conditions over the years has resulted in a recurring CMP recommendation that regional agencies implement [Corridor Signal Timing](#).

RTC's (VAST) multi-agency steering committee has the system and engineering knowledge to serve as the sounding board and oversight for the Pilot Study. VAST coordinates the region's intelligent and transportation systems, management and operations strategies. Multi-year regional investments in CMP corridor signal and fiber systems have laid the groundwork for implementation of shared signal system management and deployment of a unified traffic management center.

¹ RTC Congestion Management Process (CMP) annual reports and data are kept up to date on RTC's website <https://rtc.wa.gov/programs/cmp/>.

Pilot Study Summary

RTC received federal Carbon Reduction Grant funds for the primary purpose of implementing actions which advance the Washington TCRS. The purpose of these funds is to reduce vehicle greenhouse gas emissions impacts and to improve congestion and safety of the traveling public. The Pilot Study has been defined to implement up-to-date traffic signal timing plans on priority CMP corridors, and test the results to pre-defined metrics reflective of TCRS goals. If successful, the Pilot Study may improve on our region's CMP corridor multi-modal performance and in turn reduce transportation vehicle source emissions.

The Primary Tasks of the Pilot Study include:

- Screen CMP corridors for eligibility (using RTC and agency produced data), and prepare multi-modal traffic signal timing plans for priority corridors.
- Implement signal timing plans and monitor for effectiveness against Pilot Study performance metrics and Participating Agency system goals.
- Publish before and after performance reports.

RTC (as Sponsor) in coordination with the VAST sub-committee (Oversight Committee) has analyzed and prioritized the CMP corridors for Pilot Study implementation. The results of the Prioritization are listed in Table 1. Eligible agencies will be notified of the opportunity to participate in Signal Timing Plan implementation.

Upon entry into the Pilot Study, RTC and the Participating Agency will jointly develop the Signal Timing Plan for implementation. Upon implementation, participating agencies are expected to maintain the traffic signal plans as implemented, for a period of 3-years² unless the signal timing plan creates a safety issue, noncompliance with the Participating Agency's concurrency standards, or unacceptable operating or traffic safety conditions as determined by the participating agency's Traffic Engineer. In such an event, the Participating Agency will continue to work collaboratively with RTC on implementing any new changes within the Pilot Study. The implementation period will enable sufficient time for Pilot Study performance analysis, and to observe changes in system conditions through the CMP annual monitoring processes. Participating agencies would also commit to include in the pilot project any new traffic signal that gets added to the study corridor, consistent with the timing plans developed as part of the Pilot Study. (note: Pilot Study timing plans may be adjusted due to significant changes to traffic volumes or road conditions.)

² According to the [Institute of Transportation Engineers](#) all traffic signal timing plans should be evaluated, at minimum, every three to five years, or more often if there are significant changes to traffic volumes or road conditions. Changes may also result from modifications to surrounding land uses, such as new or expanded residential, business, retail or educational facilities. Equally important, they may also require changes in the times of day during which the timing is implemented.

Table 1
Pilot Study Corridors
Priority for Implementation

Corridor Ranking	Corridor Description
1	SR 503 South (from 119th St to Fourth Plain/SR 500)
2	Mill Plain East (from 104 th /Mill Plain to 192nd Ave)
3	112th/Chkalov/Gher (from SR 500 to Mill Plain)
4	Fourth Plain West (from I-5 to Andresen Rd)
5	162nd/164th Ave South (from Mill Plain to SR 14)
6	Fourth Plain East (from SR 503 (117th Ave) to 162nd Ave)
7	18th St (from 112th Ave to 162nd Ave)
8	Main Street (from Ross St to Mill Plain)
9	HWY 99 (from 139th St to Ross St)
10	SR 503 North (from SR 502 to 119th St)
11	136th/137th/138th Ave (from Padden Pkwy to Mill Plain)
12	Mill Plain West (from I-5 to I-205)
13	Andresen/72nd North (from 119th St to SR 500)
14	162nd/164th Ave North (from Ward Rd to Mill Plain)
15	Andresen South (from SR 500 to Mill Plain)
16	28th St (from Andresen Rd to 162nd Ave)
17	139th St (from NW 36th St to NE 29th Ave)
18	78th/76th St (from Lakeshore Ave to SR 503 (117th Ave))
19	99th St (from Lakeshore Ave to St John Rd)
20	Fourth Plain Central (from Andresen Rd to SR 503 (117th Ave))
21	192nd Ave (from SE 1st St to SR 14)
22	Mill Plain/SR 501 (from Fourth Plain to I-5)
23	134th St/Tenney/Salmon Creek Ave (from NE 139th St to NE 50th Ave)
24	SR 502 (from I-5 to SR 503)
25	Padden Parkway (from 78th St to 162nd Ave)
26	Hazel Dell (from Hwy 99 to 63rd St)
27	St. Johns/St. James/Fort Vancouver Way (from NE 72nd Ave to Mill Plain)
28	Fourth Plain/SR 501 (from NW Lower River Rd to I-5)

Staff Report: 021-25

To: Mayor and City Council
From: City Manager
Date: February 3, 2025

Subject

Grant and Loan Contract Approvals - Water Station 4 Treatment System Project

Key Points

- The Water Station 4 Treatment Systems project will remove Per- and Polyfluoroalkyl substances (PFAS) and replace the existing chlorine gas treatment system.
- The City has been awarded up to \$15 million in Drinking Water State Revolving Fund (DWSRF) funding from Washington State Department of Health (WDOH) for this project in the form of a forgivable loan (grant).
- The City has also been awarded up to \$10 million as a low-interest loan from the Washington State Department of Commerce's Public Works Board (PWB) Construction Loan Fund

Strategic Plan Alignment

Safe and Prepared Community – a safe place to live, work, learn and play

Present Situation

Water Station 4 is located at 4205 East 5th Street and has served the community with safe clean drinking water since the 1940's. The site contains six groundwater wells with a combined current capacity of 8,550 gallons per minute. PFAS is a group of Per- and Polyfluoroalkyl substances and is an emerging contaminant found in the City's well fields that must be removed. The Water Station 4 Treatment Systems project will construct treatment facilities to remove PFAS from the drinking water at this site and also replace the existing chlorine gas system with a safer onsite sodium hypochlorite generation system for disinfection.

The City has been awarded state and federal funding for this project through WDOH and PWB and intends to use these awarded funds to assist in the cost of design and construction for the treatment upgrades at Water Station 4. The City has an existing DWSRF forgivable loan contract with WDOH for the Water Station 14 PFAS project and therefore has familiarity with managing this funding source. Draft contracts for the Water Station 4 project are attached and a summary breakdown of the loan terms is provided below.

Funding Source	Washington State Dept. of Health	Washington State Dept. of Health	Washington State Public Works Board
Amount	\$12,000,000	\$3,000,000	\$10,000,000
Interest Rate	0.00%	2.25%	1.71%

Design is underway for this project under existing professional services agreement C-101597 with Stantec Consulting Services, Incorporated. In anticipation of receiving this award, the professional services work follows federal and state loan requirements. Once these contracts are executed, the

City has 18 months from the contract execution date to award a construction contract for the Water Station 4 Treatment Systems project.

Advantage(s)

Provides financial assistance to offset local fund needs to complete a large capital water infrastructure project.

Challenge(s)

The project will be subject to both federal and state funding requirements which include specific reporting procedures and requires that the City award construction contract 18 months from the contract execution date.

Budget Impact

Funding for this project will be supported by the awarded grants/loans and is in the approved Capital Water Budget.

Prior Council Review

- Approved in the 2025-2026 Capital Water Budget.
- Staff Report 055-24, March 25, 2024, Phase 1 – Preliminary Design
- Staff Report 2024-974, October 7, 2024, Phase 2 – Final Design

Action Requested

On Monday, February 3, 2025, authorize the City Manager, or designee, to execute loan contracts DWL29301-0, DWL29707-0 and PC25-96103-005 between the City of Vancouver and Washington Department of Health and Public Works Board.

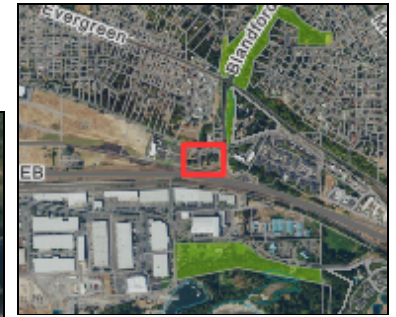
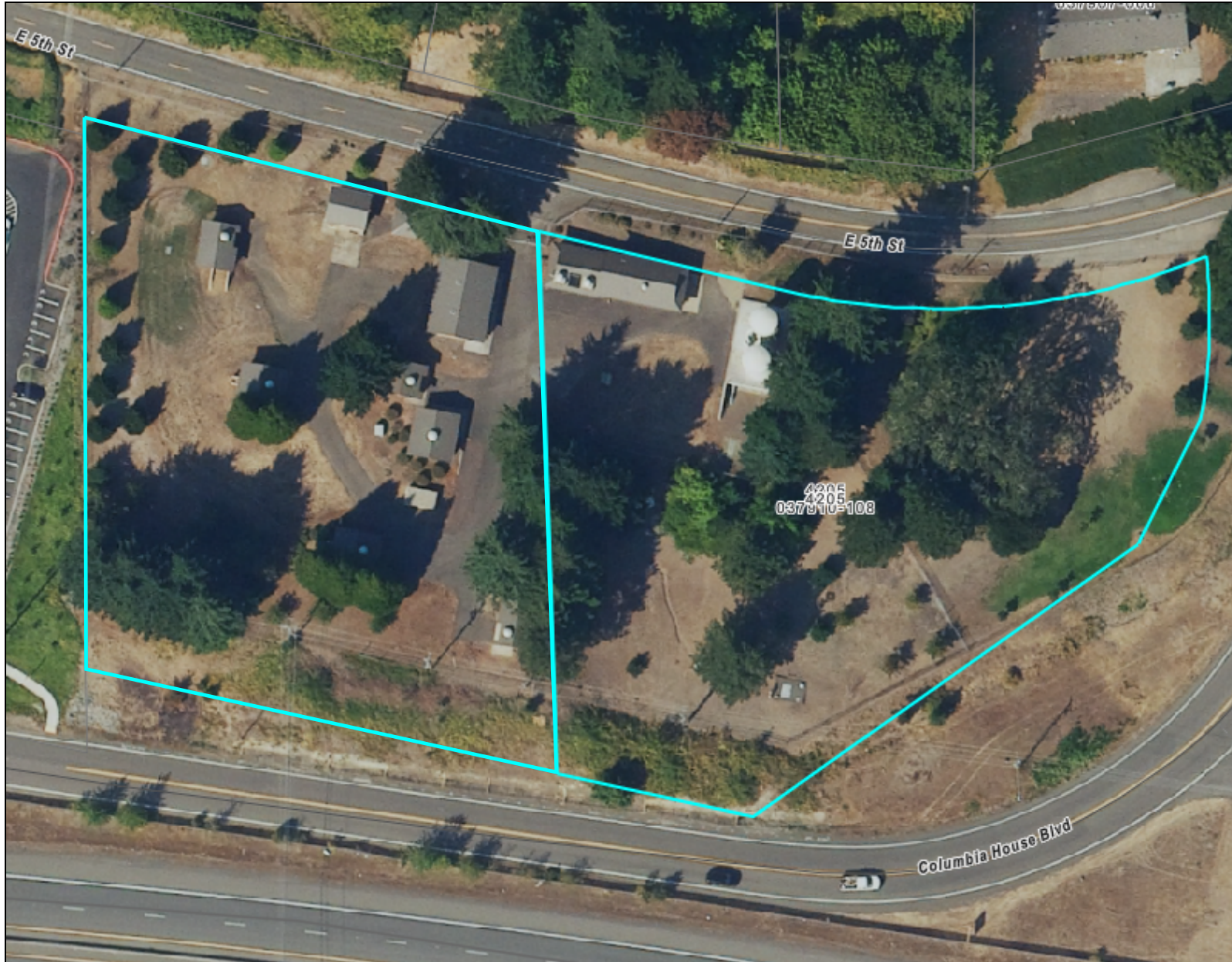
Staff Contact

Mehrin Selimgir, Civil Engineer, Mehrin.Selimgir@cityofvancouver.us

Attachments:

1. Site Map
2. DWSRF Loan Contract 1
3. DWSRF Loan Contract 2
4. Public Works Board Loan Contract

Water Station 4



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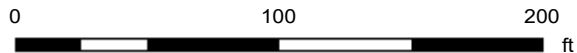


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-  > 78 – 105
-  > 57 – 78
-  > 44 – 57
-  > 35 – 44
-  > 26 – 35
-  11 – 26



Map Generated on 10/10/2023



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Notes

11/12/2024

City of Vancouver
Lon Pluckhahn,
415 W 6th Street
Vancouver, WA 98660
lon.pluckhahn@cityofvancouver.us



RE: Loan Contract Number: DWL29301-0

Dear Mr. Pluckhahn;

Enclosed is the Drinking Water State Revolving Fund Loan Contract Number identified above for your signature. The Loan Contract details the terms and conditions that will govern the agreement between us, which includes the project's Scope of Work as a formal attachment. Failure to return the contracts within 60 calendar days of the date of this letter may result in your loan offer being withdrawn.

Review, print and sign the document. Once signatures are obtained, scan and return by email to dohcon.mgmt@doh.wa.gov or print and sign a hard copy, and return the originals to us for full execution.

Please note that the U.S. Environmental Protection Agency is the funding source for this program and the Catalog of Federal Domestic Assistance (CFDA) number is 66.468. Consequently, the loan funds are federal and subject to both state and federal requirements.

A non-refundable one-percent loan administration fee will be collected at contract execution (If applicable), including any subsequent amendments where funds are added. The loan amount may be modified to include an amount sufficient to cover the one-percent loan administration fee. In most cases, the fee will be collected in full at contract execution. Please review the terms and conditions of the Loan Contract and all attachments carefully for details.

A requirement of the DWSRF program is that you must maintain updated project records and yearly renewal of your registration in the System for Award Management at www.sam.gov.

Another requirement of the DWSRF program is that all entities are required to verify that the federal government has not suspended or debarred them from receiving federal funds. This includes, but is not limited to, project contractors, subcontractors, engineers, architects, consultants, and equipment vendors. The Exclusion Report can be accessed at www.sam.gov. Failure to provide this required certification may result in termination of your loan contract.

After the Loan Contracts have been signed by the Department or its designee, one fully executed original will be returned to you for your files. Instructions for drawing the loan funds will be returned to you with the executed Loan Contract, as well as the necessary forms. The Loan Contract specifies that draws may be made for costs that have been incurred within the contract period of performance, and which have supporting documentation such as receipts or bills.

We are looking forward to working with you over the course of this project. If you have any questions about this Loan Contract, please contact me.

Sincerely,
Rachel Paris
DOH Contract Manager
360-236-4294
Rachel.Paris@DOH.WA.GOV

Enclosures:

ATTACHMENT I: SCOPE OF WORK (PROJECT)
ATTACHMENT II: ATTORNEY'S CERTIFICATION
ATTACHMENT III: FEDERAL AND STATE REQUIREMENTS
ATTACHMENT IV: DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS
ATTACHMENT V: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS
ATTACHMENT VI: DWSRF ELIGIBLE PROJECT COSTS
ATTACHMENT VII: LABOR STANDARD PROVISIONS FOR SUBRECIPIENTS THAT ARE GOVERNMENTAL ENTITIES

Washington State Department of Health

DWSRF Municipal Loan Boilerplate

May 2018

Version History		
Date	Revision(s)	Version
05-15-2018	Original - developed via a team of the DWSRF Grant and Loan Unit Supervisor, the DOH Office of Drinking Water Finance Director, the DOH Office of Contracts and Procurement Technical and Policy Advisor, and DOH's Financial Services Assistant Attorney General.	1

1. CONTRACT FACE SHEET

#2023- 4191 Loan Number: DWL29301-0
Washington State Department of Health (DOH)
Drinking Water State Revolving Fund (DWSRF)
Municipal

1. Borrower City of Vancouver PO BOX 8995 VANCOUVER, WA 98668		2. Borrower Doing Business As (optional)	
3. Borrower Type Construction Loan		4. Borrower's Statutory Authority	
5. Borrower Contract Manager Information Name: Lon Pluckhahn, Title: City Manager		6. DOH Contract Manager Rachel Paris P.O. Box 47822 Olympia, WA 98504-7822 Phone (360) 236-4294 Email Rachel.Paris@Doh.wa.gov	
Water Station 4 PFAS Treatment System			
8. Loan Amount: \$12,000,000 Loan Fee: \$0.00 Interest Rate: 0.00%	9. Funding Source Federal: ☐ State: ☒ Other: ☐	10. Start Date DOE	11. End Date 10/01/2044
12. Federal Funding Agency Environmental Protection Agency Catalogue of Federal Assistance (CFDA) Number 66.468			
13. Borrower Tax ID # 91-6001288	14. SWV # 0008489-00	15. Borrower UBI # 65-001-364	16. Borrower UEI # TM9CHABUP4B2
17. Contract Purpose DOH and the party identified above as Borrower, hereafter referred to as BORROWER, have entered into this contract to fund the project identified above that furthers the goals and objectives of the DOH DWSRF Program. The project will be done by the BORROWER as described in the scope of work and this contract. The rights and obligations of the parties are governed by this contract and the following documents incorporated by reference: General Terms and Conditions including Declarations; Attachment I: Scope of Work (Project); Attachment II Attorney's Certification; Attachment III: Federal and State Requirements; Attachment IV: Disadvantaged Business Enterprise Requirements; Attachment V: Certification Regarding Debarment, Suspension, and Other Responsibility Matters; Attachment VI: DWSRF Eligible Project Costs; and Attachment VII: Labor Standard Provisions for Subrecipients that are Governmental Entities. By the signature below, the parties acknowledge and accept the terms of this contract.			
FOR CONTRACTOR		FOR DOH	
SIGNATURE AND DATE		SIGNATURE and DATE	
NAME and TITLE		NAME and TITLE	
		APPROVED AS TO FORM ONLY Mark Calkins, AAG Signature on File	

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ATTACHMENT I	SCOPE OF WORK (PROJECT)
ATTACHMENT II	ATTORNEY'S CERTIFICATION
ATTACHMENT III	FEDERAL AND STATE REQUIREMENTS
ATTACHMENT IV	DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS
ATTACHMENT V	CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS
ATTACHMENT VI	DWSRF ELIGIBLE PROJECT COSTS
ATTACHMENT VII	LABOR STANDARD PROVISIONS FOR SUBRECIPIENTS THAT ARE GOVERNMENTAL ENTITIES

3. DECLARATIONS

3.1. BORROWER INFORMATION

Legal Name:	City of Vancouver
Loan Number:	DWL29301-0
Award Year:	2023
State Wide Vendor Number:	0008489-00

3.2. PROJECT INFORMATION (PROJECT)

Project Title:	Water Station 4 PFAS Treatment System
Project Location (City or County):	Vancouver
Project State:	Washington
Project Zip Code:	98661

Project Scope of Work (PROJECT): Attachment I, attached hereto and incorporated by reference.

3.3. CONTRACT COMMUNICATION

Communications regarding Contract performance is delegated by each party to its Contract Manager. Either party may change its Contract Manager by express notice to the other party. Either party may identify on an as needed basis an alternate Contract Manager to serve during the stated temporary absence of its primary Contract Manager. Notices between the parties regarding Contract performance must be provided by written communication to the other party's Contract Manager. Written communication includes email but not voice mail. Notices are presumed received by the other party's Contract Manager upon evidence of delivery between the hours of 8:00 am to 5:00 pm except for state holidays and weekends.

3.4. LOAN INFORMATION

Loan Amount:	\$12,000,000
Loan Fee (Included in loan amount if applicable):	\$0.00
Principal Loan Forgiveness %:	100%
Loan Term:	24 years
Interest Rate:	0%
Payment Month(s):	October 1 st Annually
Earliest Date for Construction Reimbursement:	One year prior to contract execution date
Time of Performance:	48 months from Contract start date (date of last signature) to Project Completion date.

Notice to Proceed:	18 months from Contract start date (date of last signature)
--------------------	---

3.5. FUNDING INFORMATION

Total Funds from BORROWER:	\$22,500,000
Source(s) of Funds from Borrower, with assigned amounts per source:	Water Construction Fund \$22,500,000
Total State Funds:	\$12,000,000
Total Amount of Federal Award (as applicable):	N/A
Total Amount of Loan:	\$12,000,000
Federal Award Date:	N/A
Federal Award ID # (FAIN):	N/A
Amount of Federal Funds Obligated by this Action:	N/A

3.6. SPECIAL TERMS AND CONDITIONS

N/A

4. GENERAL TERMS AND CONDITIONS

DRINKING WATER STATE REVOLVING FUND (MUNICIPAL)

4.1. AUTHORITY

Acting under the authority of Section 1452 of the Safe Drinking Water Act (SDWA) Section 130, RCW 39.34, RCW 43.70.040, and RCW 70.119A.170 the Washington State Department of Health (DOH) has awarded BORROWER a Drinking Water State Revolving Fund Loan (LOAN) for the project identified in the Declarations (PROJECT). Under this CONTRACT, BORROWER is a sub-recipient of funds provided by the United States Environmental Protection Agency (EPA), CFDA Number 66.468, Safe Drinking Water State Revolving Fund.

In some CONTRACT attachments, DOH is referred to as "Lender" and BORROWER is referred to as "Contractor."

4.2. FULL AGREEMENT

This CONTRACT contains the full agreement of the parties. No other understandings, oral or otherwise, regarding the subject matter of this CONTRACT exists.

4.3. ORDER OF PRECEDENCE

In the event of an inconsistency in this CONTRACT, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: The order of precedence for terms and conditions under categories B and C is subject to the proviso that when a contract term or condition appears in more than one contract document, the more specific contract term or condition shall control if the different contract provisions cannot be harmonized.

- A. Applicable local, state, and federal statutes and regulations
- B. Contract amendments
- C. The Contract (in this order)
 - Declarations and Special Terms and Conditions
 - General Terms and Conditions
 - Attachments I – VII

4.4. LOAN AMOUNT

DOH, using funds from the Drinking Water Assistance Account, will loan BORROWER a sum not to exceed the amount shown as LOAN AMOUNT in the Declarations. The LOAN AMOUNT shall not exceed one hundred percent (100%) of the actual eligible PROJECT costs.

4.5. LOAN FEE

If DOH assessed a LOAN FEE, it is shown in the Declarations as LOAN FEE and included in the total LOAN AMOUNT. The fee (if applicable) is one percent (1%) of the loan request and will not be reduced, regardless of the final LOAN AMOUNT at PROJECT completion. If the LOAN FEE applies and the total LOAN AMOUNT is increased by amendment, DOH will assess an additional LOAN FEE equal to one percent (1%) of the additional LOAN AMOUNT. LOAN FEES are non-refundable.

4.6. LOAN TERM

Unless changed by an amendment, the LOAN TERM will not exceed the period of time shown in the Declarations. The repayment period for DOH subsidized loans is twenty-four (24) years from this CONTRACT's start date. The repayment period for non-DOH subsidized loans is twenty (20) years from this CONTRACT's start date.

4.7. INTEREST RATE

The interest rate is stated in the Declarations. Interest is per annum on the outstanding principal balance and starts to accrue from the date DOH releases LOAN FUNDS to BORROWER.

4.8. LOAN FORGIVENESS

If the LOAN qualifies for LOAN Forgiveness, the percent of the LOAN balance that DOH will forgive at PROJECT completion is stated in the Declarations. DOH calculates the amount forgiven when DOH approves the BORROWER's Project Completion Report. The amount forgiven will be based on either the LOAN AMOUNT or BORROWER's ELIGIBLE PROJECT COSTS, whichever is less, and accrued interest.

4.9. RELEASE OF LOAN FUNDS AND REQUIRED DOCUMENTATION

DOH will release LOAN funds to BORROWER to reimburse BORROWER for eligible PROJECT costs. To request reimbursement, BORROWER must submit a signed and completed invoice using a form provided by DOH. The invoice must reference the PROJECT activity performed, and include supporting documentation such as bills, invoices, receipts, and documentation of compliance with CONTRACT requirements as requested by DOH. The invoice must be signed by an official of BORROWER with authority to bind BORROWER.

Invoices must also include a report of the progress made since the last invoice, and the PROJECT status to date. DOH will not release funds until the PROJECT status report and documentation are approved by DOH. Approval will not be unreasonably withheld or delayed. After approving the invoice, documentation, and PROJECT status report, DOH will release funds to BORROWER within thirty (30) days, if BORROWER is not in alleged or actual breach of CONTRACT.

DOH will withhold ten percent (10%) of LOAN funds until DOH confirms that BORROWER has successfully completed all steps for PROJECT COMPLETION. The 10% holdback will be available to BORROWER as part of the last LOAN disbursement.

4.10. TIME OF PERFORMANCE

BORROWER will begin the activities in the PROJECT within thirty (30) calendar days of the CONTRACT start date. BORROWER will issue a 'Notice to Proceed', after the formal award of a construction contract, within eighteen (18) months of the CONTRACT start date.

BORROWER must reach PROJECT COMPLETION within the TIME OF PERFORMANCE. If there are extenuating circumstances, BORROWER may request, in writing, at least ninety (90) calendar days prior to the PROJECT COMPLETION that DOH extend the deadline for PROJECT COMPLETION. At its discretion, DOH may issue an extension. DOH's decision is final and not subject to the dispute clause.

If BORROWER does not meet the requirements of this section, it is a breach of CONTRACT, and DOH may terminate or suspend this CONTRACT.

4.11. PROJECT COMPLETION AMENDMENT AND THE PROJECT COMPLETION REPORT

The PROJECT Completion Amendment determines the final LOAN AMOUNT and LOAN TERM. When activities in the PROJECT are complete, BORROWER will start the process for the PROJECT Completion Amendment by sending DOH the PROJECT Completion Report. In the PROJECT Completion Report, BORROWER will provide the following information to DOH:

- A. A statement of the actual dollar amount spent, from all fund sources, to complete the PROJECT.
- B. A statement that all ELIGIBLE PROJECT COSTS have been incurred. Costs are incurred when goods and services are received and/or contracted work is performed.
- C. Evidence showing BORROWER'S compliance with financial the audit requirements of this CONTRACT.
- D. An invoice for the remaining ELIGIBLE PROJECT COSTS.
- E. Documentation of BORROWER's compliance with National Historic Preservation Act, 54 USC Subtitle III.

4.12. LOAN PAYMENTS

BORROWER must begin repaying the LOAN no later than one (1) year after the CONTRACT start date. Payments are due on the first day of the month(s) shown as the PAYMENT MONTH(S) in the Declarations. Payments are

principal and interest accrued up to the PAYMENT MONTH(S).

BORROWER can repay in full the LOAN balance, including fees and repayment of LOAN FUNDS for ineligible project costs (if any), at any time or make accelerated payments without penalty. The final payment must be on or before the end of the LOAN TERM.

4.13. LOAN DEFAULT

DOH must receive BORROWER'S payment within thirty (30) calendar days of the due date. Late payments are delinquent and assessed a monthly penalty on the first (1st) day past the due date. The penalty is one percent (1%) of the late payment amount per month. Penalty and fees accrue interest at the rate stated as LOAN INTEREST in the Declarations.

DOH may notify any other entity, creditors, or potential creditors of BORROWER's delinquency. BORROWER is responsible for all attorney fees and costs incurred by DOH in any action taken to enforce its rights under this section, including in any alternative dispute resolution proceeding.

4.14. LOAN SECURITY

LOAN Security is only required if identified in the Declarations. In its sole discretion and if allowed under the EPA regulations relevant to this Contract, DOH may subordinate its LOAN security to Borrower's obligations under existing or future bonds and notes. Nothing in this section releases BORROWER from the obligation to make LOAN PAYMENTS when due, and to adjust rates, fees, or surcharges as necessary to meet its obligations under this CONTRACT.

4.15. AMENDMENTS, MODIFICATIONS, ASSIGNMENTS, AND WAIVERS

Amendments, modifications, assignments, and waivers to any of the terms of this CONTRACT supersede, if applicable, those terms as found in the original CONTRACT, and are not binding unless they are in writing and signed by representatives authorized to bind each of the parties. Only the authorized representative or their designee has the express, implied, or apparent authority to alter, amend, assign, modify, or waive any terms of this CONTRACT.

Neither this CONTRACT nor any claim arising under it may be transferred or assigned by BORROWER without DOH's prior written consent. During the LOAN TERM, DOH must approve in advance, any change in ownership of the water system(s) improved with LOAN FUNDS. DOH may require the LOAN, including fees and ineligible project costs (if any), be paid in full as a condition of approval.

Nothing in this CONTRACT may be waived unless approved by DOH in writing. No waiver of any default or breach is implied from any failure to take action upon such default or breach if the default of breach persists or repeats. Waiver of any default or breach is not a waiver of any subsequent default or breach.

4.16. BUILD AMERICA, BUY AMERICA

None of the LOAN funds can be used for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel, manufactured products, and construction materials used in the project to be produced in the United States ("Build America, Buy America Requirements") including iron and steel, manufactured products, and construction materials provided by the Contactor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Owner and Funding authority.

DOH may waive this requirement if:

- A. Compliance would be inconsistent with the public interest; or
- B. The particular products are not produced in the United States in sufficient and reasonably available quantities and are not of a satisfactory quality; or
- C. Inclusion of products produced in the United States will increase the cost of the overall project by more than twenty-five (25) percent; and
- D. A waiver is approved by the Environmental Protection Agency (EPA).

BORROWER must submit the waiver request to DOH, which will submit it to EPA. The full text of the Build America, Buy America provision can be found under The Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52.

4.17. ATTORNEYS' FEES

Unless expressly stated under another section of the CONTRACT, each party agrees to bear its own attorneys' fees and costs for litigation or other action brought to enforce the contract terms.

4.18. BONUS AND COMMISSION PAYMENTS NOT ALLOWED

Funds provided under this CONTRACT cannot be used to pay any bonus or commission to gain approval of the loan application or any other approval under this CONTRACT. This section does not prohibit paying for bona fide technical consultants, managerial, or other such services, if payment is for ELIGIBLE PROJECT COSTS.

4.19. COMPLIANCE

BORROWER will comply with all applicable federal, state and local laws, requirements, and ordinances for the design, implementation, and administration of the PROJECT and this CONTRACT, including but not limited to those stated in the CONTRACT attachments. BORROWER will provide DOH with documentation of compliance, if requested.

In the event of BORROWER's alleged or actual noncompliance with any part of this CONTRACT, DOH may suspend all or part of the CONTRACT, withhold payments, or prohibit BORROWER from incurring additional obligations of LOAN FUNDS during the investigation and pending corrective action by BORROWER, or a decision by DOH to terminate the CONTRACT.

4.20. DISPUTES

Except as otherwise provided in this CONTRACT, when a dispute arises between the parties that cannot be solved by direct negotiation, either party may request a dispute hearing with the Director of the Office of Drinking Water (the Director), who may designate a neutral person to decide the dispute. The parties will be equally responsible for any reasonable costs and fees incurred by the neutral.

The party requesting a dispute hearing must:

- A. Be in writing;
- B. State the disputed issues;
- C. State the relative positions of the parties;
- D. State BORROWER's name, address, and the CONTRACT number;
- E. Provide contact information for the requester's representative, and,
- F. Be mailed to the other party's (respondent's) Contract Manager within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent must send a written answer within five (5) working days.

In the alternative, the parties can agree to submit a mutual request to the Director, which should include each party's response to the other party's characterization of the dispute.

The Director or designee will review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties. The decision on the dispute is non-binding and is not admissible in any succeeding judicial or quasi-judicial proceeding.

This non-binding dispute process must precede any action in a judicial or quasi-judicial tribunal. Nothing in this CONTRACT limits the parties from using any mutually acceptable alternate dispute resolution (ADR) method in addition to or instead of the dispute hearing procedure outlined above.

4.21. ELIGIBLE PROJECT COSTS

BORROWER will comply with Attachment VI: DWSRF Eligible Project Costs and is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

The purchase of any land necessary for the PROJECT must be included in the PROJECT and be documented with an appraisal or equivalent market evaluation, if approved by DOH, and a valid purchase and sale agreement.

Construction expenses incurred after the date shown as earliest date for construction reimbursement in the Declarations are eligible for reimbursement. Requests for reimbursements for costs related to construction activities will not be accepted until BORROWER has met the following conditions:

- A. Completed the State Environmental Review Process (SEPA Review under RCW 43.21C);
- B. Complied with all provisions of the National Historic Preservation Act, 54 USC Subtitle III;
- C. Complied with Prevailing Wage requirements;
- D. Received approval from DOH of the project report and related construction documents for all applicable activities described in the PROJECT; and
- E. Complied with any other LOAN conditions required by DOH.

BORROWER cannot use LOAN FUNDS for any expenses charged by BORROWER against any other contract, subcontract, or source of funds.

If DOH reimburses BORROWER for costs that are later determined by DOH to be ineligible, BORROWER must repay these funds to DOH no later than when the BORROWER returns the PROJECT Completion Amendment to DOH. Prior to final completion, DOH may withhold payment for such costs as allowed under Section 4.36 RECAPTURE. Repayment is subject to interest retroactive to the date of the applicable disbursement by DOH.

4.22. FALSE, INCORRECT, OR INCOMPLETE INFORMATION OR CLAIM

BORROWER warrants that they have not and will not submit to DOH any information that is materially false, incorrect, or incomplete. Providing false, fictitious, or misleading information with respect to the receipt and disbursements of LOAN funds is a basis for criminal, civil, or administrative fines and/or penalties. DOH may also pursue applicable remedies for violations by BORROWER of this section.

4.23. FINANCIAL AUDIT

DOH may require BORROWER to obtain an audit of this PROJECT conforming to Generally Accepted Accounting Principles (GAAP). BORROWER will maintain its records and accounts to facilitate the audit. BORROWER is responsible for correcting any audit findings. BORROWER is responsible for any audit findings incurred by its own organization and/or its subcontractors. DOH reserves the right to recover from BORROWER all disallowed costs and INELEGIBLE PROJECT COSTS resulting from the audit.

The audit must include a report on compliance, including an opinion (or disclaimer of opinion) about whether the BORROWER is in compliance with laws, regulations and requirements of this CONTRACT that could have a direct and material effect on DOH.

BORROWER must send a copy of any required audit per 2 CFR §200.512 to the DOH Contract Manager, no later than nine (9) months after the end of BORROWER's fiscal year(s). BORROWER must send any audit corrective action plan for audit findings and a copy of the management letter, within three (3) months of the audit report.

4.24. GOVERNING LAW AND VENUE

This CONTRACT shall be construed and interpreted according to the laws of the state of Washington, and the venue of any action brought under the CONTRACT will be in the Superior Court for Thurston County.

4.25. HISTORICAL AND CULTURAL REQUIREMENTS

BORROWER will not conduct or authorize destructive PROJECT planning activities before completing the requirements of the National Historic Preservation Act, 54 USC Subtitle III. BORROWER will not begin construction activities, ground disturbance, or excavation of any sort, until BORROWER has complied with all requirements of the National Historic Preservation Act of 1966, as amended.

If historical or cultural artifacts are discovered during the PROJECT, BORROWER will immediately stop construction and implement reasonable measures to protect the discovery site from further disturbance, take

reasonable steps to ensure confidentiality of the discovery site, restrict access to the site, and notify the concerned tribe's cultural staff or committee, Tribal Historical Preservation Officer (THPO), DOH Contract Manager, and the State's Historical Preservation Officer (SHPO) at the Washington State Department of Archaeology and Historic Preservation (DAHP). If human remains are uncovered, BORROWER will report the presence and location of the remains to the local coroner and law enforcement immediately, then contact the concerned tribe's cultural staff or committee, DOH Contract Manager, and DAHP.

BORROWER is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural sites and artifacts and will hold harmless the state of Washington and DOH in relation to any claim related to historical or cultural sites discovered, disturbed, or damaged as a result of BORROWER'S and BORROWER's subcontractors activities.

BORROWER will include the requirements of this section in all contracts for work or services related to the PROJECT. BORROWER will require that bid documents include an inadvertent discovery plan that meets the requirements of this section.

4.26. INDEMNIFICATION

BORROWER agrees to defend, indemnify, and hold harmless DOH and the state of Washington for claims arising out of or incident to BORROWER'S or any BORROWER'S subcontractor's performance or failure to perform the CONTRACT. BORROWER'S obligation to indemnify, defend, and hold harmless DOH and the state of Washington shall not be eliminated or reduced by any actual or alleged concurrent negligence of DOH or its agents, agencies, employees and officials. BORROWER'S obligation to indemnify, defend and hold harmless DOH and the state of Washington includes any claim by BORROWER'S agents, employees, officers, subcontractors or subcontractor employees.

BORROWER waives immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

4.27. INDUSTRIAL INSURANCE COVERAGE

BORROWER will comply with the applicable parts of Title 51 RCW, Industrial Insurance. If BORROWER fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as required by law, DOH may collect from BORROWER the full amount payable to the Industrial Insurance Accident Fund. DOH may deduct the amount owed by BORROWER to the accident fund from the amount payable to BORROWER by DOH under this CONTRACT, and transmit the deducted amount to the Washington State Department of Labor and Industries (L&I).

4.28. LITIGATION

BORROWER warrants that there is no threatened or pending litigation, investigation, or legal action before any court, arbitrator, or administrative agency that, if adversely determined against BORROWER, would have a materially adverse effect on BORROWER's ability to repay the LOAN. BORROWER agrees to promptly notify DOH if any above-referenced actions become known to BORROWER during the pendency of the Contract.

4.29. NONDISCRIMINATION

BORROWER will not discriminate on the basis of race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability in the performance of this CONTRACT. BORROWER will comply with all federal and state nondiscrimination laws, including, but not limited to Chapter 49.60 RCW, Washington's Law Against Discrimination and 42 USC 12101 et seq., the Americans with Disabilities Act (ADA), and 40 CFR Part 33 Participation by Disadvantaged Business Enterprises in US EPA Programs . Failure by BORROWER to carry out these requirements is a material breach of this CONTRACT. BORROWER is required to include these non-discriminatory provisions in any contract with a subcontractor.

4.30. PREVAILING WAGE

BORROWER will assure that all contractors and subcontractors performing work funded through this CONTRACT comply with prevailing wage laws by paying the higher of state or federal prevailing wages. BORROWER is legally and financially responsible for compliance with the prevailing wage requirements. BORROWER should consult the

United States Department of Labor and Washington State Department of Labor and Industries websites to determine the federal and State prevailing wages that must be paid.

4.31. PROCUREMENT

BORROWER will comply with all procurement requirements for subcontracting for the PROJECT and for obtaining PROJECT-related goods and services. BORROWER must maintain records to verify compliance with procurement requirements.

BORROWER must ensure that all contractors, subcontractors, engineers, vendors, and any other entity for work or services listed in the PROJECT will insert in full, in any contract, the labor standards provisions in Attachment VIII: Labor Standard Provisions for Subrecipients That Are Governmental Entities.

4.32. PROHIBITION STATEMENT

Per Section 106 of the federal Trafficking Victims Protection Act, BORROWER's contractors, subcontractors, engineers, vendors, and any other entity performing work funded by this CONTRACT must comply with and include the following terms and conditions in all contracts for work or services for the PROJECT.

"All forms of trafficking in persons, illegal sex trade, or forced labor practices are prohibited in the performance of this award or subawards under the award, or in any manner during the period of time that the award is in effect. This prohibition applies to you as the recipient, your employees, subrecipients under this award, and subrecipients' employees."

4.33. PROJECT SIGNS

If BORROWER displays, during the TIME OF PERFORMANCE, any signs or markers identifying parties that are providing funds for the PROJECT, BORROWER must include the Washington State Department of Health Drinking Water State Revolving Fund and the Washington State Department of Health as participants in the PROJECT.

4.34. PUBLICITY

BORROWER agrees to get prior written consent from DOH's Contract Manager before publishing or using any advertising or publicity materials that include Washington State or DOH's name, or includes language that may reasonably infer or imply a connection with either one.

4.35. RATES AND RESERVES

BORROWER will maintain reserves at a minimum as required by the Water System Plan or Small Water System Management Plan. BORROWER will timely adopt rate increases and/or capital assessments for the system's services to provide sufficient funds, along with other revenues of the system, to pay all operating expenses and debt repayments during the LOAN TERM.

4.36. RECAPTURE

DOH reserves the right to recapture from BORROWER sufficient funds to compensate DOH for BORROWER's noncompliance with any part of this CONTRACT, in addition to any other remedies available under the CONTRACT, at law, or in equity. DOH may withhold LOAN FUNDS from BORROWER to recapture such funds.

4.37. RECORDKEEPING AND ACCESS TO RECORDS

DOH, its agents, and authorized officials of the state and federal governments will have full access and the right to examine, copy, excerpt, or transcribe, at no additional cost and at all reasonable times, any pertinent documents, papers, records, and books of BORROWER and of persons, firms, or organizations with which BORROWER may contract, involving transactions related to this CONTRACT. BORROWER agrees to keep complete records of its compliance with this CONTRACT for a period of six (6) years from the date that the debt to DOH is paid in full. This includes but is not limited to financial reports. If any litigation, claim or audit is started before the expiration of the six (6) year period, BORROWER must keep the records until all litigation, claims or audit findings involving the records have been resolved. These records retention requirements are in addition to the local government records retention schedules applicable to the BORROWER.

4.38. REGISTRATION WITH THE SYSTEM FOR AWARD MANAGEMENT (SAM)

BORROWER must comply with 48 CFR 52.204-7 to register with the System for Awards Management (SAM.gov). BORROWER is responsible for the accuracy and completeness of its data in the SAM database and any liability resulting from the Government or DOH reliance on inaccurate or incomplete data in it. BORROWER must remain registered in the SAM database. BORROWER should annually review its information in SAM to ensure it is accurate and complete.

4.39. SEVERABILITY

If any part of this CONTRACT or part of any document incorporated by reference is found to be invalid, it will not affect the other parts of this CONTRACT that can be given effect without the invalid part.

4.40. SUBCONTRACTING

Prior to awarding contracts and/or subcontracts, BORROWER must verify that the complete names of both the selected contractor and the owner or president are not in the Federal Excluded Parties List System for Ineligible Professionals and Debarred Contractors (www.SAM.gov). BORROWER must provide the DOH Contract Manager with a screen printout documenting that neither the firm, the owner or the president are excluded.

BORROWER will ensure that every contract and subcontract awarded for the PROJECT after the CONTRACT start date will bind the parties to follow all applicable terms of this CONTRACT. BORROWER is responsible to DOH for noncompliance by its contractors and/or subcontractors. BORROWER's contracts or subcontracts do not release or reduce the BORROWER's liability to DOH for any breach in the performance of BORROWER's duties. BORROWER's contracts and subcontracts must include a term that the state of Washington and DOH are not liable for claims or damages arising from a contractor and/or subcontractor's performance or lack thereof.

4.41. SURVIVAL

The CONTRACT's terms, conditions, and warranties that by its sense and context are intended to survive the completion of the performance, cancellation or termination of this CONTRACT, shall so survive.

4.42. TERMINATION FOR CAUSE

If DOH concludes that BORROWER has failed to comply with the CONTRACT requirements or has otherwise breached one or more parts of the CONTRACT, DOH may, at its discretion, upon notice to BORROWER, terminate or suspend the CONTRACT and/or its attached agreements in whole or in part.

The notice will be in writing and state the reason(s) for termination or suspension, and the effective date. The effective date will be determined by DOH. The notice will allow BORROWER at least thirty (30) business days to cure the breach, if curable. If the breach is not cured or cannot be cured within thirty (30) business days, the outstanding balance of the LOAN, with any interest accrued and other costs as authorized by the CONTRACT shall be due and payable to DOH.

If DOH terminates this CONTRACT under this section, DOH is liable only for payment required under the terms of this CONTRACT for ELIGIBLE PROJECT COSTS incurred prior to the effective date of termination.

At DOH's discretion, the termination for cause may be deemed a termination for convenience if DOH determines that the default or failure to perform was outside BORROWER's control, fault or negligence. The rights and remedies of DOH provided in this CONTRACT are not exclusive and are in addition to any other rights and remedies provided by law. Nothing in this section affects BORROWER's obligations to immediately repay the unpaid balance of the LOAN as prescribed in the Washington Administrative Code (WAC) 246-296-150.

4.43. TERMINATION OR SUSPENSION FOR CONVENIENCE

If funding or appropriation from state, federal, or other sources is withdrawn, reduced, or limited in any way during the TIME OF PERFORMANCE, DOH may:

- A.** Delay or suspend releasing LOAN FUNDS until funding or appropriation are available to DOH; or
- B.** Amend the CONTRACT to reflect the new funding limitations and conditions; or

- C. Terminate the CONTRACT and/or its attached agreements, in whole or in part; or
- D. Suspend the CONTRACT and/or its attached agreements, in whole or in part.

If DOH terminates the CONTRACT and/or its attached agreements in whole or in part, under this section, DOH will notify BORROWER's representative in writing of the reason(s) for termination, and the effective date. The effective date will be determined by DOH.

DOH may choose to suspend this CONTRACT and/or its attached agreements in whole or in part, if DOH determines that the funding insufficiency will likely be resolved in time for BORROWER to resume activities prior to the end of the TIME OF PERFORMANCE. DOH will notify BORROWER's representative by facsimile or email of the reason(s) for suspension, and the effective date. DOH will determine the effective date. BORROWER must suspend performance on the effective date of the suspension. During the period of suspension each party must notify the other party's representative of any conditions that may reasonably affect its ability to resume performance.

During the suspension, when DOH determines that the funding insufficiency is resolved, DOH may notify BORROWER's representative of the proposed date to resume performance. BORROWER must respond to DOH's representative in writing, within five (5) business days of DOH sending notice, as to whether it can resume performance on that date or offer an alternative date to resume performance. If BORROWER cannot resume performance or the alternative date is not acceptable to DOH, the parties agree the CONTRACT will be deemed terminated for convenience, retroactive to the original date of suspension.

If DOH terminates or suspends this CONTRACT, DOH is liable only for payment required under the terms of this CONTRACT for eligible project costs incurred prior to the effective date of suspension or termination. Nothing in this section shall affect Contractor's obligations to repay the unpaid balance of the LOAN. Nothing in this section affects BORROWER's obligation to repay the LOAN, including fees and other expenses as allowed by the CONTRACT.

4.44. TERMINATION PROCEDURES

When BORROWER receives Notice of Termination or on the date a suspension is converted to a termination, except as otherwise directed by DOH, BORROWER will:

- A. Stop work under the CONTRACT on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities related to the CONTRACT;
- C. If expressly requested by DOH, assign to DOH any or all of the rights, title, and interest of BORROWER under the orders and subcontracts so terminated, in which case DOH has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts. Any attempt by BORROWER to settle such claims must have the prior written approval of DOH; and
- D. Preserve and transfer any materials, CONTRACT deliverables and/or DOH property in BORROWER's possession as directed by DOH.

Upon termination of this CONTRACT, DOH will pay BORROWER for amounts due under the CONTRACT prior to the date of termination unless such payment is precluded under any other provision of this CONTRACT. DOH may withhold any amount due as DOH reasonably determines is necessary to protect DOH against potential loss or liability resulting from the termination. DOH will pay any withheld amount to BORROWER if DOH later determines that loss or liability will not occur.

4.45. WORK HOURS AND SAFETY STANDARDS

If this CONTRACT exceeds \$100,000, BORROWER must comply with the applicable Contract Work Hours and Safety Standards Act (40 USC Chapter 37). These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

ATTACHMENT I: SCOPE OF WORK (PROJECT)

DWSRF Scope of Work Form:

Scope of Work:

Project to include:

1. Submit project report and construction documents to Southwest Regional Office for review and approval. Submit approval letter.
2. Submit bid documents to Southwest Regional Office for review and approval. Submit approval letter.
3. Complete SEPA and submit determination and publication affidavit.
4. Complete cultural and historical review process.
5. Upgrade existing well pumps, electrical controls, and other components to handle future filtration treatment system
6. Construct backwash tank and foundation pad.
7. Submit Construction Completion Report to Southwest Regional Office. Submit final approval letter.

In addition to costs of construction, costs may include (but are not limited to): engineering, design, construction inspection, hydrogeologic assessment, permits, public involvement, preparation of bid documents, fees, taxes, legal, administrative and audit.

APPLICATION #2023-4191, CITY OF VANCOUVER, WATER STATION 4 PFAS TREATMENT SYSTEM

Project Costs by Cost Category:

COST CATEGORY	CURRENT ESTIMATES
Engineering Report (Preliminary Engineering)	\$130,000
Environmental Review	\$5,000
Historical Review/Cultural Review	\$8,109
Land/ROW Acquisition	\$0
Permits	\$0
Public Involvement/Information	\$0
Bid Documents (Design Engineering)	\$6,978,230
Construction: Estimated Cost. Provide details on following pages.	\$4,056,891
DOH Review/Approval Fees:	\$10,392
Contingency: (10% min, 20% max)	\$811,378
Sales or Use Taxes	\$0
Construction Engineering/Inspection	\$0
Insurance:	\$0
Audit:	\$0
Legal:	\$0
Service Meters (Purchase and Installation)	\$0
Other:	\$0
TOTAL ESTIMATED PROJECT COSTS (before Loan Fee)	\$12,000,000
DWSRF Loan Origination Fee (0%)	<u>\$0</u>
DWSRF Loan Award	<u>\$12,000,000</u>

APPLICATION #2023-4191, CITY OF VANCOUVER, WATER STATION 4 PFAS TREATMENT SYSTEM

Project Funding:

TYPE OF FUNDING	SOURCE	CURRENT STATUS
Grants and Other Non-Matching Funds		
Grant #1		\$
Grant #2		\$
Other Grants		\$
New Grants		\$
Total Grants and Other Non-Matching Funds		a) \$
Loans		
<i>This Loan Request</i>	DWSRF loan DWL29707-0	\$12,000,000
Other Loan #1	DWSRF loan DWL29301-0	\$3,030,000
Other Loan #2		\$
Other Loans		\$
New Loans		\$
Total Loans		b) \$15,030,000
Local Revenue		
Source #1	Water Construction Fund	\$ 22,500,000
Source #2		\$
Other Local Revenue		\$
New Local Revenue		\$
Total Local Revenue		c) \$22,500,000
Other Funds		
Other Funds		\$
Other Funds		\$
Total Other Funds		d) \$
TOTAL PROJECT FUNDING		e) \$37,530,000

Engineer's Certification:

The term of this loan will be based on an engineer's certification of the expected useful life of the improvements, as stated below, or 20 years, whichever is less. If the jurisdiction prefers the term of its loan to be less than either 20 years or the useful life of the improvements, the preferred loan term should be indicated here: __ years.

I, _____, licensed engineer, certify that the average expected useful life for the improvements described above is __ years.

Signed: _____

Name: _____

Date: _____

Telephone: _____

Professional Engineer License Number: _____

ATTACHMENT II: ATTORNEY'S CERTIFICATION

DRINKING WATER STATE REVOLVING FUND (MUNICIPAL)

I, _____, hereby certify:

I am an attorney at law admitted to practice in the state of Washington and the duly appointed attorney of BORROWER identified in the Declarations of the Contract identified above; and

I have also examined any and all documents and records, which are pertinent to the Contract, including the application requesting this financial assistance.

Based on the foregoing, it is my opinion that:

1. BORROWER is a public body, properly constituted and operating under the laws of the State of Washington, empowered to receive and expend federal, state and local funds, to contract with the state of Washington, and to receive and expend the funds involved to accomplish the objectives set forth in its application.
2. BORROWER is empowered to accept the Drinking Water State Revolving Fund financial assistance and to provide for repayment of the loan as set forth in the loan agreement.
3. There is currently no litigation in existence seeking to enjoin the commencement or completion of the above-described public facilities project or to enjoin BORROWER from repaying the Drinking Water State Revolving Fund loan extended by DOH with respect to such project. BORROWER is not a party to litigation, which will materially affect its ability to repay such loan on the terms contained in the loan agreement.
4. Assumption of this obligation would not exceed statutory and administrative rule debt limitations applicable to BORROWER.

Signature of Attorney

Date

Name and BAR Number (WSBA No.)

Address

ATTACHMENT III: FEDERAL AND STATE REQUIREMENTS (NOT ALL INCLUSIVE)

1) Environmental and Cultural Authorities

- a) Archeological and Historic Preservation Act of 1974, Public Law 86-523 as amended
- b) Clean Air Act, Public Law 84-159 as amended
- c) Coastal Zone Management Act, Public Law 92-583 as amended
- d) Endangered Species Act, Public Law 93-205 as amended
- e) Environmental Justice, Executive Order 12898
- f) Floodplain Management, Executive Order 11988 as amended by Executive Order 12148
- g) Protection of Wetlands, Executive Order 11990
- h) Farmland Protection Policy Act, Public Law 97-98
- i) Fish and Wildlife Coordination Act, Public Law 85-624 as amended
- j) National Historic Preservation Act, 54 USC Subtitle III
- k) Safe Drinking Water Act, Public Law 93-523 as amended
- l) Wild and Scenic Rivers Act, Public Law 90-542 as amended
- m) Washington State Environmental Policy Act, Chapter 43.21C RCW
- n) Native American Graves Protection and Repatriation Act, Archaeological Resources Protection Act, Revised Code of Washington (RCW) 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and Washington Administrative Code (WAC) 25-48 regarding Archaeological Excavation and Removal Permits.

Buy America Build America Requirements

- 2) DWSRF construction projects chosen for FFATA/Equivalency reporting must comply with the Buy America Build America provisions. Projects started prior to May 14, 2022, may be exempt. Visit the EPA website for more information on the BABA requirements and the waiver process at <https://www.epa.gov/cwsrf/build-america-buy-america-baba>

3) Economic and Miscellaneous Authorities

- a) Demonstration Cities and Metropolitan Development Act of 1996, Public Law 89-754 as amended, Executive Order 12372
- b) Procurement Prohibitions under Section 306 of the Clean air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans
- c) Uniform Relocation and Real Property Policies Act, Public Law 91-646 as amended
- d) Debarment and Suspension, Executive Order 12549
- e) H.R. 3547, Consolidated Appropriations Act, 2014.

4) Social Policy Authorities

- a) Age Discrimination Act of 1975, Public Law 94-135
- b) Title VI of the Civil Rights Act of 1964, Public Law 88-352
- c) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500 (the Clean Water Act)
- d) Section 504 of the Rehabilitation Act of 1973, Public Law 93-112 (including Executive Orders 11914 and 11250)
- e) Equal Employment Opportunity, Executive Order 11246
- f) Disadvantaged Business Enterprise, Public Law 101-549 (the Clean Air Act), and Public Law 102-389 (the Clean Water Act)
- g) Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Public Law 100-590
- h) Chapter 49.60 RCW, Washington's Law against Discrimination, and 42 USC 12101 et seq. the Americans with Disabilities Act (ADA).
- i) The Contract Work Hours and Safety Standards Act (40 USC 327-333)-Where applicable.
- j) The Genetic Information Nondiscrimination Act of 2008 (GINA), 42 USC s. 2000ff et seq.

5) State Laws

- a) Chapter 36.70A RCW, Growth Management Act
- b) Chapter 39.80 RCW, Contracts for Architectural and Engineering Services
- c) Chapter 39.12 RCW, Washington State Public Works Act
- d) Chapter 43.20 RCW, State Department of Health of Health

- e) Chapter 43.70 RCW, Department of Health
- f) Chapter 43.155 RCW, Public Works Project
- g) Chapter 70.116 RCW, Public Water Systems Coordination Act of 1977
- h) Chapter 70.119 RCW, Public Water Supply Systems Certification and Regulation of Operations
- i) Chapter 70.119A RCW, Public Water Systems, Penalties & Compliances
- j) Chapter 246-290 WAC, Group A Public Water Systems
- k) Chapter 246-291 WAC, Group B Public Water Systems
- l) Chapter 246-292 WAC, Waterworks Operator Certification Regulations
- m) Chapter 246-293 WAC, Water Systems Coordination Act
- n) Chapter 246-294 WAC, Drinking Water Operating Permits
- o) Chapter 246-295 WAC, Satellite System Management Agencies
- p) Chapter 246-296 WAC Drinking Water State Revolving Fund Loan Program
- q) Chapter 173-160 WAC, Minimum Standards for Construction & Maintenance of Wells
- r) Title 173 WAC, Department of Ecology Rules
- s) Title 40 Part 141 Code of Federal Regulations, Federal National Primary Drinking Water Regulations (Section Adopted by Reference)

ATTACHMENT IV: DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

GENERAL COMPLIANCE, 40 CFR, Part 33

BORROWER must comply with the requirements of Environmental Protection Agency's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under this Contract, contained in 40 CFR, Part 33. BORROWER will use the directory of certified firms available through the Washington State Office of Minority and Women's Business Enterprises to meet the requirements.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

The following are exemptions from the fair share objective Requirements:

- Grant and loan recipients receiving a total of \$250K or less in EPA financial assistance in a given fiscal year.
- Tribal recipients of Performance Partnership Eligible grants under 40 CFR Part 35, Subpart B.
 - There is a 3-year phase in period for the requirement to negotiate fair share goals for Tribal and Insular Area recipients.
- Recipients of Technical Assistance Grants.

The Fair Share Objectives or goals for the utilization of disadvantaged businesses negotiated with EPA by the WA Office of Minority Women Business are stated below.

Construction	10% MBE	6% WBE
Supplies	8% MBE	4% WBE
Equipment	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE

BORROWER must accept the fair share objectives/goals stated above and purchase the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as WA Office of Minority Women Business goals.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, BORROWER will make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply.

Records documenting compliance with the six good faith efforts shall be retained. The six good faith efforts shall include:

- Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local Government recipients, this will include placing the Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- Consider in the contracting process whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State and Local Government recipients, this will include dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Health.
- If the prime contractor awards subcontracts, also require the prime contractor to take the five good faith efforts in paragraphs A through E above.

MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503

BORROWER is required to submit MBE/WBE participation reports to DOH, on a quarterly basis, beginning with the Federal fiscal year reporting period BORROWER receives the award and continuing until the project is completed.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

BORROWER agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BORROWER agrees to require all general contractors to provide forms: EPA Form 6100-2 DBE Subcontractor Participation Form and EPA Form 6100-3 DBE Subcontractor Performance Form to all its Disadvantaged Business Enterprise subcontractors, engineers, vendors, and any other entity for work or services listed in the PROJECT. These two (2) forms may be obtained from the EPA Office of Small Business Program's website on the internet at <http://www.epa.gov/osbp/grants.htm>.

BORROWER agrees to require all general contractors to complete and submit to BORROWER and Environmental Protection Agency EPA Form 6100-4 DBE Subcontractor Utilization Form beginning with the Federal fiscal year reporting period BORROWER receives the award and continuing until the project is completed. Only procurements with certified MBE/WBEs are counted toward a Contractor's MBE/WBE accomplishments.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

BORROWER is also required to create and maintain a bidders list if BORROWER of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

Section 33.501(b) of the rule is as follows:

A recipient of a Continuing Environmental Program Grant or other annual grant must create and maintain a bidders list. In addition, a recipient of an EPA financial assistance agreement to capitalize a revolving loan fund also must require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. The purpose of a bidders list is to provide the recipient and entities receiving identified loans who conduct competitive bidding with as accurate a database as possible about the universe of MBE/WBE and non-MBE/WBE prime and subcontractors. The list must include all firms that bid or quote on prime contracts or bid or quote on subcontracts under EPA assisted projects, including both MBE/WBEs.

The bidders list must be kept until the grant project period has expired and the recipient is no longer receiving EPA funding under the grant. For entities receiving identified loans, the bidders list must be kept until the project period for the identified loan has ended. The following information must be obtained from all prime and subcontractors:

- (1) Entity's name with point of contact;
- (2) Entity's mailing address, telephone number, and e-mail address;
- (3) The procurement on which the entity bid or quoted, and when; and
- (4) Entity's status as a MBE/WBE¹ or non-MBE/WBE.

The exemption found at § 33.501(c) is as follows:

A recipient of an EPA financial assistance agreement in the amount of \$250,000 or less for any single assistance agreement, or of more than one financial assistance agreement with a combined total of \$250,000 or less in any one fiscal year, is exempt from the paragraph (b) of this section requirement to create and maintain a bidders list. Also, a recipient under the CWSRF, DWSRF, or BCRLF Program is not required to apply the paragraph (b) of this section bidders list requirement of this subpart to an entity receiving an identified loan in an amount of \$250,000 or less, or to an entity receiving more than one identified loan with a combined total of \$250,000 or less in any one fiscal year. This exemption is limited to the paragraph (b) of this section bidders list requirements of this subpart.

¹ Qualified Women and Minority business enterprises may be found on the Internet at www.omwbe.wa.gov or by contacting the Washington State Office of Minority and Women's Enterprises at 360-704-1181.

ATTACHMENT V: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS



United States Environmental Protection Agency
Washington, DC 20460

EPA Project Control Number

The terms, "covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded", as used in this attachment, are defined in the rules implementing Executive Order 12549, including 13 CFR § 400.109. You may contact DOH for help getting a copy of these regulations.

BORROWER, defined as the primary participant and its principals, certifies by signing below that to the best of its knowledge and belief they:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- B. Have not within a three-year (3) period preceding this CONTRACT, been convicted of or had a civil judgment against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses described in this attachment; and,
- D. Have not within a three-year period (3) preceding the signing of this CONTRACT had one or more public transactions (federal, state, or local) terminated for cause or default.

Prior to awarding contracts for the PROJECT, BORROWER must verify that neither the contractor's business name(s) nor the names of its principals are in the Federal Excluded Parties List System for Ineligible Professionals and Debarred Contractors (www.SAM.gov). BORROWER must keep documentation in the PROJECT files and provide a copy to the DOH Contract Manager.

BORROWER will include the language below without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

The lower tier contractor certifies, by signing this CONTRACT that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

I understand that a false statement on this certification may be ground for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine or imprisonment for up to 5 years, or both.

Typed or Printed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

☐

I am unable to certify to the above statements. My explanation is attached.

ATTACHMENT VI: DWSRF ELIGIBLE PROJECT COSTS

Must be directly attributable to the project.

1. The costs for complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
2. DWSRF loan fees.
3. The purchase of a portion of another system's capacity, if it is the most cost effective solution (limited to publicly owned (municipal) systems).
4. Construction of reservoirs (clear wells) that are part of the treatment process and are collocated with the treatment facility.
5. Construction of distribution reservoirs (finished water).
6. Cost associated with restructuring or consolidation of existing water systems by publicly owned water systems.
7. Main extensions to connect to safe and reliable sources of drinking water.
8. Cost associated with collecting and preparing environmental assessment documents to obtain local permits.
9. Direct labor including related employee benefits:
 - a. Salaries and wages (at actual or average rates) covering productive labor hours of employees of the borrower (excluding the administrative organization of the operating unit involved) for periods of time actively or incidentally engaged in pre-design engineering, design engineering, construction engineering, acquisition of rights of way, and the cleaning, sterilization or bacteriological testing of water system components prior to public use. The costs of services rendered by employees generally classified as administration/project management of the loan are considered a direct cost only when such employees are assigned the types of services described above and shall be limited to 3% or less of the project loan amount.
 - b. Employee benefits relating to labor are considered a direct cost of construction projects. The following items may be included as employee benefits:
 - F.I.C.A. (Social Security) –employer's share.
 - Retirement benefits.
 - Hospital, health, dental, and other welfare insurance.
 - Life insurance.
 - Industrial and medical insurance.
 - Vacation.
 - Holiday.
 - Sick leave.
 - Military leave and jury duty.Employee benefits must be calculated as a percentage of direct labor dollars. The

computation of predetermined percentage rates to be applied to current labor costs must be based on the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

- c. Other than work identified in Number 9.a, no costs associated with labor performed by the borrower's employees, including force account work, are eligible for financing assistance.
10. Contract engineering, planning, design, legal, and financial planning services. The Department of Health reserves the right to declare ineligible legal costs that are unreasonable and disproportionate to the project.
11. Contract construction work.
12. Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county-owned equipment, at the rental rates established by the local government's "equipment rental and revolving fund" following the methods prescribed by the division of municipal corporations. However, such costs must be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities with a population of eight thousand or less not using this type of fund are allowed the same rates as used by the State Department of Transportation.
13. Direct materials and supplies.
14. Other direct costs incurred for materials or services acquired for a specific project are eligible costs and may include, but are not limited to such items as:
 - a. Telephone charges.
 - b. Reproduction and photogrammetry costs.
 - c. Video and photography for project documentation.
 - d. Computer usage.
 - e. Printing and advertising.
15. Other project related costs include:
 - Competitive Bidding.
 - Audit.
 - Insurance.
 - Prevailing wages.
 - Attorney fees.
 - Environmental Review.
 - Archaeological Survey.

Water system plan costs are not eligible for reimbursement. Small water system management program and plan amendments costs are eligible for reimbursement.

Projects may be designed to accommodate reasonable growth. This is generally the 20-year projection included in the system's water system plan or small water system management program.

ATTACHMENT VII: LABOR STANDARD PROVISIONS FOR SUBRECIPIENTS THAT ARE GOVERNMENTAL ENTITIES

Wage Rate Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)

Preamble

With respect to the Clean Water and Safe Drinking Water State Revolving Funds, EPA provides capitalization grants to each state which in turn provides subgrants or loans to eligible entities within the state. Typically, the subrecipients are municipal or other local governmental entities that manage the funds. For these types of recipients, the provisions set forth under Roman Numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Occasionally, the subrecipient may be a private for profit or not for profit entity. For these types of recipients, the provisions set forth in Roman Numeral II, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section II-3(ii)(A), below and for compliance as described in Section II-5.

I. Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)

For Subrecipients That Are Governmental Entities:

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under the FY 2013 Continuing Resolution with respect to State recipients and subrecipients that are governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact Department of Health. If a State recipient needs guidance, they may obtain additional guidance from DOL's web site at <http://www.dol.gov/whd/>.

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the FY 2013 Continuing Resolution, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

- (i) While the solicitation remains open, the subrecipient shall monitor www.wdol.gov weekly to ensure that the wage determination contained in the solicitation remains current. The subrecipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the subrecipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.
- (ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c) (3) (iv). The subrecipient shall monitor www.wdol.gov on a weekly

basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2013 Continuing Resolution, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Borrower and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing

apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually

registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The Borrower must comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The Borrower and/or subcontractor must insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes will be resolved according to the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, Borrower certifies that neither it (nor he or she) nor any person or firm who has an interest in the Borrower's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

4. Contract Provision for Contracts in Excess of \$100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the

contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB.

Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the Department of Health and to the appropriate DOL Wage and Hour District Office listed at

https://www.dol.gov/whd/WHd_district_offices.pdf.

11/18/2024

City of Vancouver
Lon Pluckhahn,
PO BOX 8995
Vancouver WA 98668
lon.pluckhahn@cityofvancouver.us



RE: Loan Contract Number DWL29707-0

Dear Mr. Pluckhahn;

Enclosed is the Drinking Water State Revolving Fund Loan Contract Number identified above for your signature. The Loan Contract details the terms and conditions that will govern the agreement between us, which includes the project's Scope of Work as a formal attachment. Failure to return the contracts within 60 calendar days of the date of this letter may result in your loan offer being withdrawn.

Review, print and sign the document. Once signatures are obtained, scan and return by email to dohcon.mgmt@doh.wa.gov or print and sign a hard copy, and return the originals to us for full execution.

Please note that the U.S. Environmental Protection Agency is the funding source for this program and the Catalog of Federal Domestic Assistance (CFDA) number is 66.468. Consequently, the loan funds are federal and subject to both state and federal requirements.

A non-refundable one-percent loan administration fee will be collected at contract execution (If applicable), including any subsequent amendments where funds are added. The loan amount may be modified to include an amount sufficient to cover the one-percent loan administration fee. In most cases, the fee will be collected in full at contract execution. Please review the terms and conditions of the Loan Contract and all attachments carefully for details.

A requirement of the DWSRF program is that you must maintain updated project records and yearly renewal of your registration in the System for Award Management at www.sam.gov.

Another requirement of the DWSRF program is that all entities are required to verify that the federal government has not suspended or debarred them from receiving federal funds. This includes, but is not limited to, project contractors, subcontractors, engineers, architects, consultants, and equipment vendors. The Exclusion Report can be accessed at www.sam.gov. Failure to provide this required certification may result in termination of your loan contract.

After the Loan Contracts have been signed by the Department or its designee, one fully executed original will be returned to you for your files. Instructions for drawing the loan funds will be returned to you with the executed Loan Contract, as well as the necessary forms. The Loan Contract specifies that draws may be made for costs that have been incurred within the contract period of performance, and which have supporting documentation such as receipts or bills.

We are looking forward to working with you over the course of this project. If you have any questions about this Loan Contract, please contact me.

Sincerely,
Rachel Paris
DOH Contract Manager
(360) 236-4294
Rachel.Paris@DOH.WA.GOV

Enclosures:

ATTACHMENT I: SCOPE OF WORK (PROJECT)
ATTACHMENT II: ATTORNEY'S CERTIFICATION
ATTACHMENT III: FEDERAL AND STATE REQUIREMENTS
ATTACHMENT IV: DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS
ATTACHMENT V: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS
ATTACHMENT VI: DWSRF ELIGIBLE PROJECT COSTS
ATTACHMENT VII: LABOR STANDARD PROVISIONS FOR SUBRECIPIENTS THAT ARE GOVERNMENTAL ENTITIES

Washington State Department of Health

DWSRF Municipal Loan Boilerplate

May 2018

Version History		
Date	Revision(s)	Version
05-15-2018	Original - developed via a team of the DWSRF Grant and Loan Unit Supervisor, the DOH Office of Drinking Water Finance Director, the DOH Office of Contracts and Procurement Technical and Policy Advisor, and DOH's Financial Services Assistant Attorney General.	1

1. CONTRACT FACE SHEET

#2023-4229 Loan Number: DWL29707-0
Washington State Department of Health (DOH)
Drinking Water State Revolving Fund (DWSRF)
Municipal

1. Borrower City of Vancouver PO Box 8995 Vancouver WA 98668		2. Borrower Doing Business As (optional)	
3. Borrower Type Construction Loan		4. Borrower's Statutory Authority	
5. Borrower Contract Manager Information Name: Lon Pluckhahn, Title: City Manager		6. DOH Contract Manager Rachel Paris P.O. Box 47822 Olympia, WA 98504-7822 Phone: 360-487-8600 Rachel.Paris@Doh.wa.gov	
7. Project Name Water Station 4 PFAS Treatment System Add'l Funds			
8. Loan Amount: \$3,030,000.00 Loan Fee: \$30,000.00 Interest Rate: 2.25%	9. Funding Source Federal: ☒ State: ☐ Other: ☐	10. Start Date DOE	11. End Date 10/01/2044
12. Federal Funding Agency Environmental Protection Agency Catalogue of Federal Assistance (CFDA) Number 66.468			
13. Borrower Tax ID # 91-6001288	14. SWV # 0008489-00	15. Borrower UBI # 65-001-364	16. Borrower UEI # TM9CHABUP4B2
17. Contract Purpose DOH and the party identified above as Borrower, hereafter referred to as BORROWER, have entered into this contract to fund the project identified above that furthers the goals and objectives of the DOH DWSRF Program. The project will be done by the BORROWER as described in the scope of work and this contract. The rights and obligations of the parties are governed by this contract and the following documents incorporated by reference: General Terms and Conditions including Declarations; Attachment I: Scope of Work (Project); Attachment II Attorney's Certification; Attachment III: Federal and State Requirements; Attachment IV: Disadvantaged Business Enterprise Requirements; Attachment V: Certification Regarding Debarment, Suspension, and Other Responsibility Matters; Attachment VI: DWSRF Eligible Project Costs; and Attachment VII: Labor Standard Provisions for Subrecipients that are Governmental Entities. By the signature below, the parties acknowledge and accept the terms of this contract.			
FOR CONTRACTOR		FOR DOH	
SIGNATURE AND DATE		SIGNATURE and DATE	
NAME and TITLE		NAME and TITLE	
		APPROVED AS TO FORM ONLY Mark Calkins, AAG Signature on File	

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3. DECLARATIONS

3.1. BORROWER INFORMATION

Legal Name: **City of Vancouver**
Loan Number: **DWL29707-0**
Award Year: **2023**
State Wide Vendor Number: **0008489-00**

3.2. PROJECT INFORMATION (PROJECT)

Project Title: **Water Station 4 PFAS Treatment System add'l funds**
Project Location (City or County): **Vancouver**
Project State: **Washington**
Project Zip Code: **98661**

Project Scope of Work (PROJECT): Attachment I, attached hereto and incorporated by reference.

3.3. CONTRACT COMMUNICATION

Communications regarding Contract performance is delegated by each party to its Contract Manager. Either party may change its Contract Manager by express notice to the other party. Either party may identify on an as needed basis an alternate Contract Manager to serve during the stated temporary absence of its primary Contract Manager. Notices between the parties regarding Contract performance must be provided by written communication to the other party's Contract Manager. Written communication includes email but not voice mail. Notices are presumed received by the other party's Contract Manager upon evidence of delivery between the hours of 8:00 am to 5:00 pm except for state holidays and weekends.

3.4. LOAN INFORMATION

Loan Amount: **\$3,030,000.00 (BIL Supplemental)**
Loan Fee (Included in loan amount if applicable): **\$30,000.00**
Principal Loan Forgiveness %: **0%**
Loan Term: **20 yrs**
Interest Rate: **2.25%**
Payment Month(s): **October 1st Annually**
Earliest Date for Construction Reimbursement: **One year prior to contract execution**
Time of Performance: **48 months from Contract start date (date of last signature) to Project Completion date.**

Notice to Proceed: **18 months from Contract start date (date of last signature)**

3.5. FUNDING INFORMATION

Total Funds from BORROWER: **\$22,500,000**
Source(s) of Funds from Borrower, with assigned amounts per source: **Construction Fund \$22,500,000**
Total State Funds: **N/A**
Total Amount of Federal Award (as applicable): **To Be Determined**
Total Amount of Loan: **\$3,030,000.00**
Federal Award Date: **TBD**
Federal Award ID # (FAIN): **TBD**
Amount of Federal Funds Obligated by this Action: **TBD**

3.6. SPECIAL TERMS AND CONDITIONS

N/A

4. GENERAL TERMS AND CONDITIONS

DRINKING WATER STATE REVOLVING FUND (MUNICIPAL)

4.1. AUTHORITY

Acting under the authority of Section 1452 of the Safe Drinking Water Act (SDWA) Section 130, RCW 39.34, RCW 43.70.040, and RCW 70.119A.170 the Washington State Department of Health (DOH) has awarded BORROWER a Drinking Water State Revolving Fund Loan (LOAN) for the project identified in the Declarations (PROJECT). Under this CONTRACT, BORROWER is a sub-recipient of funds provided by the United States Environmental Protection Agency (EPA), CFDA Number 66.468, Safe Drinking Water State Revolving Fund.

In some CONTRACT attachments, DOH is referred to as "Lender" and BORROWER is referred to as "Contractor."

4.2. FULL AGREEMENT

This CONTRACT contains the full agreement of the parties. No other understandings, oral or otherwise, regarding the subject matter of this CONTRACT exists.

4.3. ORDER OF PRECEDENCE

In the event of an inconsistency in this CONTRACT, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: The order of precedence for terms and conditions under categories B and C is subject to the proviso that when a contract term or condition appears in more than one contract document, the more specific contract term or condition shall control if the different contract provisions cannot be harmonized.

- A. Applicable local, state, and federal statutes and regulations
- B. Contract amendments
- C. The Contract (in this order)
 - Declarations and Special Terms and Conditions
 - General Terms and Conditions
 - Attachments I – VII

4.4. LOAN AMOUNT

DOH, using funds from the Drinking Water Assistance Account, will loan BORROWER a sum not to exceed the amount shown as LOAN AMOUNT in the Declarations. The LOAN AMOUNT shall not exceed one hundred percent (100%) of the actual eligible PROJECT costs.

4.5. LOAN FEE

If DOH assessed a LOAN FEE, it is shown in the Declarations as LOAN FEE and included in the total LOAN AMOUNT. The fee (if applicable) is one percent (1%) of the loan request and will not be reduced, regardless of the final LOAN AMOUNT at PROJECT completion. If the LOAN FEE applies and the total LOAN AMOUNT is increased by amendment, DOH will assess an additional LOAN FEE equal to one percent (1%) of the additional LOAN AMOUNT. LOAN FEES are non-refundable.

4.6. LOAN TERM

Unless changed by an amendment, the LOAN TERM will not exceed the period of time shown in the Declarations. The repayment period for DOH subsidized loans is twenty-four (24) years from this CONTRACT's start date. The repayment period for non-DOH subsidized loans is twenty (20) years from this CONTRACT's start date.

4.7. INTEREST RATE

The interest rate is stated in the Declarations. Interest is per annum on the outstanding principal balance and starts to accrue from the date DOH releases LOAN FUNDS to BORROWER.

4.8. LOAN FORGIVENESS

If the LOAN qualifies for LOAN Forgiveness, the percent of the LOAN balance that DOH will forgive at PROJECT completion is stated in the Declarations. DOH calculates the amount forgiven when DOH approves the BORROWER's Project Completion Report. The amount forgiven will be based on either the LOAN AMOUNT or BORROWER's ELIGIBLE PROJECT COSTS, whichever is less, and accrued interest.

4.9. RELEASE OF LOAN FUNDS AND REQUIRED DOCUMENTATION

DOH will release LOAN funds to BORROWER to reimburse BORROWER for eligible PROJECT costs. To request reimbursement, BORROWER must submit a signed and completed invoice using a form provided by DOH. The invoice must reference the PROJECT activity performed, and include supporting documentation such as bills, invoices, receipts, and documentation of compliance with CONTRACT requirements as requested by DOH. The invoice must be signed by an official of BORROWER with authority to bind BORROWER.

Invoices must also include a report of the progress made since the last invoice, and the PROJECT status to date. DOH will not release funds until the PROJECT status report and documentation are approved by DOH. Approval will not be unreasonably withheld or delayed. After approving the invoice, documentation, and PROJECT status report, DOH will release funds to BORROWER within thirty (30) days, if BORROWER is not in alleged or actual breach of CONTRACT.

DOH will withhold ten percent (10%) of LOAN funds until DOH confirms that BORROWER has successfully completed all steps for PROJECT COMPLETION. The 10% holdback will be available to BORROWER as part of the last LOAN disbursement.

4.10. TIME OF PERFORMANCE

BORROWER will begin the activities in the PROJECT within thirty (30) calendar days of the CONTRACT start date. BORROWER will issue a 'Notice to Proceed', after the formal award of a construction contract, within eighteen (18) months of the CONTRACT start date.

BORROWER must reach PROJECT COMPLETION within the TIME OF PERFORMANCE. If there are extenuating circumstances, BORROWER may request, in writing, at least ninety (90) calendar days prior to the PROJECT COMPLETION that DOH extend the deadline for PROJECT COMPLETION. At its discretion, DOH may issue an extension. DOH's decision is final and not subject to the dispute clause.

If BORROWER does not meet the requirements of this section, it is a breach of CONTRACT, and DOH may terminate or suspend this CONTRACT.

4.11. PROJECT COMPLETION AMENDMENT AND THE PROJECT COMPLETION REPORT

The PROJECT Completion Amendment determines the final LOAN AMOUNT and LOAN TERM. When activities in the PROJECT are complete, BORROWER will start the process for the PROJECT Completion Amendment by sending DOH the PROJECT Completion Report. In the PROJECT Completion Report, BORROWER will provide the following information to DOH:

- A. A statement of the actual dollar amount spent, from all fund sources, to complete the PROJECT.
- B. A statement that all ELIGIBLE PROJECT COSTS have been incurred. Costs are incurred when goods and services are received and/or contracted work is performed.
- C. Evidence showing BORROWER'S compliance with financial the audit requirements of this CONTRACT.
- D. An invoice for the remaining ELIGIBLE PROJECT COSTS.
- E. Documentation of BORROWER's compliance with National Historic Preservation Act, 54 USC Subtitle III.

4.12. LOAN PAYMENTS

BORROWER must begin repaying the LOAN no later than one (1) year after the CONTRACT start date. Payments are due on the first day of the month(s) shown as the PAYMENT MONTH(S) in the Declarations. Payments are principal and interest accrued up to the PAYMENT MONTH(S).

BORROWER can repay in full the LOAN balance, including fees and repayment of LOAN FUNDS for ineligible project costs (if any), at any time or make accelerated payments without penalty. The final payment must be on or before the end of the LOAN TERM.

4.13. LOAN DEFAULT

DOH must receive BORROWER'S payment within thirty (30) calendar days of the due date. Late payments are delinquent and assessed a monthly penalty on the first (1st) day past the due date. The penalty is one percent (1%) of the late payment amount per month. Penalty and fees accrue interest at the rate stated as LOAN INTEREST in the Declarations.

DOH may notify any other entity, creditors, or potential creditors of BORROWER's delinquency. BORROWER is responsible for all attorney fees and costs incurred by DOH in any action taken to enforce its rights under this section, including in any alternative dispute resolution proceeding.

4.14. LOAN SECURITY

LOAN Security is only required if identified in the Declarations. In its sole discretion and if allowed under the EPA regulations relevant to this Contract, DOH may subordinate its LOAN security to Borrower's obligations under existing or future bonds and notes. Nothing in this section releases BORROWER from the obligation to make LOAN PAYMENTS when due, and to adjust rates, fees, or surcharges as necessary to meet its obligations under this CONTRACT.

4.15. AMENDMENTS, MODIFICATIONS, ASSIGNMENTS, AND WAIVERS

Amendments, modifications, assignments, and waivers to any of the terms of this CONTRACT supersede, if applicable, those terms as found in the original CONTRACT, and are not binding unless they are in writing and signed by representatives authorized to bind each of the parties. Only the authorized representative or their designee has the express, implied, or apparent authority to alter, amend, assign, modify, or waive any terms of this CONTRACT.

Neither this CONTRACT nor any claim arising under it may be transferred or assigned by BORROWER without DOH's prior written consent. During the LOAN TERM, DOH must approve in advance, any change in ownership of the water system(s) improved with LOAN FUNDS. DOH may require the LOAN, including fees and ineligible project costs (if any), be paid in full as a condition of approval.

Nothing in this CONTRACT may be waived unless approved by DOH in writing. No waiver of any default or breach is implied from any failure to take action upon such default or breach if the default of breach persists or repeats. Waiver of any default or breach is not a waiver of any subsequent default or breach.

4.16. BUILD AMERICA, BUY AMERICA

None of the LOAN funds can be used for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel, manufactured products, and construction materials used in the project to be produced in the United States ("Build America, Buy America Requirements") including iron and steel, manufactured products, and construction materials provided by the Contactor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Owner and Funding authority.

DOH may waive this requirement if:

- A. Compliance would be inconsistent with the public interest; or
- B. The particular products are not produced in the United States in sufficient and reasonably available quantities and are not of a satisfactory quality; or
- C. Inclusion of products produced in the United States will increase the cost of the overall project by more than twenty-five (25) percent; and
- D. A waiver is approved by the Environmental Protection Agency (EPA).

BORROWER must submit the waiver request to DOH, which will submit it to EPA. The full text of the Build America, Buy America provision can be found under The Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52.

4.17. ATTORNEYS' FEES

Unless expressly stated under another section of the CONTRACT, each party agrees to bear its own attorneys' fees and costs for litigation or other action brought to enforce the contract terms.

4.18. BONUS AND COMMISSION PAYMENTS NOT ALLOWED

Funds provided under this CONTRACT cannot be used to pay any bonus or commission to gain approval of the loan application or any other approval under this CONTRACT. This section does not prohibit paying for bona fide technical consultants, managerial, or other such services, if payment is for ELIGIBLE PROJECT COSTS.

4.19. COMPLIANCE

BORROWER will comply with all applicable federal, state and local laws, requirements, and ordinances for the design, implementation, and administration of the PROJECT and this CONTRACT, including but not limited to those stated in the CONTRACT attachments. BORROWER will provide DOH with documentation of compliance, if requested.

In the event of BORROWER's alleged or actual noncompliance with any part of this CONTRACT, DOH may suspend all or part of the CONTRACT, withhold payments, or prohibit BORROWER from incurring additional obligations of LOAN FUNDS during the investigation and pending corrective action by BORROWER, or a decision by DOH to terminate the CONTRACT.

4.20. DISPUTES

Except as otherwise provided in this CONTRACT, when a dispute arises between the parties that cannot be solved by direct negotiation, either party may request a dispute hearing with the Director of the Office of Drinking Water (the Director), who may designate a neutral person to decide the dispute. The parties will be equally responsible for any reasonable costs and fees incurred by the neutral.

The party requesting a dispute hearing must:

- A. Be in writing;
- B. State the disputed issues;
- C. State the relative positions of the parties;
- D. State BORROWER's name, address, and the CONTRACT number;
- E. Provide contact information for the requester's representative, and,
- F. Be mailed to the other party's (respondent's) Contract Manager within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent must send a written answer within five (5) working days.

In the alternative, the parties can agree to submit a mutual request to the Director, which should include each party's response to the other party's characterization of the dispute.

The Director or designee will review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties. The decision on the dispute is non-binding and is not admissible in any succeeding judicial or quasi-judicial proceeding.

This non-binding dispute process must precede any action in a judicial or quasi-judicial tribunal. Nothing in this CONTRACT limits the parties from using any mutually acceptable alternate dispute resolution (ADR) method in addition to or instead of the dispute hearing procedure outlined above.

4.21. ELIGIBLE PROJECT COSTS

BORROWER will comply with Attachment VI: DWSRF Eligible Project Costs and is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

The purchase of any land necessary for the PROJECT must be included in the PROJECT and be documented with an appraisal or equivalent market evaluation, if approved by DOH, and a valid purchase and sale agreement.

Construction expenses incurred after the date shown as earliest date for construction reimbursement in the Declarations are eligible for reimbursement. Requests for reimbursements for costs related to construction activities will not be accepted until BORROWER has met the following conditions:

- A. Completed the State Environmental Review Process (SEPA Review under RCW 43.21C);
- B. Complied with all provisions of the National Historic Preservation Act, 54 USC Subtitle III;
- C. Complied with Prevailing Wage requirements;
- D. Received approval from DOH of the project report and related construction documents for all applicable activities described in the PROJECT; and
- E. Complied with any other LOAN conditions required by DOH.

BORROWER cannot use LOAN FUNDS for any expenses charged by BORROWER against any other contract, subcontract, or source of funds.

If DOH reimburses BORROWER for costs that are later determined by DOH to be ineligible, BORROWER must repay these funds to DOH no later than when the BORROWER returns the PROJECT Completion Amendment to DOH. Prior to final completion, DOH may withhold payment for such costs as allowed under Section 4.36 RECAPTURE. Repayment is subject to interest retroactive to the date of the applicable disbursement by DOH.

4.22. FALSE, INCORRECT, OR INCOMPLETE INFORMATION OR CLAIM

BORROWER warrants that they have not and will not submit to DOH any information that is materially false, incorrect, or incomplete. Providing false, fictitious, or misleading information with respect to the receipt and disbursements of LOAN funds is a basis for criminal, civil, or administrative fines and/or penalties. DOH may also pursue applicable remedies for violations by BORROWER of this section.

4.23. FINANCIAL AUDIT

DOH may require BORROWER to obtain an audit of this PROJECT conforming to Generally Accepted Accounting Principles (GAAP). BORROWER will maintain its records and accounts to facilitate the audit. BORROWER is responsible for correcting any audit findings. BORROWER is responsible for any audit findings incurred by its own organization and/or its subcontractors. DOH reserves the right to recover from BORROWER all disallowed costs and INELEGIBLE PROJECT COSTS resulting from the audit.

The audit must include a report on compliance, including an opinion (or disclaimer of opinion) about whether the BORROWER is in compliance with laws, regulations and requirements of this CONTRACT that could have a direct and material effect on DOH.

BORROWER must send a copy of any required audit per 2 CFR §200.512 to the DOH Contract Manager, no later than nine (9) months after the end of BORROWER's fiscal year(s). BORROWER must send any audit corrective action plan for audit findings and a copy of the management letter, within three (3) months of the audit report.

4.24. GOVERNING LAW AND VENUE

This CONTRACT shall be construed and interpreted according to the laws of the state of Washington, and the venue of any action brought under the CONTRACT will be in the Superior Court for Thurston County.

4.25. HISTORICAL AND CULTURAL REQUIREMENTS

BORROWER will not conduct or authorize destructive PROJECT planning activities before completing the requirements of the National Historic Preservation Act, 54 USC Subtitle III. BORROWER will not begin construction activities, ground disturbance, or excavation of any sort, until BORROWER has complied with all requirements of the National Historic Preservation Act of 1966, as amended.

If historical or cultural artifacts are discovered during the PROJECT, BORROWER will immediately stop construction and implement reasonable measures to protect the discovery site from further disturbance, take

reasonable steps to ensure confidentiality of the discovery site, restrict access to the site, and notify the concerned tribe's cultural staff or committee, Tribal Historical Preservation Officer (THPO), DOH Contract Manager, and the State's Historical Preservation Officer (SHPO) at the Washington State Department of Archaeology and Historic Preservation (DAHP). If human remains are uncovered, BORROWER will report the presence and location of the remains to the local coroner and law enforcement immediately, then contact the concerned tribe's cultural staff or committee, DOH Contract Manager, and DAHP.

BORROWER is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural sites and artifacts and will hold harmless the state of Washington and DOH in relation to any claim related to historical or cultural sites discovered, disturbed, or damaged as a result of BORROWER'S and BORROWER's subcontractors activities.

BORROWER will include the requirements of this section in all contracts for work or services related to the PROJECT. BORROWER will require that bid documents include an inadvertent discovery plan that meets the requirements of this section.

4.26. INDEMNIFICATION

BORROWER agrees to defend, indemnify, and hold harmless DOH and the state of Washington for claims arising out of or incident to BORROWER'S or any BORROWER'S subcontractor's performance or failure to perform the CONTRACT. BORROWER'S obligation to indemnify, defend, and hold harmless DOH and the state of Washington shall not be eliminated or reduced by any actual or alleged concurrent negligence of DOH or its agents, agencies, employees and officials. BORROWER'S obligation to indemnify, defend and hold harmless DOH and the state of Washington includes any claim by BORROWER'S agents, employees, officers, subcontractors or subcontractor employees.

BORROWER waives immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

4.27. INDUSTRIAL INSURANCE COVERAGE

BORROWER will comply with the applicable parts of Title 51 RCW, Industrial Insurance. If BORROWER fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as required by law, DOH may collect from BORROWER the full amount payable to the Industrial Insurance Accident Fund. DOH may deduct the amount owed by BORROWER to the accident fund from the amount payable to BORROWER by DOH under this CONTRACT, and transmit the deducted amount to the Washington State Department of Labor and Industries (L&I).

4.28. LITIGATION

BORROWER warrants that there is no threatened or pending litigation, investigation, or legal action before any court, arbitrator, or administrative agency that, if adversely determined against BORROWER, would have a materially adverse effect on BORROWER's ability to repay the LOAN. BORROWER agrees to promptly notify DOH if any above-referenced actions become known to BORROWER during the pendency of the Contract.

4.29. NONDISCRIMINATION

BORROWER will not discriminate on the basis of race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability in the performance of this CONTRACT. BORROWER will comply with all federal and state nondiscrimination laws, including, but not limited to Chapter 49.60 RCW, Washington's Law Against Discrimination and 42 USC 12101 et seq., the Americans with Disabilities Act (ADA), and 40 CFR Part 33 Participation by Disadvantaged Business Enterprises in US EPA Programs . Failure by BORROWER to carry out these requirements is a material breach of this CONTRACT. BORROWER is required to include these non-discriminatory provisions in any contract with a subcontractor.

4.30. PREVAILING WAGE

BORROWER will assure that all contractors and subcontractors performing work funded through this CONTRACT comply with prevailing wage laws by paying the higher of state or federal prevailing wages. BORROWER is legally and financially responsible for compliance with the prevailing wage requirements. BORROWER should consult the

United States Department of Labor and Washington State Department of Labor and Industries websites to determine the federal and State prevailing wages that must be paid.

4.31. PROCUREMENT

BORROWER will comply with all procurement requirements for subcontracting for the PROJECT and for obtaining PROJECT-related goods and services. BORROWER must maintain records to verify compliance with procurement requirements.

BORROWER must ensure that all contractors, subcontractors, engineers, vendors, and any other entity for work or services listed in the PROJECT will insert in full, in any contract, the labor standards provisions in Attachment VIII: Labor Standard Provisions for Subrecipients That Are Governmental Entities.

4.32. PROHIBITION STATEMENT

Per Section 106 of the federal Trafficking Victims Protection Act, BORROWER's contractors, subcontractors, engineers, vendors, and any other entity performing work funded by this CONTRACT must comply with and include the following terms and conditions in all contracts for work or services for the PROJECT.

"All forms of trafficking in persons, illegal sex trade, or forced labor practices are prohibited in the performance of this award or subawards under the award, or in any manner during the period of time that the award is in effect. This prohibition applies to you as the recipient, your employees, subrecipients under this award, and subrecipients' employees."

4.33. PROJECT SIGNS

If BORROWER displays, during the TIME OF PERFORMANCE, any signs or markers identifying parties that are providing funds for the PROJECT, BORROWER must include the Washington State Department of Health Drinking Water State Revolving Fund and the Washington State Department of Health as participants in the PROJECT.

4.34. PUBLICITY

BORROWER agrees to get prior written consent from DOH's Contract Manager before publishing or using any advertising or publicity materials that include Washington State or DOH's name, or includes language that may reasonably infer or imply a connection with either one.

4.35. RATES AND RESERVES

BORROWER will maintain reserves at a minimum as required by the Water System Plan or Small Water System Management Plan. BORROWER will timely adopt rate increases and/or capital assessments for the system's services to provide sufficient funds, along with other revenues of the system, to pay all operating expenses and debt repayments during the LOAN TERM.

4.36. RECAPTURE

DOH reserves the right to recapture from BORROWER sufficient funds to compensate DOH for BORROWER's noncompliance with any part of this CONTRACT, in addition to any other remedies available under the CONTRACT, at law, or in equity. DOH may withhold LOAN FUNDS from BORROWER to recapture such funds.

4.37. RECORDKEEPING AND ACCESS TO RECORDS

DOH, its agents, and authorized officials of the state and federal governments will have full access and the right to examine, copy, excerpt, or transcribe, at no additional cost and at all reasonable times, any pertinent documents, papers, records, and books of BORROWER and of persons, firms, or organizations with which BORROWER may contract, involving transactions related to this CONTRACT. BORROWER agrees to keep complete records of its compliance with this CONTRACT for a period of six (6) years from the date that the debt to DOH is paid in full. This includes but is not limited to financial reports. If any litigation, claim or audit is started before the expiration of the six (6) year period, BORROWER must keep the records until all litigation, claims or audit findings involving the records have been resolved. These records retention requirements are in addition to the local government records retention schedules applicable to the BORROWER.

4.38. REGISTRATION WITH THE SYSTEM FOR AWARD MANAGEMENT (SAM)

BORROWER must comply with 48 CFR 52.204-7 to register with the System for Awards Management (SAM.gov). BORROWER is responsible for the accuracy and completeness of its data in the SAM database and any liability resulting from the Government or DOH reliance on inaccurate or incomplete data in it. BORROWER must remain registered in the SAM database. BORROWER should annually review its information in SAM to ensure it is accurate and complete.

4.39. SEVERABILITY

If any part of this CONTRACT or part of any document incorporated by reference is found to be invalid, it will not affect the other parts of this CONTRACT that can be given effect without the invalid part.

4.40. SUBCONTRACTING

Prior to awarding contracts and/or subcontracts, BORROWER must verify that the complete names of both the selected contractor and the owner or president are not in the Federal Excluded Parties List System for Ineligible Professionals and Debarred Contractors (www.SAM.gov). BORROWER must provide the DOH Contract Manager with a screen printout documenting that neither the firm, the owner or the president are excluded.

BORROWER will ensure that every contract and subcontract awarded for the PROJECT after the CONTRACT start date will bind the parties to follow all applicable terms of this CONTRACT. BORROWER is responsible to DOH for noncompliance by its contractors and/or subcontractors. BORROWER's contracts or subcontracts do not release or reduce the BORROWER's liability to DOH for any breach in the performance of BORROWER's duties. BORROWER's contracts and subcontracts must include a term that the state of Washington and DOH are not liable for claims or damages arising from a contractor and/or subcontractor's performance or lack thereof.

4.41. SURVIVAL

The CONTRACT's terms, conditions, and warranties that by its sense and context are intended to survive the completion of the performance, cancellation or termination of this CONTRACT, shall so survive.

4.42. TERMINATION FOR CAUSE

If DOH concludes that BORROWER has failed to comply with the CONTRACT requirements or has otherwise breached one or more parts of the CONTRACT, DOH may, at its discretion, upon notice to BORROWER, terminate or suspend the CONTRACT and/or its attached agreements in whole or in part.

The notice will be in writing and state the reason(s) for termination or suspension, and the effective date. The effective date will be determined by DOH. The notice will allow BORROWER at least thirty (30) business days to cure the breach, if curable. If the breach is not cured or cannot be cured within thirty (30) business days, the outstanding balance of the LOAN, with any interest accrued and other costs as authorized by the CONTRACT shall be due and payable to DOH.

If DOH terminates this CONTRACT under this section, DOH is liable only for payment required under the terms of this CONTRACT for ELIGIBLE PROJECT COSTS incurred prior to the effective date of termination.

At DOH's discretion, the termination for cause may be deemed a termination for convenience if DOH determines that the default or failure to perform was outside BORROWER's control, fault or negligence. The rights and remedies of DOH provided in this CONTRACT are not exclusive and are in addition to any other rights and remedies provided by law. Nothing in this section affects BORROWER's obligations to immediately repay the unpaid balance of the LOAN as prescribed in the Washington Administrative Code (WAC) 246-296-150.

4.43. TERMINATION OR SUSPENSION FOR CONVENIENCE

If funding or appropriation from state, federal, or other sources is withdrawn, reduced, or limited in any way during the TIME OF PERFORMANCE, DOH may:

- A.** Delay or suspend releasing LOAN FUNDS until funding or appropriation are available to DOH; or
- B.** Amend the CONTRACT to reflect the new funding limitations and conditions; or

- C. Terminate the CONTRACT and/or its attached agreements, in whole or in part; or
- D. Suspend the CONTRACT and/or its attached agreements, in whole or in part.

If DOH terminates the CONTRACT and/or its attached agreements in whole or in part, under this section, DOH will notify BORROWER's representative in writing of the reason(s) for termination, and the effective date. The effective date will be determined by DOH.

DOH may choose to suspend this CONTRACT and/or its attached agreements in whole or in part, if DOH determines that the funding insufficiency will likely be resolved in time for BORROWER to resume activities prior to the end of the TIME OF PERFORMANCE. DOH will notify BORROWER's representative by facsimile or email of the reason(s) for suspension, and the effective date. DOH will determine the effective date. BORROWER must suspend performance on the effective date of the suspension. During the period of suspension each party must notify the other party's representative of any conditions that may reasonably affect its ability to resume performance.

During the suspension, when DOH determines that the funding insufficiency is resolved, DOH may notify BORROWER's representative of the proposed date to resume performance. BORROWER must respond to DOH's representative in writing, within five (5) business days of DOH sending notice, as to whether it can resume performance on that date or offer an alternative date to resume performance. If BORROWER cannot resume performance or the alternative date is not acceptable to DOH, the parties agree the CONTRACT will be deemed terminated for convenience, retroactive to the original date of suspension.

If DOH terminates or suspends this CONTRACT, DOH is liable only for payment required under the terms of this CONTRACT for eligible project costs incurred prior to the effective date of suspension or termination. Nothing in this section shall affect Contractor's obligations to repay the unpaid balance of the LOAN. Nothing in this section affects BORROWER's obligation to repay the LOAN, including fees and other expenses as allowed by the CONTRACT.

4.44. TERMINATION PROCEDURES

When BORROWER receives Notice of Termination or on the date a suspension is converted to a termination, except as otherwise directed by DOH, BORROWER will:

- A. Stop work under the CONTRACT on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities related to the CONTRACT;
- C. If expressly requested by DOH, assign to DOH any or all of the rights, title, and interest of BORROWER under the orders and subcontracts so terminated, in which case DOH has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts. Any attempt by BORROWER to settle such claims must have the prior written approval of DOH; and
- D. Preserve and transfer any materials, CONTRACT deliverables and/or DOH property in BORROWER's possession as directed by DOH.

Upon termination of this CONTRACT, DOH will pay BORROWER for amounts due under the CONTRACT prior to the date of termination unless such payment is precluded under any other provision of this CONTRACT. DOH may withhold any amount due as DOH reasonably determines is necessary to protect DOH against potential loss or liability resulting from the termination. DOH will pay any withheld amount to BORROWER if DOH later determines that loss or liability will not occur.

4.45. WORK HOURS AND SAFETY STANDARDS

If this CONTRACT exceeds \$100,000, BORROWER must comply with the applicable Contract Work Hours and Safety Standards Act (40 USC Chapter 37). These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

ATTACHMENT I: SCOPE OF WORK (PROJECT)

DWSRF Scope of Work Form:

Scope of Work:

Project to include:

1. Submit project report and construction documents to Southwest Regional Office for review and approval. Submit approval letter.
2. Submit bid documents to Southwest Regional Office for review and approval. Submit approval letter.
3. Complete SEPA and submit determination and publication affidavit.
4. Complete cultural and historical review process.
5. Construct backwash tank and foundation pad.
6. Submit Construction Completion Report to Southwest Regional Office. Submit final approval letter.

In addition to costs of construction, costs may include (but are not limited to): engineering, design, construction inspection, hydrogeologic assessment, permits, public involvement, preparation of bid documents, fees, taxes, legal, administrative and audit.

APPLICATION #2023-4229, CITY OF VANCOUVER, WATER STATION 4 PFAS TREATMENT SYSTEM ADD'L FUNDS

Project Costs by Cost Category:

COST CATEGORY	CURRENT ESTIMATES
Engineering Report (Preliminary Engineering)	\$0
Environmental Review	\$0
Historical Review/Cultural Review	\$0
Land/ROW Acquisition	\$0
Permits	\$0
Public Involvement/Information	\$0
Bid Documents (Design Engineering)	\$0
Construction: Estimated Cost. Provide details on following pages.	\$2,608,696
DOH Review/Approval Fees:	\$0
Contingency: (10% min, 20% max)	\$391,304
Sales or Use Taxes	\$0
Construction Engineering/Inspection	\$0
Insurance:	\$0
Audit:	\$0
Legal:	\$0
Service Meters (Purchase and Installation)	\$0
Other:	\$0
TOTAL ESTIMATED PROJECT COSTS (before Loan Fee)	\$3,000,000
DWSRF Loan Origination Fee (1%)	<u>\$30,000</u>
DWSRF Loan Award	<u>\$3,030,000</u>

APPLICATION #2023-4229, CITY OF VANCOUVER, WATER STATION 4 PFAS TREATMENT SYSTEM ADD'L FUNDS

Project Funding:

TYPE OF FUNDING	SOURCE	CURRENT STATUS
Grants and Other Non-Matching Funds		
Grant #1		\$
Grant #2		\$
Other Grants		\$
New Grants		\$
Total Grants and Other Non-Matching Funds		a) \$ _____
Loans		
<i>This Loan Request</i>	DWSRF loan DWL29707-0	\$3,030,000
Other Loan #1	DWSRF loan DWL29301-0	\$12,000,000
Other Loan #2		\$
Other Loans		\$
New Loans		\$
Total Loans		b) <u>\$15,030,000</u>
Local Revenue		
Source #1	Water Construction Fund	\$ 22,500,000
Source #2		\$
Other Local Revenue		\$
New Local Revenue		\$
Total Local Revenue		c) <u>\$22,500,000</u>
Other Funds		
Other Funds		\$
Other Funds		\$
Total Other Funds		d) \$ _____
TOTAL PROJECT FUNDING		e) <u>\$37,530,000</u>

Engineer's Certification:

The term of this loan will be based on an engineer's certification of the expected useful life of the improvements, as stated below, or 20 years, whichever is less. If the jurisdiction prefers the term of its loan to be less than either 20 years or the useful life of the improvements, the preferred loan term should be indicated here: __ years.

I, _____, licensed engineer, certify that the average expected useful life for the improvements described above is __ years.

Signed: _____

Name: _____

Date: _____

Telephone: _____

Professional Engineer License Number: _____

ATTACHMENT II: ATTORNEY'S CERTIFICATION

DRINKING WATER STATE REVOLVING FUND (MUNICIPAL)

I, _____, hereby certify:

I am an attorney at law admitted to practice in the state of Washington and the duly appointed attorney of BORROWER identified in the Declarations of the Contract identified above; and

I have also examined any and all documents and records, which are pertinent to the Contract, including the application requesting this financial assistance.

Based on the foregoing, it is my opinion that:

1. BORROWER is a public body, properly constituted and operating under the laws of the State of Washington, empowered to receive and expend federal, state and local funds, to contract with the state of Washington, and to receive and expend the funds involved to accomplish the objectives set forth in its application.
2. BORROWER is empowered to accept the Drinking Water State Revolving Fund financial assistance and to provide for repayment of the loan as set forth in the loan agreement.
3. There is currently no litigation in existence seeking to enjoin the commencement or completion of the above-described public facilities project or to enjoin BORROWER from repaying the Drinking Water State Revolving Fund loan extended by DOH with respect to such project. BORROWER is not a party to litigation, which will materially affect its ability to repay such loan on the terms contained in the loan agreement.
4. Assumption of this obligation would not exceed statutory and administrative rule debt limitations applicable to BORROWER.

Signature of Attorney

Date

Name and BAR Number (WSBA No.)

Address

ATTACHMENT III: FEDERAL AND STATE REQUIREMENTS (NOT ALL INCLUSIVE)

1) Environmental and Cultural Authorities

- a) Archeological and Historic Preservation Act of 1974, Public Law 86-523 as amended
- b) Clean Air Act, Public Law 84-159 as amended
- c) Coastal Zone Management Act, Public Law 92-583 as amended
- d) Endangered Species Act, Public Law 93-205 as amended
- e) Environmental Justice, Executive Order 12898
- f) Floodplain Management, Executive Order 11988 as amended by Executive Order 12148
- g) Protection of Wetlands, Executive Order 11990
- h) Farmland Protection Policy Act, Public Law 97-98
- i) Fish and Wildlife Coordination Act, Public Law 85-624 as amended
- j) National Historic Preservation Act, 54 USC Subtitle III
- k) Safe Drinking Water Act, Public Law 93-523 as amended
- l) Wild and Scenic Rivers Act, Public Law 90-542 as amended
- m) Washington State Environmental Policy Act, Chapter 43.21C RCW
- n) Native American Graves Protection and Repatriation Act, Archaeological Resources Protection Act, Revised Code of Washington (RCW) 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and Washington Administrative Code (WAC) 25-48 regarding Archaeological Excavation and Removal Permits.

Buy America Build America Requirements

- 2) DWSRF construction projects chosen for FFATA/Equivalency reporting must comply with the Buy America Build America provisions. Projects started prior to May 14, 2022, may be exempt. Visit the EPA website for more information on the BABA requirements and the waiver process at <https://www.epa.gov/cwsrf/build-america-buy-america-baba>

3) Economic and Miscellaneous Authorities

- a) Demonstration Cities and Metropolitan Development Act of 1996, Public Law 89-754 as amended, Executive Order 12372
- b) Procurement Prohibitions under Section 306 of the Clean air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans
- c) Uniform Relocation and Real Property Policies Act, Public Law 91-646 as amended
- d) Debarment and Suspension, Executive Order 12549
- e) H.R. 3547, Consolidated Appropriations Act, 2014.

4) Social Policy Authorities

- a) Age Discrimination Act of 1975, Public Law 94-135
- b) Title VI of the Civil Rights Act of 1964, Public Law 88-352
- c) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500 (the Clean Water Act)
- d) Section 504 of the Rehabilitation Act of 1973, Public Law 93-112 (including Executive Orders 11914 and 11250)
- e) Equal Employment Opportunity, Executive Order 11246
- f) Disadvantaged Business Enterprise, Public Law 101-549 (the Clean Air Act), and Public Law 102-389 (the Clean Water Act)
- g) Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Public Law 100-590
- h) Chapter 49.60 RCW, Washington's Law against Discrimination, and 42 USC 12101 et seq. the Americans with Disabilities Act (ADA).
- i) The Contract Work Hours and Safety Standards Act (40 USC 327-333)-Where applicable.
- j) The Genetic Information Nondiscrimination Act of 2008 (GINA), 42 USC s. 2000ff et seq.

5) State Laws

- a) Chapter 36.70A RCW, Growth Management Act
- b) Chapter 39.80 RCW, Contracts for Architectural and Engineering Services
- c) Chapter 39.12 RCW, Washington State Public Works Act
- d) Chapter 43.20 RCW, State Department of Health of Health

- e) Chapter 43.70 RCW, Department of Health
- f) Chapter 43.155 RCW, Public Works Project
- g) Chapter 70.116 RCW, Public Water Systems Coordination Act of 1977
- h) Chapter 70.119 RCW, Public Water Supply Systems Certification and Regulation of Operations
- i) Chapter 70.119A RCW, Public Water Systems, Penalties & Compliances
- j) Chapter 246-290 WAC, Group A Public Water Systems
- k) Chapter 246-291 WAC, Group B Public Water Systems
- l) Chapter 246-292 WAC, Waterworks Operator Certification Regulations
- m) Chapter 246-293 WAC, Water Systems Coordination Act
- n) Chapter 246-294 WAC, Drinking Water Operating Permits
- o) Chapter 246-295 WAC, Satellite System Management Agencies
- p) Chapter 246-296 WAC Drinking Water State Revolving Fund Loan Program
- q) Chapter 173-160 WAC, Minimum Standards for Construction & Maintenance of Wells
- r) Title 173 WAC, Department of Ecology Rules
- s) Title 40 Part 141 Code of Federal Regulations, Federal National Primary Drinking Water Regulations (Section Adopted by Reference)

ATTACHMENT IV: DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

GENERAL COMPLIANCE, 40 CFR, Part 33

BORROWER must comply with the requirements of Environmental Protection Agency's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under this Contract, contained in 40 CFR, Part 33. BORROWER will use the directory of certified firms available through the Washington State Office of Minority and Women's Business Enterprises to meet the requirements.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

The following are exemptions from the fair share objective Requirements:

- Grant and loan recipients receiving a total of \$250K or less in EPA financial assistance in a given fiscal year.
- Tribal recipients of Performance Partnership Eligible grants under 40 CFR Part 35, Subpart B.
 - There is a 3-year phase in period for the requirement to negotiate fair share goals for Tribal and Insular Area recipients.
- Recipients of Technical Assistance Grants.

The Fair Share Objectives or goals for the utilization of disadvantaged businesses negotiated with EPA by the WA Office of Minority Women Business are stated below.

Construction	10% MBE	6% WBE
Supplies	8% MBE	4% WBE
Equipment	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE

BORROWER must accept the fair share objectives/goals stated above and purchase the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as WA Office of Minority Women Business goals.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, BORROWER will make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply.

Records documenting compliance with the six good faith efforts shall be retained. The six good faith efforts shall include:

- Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local Government recipients, this will include placing the Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- Consider in the contracting process whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State and Local Government recipients, this will include dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Health.
- If the prime contractor awards subcontracts, also require the prime contractor to take the five good faith efforts in paragraphs A through E above.

MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503

BORROWER is required to submit MBE/WBE participation reports to DOH, on a quarterly basis, beginning with the Federal fiscal year reporting period BORROWER receives the award and continuing until the project is completed.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

BORROWER agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BORROWER agrees to require all general contractors to provide forms: EPA Form 6100-2 DBE Subcontractor Participation Form and EPA Form 6100-3 DBE Subcontractor Performance Form to all its Disadvantaged Business Enterprise subcontractors, engineers, vendors, and any other entity for work or services listed in the PROJECT. These two (2) forms may be obtained from the EPA Office of Small Business Program's website on the internet at <http://www.epa.gov/osbp/grants.htm>.

BORROWER agrees to require all general contractors to complete and submit to BORROWER and Environmental Protection Agency EPA Form 6100-4 DBE Subcontractor Utilization Form beginning with the Federal fiscal year reporting period BORROWER receives the award and continuing until the project is completed. Only procurements with certified MBE/WBEs are counted toward a Contractor's MBE/WBE accomplishments.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

BORROWER is also required to create and maintain a bidders list if BORROWER of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

Section 33.501(b) of the rule is as follows:

A recipient of a Continuing Environmental Program Grant or other annual grant must create and maintain a bidders list. In addition, a recipient of an EPA financial assistance agreement to capitalize a revolving loan fund also must require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. The purpose of a bidders list is to provide the recipient and entities receiving identified loans who conduct competitive bidding with as accurate a database as possible about the universe of MBE/WBE and non-MBE/WBE prime and subcontractors. The list must include all firms that bid or quote on prime contracts or bid or quote on subcontracts under EPA assisted projects, including both MBE/WBEs.

The bidders list must be kept until the grant project period has expired and the recipient is no longer receiving EPA funding under the grant. For entities receiving identified loans, the bidders list must be kept until the project period for the identified loan has ended. The following information must be obtained from all prime and subcontractors:

- (1) Entity's name with point of contact;
- (2) Entity's mailing address, telephone number, and e-mail address;
- (3) The procurement on which the entity bid or quoted, and when; and
- (4) Entity's status as a MBE/WBE¹ or non-MBE/WBE.

The exemption found at § 33.501(c) is as follows:

A recipient of an EPA financial assistance agreement in the amount of \$250,000 or less for any single assistance agreement, or of more than one financial assistance agreement with a combined total of \$250,000 or less in any one fiscal year, is exempt from the paragraph (b) of this section requirement to create and maintain a bidders list. Also, a recipient under the CWSRF, DWSRF, or BCRLF Program is not required to apply the paragraph (b) of this section bidders list requirement of this subpart to an entity receiving an identified loan in an amount of \$250,000 or less, or to an entity receiving more than one identified loan with a combined total of \$250,000 or less in any one fiscal year. This exemption is limited to the paragraph (b) of this section bidders list requirements of this subpart.

¹ Qualified Women and Minority business enterprises may be found on the Internet at www.omwbe.wa.gov or by contacting the Washington State Office of Minority and Women's Enterprises at 360-704-1181.

ATTACHMENT V: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS



United States Environmental Protection Agency
Washington, DC 20460

EPA Project Control Number

The terms, "covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded", as used in this attachment, are defined in the rules implementing Executive Order 12549, including 13 CFR § 400.109. You may contact DOH for help getting a copy of these regulations.

BORROWER, defined as the primary participant and its principals, certifies by signing below that to the best of its knowledge and belief they:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- B. Have not within a three-year (3) period preceding this CONTRACT, been convicted of or had a civil judgment against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses described in this attachment; and,
- D. Have not within a three-year period (3) preceding the signing of this CONTRACT had one or more public transactions (federal, state, or local) terminated for cause or default.

Prior to awarding contracts for the PROJECT, BORROWER must verify that neither the contractor's business name(s) nor the names of its principals are in the Federal Excluded Parties List System for Ineligible Professionals and Debarred Contractors (www.SAM.gov). BORROWER must keep documentation in the PROJECT files and provide a copy to the DOH Contract Manager.

BORROWER will include the language below without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

The lower tier contractor certifies, by signing this CONTRACT that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

I understand that a false statement on this certification may be ground for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine or imprisonment for up to 5 years, or both.

Typed or Printed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

☐

I am unable to certify to the above statements. My explanation is attached.

ATTACHMENT VI: DWSRF ELIGIBLE PROJECT COSTS

Must be directly attributable to the project.

1. The costs for complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
2. DWSRF loan fees.
3. The purchase of a portion of another system's capacity, if it is the most cost effective solution (limited to publicly owned (municipal) systems).
4. Construction of reservoirs (clear wells) that are part of the treatment process and are collocated with the treatment facility.
5. Construction of distribution reservoirs (finished water).
6. Cost associated with restructuring or consolidation of existing water systems by publicly owned water systems.
7. Main extensions to connect to safe and reliable sources of drinking water.
8. Cost associated with collecting and preparing environmental assessment documents to obtain local permits.
9. Direct labor including related employee benefits:
 - a. Salaries and wages (at actual or average rates) covering productive labor hours of employees of the borrower (excluding the administrative organization of the operating unit involved) for periods of time actively or incidentally engaged in pre-design engineering, design engineering, construction engineering, acquisition of rights of way, and the cleaning, sterilization or bacteriological testing of water system components prior to public use. The costs of services rendered by employees generally classified as administration/project management of the loan are considered a direct cost only when such employees are assigned the types of services described above and shall be limited to 3% or less of the project loan amount.
 - b. Employee benefits relating to labor are considered a direct cost of construction projects. The following items may be included as employee benefits:
 - F.I.C.A. (Social Security) –employer's share.
 - Retirement benefits.
 - Hospital, health, dental, and other welfare insurance.
 - Life insurance.
 - Industrial and medical insurance.
 - Vacation.
 - Holiday.
 - Sick leave.
 - Military leave and jury duty.Employee benefits must be calculated as a percentage of direct labor dollars. The

computation of predetermined percentage rates to be applied to current labor costs must be based on the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

- c. Other than work identified in Number 9.a, no costs associated with labor performed by the borrower's employees, including force account work, are eligible for financing assistance.
10. Contract engineering, planning, design, legal, and financial planning services. The Department of Health reserves the right to declare ineligible legal costs that are unreasonable and disproportionate to the project.
11. Contract construction work.
12. Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county-owned equipment, at the rental rates established by the local government's "equipment rental and revolving fund" following the methods prescribed by the division of municipal corporations. However, such costs must be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities with a population of eight thousand or less not using this type of fund are allowed the same rates as used by the State Department of Transportation.
13. Direct materials and supplies.
14. Other direct costs incurred for materials or services acquired for a specific project are eligible costs and may include, but are not limited to such items as:
 - a. Telephone charges.
 - b. Reproduction and photogrammetry costs.
 - c. Video and photography for project documentation.
 - d. Computer usage.
 - e. Printing and advertising.
15. Other project related costs include:
 - Competitive Bidding.
 - Audit.
 - Insurance.
 - Prevailing wages.
 - Attorney fees.
 - Environmental Review.
 - Archaeological Survey.

Water system plan costs are not eligible for reimbursement. Small water system management program and plan amendments costs are eligible for reimbursement.

Projects may be designed to accommodate reasonable growth. This is generally the 20-year projection included in the system's water system plan or small water system management program.

ATTACHMENT VII: LABOR STANDARD PROVISIONS FOR SUBRECIPIENTS THAT ARE GOVERNMENTAL ENTITIES

Wage Rate Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)

Preamble

With respect to the Clean Water and Safe Drinking Water State Revolving Funds, EPA provides capitalization grants to each state which in turn provides subgrants or loans to eligible entities within the state. Typically, the subrecipients are municipal or other local governmental entities that manage the funds. For these types of recipients, the provisions set forth under Roman Numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Occasionally, the subrecipient may be a private for profit or not for profit entity. For these types of recipients, the provisions set forth in Roman Numeral II, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section II-3(ii)(A), below and for compliance as described in Section II-5.

I. Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)

For Subrecipients That Are Governmental Entities:

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under the FY 2013 Continuing Resolution with respect to State recipients and subrecipients that are governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact Department of Health. If a State recipient needs guidance, they may obtain additional guidance from DOL's web site at <http://www.dol.gov/whd/>.

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the FY 2013 Continuing Resolution, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

- (i) While the solicitation remains open, the subrecipient shall monitor www.wdol.gov weekly to ensure that the wage determination contained in the solicitation remains current. The subrecipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the subrecipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.
- (ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c) (3) (iv). The subrecipient shall monitor www.wdol.gov on a weekly

basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2013 Continuing Resolution, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Borrower and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing

apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually

registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The Borrower must comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The Borrower and/or subcontractor must insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes will be resolved according to the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, Borrower certifies that neither it (nor he or she) nor any person or firm who has an interest in the Borrower's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

4. Contract Provision for Contracts in Excess of \$100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the

contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB.

Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the Department of Health and to the appropriate DOL Wage and Hour District Office listed at

https://www.dol.gov/whd/WHD_district_offices.pdf.

AGREEMENT FACE SHEET

Agreement Number: PC25-96103-005

PUBLIC WORKS BOARD CONSTRUCTION FUNDING AGREEMENT

1. Contractor City of Vancouver PO Box 1995 Vancouver, WA 98668		2. Contractor Doing Business As (optional) N/A	
3. Contractor Representative Mehrin Selimgir		4. Public Works Board Representative Max Wedding	
5. Agreement Amount \$10,000,000.00	6. Funding Source Federal: ☐ State: ☒ Other: ☐ N/A: ☐	7. Agreement Start Date Agreement Execution Date	8. Agreement End Date June 1, 2045
9. Federal Funds (as applicable) N/A		Federal Agency N/A	
CFDA Number N/A		10. Tax ID # N/A	
11. SWV # 0008489-00		12. UBI # 065-001-364	
13. UEI # N/A		14. Agreement Purpose Fund a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets, roads, bridges, drinking water systems, stormwater systems, sanitary sewage systems, or solid waste/recycling/organics facilities.	
The BOARD, defined as the Washington State Public Works Board and Contractor acknowledge and accept the terms of this Agreement and attachments and have executed this Agreement on the date below to start as of the date and year last written below. The rights and obligations of both parties to this Agreement are governed by this Agreement and the following other documents that are incorporated by reference: Agreement Terms and Conditions including Declarations Page; and Attachment I: Attorney's Certification; and the Public Works Board's Traditional Program Policy Handbook, found on the PWB website.			
FOR THE CONTRACTOR <u>PER PWB: THIS FILE NOT FOR SIGNATURE</u> Signature _____ _____ Print Name _____ Title _____ Date		FOR PUBLIC WORKS BOARD _____ Kathryn A. Gardow, Public Works Board Chair _____ Date APPROVED AS TO FORM ONLY _____ Signature on File Dawn C. Cortez Assistant Attorney General	



DECLARATIONS

CLIENT INFORMATION

Legal Name: City of Vancouver
Agreement Number: PC25-96103-005

PROJECT INFORMATION

Project Title: Water Station 4 Treatment Improvements
Project City: Vancouver
Project State: Washington
Project Zip Code: 98661

FUNDING INFORMATION

LOAN FUNDING:

Loan Amount: \$10,000,000
Loan Term: 20 years
Interest Rate: 1.71%
Payment Month: June 1st

GRANT FUNDING:

Grant Amount: \$0
% of Funding as Grant: 0%

PROJECT TOTALS:

Total Estimated Cost: \$37,600,000.00
Total Project Funding: \$10,000,000.00
Earliest Date for Cost Reimbursement: September 6, 2024
Time of Performance: 60 months from Execution Date of this Agreement to Project Completion.

ADDITIONAL SPECIAL TERMS AND CONDITIONS GOVERNING THIS AGREEMENT

n/a

LOAN SECURITY CONDITION GOVERNING THIS AGREEMENT

This loan is a revenue obligation of the CONTRACTOR payable solely from the net revenue of the Drinking Water system. Payments shall be made from the net revenue of the utility after the payment of the principal and interest on any revenue bonds, notes, warrants or other obligations of the utility having a lien on that net revenue. As used here, "net revenue" means gross revenue minus expenses of maintenance and operations. The BOARD grants the CONTRACTOR the right to issue future bonds and notes that constitute a lien and charge on net revenue superior to the lien and charge of this loan agreement.

SCOPE OF WORK

The project will construct an on-site sodium hypochlorite generation, chemical feed, and treatment system with storage at the Water Station 4. Construction includes re-routing of existing utilities, installation of discharge pipes, and a structure to house the new system. Project will also include site pumping improvements and associated electrical upgrades.

The project costs may include but are not limited to: engineering, cultural and historical resources, environmental documentation, review, permits, public involvement, bid documents, and construction. The project needs to meet all applicable Local, State, and/or Federal standards.



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AGREEMENT TERMS AND CONDITIONS

PUBLIC WORKS BOARD CONSTRUCTION FUNDING PROGRAM

SPECIAL TERMS AND CONDITIONS

1.1 Definitions

As used throughout this Construction Funding Agreement the following terms shall have the meaning set forth below:

- A. "The BOARD" shall mean the Washington State Public Works Board created in Revised Code of Washington (RCW) 43.155.030, and who is a Party to the Agreement
- B. "Agreement" shall mean this Construction Funding Agreement.
- C. "Contractor" shall mean the local government identified on the Agreement Face Sheet receiving funding to complete the project described in the SCOPE OF WORK described in this Agreement and who is a Party to the Agreement, and shall include all employees and agents of the Contractor.
- D. "Declarations " and "Declared" shall refer to the project information, loan terms and conditions as stated on the Declarations Page of this Funding Agreement, displayed within the Agreement in **THIS STYLE** for easier identification.
- E. The Traditional Program Policy Handbook shall mean the handbook found at the PWB Traditional Financing Webpage and available upon request as PDF.

1.2 Authority

Acting under the authority of RCW 43.155, the BOARD has awarded the Contractor Public Works Board construction funding for an approved public works project.

1.3 Purpose

The BOARD and the Contractor have entered into this Agreement to provide funds to enable the Contractor to undertake a local public works project that furthers the goals and objectives of the Washington State Public Works Program. The project will be undertaken by the Contractor and will include the activities described in the **SCOPE OF WORK** shown on the Declarations page. The project must be undertaken in accordance with the Agreement terms and conditions, and all applicable federal, state and local laws and ordinances, which are incorporated by reference.

1.4 Order of Precedence

In the event of an inconsistency in this Agreement, the inconsistency shall be resolved by giving precedence in the following order:

- A. Applicable federal and state of Washington statutes and regulations.
- B. Special Terms and Conditions including attachments.
- C. General Terms and Conditions.

1.5 5- year deferral for start-up systems

If the project financed by this Agreement is to develop a system to deliver previously unavailable services, and revenue from those services is to repay the loan, the new system is eligible for a deferral of loan payments for sixty (60) months after the Agreement execution date. The Contractor may provide a written request to the BOARD requesting a 5-year deferral for an eligible system. The BOARD may approve the deferral request.

Interest accrues for the aforementioned sixty (60) months. The accrued interest only payment is due June 1 of the 6th year of the loan term. Interest and principal payments are due on June 1 of the 7th year of the loan term.

1.6 Competitive Bidding Requirements

The Contractor shall comply with the provisions of RCW 43.155.060 regarding competitive bidding requirements for projects assisted in whole or in part with money from the Public Works Program.

1.7 Default in Repayment

If the funding under this Agreement constitutes a loan, repayments shall be made on the loan in accordance with Section 1.18 of this Agreement. A payment not received within thirty (30) days of the due date shall be declared delinquent. Delinquent payments shall be assessed a monthly penalty beginning on the first (1st) day past the due date. The penalty will be assessed on the entire payment amount. The penalty will be one percent (1%) per month or twelve percent (12%) per annum. The same penalty terms shall apply at project completion if the repayment of loan funds in excess of eligible costs are not repaid at the time of the Project Completion Amendment is submitted, as provided for in Section 1.13.

The Contractor acknowledges and agrees to the BOARD's right, upon delinquency in the payment of any annual installment, to notify any other entity, creditors, or potential creditors of the Contractor of such delinquency.

The Contractor shall be responsible for all legal fees incurred by the BOARD in any action undertaken to enforce its rights under this section.

1.8 Investment Grade Audit

For projects involving repair, replacement, or improvement of a wastewater treatment plant, or other public works facility for which an investment grade audit is obtainable, Contractor must undertake an investment grade audit. Costs incurred as part of the investment grade audit are eligible project costs.

1.9 Sub-Contractor Data Collection

Contractor will submit reports, in a form and format to be provided by the BOARD and at intervals as agreed by the parties, regarding work under this Agreement performed by sub-contractors and the portion of the Agreement funds expended for work performed by sub-contractors, including but not necessarily limited to minority-owned, women-owned, and veteran-owned business sub-contractors. "Sub-Contractors" shall mean sub-contractors of any tier.

1.10 Eligible Project Costs

The Eligible project costs must consist of expenditures eligible under Washington Administrative Code (WAC) 399-30-030, be related only to project activities described in the declared **SCOPE OF WORK** and documented according to the requirements set forth in the Traditional Program Policy Handbook. Eligible costs for reimbursement shall be construed to mean expenditures incurred and paid, or incurred and payable within thirty (30) days of the reimbursement request. Only costs that have been incurred on or after **EARLIEST DATE FOR COST REIMBURSEMENT** shown in the Declarations are eligible for reimbursement under this Agreement.

The Contractor assures compliance with WAC 399-30-030, which identifies eligible costs for projects assisted with BOARD funding.

These terms supersede the terms in Section 2.2. Allowable Costs.

1.11 Historical and Cultural Resources

Prior to approval and disbursement of any funds awarded under this Agreement, the Contractor shall cooperate with the BOARD to complete the requirements of Governor's Executive Order 21-02 or the Contractor shall complete a review under Section 106 of the National Historic Preservation Act, if applicable. Contractor agrees that the Contractor is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural resources and agrees to hold harmless the BOARD and the state of Washington in relation to any claim related to such historical or cultural resources discovered, disturbed, or damaged as a result of the project funded by this Agreement.

In addition to the requirements set forth in this Agreement, the Contractor shall, in accordance with Governor's Executive Order 21-02 as applicable, coordinate with the BOARD and the Washington State Department of Archaeology and Historic Preservation ("DAHP"), including any recommendation consultation with any affected tribe(s), during Project design and prior to construction to determine the existence of any tribal cultural resources affected by the Project. Contractor agrees to avoid, minimize, or mitigate impacts to the cultural resource as a continuing prerequisite to receipt of funds under this Agreement.

The Contractor agrees that, unless the Contractor is proceeding under an approved historical and cultural monitoring plan or other memoranda of agreement, if historical or cultural artifacts found during the construction, the Contractor shall immediately stop construction and notify the local historical preservation officer and the state's historical preservation officer at DAHP, and the BOARD Representative identified on the Face Sheet. If human remains are uncovered, the Contractor shall report the presence and location of the remains to the coroner and local enforcement immediately, then contact DAHP and the concerned tribe's cultural staff or committee.

The Agreement shall require this provision to be contained in all subcontracts for work or services related to the Scope of Work attached hereto.

In addition to the requirements set forth in the Agreement, the Contractor agrees to comply with RCW 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and WAC 25-48 regarding Archaeological Excavation and Removal Permits.

Completion of the requirements of Section 106 of the National Historic Preservation Act shall substitute for completion of Governor's Executive Order 21-02.

In the event that the Contractor finds it necessary to amend the Scope of Work the Agreement may be required to re-comply with Governor's Executive Order 21-02 or Section 106 of the National Historic Preservation Act.

1.12 Performance Incentives

The Contractor shall complete the project no later than sixty (60) months after the date of Agreement execution.

Should the Contractor submit the Certified Project Completion Report within forty-eight (48) months of the date of Agreement execution, the Contractor may choose one of the two following incentives upon project completion:

Option A: The repayment period will be increased by twenty-four (24) months, not to exceed the life of the asset, OR:

Option B: The interest rate will be decreased by one-quarter of one percent (0.25%).

Should the Contractor submit the Certified Project Completion Report within thirty-six (36) months of the date of Agreement execution, the Contractor may choose one of the following two incentives upon project completion:

Option C: The repayment period will be increased by sixty (60) months, not to exceed the life of the asset, OR;

Option D: The interest rate will be decreased by up to one-half of one percent (0.50%).

Once an option is selected, the Agreement shall be modified to note the appropriate change and no further adjustment to the Agreement for Performance Incentives shall be authorized. Irrespective of the performance incentive chosen, at no point in time shall the minimum loan interest rate be less than 0.25%.

The calculation of interest rate and term adjustments will apply to the remaining payments beginning from the date the Project Completion report is certified.

1.13 Project Completion Amendment and Certified Project Completion Report

The Contractor shall complete a Certified Project Completion Report when all activities identified in the **SCOPE OF WORK** are complete. The BOARD will supply the Contractor with the Certified Project Completion Report form, which shall include:

- A. A certified statement that the project, as described in the declared **SCOPE OF WORK**, is complete and, if applicable, meets required standards.
- B. A certified statement of the actual dollar amounts spent, from all funding sources, in completing the project as described in the **SCOPE OF WORK**.
- C. Certification that all costs associated with the project have been incurred and have been accounted for. Costs are incurred when goods and services are received and/or Agreement work is performed.
- D. Pictures of Completed Project.

The Contractor will submit the Certified Project Completion Report together with the last Invoice Voucher for a sum not to exceed the balance of the total funding amount. The final Invoice Voucher payment shall not occur prior to the completion of all project activities identified in the **SCOPE OF WORK** and the BOARD's receipt and acceptance of the Certified Project Completion Report.

The Project Completion Amendment shall serve as an amendment to this Agreement determining the final loan amount, grant amount (if applicable), loan term, and interest rate.

1.14 Project Signs

If the Contractor displays, during the period covered by this Agreement, signs or markers identifying those agencies participating financially in the approved project, the sign or marker must identify the Washington State Public Works Board as a participant in the project. Public Works Board logo files are available upon request.

1.15 Rate and Term of Loan

If the Contractor is awarded a loan, the BOARD shall fund the Contractor a sum not to exceed the **LOAN AMOUNT** shown on the Agreement Face Sheet and declared on the Agreement Declarations Page. The interest rate shall be the declared **INTEREST RATE** per annum on the outstanding principal balance. The length of the loan shall not exceed the declared **LOAN TERM** in years, with the final payment due by the **AGREEMENT END DATE** as shown on the Agreement Face Sheet.

Any grant funding shall be spent from the award proportionally to the **% OF FUNDING AS GRANT**. The percent of grant funding shall not be changed at project completion regardless of the actual cost of the project and the Affordability Index or other measure of financial hardship.

1.16 Recapture

In addition to the recapture provisions in Section 2.32, the right to recapture shall exist for a period not to exceed six (6) years following Agreement termination. In the event that the Board is required to institute legal proceedings to enforce the recapture provision, the BOARD shall be entitled to its costs, including attorney's fees.

1.17 Reimbursement Procedures and Payment

If funding or appropriation is not available at the time the invoice is submitted, or when this Agreement is executed, the issuance of warrants will be delayed or suspended until such time as funds or appropriation become available. Therefore, subject to the availability of funds, warrants shall be issued to the Contractor for reimbursement of allowable expenses incurred by the Contractor while undertaking and administering approved project activities in accordance with the declared **SCOPE OF WORK**.

The Contractor shall submit all Invoice Vouchers and all required documentation per guidance in the BOARD Traditional Program Policy Handbook, which is incorporated by reference.

The BOARD shall reimburse the Contractor for eligible project expenditures up to the maximum funding amount under this Agreement, as identified in Section 1.10. When requesting reimbursement for costs incurred, the Contractor shall submit all Invoice Vouchers and any required documentation electronically through the Department of Commerce's (COMMERCE) Contracts Management System (CMS), which is available through the Secure Access Washington (SAW) portal, or its successor. If the Contractor has constraints preventing access to COMMERCE's online A-19 portal, a hard copy A-19 form may be provided by the BOARD Project Manager upon request.

Requests for reimbursements for costs related to **construction** activities will not be accepted until the Contractor provides:

- Proof of compliance with Governor's Executive Order 21-02 or Section 106 of the National Historic Preservation Act, as described in Section 1.11, and
- Signed Public Works Board Notice of Contract Award and Notice to Proceed, which follows the formal award of a construction contract.

If the Contractor receives funding in the form of both a grant and a loan, the Contractor shall bill to the loan and grant proportionally until and if funds are exhausted.

The BOARD will pay the Contractor upon acceptance of the work performed and receipt of properly completed invoices. Invoices shall be submitted to the BOARD at least quarterly, as appropriate.

Payment shall be considered timely if made by the BOARD within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

The BOARD may, at its sole discretion, terminate the Agreement or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by the BOARD.

BOARD shall not release the final five (5) percent of the total funding amount until acceptance by BOARD of project completion report.

Duplication of Billed Costs. If the Contractor is entitled to payment or has been or will be paid by another source for an eligible project cost, then the Contractor shall not be reimbursed by the BOARD for that cost.

Disallowed Costs. The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

In no event shall the total Public Works funding exceed 100% of the eligible actual project costs. At the time of project completion, the Contractor shall submit to the BOARD a Project Completion Amendment certifying the total actual project costs, other funding, and local share. The final BOARD funding disbursement shall bring the total funding to the lesser of 100% of the eligible project costs or the total declared **funding under this Agreement**. The Project Completion Amendment shall serve as an amendment to this Agreement determining the final loan and grant amounts, loan term, and interest rate.

In the event that the final costs identified in the Project Completion Amendment indicate that the Contractor has received BOARD monies in excess of 100.00% of eligible costs, all funds in excess of 100.00% shall be repaid to the BOARD by payment to the Department of Commerce, or its successor, together with the submission of the Project Completion Amendment.

1.18 Repayment

If the Agreement includes loan funding, loan repayment installments are due on the day and month identified under the term: **PAYMENT MONTH** on the Declarations Page. Payments are due each year during the term of the loan beginning one year from the date of Agreement execution. Interest only will be charged for this payment if a warrant is issued prior to this date. All subsequent payments shall consist of principal and accrued interest due on the specified **PAYMENT MONTH** date of each year during the remaining term of the loan.

Repayment of a loan under this Agreement shall include the declared **INTEREST RATE** per annum based on a three hundred and sixty (360) day year of twelve (12) thirty (30) day months. Interest will begin to accrue from the date each warrant is issued to the Contractor. The final payment shall be on or before the **AGREEMENT END DATE** shown on the Declarations page, of an amount sufficient to bring the loan balance to zero.

In the event that the BOARD approves the Contractor's request for a deferral as outlined in Section 1.5, then the first loan repayment is due sixty (60) months after Agreement execution. Interest accrues for the sixty (60) months after Agreement execution. The accrued interest only will be charged for this payment if a warrant is issued prior to this date. Interest and principal payments are due on the declared **PAYMENT MONTH** date of each year during the remaining term of the loan. The Contractor has the right to repay the unpaid balance of the loan in full at any time or make accelerated payments without penalty.

The Contractor will repay the loan in accordance with the preceding conditions through the use of a check, money order, or equivalent means made payable to the Washington State Department of Commerce, or its successor.

1.19 Reports

The Contractor shall furnish the BOARD with:

- A. Project progress reports per guidance in the BOARD Traditional Program Policy Handbook;
- B. Quarterly Reports;
- C. Certified Project Completion Report at project completion (as described in Section 1.13);
- D. Pictures and short videos of various stages of the project, and
- E. Other reports as the BOARD may require.

1.20 Termination for Cause

If the Contractor fails to comply with the terms of this Agreement, or fails to use the funds only for those activities identified in the **SCOPE OF WORK**, the BOARD may terminate the Agreement in whole or in part at any time. The BOARD shall notify the Contractor in writing of its determination to terminate, the reason for such termination, and the effective date of the termination. Nothing in this section shall affect the Contractor's obligation to repay the unpaid balance of a loan.

These terms supersede the terms in Section 2.41 Termination for Cause/Suspension.

1.21 Termination for Convenience

Notwithstanding anything in Section 2.42 Termination for Convenience, the BOARD may suspend or terminate this Agreement in the event that funds are no longer available to the BOARD, or are not appropriated for the purpose of meeting the BOARD's obligations under this Agreement. Termination will be effective when the BOARD sends written notice of termination to the Contractor. Nothing in this section shall affect the Contractor's obligation to repay the unpaid balance of the loan.

1.22 Time of Performance

No later than sixty (60) months after the date of Agreement execution the Contractor must reach project completion.

Failure to meet Time of Performance shall constitute default of this Agreement. In the event of extenuating circumstances, the Contractor may request, in writing, that the BOARD extend the deadline for project completion. The BOARD may extend the deadline.

The term of this Agreement shall be for the entire term of any loan provided under this Agreement, regardless of actual project completion, unless terminated sooner as provided herein.

1.23 Agreement Suspension

In the event that the Washington State Legislature fails to pass and the Governor does not authorize a Capital Budget by June 30 of each biennium, the Washington State Constitution Article 8 and RCW 43.88.130 and RCW 43.88.290 prohibit expenditures or commitments of state funds in the absence of appropriation.

In such event, all work under this Agreement will be suspended effective July 1. The Contractor shall immediately suspend work under this Agreement and take all reasonable steps necessary to minimize the cost of performance directly attributable to such suspension until the suspension is cancelled.

The BOARD shall notify the Contractor immediately upon lifting of the Agreement suspension.

1.24 Special Conditions

If ADDITIONAL SPECIAL CONDITIONS are listed on the Agreement Declarations Page then these conditions are herein incorporated as part of the terms and requirements of this Agreement.

1.25 Loan Security

Loan Security payments shall be made as stated on the attached Declarations Page, and identified as LOAN SECURITY.

GENERAL TERMS AND CONDITIONS

2.1 DEFINITIONS

As used throughout this Agreement, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Public Works Board Chair and/or the designee authorized in writing to act on the Chair's behalf.
- B. "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Agreement, and shall include all employees and agents of the Contractor.
- C. "BOARD" shall mean the Washington State Public Works Board created in Revised Code of Washington (RCW) 43.155.030, and which is a Party to the Agreement
- D. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- E. "State" shall mean the state of Washington.
- F. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Agreement under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2.2 Allowable Costs

Costs allowable under this Agreement are actual expenditures according to an approved budget up to the maximum amount stated on the Agreement Award or Amendment Face Sheet.

2.3 ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

2.4 AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

2.5 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

2.6 APPROVAL

This Agreement shall be subject to the written approval of the BOARD's Authorized Representative and shall not be binding until so approved. The Agreement may be altered, amended, or waived only by a written amendment executed by both parties.

2.7 ASSIGNMENT

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Contractor without prior written consent of the BOARD.

2.8 ATTORNEYS' FEES

Unless expressly permitted under another provision of the Agreement, in the event of litigation or other action brought to enforce Agreement terms, each party agrees to bear its own attorney's fees and costs.

2.9 AUDIT

A. General Requirements

- If requested by the Board at any time during the Agreement period and six (6) years following termination of the Agreement, Contractor will obtain an audit, at its own expense.
- Contractors are to procure audit services based on the following guidelines.
- The Contractor shall maintain its records and accounts so as to facilitate the audit requirement and shall ensure that Subcontractors also maintain auditable records.
- The Contractor is responsible for any audit exceptions incurred by its own organization or that of its Subcontractors.
- The BOARD reserves the right to recover from the Contractor all disallowed costs resulting from the audit.
- Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Contractor must respond to the BOARD's request for information or corrective action concerning audit issues within thirty (30) days of the date of request.

B. State Funds Requirements

- In the event an audit is required, if the Contractor is a local government entity, the Office of the State Auditor shall conduct the audit.
- Audits of non-profit organizations are to be conducted by a certified public accountant selected by the Contractor.
- The Contractor shall include the above audit requirements in any subcontracts.
- In any case, the Contractor's financial records must be available for review by the BOARD.

2.10 CODE REQUIREMENTS

All construction and rehabilitation projects must satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990 28 C.F.R. Part 35 will be required, as specified by the local building Department.

2.11 CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

1. All material provided to the Contractor by the BOARD that is designated as "confidential" by the BOARD;
2. All material produced by the Contractor that is designated as "confidential" by the BOARD; and
3. All personal information in the possession of the Contractor that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's

name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

- B.** The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Agreement and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of the BOARD or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide the BOARD with its policies and procedures on confidentiality. The BOARD may require changes to such policies and procedures as they apply to this Agreement whenever the BOARD reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by the BOARD. Upon request, the Contractor shall immediately return to the BOARD any Confidential Information that the BOARD reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.
- C.** Unauthorized Use or Disclosure. The Contractor shall notify the BOARD within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

2.12 CONFORMANCE

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

2.13 COPYRIGHT PROVISIONS

Unless otherwise provided, all Materials produced under this Agreement shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the BOARD. The BOARD shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to the BOARD effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Agreement, but that incorporate pre-existing materials not produced under the Agreement, the Contractor hereby grants to the BOARD a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the BOARD.

The Contractor shall exert all reasonable effort to advise the BOARD, at the time of delivery of Materials furnished under this Agreement, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Agreement. The Contractor shall provide the BOARD with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Agreement. The BOARD shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

2.14 DISALLOWED COSTS

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

2.15 DISPUTES

Except as otherwise provided in this Agreement, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Chair of the BOARD, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Contractor's name, address, and Agreement number; and
- be mailed to the BOARD Chair and the other party's (respondent's) Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Chair or the Chair's designee and the requestor within five (5) working days.

The Chair or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Chair or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Agreement shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

2.16 DUPLICATE PAYMENT

The Contractor certifies that work to be performed under this Agreement does not duplicate any work to be charged against any other agreement, contract, subcontract, or other source.

2.17 ETHICS/CONFLICTS OF INTEREST

In performing under this Agreement, the Contractor shall assure compliance with the Ethics in Public Service Act, RCW 42.52 and any other applicable local, state or federal law related to ethics or conflicts of interests.

2.18 GOVERNING LAW AND VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

2.19 INDEMNIFICATION

To the fullest extent permitted by law, the GRANTEE shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death arising out of or resulting from the performance of the Agreement. "Claim," as used in this Agreement, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorneys' fees, attributable for bodily injury, sickness,

disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractor's agents, employees, representatives, or any subgrantee/subcontractor or its employees.

The Contractor's obligation shall not include such claims that may be caused by the sole negligence of the State and its agencies, officials, agents, and employees. If the claims or damages are caused by or result from the concurrent negligence of (a) the State, its agents or employees and (b) the Contractor, its subcontractors, agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Contractor or its subcontractors, agents, or employees.

The Contractor waives its immunity under RCW 51 to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

2.20 INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this Agreement. The Contractor and its employees or agents performing under this Agreement are not employees or agents of the state of Washington or the BOARD. The Contractor will not hold itself out as or claim to be an officer or employee of the BOARD or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

2.21 INDUSTRIAL INSURANCE COVERAGE

The Contractor shall comply with all applicable provisions of RCW 51, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the BOARD may collect from the Contractor the full amount payable to the Industrial Insurance Accident Fund. The BOARD may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by the BOARD under this Agreement, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

2.21 LAWS

The Contractor shall comply with all applicable laws, ordinances, codes, regulations and policies of local and state and federal governments, as now or hereafter amended including, but not limited to:

Washington State Laws and Regulations

- A. Affirmative Action, RCW 41.06.020 (11).
- B. Boards of Directors or Officers of Non-profit Corporations – Liability – Limitations, RCW 4.24.264.
- C. Contracts for Architectural and Engineering Services. RCW 39.80
- D. Disclosure-Campaign Finances-Lobbying, RCW 42.17.
- E. Discrimination-Human Rights Commission, RCW 49.60.
- F. Ethics in Public Service, RCW 42.52
- G. Growth Management, RCW 36.70A
- H. Housing Assistance Program, RCW 43.185.
- I. Interlocal Cooperation Act, RCW 39.34.
- J. Noise Control, RCW 70.107.
- K. Office of Minority and Women's Business Enterprises, RCW 39.19 and WAC 326-02.
- L. Open Public Meetings Act, RCW 42.30.
- M. Prevailing Wages on Public Works, RCW 39.12.
- N. Public Records Act. RCW 42.56.
- O. Public Works Projects, RCW 43.155
- P. Relocation Assistance – Real Property Acquisition Policy, RCW 8.26.
- Q. Shoreline Management Act of 1971, RCW 90.58.

- R. State Budgeting, Accounting, and Reporting System, RCW 43.88
- S. State Building Code, RCW 19.27 and Energy-related building standards, RCW 19.27A, and Provisions in buildings for aged and handicapped persons, RCW 70.92.
- T. State Coastal Zone Management Program, Publication 01-06-003, Shorelands and Environmental Assistance Program, Washington State Department of Ecology.
- U. State Environmental Policy, RCW 43.21C.
- V. State Executive Order 21-02 Archeological and Cultural Resources.

2.23 LICENSING, ACCREDITATION AND REGISTRATION

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Agreement.

2.24 LIMITATION OF AUTHORITY

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement.

2.25 Local Public Transportation Coordination

Where applicable, Contractor shall participate in local public transportation forums and implement strategies designed to ensure access to services.

2.26 NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Agreement, the Contractor shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Agreement may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with the Board. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

2.27 PAY EQUITY

The Contractor agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- B. Contractor may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
 - 1. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
 - 2. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
 - 3. A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Agreement may be terminated by the BOARD, if the BOARD, the Department of Commerce, or the Department of Enterprise Services determines that the Contractor is not in compliance with this provision.

2.28 POLITICAL ACTIVITIES

Political activity of Contractor employees and officers are limited by the State Campaign Finances and Lobbying provisions of RCW 42.17 and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

2.29 PREVAILING WAGE LAW

The Contractor certifies that all contractors and subcontractors performing work on the Project shall comply with state Prevailing Wages on Public Works, RCW 39.12, as applicable to the Project funded by this contract, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Contractor shall maintain records sufficient to evidence compliance with RCW 39.12, and shall make such records available for the BOARDS review upon request.

2.30 PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The funds provided under this Agreement shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Agreement provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

2.31 PUBLICITY

The Contractor agrees not to publish or use any advertising or publicity materials in which the state of Washington or the BOARD's name is mentioned, or language used from which the connection with the state of Washington's or the BOARD's name may reasonably be inferred or implied, without the prior written consent of the BOARD.

2.32 RECAPTURE

In the event that the Contractor fails to perform this Agreement in accordance with state laws, federal laws, and/or the provisions of this Agreement, the BOARD reserves the right to recapture funds in an amount to compensate the BOARD for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by the BOARD. In the alternative, the BOARD may recapture such funds from payments due under this contract.

2.33 RECORDS MAINTENANCE

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Contractor shall retain such records for a period of six years following the date of final payment.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been finally resolved.

2.34 REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the Contractor shall complete registration with the Washington State Department of Revenue.

2.35 RIGHT OF INSPECTION

At no additional cost all records relating to the Contractor's performance under this Agreement shall be subject at all reasonable times to inspection, review, and audit by the BOARD, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Agreement. The Contractor shall provide access to its facilities for this purpose.

2.36 SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion, the BOARD may terminate the Agreement under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Agreement may be amended to reflect the new funding limitations and conditions.

2.37 SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement that can be given effect without the invalid provision, if such remainder conforms to the requirements of law and the fundamental purpose of this Agreement and to this end the provisions of this Agreement are declared to be severable.

2.38 SUBCONTRACTING

The Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, the BOARD in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Agreement; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Agreement. The Contractor is responsible to the BOARD if the Subcontractor fails to comply with any applicable term or condition of this Agreement. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Agreement. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to the BOARD for any breach in the performance of the Contractor's duties.

Every subcontract shall include a term that the BOARD and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

2.39 SURVIVAL

The terms, conditions, and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

2.40 TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the Contractor's income or gross receipts, any other taxes, insurance or expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

2.41 TERMINATION FOR CAUSE

In the event the BOARD determines the Contractor has failed to comply with the conditions of this Agreement in a timely manner, the BOARD has the right to suspend or terminate this Agreement. Before suspending or terminating the Agreement, the BOARD shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the Agreement may be terminated or suspended.

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law.

The BOARD reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by the BOARD to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of the BOARD provided in this Agreement are not exclusive and are, in addition to any other rights and remedies, provided by law.

2.42 TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Agreement the BOARD may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part. If this Agreement is so terminated, the BOARD shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of termination.

2.43 TERMINATION PROCEDURES

Upon termination of this contract, the BOARD, in addition to any other rights provided in this Agreement.

The rights and remedies of the BOARD provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Contractor shall:

- A.** Stop work under the Agreement on the date, and to the extent specified, in the notice;
- B.** Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Agreement that is not terminated;
- C.** Assign to the BOARD, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the BOARD has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D.** Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;

- E. Transfer title to the BOARD and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the Agreement had been completed, would have been required to be furnished to the BOARD;
- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which the BOARD has or may acquire an interest.

2.44 TREATMENT OF ASSETS

Title to all property furnished by the BOARD shall remain with the BOARD. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Contractor.

2.45 WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing and signed by Authorized Representative of the Board.

ATTACHMENT I: ATTORNEY'S CERTIFICATION

PUBLIC WORKS BOARD CONSTRUCTION FUNDING PROGRAM

CONTRACTOR: City of Vancouver
AGREEMENT Number: PC25-96103-005

I, _____, hereby certify:

I am an attorney at law admitted to practice in the State of Washington and the duly appointed attorney of the City of Vancouver (the CONTRACTOR); and

I have also examined any and all documents and records which are pertinent to the Agreement, including the application requesting this financial assistance.

Based on the foregoing, it is my opinion that:

1. The CONTRACTOR is a public body, properly constituted and operating under the laws of the state of Washington, empowered to receive and expend federal, state and local funds, to enter into an Agreement with the state of Washington, and to receive and expend the funds involved to accomplish the objectives set forth in their application.
2. The CONTRACTOR is empowered to accept the BOARD's financial assistance and to provide for repayment of the loan as set forth in the Agreement.
3. There is currently no litigation in existence seeking to enjoin the commencement or completion of the above-described public facilities project or to enjoin the CONTRACTOR from repaying any loan extended by the BOARD with respect to such project. The CONTRACTOR is not a party to litigation which will materially affect its ability to repay such loan on the terms contained in the Agreement.
4. Assumption of this obligation would not exceed statutory and administrative rule debt limitations applicable to the CONTRACTOR.

PWB to route for signature via DocuSign
Signature of Attorney

Date

Name

A RESOLUTION fixing February 24, 2025, as the date for a public hearing on a proposal to vacate public right-of-way associated with SE Maxon Road, located on the south side of SE 19th Street, east of Ellsworth Road, located within the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 1 North, Range 2 East, Willamette Meridian, City of Vancouver, Clark County, Washington.

AN ORDINANCE vacating the right-of-way associated with SE Maxon Road, located on the south side of SE 19th Street, east of Ellsworth Road, located within the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 1 North, Range 2 East, Willamette Meridian, City of Vancouver, Clark County, Washington; and providing for an effective date.

Staff Report: 022-25

To: Mayor and City Council
From: City Manager
Date: February 3, 2025

Subject

Maxon Road Right-of-Way Vacation

Key Points

- Right-of-way vacation of approximately 11,428 square feet of unimproved street right-of-way.
- Right-of-way area was created by WSDOT as part of the I-205 project for the construction of "Frontage Road No.1".
- There are existing utilities within the proposed vacation area.
- Staff recommends Council require full compensation for the total estimated property value of the vacated area.

Strategic Plan Alignment

Transportation and Mobility – a safe, future-ready and convenient transportation system

Present Situation

Staff has received a request from Ginn Group LLC to vacate a portion of right-of-way associated with SE Maxon Road, located on the south side of SE 19th Street, east of Ellsworth Road. The right-of-way is specifically located within the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 1 North, Range 2 East, Willamette Meridian.

This right-of-way area was created by WSDOT as part of the I-205 project for the construction of "Frontage Road No.1". This frontage road was necessary to provide access to properties which lost their original access because of the I-205 project. The right-of-way area was then conveyed to Clark County from the State with a Governor's Deed dated June 3, 1975. WSDOT officials have confirmed that they have no restrictions on this right-of-way.

The right-of-way to be vacated contains no public street improvements. Staff has reviewed the City's Transportation Systems Plan and determined there is no future need for this right-of-way to accommodate public travel. Therefore, vacation of this right-of-way will have no adverse impact on the City's transportation assets.

Staff has contacted all utility owners with facilities potentially located within the subject area. The City of Vancouver has utilities within the area of the proposed vacation, specifically stormwater structures and stormwater mains. City staff in the stormwater division have no objections to the proposed vacation but will require a 15-foot-wide easement be dedicated to accommodate the existing stormwater facilities. This easement will be centered on the existing stormwater main and will be dedicated as part of the pending subdivision plat approval.

Comcast and CenturyLink (Lumen) have indicated that they have no objections to the proposed vacation. NW Natural has indicated they have no objections to the vacation. Clark Public Utilities (CPU) has indicated that the developer of the property is required to move all existing CUP facilities and dedicate appropriate easements on the pending subdivision plat. Therefore, they have no objections to the proposed vacation.

Generally, under VMC 11.05.130, the property associated with a vacated street belongs to the abutting property owners, one-half to each, subject to vested property rights. The area proposed to be vacated is surrounded by property owned by the applicant. Therefore, the entirety of the vacated area will be conveyed to the applicant.

RCW 35.79.030 provides for, but does not require, the City to collect compensation for the value of public right-of-way that is vacated. Further, VMC 11.05.120 stipulates provisions for the City to calculate and collect compensation for vacated public right-of-way. As discussed above, this right-of-way was conveyed to Clark County from the State via Governor's Deed. The property was acquired at public expense when WSDOT originally acquired the property. The City has not constructed any street improvements within the subject right-of-way but has performed basic maintenance of this area as necessary to provide access to the existing properties and to the existing public utilities. Further, the vacated area will be utilized by the applicant for a proposed residential development. Based on these circumstances, staff recommends the imposition of compensation equal to 100% of the total appraised property value.

An analysis of the County Assessor's records for properties adjacent to the proposed vacation area resulted in an estimated property value equal to \$5.31 per square foot. The total area of the proposed vacation is 11,428 square feet. This results in a total estimated property value equal to \$60,683.

Advantage(s)

1. Allows the vacated property to be placed on the tax rolls.
2. Allows the applicant to maximize use of the abutting property.
3. Relieves the City of maintenance and liability obligations for the property.

Challenge(s)

No known challenges.

Budget Impact

Payment of \$60,683 will be deposited to the Transportation fund and used for capital projects.

Prior Council Review

None

Action Requested

On Monday, February 3, 2025, adopt a resolution of intent and approve the ordinance on first reading

to vacate a portion of public right-of-way associated with SE Maxon Road located within the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 1 North, Range 2 East, Willamette Meridian, setting the date of public hearing for February 24, 2025.

Staff Contact

Ryan Lopossa, Streets and Transportation Manager, ryan.lopossa@cityofvancouver.us

Attachments:

1. Resolution
2. Ordinance
3. Exhibit A - Legal Description
4. Exhibit B - Site Map
5. Exhibit C - Overall Vicinity Map
6. Exhibit D - Property Value Analysis - ROW-350112 - Maxon Rd

02/03/2025

RESOLUTION NO. _____

A RESOLUTION fixing February 24, 2025, as the date for a public hearing on a proposal to vacate public right-of-way associated with SE Maxon Road, located on the south side of SE 19th Street, east of Ellsworth Road, located within the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 1 North, Range 2 East, Willamette Meridian, City of Vancouver, Clark County, Washington.

BE IT RESOLVED BY THE CITY OF VANCOUVER:

Section 1. As recommended in SR-_____, City Council, pursuant to VMC 11.05.040 and RCW 35.79.010, hereby initiates procedures to vacate a portion of right-of-way of SE Maxon Road, located on the south side of SE 19th Street, east of Ellsworth Road.

Section 2. The street area proposed to be vacated is described on Exhibit A and shown on Exhibit B; Exhibit A and Exhibit B are attached hereto and incorporated herein.

Section 3. On February 24, 2025, at 6:30 p.m. in the Council Chambers in City Hall, 415 West 6th Street, Vancouver, Washington, City Council will hold a public hearing on the proposed street vacation.

Section 4. The City Clerk shall provide notice of the proposed right-of-way vacation and the time and place of the public hearing, as required by VMC 11.05.060 and RCW 35.79.020.

ADOPTED at regular session of the Council of the City of Vancouver, this _____ day
of _____, 2025.

Anne McEnery-Ogle, Mayor

Attest:

Approved as to form:

Natasha Ramras, City Clerk

Nena Cook, Interim City Attorney

02/03/25
02/24/25

ORDINANCE NO. _____

AN ORDINANCE vacating the right-of-way associated with SE Maxon Road, located on the south side of SE 19th Street, east of Ellsworth Road, located within the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 1 North, Range 2 East, Willamette Meridian, City of Vancouver, Clark County, Washington; and providing for an effective date.

WHEREAS, under Vancouver Municipal Code (“VMC”) 11.05.040, the owner of real property abutting SE Maxon Road, located on the south side of SE 19th Street, east of Ellsworth Road, filed a petition with the Director of Public Works, requesting the City to vacate a portion of existing right-of-way; and

WHEREAS, the subject right-of-way consists of approximately 11,428 square feet with a total estimated value of \$60,683; and

WHEREAS, City staff has contacted utility owners and found that there are public utility facilities within the right-of-way; and

WHEREAS, there are no present or future public transportation needs associated with the right-of-way, and the City has been providing maintenance or upkeep of the right-of-way that is unrelated to public travel; and

WHEREAS, records indicate that the subject area of right-of-way was created by the State of Washington as part of the I-205 project; and was created with the expenditure of State funds; and

WHEREAS, as recommended by Staff Report No. _____, Council adopted Resolution M-_____ on February 3, 2025, and set the date of public hearing for February 24, 2025, at 6:30 p.m.; and

WHEREAS, The City Clerk caused the notices of the public hearing to be posted and published as required by law; and

WHEREAS, a public hearing was held on February 24, 2025, at which time City Council considered reports and information concerning the proposed right-of way vacation and found that: (1) a vacation of the right-of-way will better serve the public; (2) the right-of-way is no longer needed for public access and changes are not likely to occur in the future requiring the need for the right of way, and this property is thus surplus to the needs of the City; and (3) there are no objections to the vacation sufficient to deny its approval.

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Right-of-Way Vacation. The street area that is described on Exhibit A and shown on Exhibit B is hereby vacated. Exhibits A and B are incorporated by reference.

Section 2. Stormwater Easement. The applicant must dedicate a 15-foot-wide public stormwater easement to the City of Vancouver, centered on the existing stormwater main and as directed by City staff.

Section 3. Compensation for Value of Right-of-Way. Pursuant to VMC 11.05.120(C), the applicant must pay the City in an amount equal to the full fair market value of the right-of-way being vacated based upon the factors set forth in the recitals, above. This amount has been established to be \$60,683, and vacation of the property identified in Exhibits A and B is conditioned upon receipt by the City of this amount in full.

Section 4. Effective date. This Ordinance shall go into effect five days after its recording.

DATE OF FINAL PASSAGE by the Vancouver City Council:_____.

SIGNED this _____ day of _____, 2025.

Anne McEnerny-Ogle, Mayor

Attest:

Approved as to form:

Natasha Ramras, City Clerk

Nena Cook, Interim City Attorney

SUMMARY

ORDINANCE NO. _____

AN ORDINANCE vacating the right-of-way associated with SE Maxon Road, located on the south side of SE 19th Street, east of Ellsworth Road, located within the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 1 North, Range 2 East, Willamette Meridian, City of Vancouver, Clark County, Washington; and providing for an effective date.

The full text of this Ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 360-487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).

EXHIBIT "A"
LEGAL DESCRIPTION FOR ROW VACATION

That portion of those lots 53 and 54, Columbia Homestead Lots, according to the plat thereof, recorded in Volume "A" of Plats, page 73, Records of Clark County, Washington, being located in a portion of the Northeast Quarter of the Northeast Quarter of Section 4 and in a portion of the Northwest Quarter of the Northwest Quarter of Section 3 Township 1 North, Range 2 East of the Willamette Meridian more particularly described as follows:

Commencing at a point at the intersection of the easterly right of way line of South East Maxon Road and the southerly right of way line of South East 19th Street;

Thence South $01^{\circ}47'42''$ West for a distance of 348.48 feet along said easterly right of way to the True Point of Beginning;

Thence leaving said right of way South $56^{\circ}16'30''$ East, for a distance of 45.84 feet;

Thence continuing South $74^{\circ}06'04''$ East, for a distance of 299.27 feet to a point on the westerly line of said lot 54;

Thence South $74^{\circ}06'04''$ East, for a distance of 51.67 feet;

Thence North $60^{\circ}53'44''$ East, for a distance of 56.57 feet;

Thence South $74^{\circ}06'04''$ East, for a distance of 68.68 feet to a point on the easterly right of way line of South East Maxon Road;

Thence South $01^{\circ}49'51''$ West, for a distance of 3.21 feet along said right of way line;

Thence North $88^{\circ}10'09''$ West, for a distance of 63.05 feet;

Thence along a 55.00 foot radius tangent curve to the left, through a central angle of $60^{\circ}57'53''$ for an arc distance of 58.52 feet, a chord of which bears South $61^{\circ}20'54''$ West 55.80 feet;

Thence along a 10.00 foot radius tangent curve to the right, through a central angle of $75^{\circ}01'58''$ for an arc distance of 13.10 feet, a chord of which bears South $68^{\circ}22'57''$ West 12.18 feet to a point being 25 feet northerly of the centerline of South East Maxon Road when measured perpendicular to said centerline;

Thence North $74^{\circ}06'04''$ West, for a distance of 349.81 feet to a point being 25 feet northerly of said centerline when measured perpendicular to said centerline;

Thence along a 50.00 foot radius curve to the right, through a central angle of $50^{\circ}03'15''$ for an arc distance of 43.68 feet, a chord of which bears North $49^{\circ}04'27''$ West 42.30 feet;

Thence North $01^{\circ}47'42''$ East, for a distance of 21.79 feet to the True Point of Beginning;

Containing 11,428 more or less square feet.

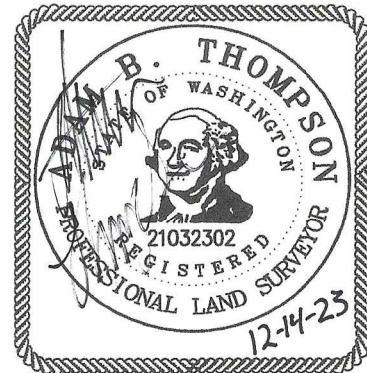
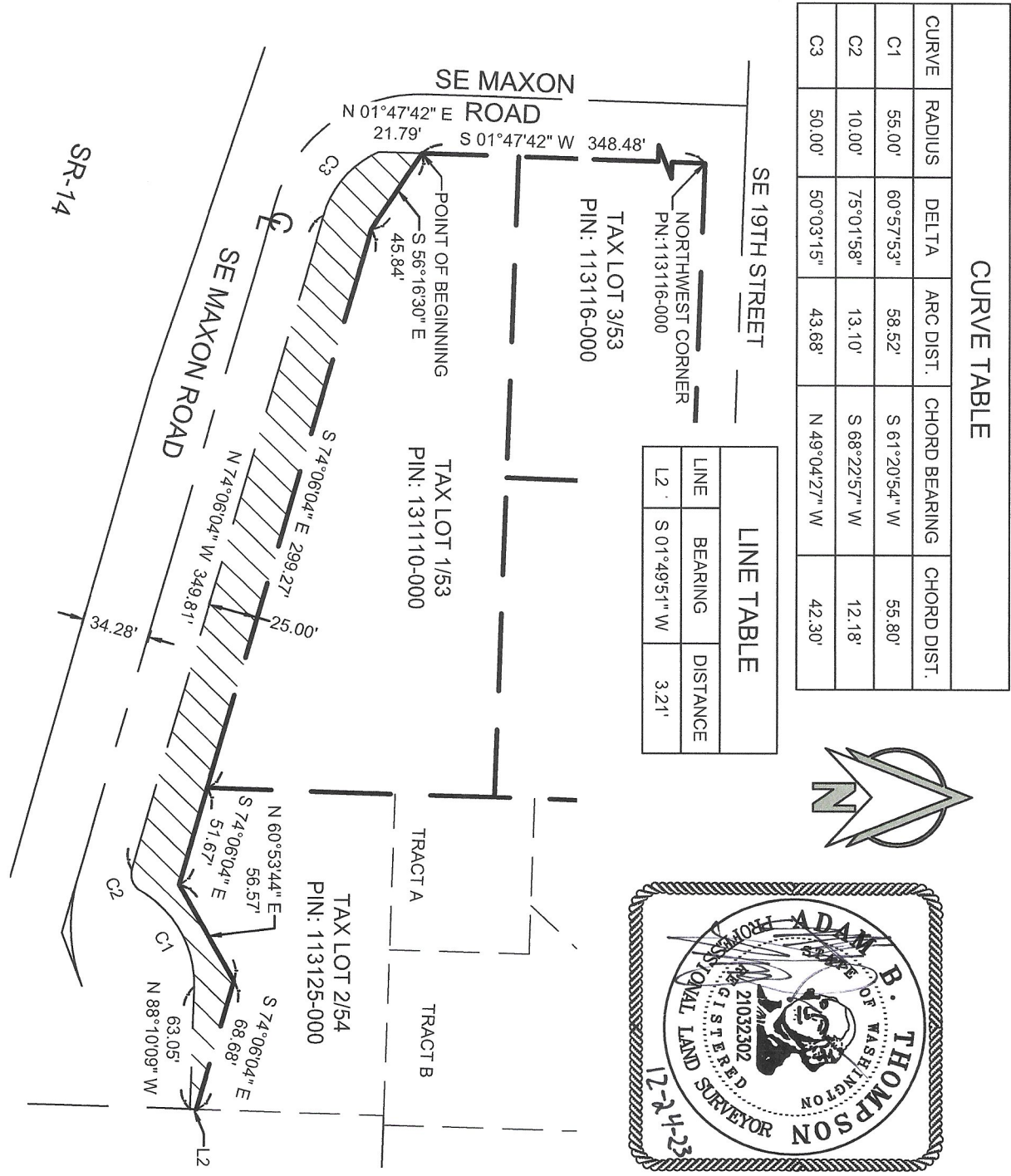


EXHIBIT "B"



CURVE TABLE

CURVE	RADIUS	DELTA	ARC DIST.	CHORD BEARING	CHORD DIST.
C1	55.00'	60°57'53"	58.52'	S 61°20'54" W	55.80'
C2	10.00'	75°01'58"	13.10'	S 68°22'57" W	12.18'
C3	50.00'	50°03'15"	43.68'	N 49°04'27" W	42.30'

LINE TABLE

LINE	BEARING	DISTANCE
L2	S 01°49'51" W	3.21'

PLS

ENGINEERING

Engineering - Surveying - Planning
604 W. Evergreen Blvd., Vancouver, WA 98660
PH: (360) 944-6519 Fax: (360) 944-6539

SHEET 1 OF 1

FOR ROW VACATION

LOCATED IN THE NE 1/4 OF SECTION 4, AND
THE NW 1/4 OF SECTION 3 T. 1 N., R. 2 E., W.M.
CITY OF VANCOUVER
CLARK COUNTY, WASHINGTON

SCALE: NTS

JOB NO: 3691

DATE: 12-14-23

DWG FILE: 3691L2.dwg

DRAWN BY: JSV



Exhibit D
Property Value Analysis Memo



MEMORANDUM

DATE: November 25, 2024

TO: File – Maxon Road Right-of-Way Vacation

FROM: Eric Hahn, P.E. – Senior Civil Engineer, Transportation Div.

SUBJECT: Property Value Analysis

The purpose of this memorandum is to summarize the analysis completed by staff to determine property values for the proposed vacation of excess unimproved right-of-way associated with SE Maxon Road, located on the south side of SE 19th Street, east of Ellsworth Road. RCW 35.79.030 and VMC 11.05.120 stipulate provisions for the City to collect compensation for the value of public right-of-way that is vacated.

An analysis of the County Assessor's records for properties adjacent to the proposed vacation area resulted in an estimated property value equal to **\$5.31 per square foot**. The analysis is as follows:

Parcel No.	Parcel Size (SF)	2024 Assessed Value (Land Value)	Cost/SF
113105000	100,188	\$365,033	\$3.64
113116000	48,787	\$387,428	\$7.94
113115000	49,658	\$389,053	\$7.83
113110000	34,848	\$99,780	\$2.86
113125000	15,246	\$65,018	\$4.26
Average Cost/SF			\$5.31

The total area of the proposed vacation is **11,428 square feet**. At full value, this results in a total estimated property value equal to **\$60,683**.

AN ORDINANCE establishing the Heights Business Improvement Area under chapter 35.87A RCW; adding a new chapter 3.50 to VMC; enacting new sections VMC 3.50.010, 3.50.020, 3.50.030, 3.50.040, 3.50.050, 3.50.060, 3.50.070, 3.50.080, and 3.50.090; and providing for severability and an effective date.

Staff Report: 023-25

To: Mayor and City Council
From: City Manager
Date: February 3, 2025

Subject

Heights Business Improvement Area

Key Points

- On January 13, 2025, City Council adopted Resolution M-4321 authorizing the establishment of a business improvement area in the Heights District as a funding tool to cover the supplemental maintenance and programming costs of the public spaces in the Heights District.
- The next step for establishing a business improvement area according to State statute is for the City to adopt an ordinance to establish a business improvement area in the Heights District.

Strategic Plan Alignment

Economic Opportunity – a place where a wide variety of businesses of all sizes grow and thrive

Vibrant and Distinct Neighborhoods – a variety of accessible places and spaces

Safe and Prepared Community – a safe place to live, work, learn and play

Present Situation

This ordinance authorizes the establishment of a new Heights Business Improvement Area (BIA) and is the last step in the process required under RCW 35.87A to establish a business improvement area (BIA). This action follows City Council's approval to establish a BIA in the Heights District with the adoption of Resolution M-4321 on January 13, 2025.

Although new to the City of Vancouver, business improvement areas are common in Washington State, with approximately 30 statewide, as an economic development funding mechanism to cover maintenance and operation costs that are above and beyond the basic services for which a municipality would ordinarily be responsible for. A business improvement area's purpose is to maintain a safe and clean public realm and can be used for local programming, organizational management, and marketing and promoting local events and news.

The Heights Business Improvement Area mirrors the Tower Mall Redevelopment Area and includes 29 legal lots and 9 private property owners. The City of Vancouver owns over 60% of the area and would be a majority rate payer. Representatives for the City have met with five property owners and the developers of the three Phase 1 sites along E Mill Plain Blvd. Although the property owners and developers would prefer to avoid incurring the additional cost associated with a BIA, these

stakeholders understand the need for additional funding to maintain the enhanced improvements and amenities that benefit all property owners. The City will continue to engage with impacted property owners and developers throughout this process.

Attached is Staff Report 270-24 related to Resolution M-4318 outlining the enhanced services, rate of assessments, boundary and term of the proposed Heights Business Improvement Area.

Advantage(s)

The Heights BIA addresses a projected shortfall in funding for ongoing maintenance and operating costs to keep the Heights District clean, safe and maintained to a high standard, and is a necessary step in implementing the Heights District Plan.

Challenge(s)

The Heights BIA will increase costs for private property owners and will increase funding required for new development within the BIA.

Budget Impact

Although this proposal has no immediate budget impact, there will be costs related to establishing the BIA corporation and filing with the Secretary of State. In addition, beginning in 2028, the City's required payments as a property owner in the BIA are projected at approximately \$280,000 per year, based on the proposed rates and current land ownership. These payments are costs that the City would otherwise be responsible for to maintain the Heights public spaces so the long-term budget impact of the BIA should be to lower the City's maintenance and operations obligations. The payments to the BIA from other property owners will offset the remainder of the projected maintenance and operations costs for public spaces within the Heights District.

Prior Council Review

City Council Resolution M-4318 dated [December 16, 2024](#)

City Council Resolution M-4321 dated January 13, 2025

Action Requested

On Monday, February 3, 2025, advance the ordinance to establish a Business Improvement Area to be known as the Heights Business Improvement Area, setting the date for the second reading and public hearing for February 10, 2025.

Staff Contact

Amy Stewart, Real Estate Project Manager, amy.stewart@cityofvancouver.us

Attachments:

1. Ordinance
2. Heights Business Improvement Area Map
3. December 16, 2024 City Council Staff Report

02/03/2025 (Date of First Reading)
02/10/2025 (Date of Public Hearing)

ORDINANCE NO. M- [Ordinance Number]

AN ORDINANCE establishing the Heights Business Improvement Area under chapter 35.87A RCW; adding a new chapter 3.50 to VMC; enacting new sections VMC 3.50.010, 3.50.020, 3.50.030, 3.50.040, 3.50.050, 3.50.060, 3.50.070, 3.50.080, and 3.50.090; and providing for severability and an effective date.

WHEREAS, the City Council is a “legislative authority” of the City of Vancouver, a first class charter city, as defined by RCW 35.87A.020(2); and,

WHEREAS, RCW 35.87A.030 authorizes any “legislative authority [to] by resolution initiate a business improvement area” to provide special benefits to business and property owners within a defined geographic area through the imposition of special assessments; and

WHEREAS, on December 16, 2024, the City Council passed Resolution M-4318, which initiated the Heights Business Improvement Area under RCW 35.87A.030 to provide special benefits to business and property owners within a defined geographic area through the imposition of special assessments; and

WHEREAS, RCW 35.87A.040 provides that “[t]he legislative authority, ... after passage of an initiation resolution, shall adopt a resolution of intention to establish an area”; and

WHEREAS, on January 13, 2025, the City Council passed Resolution M-4321, a resolution expressing the City Council’s intent to establish the Heights Business Improvement Area under RCW 35.87A.040; and

WHEREAS, the City Council held a public hearing on February 10, 2025, and

WHEREAS, RCW 35.87A.100 authorizes the City Council to adopt an ordinance establishing a Business Improvement Area following compliance with statutory procedures; and

WHEREAS, the City has complied with all statutory prerequisites and the City Council now adopts the Heights Business Improvement Area;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. A new chapter is created in Title 3 VMC, to be codified as chapter 3.50 VMC, which shall be entitled “Heights Business Improvement Area”.

Section 2. A new section is enacted and added to chapter 3.50 VMC, to be codified at VMC 3.50.010, and shall read as follows:

3.50.010 Establishment

The City of Vancouver, pursuant to chapter 35.87A RCW, hereby establishes a business improvement area (BIA) pursuant to Resolution M-4318 entitled “A RESOLUTION to initiate a Business Improvement Area to be known as the Heights Business Improvement Area (Heights BIA)” and adopted by the city council on December 16, 2024, and Resolution M-4321 entitled “A RESOLUTION under RCW 35.87A.040 expressing an intention to establish the Heights Business Improvement Area (Heights BIA).” and adopted by the city council on January 13, 2025. A public hearing regarding the formation of the BIA was held on February 10, 2025, beginning at 6:30 p.m. in the city council chambers in City Hall. The BIA created herein shall be designated as the “Heights Business Improvement Area” (“Heights BIA”).

Section 3. A new section is enacted and added to chapter 3.50 VMC, to be codified at VMC 3.50.020, and shall read as follows:

3.50.020 BIA Boundaries

The Heights BIA is bounded by E. Mill Plain Blvd to the north, MacArthur Blvd to the west and south and N. Devine Road to the east. The Heights BIA is shown on the map below and incorporated by reference herein.



Section 4. A new section is enacted and added to chapter 3.50 VMC, to be codified at VMC 3.50.030, and shall read as follows:

3.50.030 BIA Programs and Services

The special assessment revenue collected pursuant to this ordinance shall be used for the following purposes within the Heights BIA:

- A. To clean and maintain the public realm;
- B. Public safety and public health enhancement;
- C. Organizational management;
- D. Activation of the public spaces.

All such activities and services are supplemental to services the City shall ordinarily provide. All businesses and multifamily residential or mixed-use projects in the Heights BIA shall be subject to the provisions of the special assessments authorized by this chapter and chapter 35.87A RCW.

Section 5. A new section is enacted and added to chapter 3.50 VMC, to be codified at VMC 3.50.040, and shall read as follows:

3.50.040 Levy of Special Assessments

To finance the programs and services authorized under this chapter, there is levied upon and shall be collected from the property owners and long-term ground lease lessees located within the boundaries of the Heights BIA, a special assessment based on lot square footage. Rate payers will be assessed annually and billed semi-annually beginning in 2028. The rate of levy of special assessment will be \$0.30 per 1 square foot of lot size. Said assessments will increase annually at 3% or per the Portland-Hillsboro-Vancouver Consumer Price Index, whichever is the greatest. All types of ratepayers including commercial, multifamily residential and mixed use, tax exempt, and government acting as business would be assessed the same rate. The assessments will begin on January 1, 2028, based on an estimated completion of the public infrastructure improvements.

Section 6. A new section is enacted and added to chapter 3.50 VMC, to be codified at VMC 3.50.050, and shall read as follows:

3.50.050 Heights BIA Fund—Established

A. There is hereby established by the City the “Heights Business Improvement Area Fund” (hereinafter “Heights BIA fund”), which shall be held separate and apart from all other City funds and accounts. The following moneys shall be deposited or credited to the Heights BIA fund:

1. All revenues from special assessments levied under this chapter;
2. Gifts and donations for the Heights BIA fund;
3. Moneys for expenditures made from the Heights BIA fund and reimbursements due to the Heights BIA fund; and
4. Interest and all other income from the investment of Heights BIA fund deposits according to established procedures and policies.

B. Expenditures from the Heights BIA fund shall be exclusively for purposes that are consistent with this chapter and chapter 35.87A RCW.

Section 7. A new section is enacted and added to chapter 3.50 VMC, to be codified at VMC 3.50.060, and shall read as follows:

3.50.060 Collection of Heights BIA Assessments

- A. Special assessments for the Heights BIA shall be collected on an annual basis, with payments due on January 31st or the first business day thereafter. A ratepayer may elect to make payment in equal semi-annual installments, the first due on January 31st and the next due on July 31st or the first business day thereafter. For semi-annual payments there shall be added to the assessment ten dollars on each payment to provide for administrative expenses.
- B. In the event any ratepayer fails to make timely payment of the Heights BIA assessments levied by this chapter, a delinquency charge shall be added in the amount of ten percent of the unpaid amount of the assessment, not to exceed one hundred dollars. The Finance Director or designee shall send a late notice to all ratepayers with unpaid assessments not later than thirty days after the assessment becomes due.
 - 1. All unpaid assessments shall also bear interest at the rate of twelve percent per annum beginning the 1st day of the month after the assessment becomes due.
 - 2. Interest, penalties and other fees will be collected on any unpaid balance or portion thereof from the date the account became due.
 - 3. The City Attorney is authorized to bring an action to collect any unpaid assessments in the Clark County courts as a civil action, or in the discretion of the City Manager, refer collection to a collection agency.

Section 8. A new section is enacted and added to chapter 3.50 VMC, to be codified at VMC 3.50.070, and shall read as follows:

3.50.070 Administration

The City Manager or designee shall administer the Heights BIA for the City with authority to:

- A. direct the collection of special assessments;

- B. direct any refund of special assessments when overpaid or paid for the same area by more than one ratepayer; and
- C. extend the deadline for payment and/or waive delinquency charges and interest whenever the delinquency is a result of a failure by the City to provide a statement of the amount due or nonpayment results from extenuating circumstances beyond the ratepayer's control, such as a casualty loss causing premature closure of the business or bankruptcy.

Section 9. A new section is enacted and added to chapter 3.50 VMC, to be codified at VMC 3.50.080, and shall read as follows:

3.50.080 Notices

Notices of assessment, installment payment or delinquency, and all other notices contemplated by this chapter may be sent by first class mail or delivered by the City to the address shown on the records of the Finance Director and, if no address is shown there, to the address shown on the records of the City maintained for business or utility tax purposes. Failure of the ratepayer to receive any mailed notice shall not release the ratepayer from the duty to pay the assessment from payment on the due date and any delinquency charges.

Section 10. A new section is enacted and added to chapter 3.50 VMC, to be codified at VMC 3.50.090, and shall read as follows:

3.50.090 **Disputes**

- A. *Procedure.* Any ratepayer aggrieved by the amount of an assessment may seek review by following the procedures set forth in VMC 5.01.140. Failure to seek review as provided in that section shall be deemed a waiver of any objections to the assessment.

- B. *Authority.* For purposes of determining a ratepayer's square footage in any review sought under this section, the Finance Director and/or Hearings Examiner has the authority to determine the square footage of ratepayers for assessment purposes, and may rely on figures supplied by the Clark County assessor, the ratepayer board and/or a lease agreement without making measurements directly when making said determination.

Section 11. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

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Section 12. This ordinance shall become effective March 12, 2025.

DATE OF FINAL PASSAGE at a Regular Meeting of the Vancouver City Council:

_____, 2025.

SIGNED this _____ day of _____, 2025.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Nena Cook, Interim City Attorney

SUMMARY

ORDINANCE NO. _____

AN ORDINANCE establishing the Heights Business Improvement Area under chapter 35.87A RCW; adding a new chapter 3.50 to VMC; enacting new sections VMC 3.50.010, 3.50.020, 3.50.030, 3.50.040, 3.50.050, 3.50.060, 3.50.070, 3.50.080, and 3.50.090; and providing for severability and an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).



TMRA BUSINESS IMPROVEMENT DISTRICT

DECEMBER 2024

A RESOLUTION to initiate a Business Improvement Area to be known as the Heights Business Improvement Area (Heights BIA).

Staff Report: 270-24

To: Mayor and City Council
From: City Manager
Date: December 16, 2024

Subject

Heights Business Improvement District

Key Points

- Under state statute a municipality has the authority to initiate a business improvement area by resolution to provide special benefits to businesses and property owners within a defined geographic area through special assessments.
- The proposed Heights Business Improvement Area (BIA) is a funding tool to cover maintenance and programming costs of the public spaces in the Heights District that exceed the typical service level the city would ordinarily be responsible for to keep a safe, clean and enjoyable public realm.
- Similar to a homeowners association, the property owners within the Heights Business Improvement Area will pay an annual assessment based on lot size square footage. The assessments will not be due until 2028 upon completion of the Grand Loop.
- The present resolution is the first of three steps to create the BIA. A second resolution announcing an intention to establish the BIA would follow, after which the Council would hold a public hearing and adopt an ordinance.

Strategic Plan Alignment

Economic Opportunity – a place where a wide variety of businesses of all sizes grow and thrive

Vibrant and Distinct Neighborhoods – a variety of accessible places and spaces

Safe and Prepared Community – a safe place to live, work, learn and play

Present Situation

Background

This resolution initiates a new Heights Business Improvement Area under RCW 35.87A and is the first step in a three-step process that must be prepared to establish a business improvement area (BIA). Subsequently, a resolution to establish the Heights Business Improvement Area (Heights BIA) will be presented to City Council on January 13, 2025, followed by an ordinance to create the Heights Business Improvement Area after the public hearing.

Although new to the City of Vancouver, business improvement areas are common in Washington State, particularly in the City of Seattle as an economic development funding mechanism to cover maintenance and operation costs that are above and beyond the basic services for which a municipality would ordinarily be responsible. Similar to a homeowners association in a residential

neighborhood, a business improvement area's purpose is to maintain a safe and clean public realm and can be used for local programming, organizational management, and marketing and promoting local events and news.

Procedures for establishing and operating a BIA are governed by chapter 35.87A RCW. BIAs can be initiated either by petition presented by operators responsible for sixty percent of the assessments, or by resolution from the local legislative authority. Therefore, the City can initiate a BIA with City Council's consent.

Business Improvement Area Services

The infrastructure improvements in the Heights are unique, particularly the Grand Loop which is an original streetscape with enhanced landscaping, varied plant palette, play features and enhanced site furnishings that require a higher level of maintenance in comparison to other public spaces in the city. To maintain a clean, safe and enjoyable user experience in the Heights District, full-time staff or contracted service is required on site daily for tasks including trash collection, graffiti removal, pressure washing, landscaping and any other clean up tasks. The Heights BIA would fund maintenance and operational services to keep the public spaces clean and safe as well as fund programs and events to activate the plaza.

Term and Boundary

The term of the BIA is perpetual to capture ongoing maintenance and operational costs. The boundaries of the proposed Heights BIA reflect the Tower Mall Redevelopment Area and are shown in the map attached to the Resolution.

Assessments

The assessments are calculated based on lot square footage and range from \$0.25 to \$0.30 per square foot and would increase annually by either 3% or the Portland-Hillsboro-Vancouver Consumer Price Index, whichever is greater. The aggregate annual costs are estimated around \$400,000-\$500,000 and the amount each property owner is responsible for ranges from less than \$1,000 per year to nearly \$100,000 per year. The City would be the majority rate payer as it owns the majority of the land within the BIA area, and nearly all of the private property owners would pay less than \$30,000 per year per parcel.

The levy of assessment is based on other comparable business improvement districts and would only cover the costs of the enhanced services, not the full maintenance and operational costs. A budget would be prepared to capture the actual expenses of the enhanced services and annual assessments, which the BIA board would approve as detailed below. The City would still be responsible for the base maintenance and operational costs, estimated at around \$205,000 per year.

Community Engagement

City staff have contracted with Uncommon Bridges, a consulting firm based in Seattle that specializes in planning and implementing business improvement areas, to assist with engaging the private property owners within the Heights Business Improvement Area to ensure that their feedback is incorporated throughout this process. Initial conversations with impacted property owners are planned for December 6 – 12 and will be ongoing. City staff have consulted with the developers of City-owned Sites B, C and P, which were recently selected through the first Heights RFP process. The developers have indicated initial support and recognize the value of a business improvement area.

BIA Board

Prior to assessments becoming due, a separate legal entity with a board of directors will be established to manage and operate the Heights Business Improvement Area. In the interim, City Council would function as the BIA board. Typically, the board comprises business owners, property

owners and tenants within the geographic area of the business improvement area. The board would be responsible for adopting bylaws and policy guidelines, approving budgets, expenditures and programs. Best practice from other BIAs is that the BIA is managed by a paid staff person rather than a volunteer. Their duties would include managing day-to-day operations, administer the projects and activities, collect the assessments and any other duties the board approves. The staffing costs for a part-time member of staff are included in the assessment calculations.

Next Steps

Provided Council passes the resolution to initiate the Heights BIA, the next steps would be conversations with impacted property owners and then a subsequent resolution formally expressing the City's intent to establish the Heights BIA that would schedule a public hearing and ordinance for consideration.

Advantage(s)

The proposed BIA addresses a projected shortfall in funding for ongoing maintenance and operating costs to keep the Heights District clean, safe and maintained to a high standard, and is a necessary step in implementing the Heights District Plan.

Challenge(s)

The proposed BIA will increase costs for private property owners and will increase funding required for new development within the BIA.

Budget Impact

Although this proposal has no immediate budget impact, there will be costs related to establishing the BIA corporation and filing with the Secretary of State. If the BIA is not implemented, the City may be forced to absorb significant maintenance and operational costs for public spaces within the Heights.

Prior Council Review

None

Action Requested

Approve a resolution to initiate the process for establishing a Business Improvement Area to be known as the Heights Business Improvement Area.

Staff Contact

Amy Stewart, Real Estate Project Manager, amy.stewart@cityofvancouver.us

Attachments:

1. Presentation
2. Resolution
3. Heights Business Improvement District Boundary Map

To: Mayor and City Council
From: City Manager
Date: February 3, 2025

Subject

Approval of Claim Vouchers

Action Requested

Approve claim vouchers for February 3, 2025.

Attachments:

1. February 3, 2025 Claim Vouchers

VOUCHER APPROVAL

We, the undersigned council members of the City of Vancouver, Clark County, Washington, do hereby certify that the merchandise or services hereinafter specified have been received and that the vouchers listed below are approved for payment in the amount of:

\$ 8,445,680.33 this 3rd day of February 2025.

MAYOR

Cyndi A. Turner
Digitally signed by Cyndi A. Turner
Date: 2025.01.27 13:06:47 -08'00'

AUDITING OFFICER

COUNCILMEMBER

COUNCILMEMBER

DATE	INCLUSIVE CHECK NUMBERS	CHECK TOTAL
January 20, 2025 - January 26, 2025	Accounts Payable Checks (see attached)	\$ 4,165,873.40
January 20, 2025 - January 26, 2025	Hansen City Payments (see attached)	\$ 3,185.97
January 20, 2025 - January 26, 2025	Visa Refunds (see attached)	\$ 1,168.00
January 20, 2025 - January 26, 2025	Payroll Checks (see attached)	\$ 4,275,452.96
TOTAL		\$ 8,445,680.33

INVOICE PAYMENTS REPORT

<u>Payment Category</u>	<u>Payment Type</u>	<u>Transaction Reference</u>	<u>Payment Date</u>	<u>Payment Amount</u>	<u>Payment Payee</u>	<u>Memo</u>
Supplier Payment	Check	23378	1/22/2025	26,452.24	Action Technology Systems	
Supplier Payment	Check	23379	1/22/2025	64.40	Airgas, Inc	
Supplier Payment	Check	23380	1/22/2025	224.00	Allegiance Benefit Plan Management Inc (COBRA)	
Supplier Payment	Check	23381	1/22/2025	136.00	American Sani-Can	
Supplier Payment	Check	23382	1/22/2025	103,957.00	Association of Washington Cities	
Supplier Payment	Check	23383	1/22/2025	431.55	BHC Consultants LLC	
Supplier Payment	Check	23384	1/22/2025	10,778.05	Brown & Wilson Partnership LLC	
Supplier Payment	Check	23385	1/22/2025	2,925.57	Celco Partnership - Remit-To: Celco - Dallas	
Supplier Payment	Check	23386	1/22/2025	240.00	Christopher Scott Kendall	
Supplier Payment	Check	23387	1/22/2025	10,648.00	Clark County - Remit-To: Clark County - Treasurer Vancouver	
Supplier Payment	Check	23388	1/22/2025	1,200.00	Clark County Title Company - Remit-To: Clark County - Reconveyance Fees	
Supplier Payment	Check	23389	1/22/2025	4,411.73	Columbia Resource Company	
Supplier Payment	Check	23390	1/22/2025	2,424.82	Core and Main LP - Remit-To: Core and Main LP	
Supplier Payment	Check	23391	1/22/2025	2,669.50	CPS HR Consulting	
Supplier Payment	Check	23392	1/22/2025	300.00	ERF Company Inc	
Supplier Payment	Check	23393	1/22/2025	220.00	Esix Sportswear	
Supplier Payment	Check	23394	1/22/2025	489.15	Fidelity National Title Co of Washington	
Supplier Payment	Check	23395	1/22/2025	8,781.92	Fourth Plain Forward	
Supplier Payment	Check	23396	1/22/2025	4,380.25	Groundwater Solutions, Inc.	
Supplier Payment	Check	23397	1/22/2025	423.50	H&H Wood Recyclers	
Supplier Payment	Check	23398	1/22/2025	25,734.87	Harper Houf Peterson Righellis Inc	
Supplier Payment	Check	23399	1/22/2025	22,450.62	Herrera Environmental Consultants Inc	
Supplier Payment	Check	23400	1/22/2025	8,666.63	Hispanic Metropolitan Chamber	
Supplier Payment	Check	23401	1/22/2025	318,587.99	HMI Oregon - Remit-To: Pacific WRO	
Supplier Payment	Check	23402	1/22/2025	2,843.92	Howmedica Osteonics Corp	
Supplier Payment	Check	23403	1/22/2025	1,467.45	Jamestown Networks	
Supplier Payment	Check	23404	1/22/2025	8,063.18	KBT Distributing LLC	
Supplier Payment	Check	23405	1/22/2025	2,475.34	Level 3 Financing, Inc	
Supplier Payment	Check	23406	1/22/2025	32,963.87	Life Insurance Company of North America	
Supplier Payment	Check	23407	1/22/2025	2,000.00	MaryLou Iverson	
Supplier Payment	Check	23408	1/22/2025	7,761.08	McFarlanes Bark Inc	
Supplier Payment	Check	23409	1/22/2025	12,636.59	MSDS Online Inc	
Supplier Payment	Check	23410	1/22/2025	600.00	Nagra & Atwal Corporation	
Supplier Payment	Check	23411	1/22/2025	1,852.50	Nancy Pionk Coaching and Consulting, LLC	
Supplier Payment	Check	23412	1/22/2025	5,204.38	National Park Service - Remit-To: National Park Service - Pearson Lease	
Supplier Payment	Check	23413	1/22/2025	52,341.55	Nelson Nygaard Consulting Associates Inc - Remit-To: Nelson Nygaard Consulting Associates Inc	
Supplier Payment	Check	23414	1/22/2025	193.03	Parametrix, Inc	
Supplier Payment	Check	23415	1/22/2025	12,911.00	Portland Adventist Medical Center	
Supplier Payment	Check	23416	1/22/2025	6,310.00	R & M Plant Procurement	
Supplier Payment	Check	23417	1/22/2025	17,365.82	Ready Rebound, Inc.	
Supplier Payment	Check	23418	1/22/2025	8,644.08	RH2 Engineering, Inc.	
Supplier Payment	Check	23419	1/22/2025	11,000.00	Right-Way CDL Academy, LLC	
Supplier Payment	Check	23420	1/22/2025	4,129.02	Shrums Pest Control	
Supplier Payment	Check	23421	1/22/2025	299.45	Software House International SHI - Remit-To: SHI - Dallas	
Supplier Payment	Check	23422	1/22/2025	63,907.50	Southwest Washington Humane Society	
Supplier Payment	Check	23423	1/22/2025	3,858.66	Stantec Consulting Services Inc - Remit-To: Stantec - Chicago	
Supplier Payment	Check	23424	1/22/2025	564.29	State of Washington Department of Transportation - Remit-To: WADOT - PO Box 47305	
Supplier Payment	Check	23425	1/22/2025	25,692.21	State of Washington Department of Transportation - Remit-To: WADOT - PO Box 47339	
Supplier Payment	Check	23426	1/22/2025	49,102.24	Terraphase Engineering Inc	
Supplier Payment	Check	23427	1/22/2025	358.07	UKG Kronos Systems LLC Remit-To: Atlanta	

*Please contact Procurement Services if you would like to review the justification for EMERGENCY procurement.

INVOICE PAYMENTS REPORT

Supplier Payment	Check	23428	1/22/2025	78.07	Vestis Group, Inc - Remit-To: Vestis - Pasadena	
Supplier Payment	Check	23429	1/22/2025	2,777.45	Walker Design Studio	
Supplier Payment	Check	23430	1/22/2025	45,812.38	Waste Connections of Washington - Remit-To: Waste Connections - Vancouver	
Supplier Payment	Check	23431	1/22/2025	6,605.50	WELL Cogir Tenant III LLC	
Ad Hoc Payment	Check	23432	1/22/2025	258.18	Ahlfors, Michael	3801 THOMPSON AVE VANCOUVER, WA, 98660
Ad Hoc Payment	Check	23433	1/22/2025	137.53	Allan, Evan	2807 P ST VANCOUVER, WA, 98663
Ad Hoc Payment	Check	23434	1/22/2025	89.17	Anderson, Michele or Michael	330 CHARLESTON WAY VANCOUVER, WA, 98664
Ad Hoc Payment	Check	23435	1/22/2025	221.43	Andrews, Lisa	7543 DELAWARE LN VANCOUVER, WA, 98664
Ad Hoc Payment	Check	23436	1/22/2025	196.78	Barton, Stephanie	13301 SE ANGUS ST VANCOUVER, WA, 98683
Ad Hoc Payment	Check	23437	1/22/2025	61.91	Bhadresh or Nemisha Patel Trustees	5605 NE 60TH AVE VANCOUVER, WA, 98661
Ad Hoc Payment	Check	23438	1/22/2025	265.00	Biver, Jennifer	2323 NE GENERAL ANDERSON AVE VANCOUVER, WA, 98661
Ad Hoc Payment	Check	23439	1/22/2025	94.24	Butler, Patricia M	6921 KENTUCKY DR VANCOUVER, WA, 98664
Ad Hoc Payment	Check	23440	1/22/2025	190.51	Caleb or Diane Momb Heirs	3805 NE 52ND ST VANCOUVER, WA, 98661
Ad Hoc Payment	Check	23441	1/22/2025	143.15	Cederholm Family Trust	2517 SE 146TH AVE VANCOUVER, WA, 98683
Ad Hoc Payment	Check	23442	1/22/2025	209.49	Chamberlain, Michael W	13106 NE 83RD ST VANCOUVER, WA, 98682
Ad Hoc Payment	Check	23443	1/22/2025	38.99	Cole, Linda	4900 DUBOIS DR VANCOUVER, WA, 98661
Ad Hoc Payment	Check	23444	1/22/2025	260.76	Cynthia A Lebow Trust	3209 SE 153RD AVE VANCOUVER, WA, 98683
Ad Hoc Payment	Check	23445	1/22/2025	96.27	Dario Miranda-Maldonado and Mayra Garfias-Barajas	2114 NE 86TH AVE VANCOUVER, WA, 98664
Ad Hoc Payment	Check	23446	1/22/2025	170.00	David Slavitt or Gisela Ernst Slavitt	6900 SE RIVERSIDE DR VANCOUVER, WA, 98664
Ad Hoc Payment	Check	23447	1/22/2025	603.89	Eqwest LLC	10701 NE 59TH ST VANCOUVER, WA, 98662
Ad Hoc Payment	Check	23448	1/22/2025	228.49	Fisher, Cynthia	3203 YEOMAN AVE VANCOUVER, WA, 98660
Ad Hoc Payment	Check	23449	1/22/2025	335.88	Gannon, Jordan or Robin	5606 NE 52ND CT VANCOUVER, WA, 98661
Ad Hoc Payment	Check	23450	1/22/2025	176.10	Guerra, Kimberly or David	14307 SE 9TH ST VANCOUVER, WA, 98683
Ad Hoc Payment	Check	23451	1/22/2025	62.30	Herman Dirks or Carol Shedrick Dirks	14038 SE 35TH LOOP VANCOUVER, WA, 98683
Ad Hoc Payment	Check	23452	1/22/2025	208.00	Herman Dirks Trustee	14038 SE 35TH LOOP VANCOUVER, WA, 98683
Ad Hoc Payment	Check	23453	1/22/2025	201.13	Holly Gossett Personal Rep	306 SE 96TH AVE VANCOUVER, WA, 98664
Ad Hoc Payment	Check	23454	1/22/2025	52.40	Houston, Holly	3301 NE PETTICOAT LN VANCOUVER, WA, 98661
Ad Hoc Payment	Check	23455	1/22/2025	168.25	Hurford, Bernice	4214 NE 50TH AVE VANCOUVER, WA, 98661
Ad Hoc Payment	Check	23456	1/22/2025	96.70	Jose Fidel Alvizures Lorenzana or Any Riscalche	9517 NE 109TH ST VANCOUVER, WA, 98662
Ad Hoc Payment	Check	23457	1/22/2025	48.11	Josephine Rund Heir	4308 NE 49TH ST VANCOUVER, WA, 98661
Ad Hoc Payment	Check	23458	1/22/2025	154.84	Josh Oelsner or Ariana Caitlyn St Jules	17007 NE 30TH ST VANCOUVER, WA, 98682
Ad Hoc Payment	Check	23459	1/22/2025	307.94	Karl Langerwalter or Marie Boisvert	205 W 39TH ST VANCOUVER, WA, 98660
Ad Hoc Payment	Check	23460	1/22/2025	214.88	Kelly or Michael Davenport	11501 NE 28TH ST VANCOUVER, WA, 98684
Ad Hoc Payment	Check	23461	1/22/2025	87.97	Leeann Crouch or Jason Cox	718 W 19TH ST VANCOUVER, WA, 98660
Ad Hoc Payment	Check	23462	1/22/2025	58.41	Li, Xue	5514 NE 43RD WAY VANCOUVER, WA, 98661
Ad Hoc Payment	Check	23463	1/22/2025	83.72	Loren M Croft or Rebecca L Croft	7604 NE 126TH AVE VANCOUVER, WA, 98682
Ad Hoc Payment	Check	23464	1/22/2025	254.99	Lowell Dougherty III or Michelle Dougherty	15816 NE 91ST ST VANCOUVER, WA, 98682
Ad Hoc Payment	Check	23465	1/22/2025	119.62	Mawhirter, Randy	507 SANTA FE DR VANCOUVER, WA, 98661
Ad Hoc Payment	Check	23466	1/22/2025	237.00	Melceena J or George Larry Mowbray	3001 SE 154TH AVE VANCOUVER, WA, 98683
Ad Hoc Payment	Check	23467	1/22/2025	22.83	Michael or Jim or Kristine Anderson Heirs	330 CHARLESTON WAY VANCOUVER, WA, 98664
Ad Hoc Payment	Check	23468	1/22/2025	657.47	Moreland Properties LLC	3605 NE 49TH ST VANCOUVER, WA, 98661
Ad Hoc Payment	Check	23469	1/22/2025	182.00	Moreland Properties LLC	3609 NE 49TH ST VANCOUVER, WA, 98661
Ad Hoc Payment	Check	23470	1/22/2025	278.00	Moreland Properties LLC	3609 NE 49TH ST VANCOUVER, WA, 98661
Ad Hoc Payment	Check	23471	1/22/2025	388.56	Nhut Truong Nguyen or Ana Marie Martinez	15802 SE 13TH ST VANCOUVER, WA, 98683
Ad Hoc Payment	Check	23472	1/22/2025	54.76	Opendoor Property Trust I	1215 NE 108TH AVE VANCOUVER, WA, 98664
Ad Hoc Payment	Check	23473	1/22/2025	184.14	Payne, Douglas	723 NE 100TH AVE VANCOUVER, WA, 98664

INVOICE PAYMENTS REPORT

Ad Hoc Payment	Check	23474	1/22/2025	54.50	Rachel Everson Trustee	3216 NE 59TH ST .VANCOUVER,WA,98663
Ad Hoc Payment	Check	23475	1/22/2025	130.38	Randy or Debra Mawirter Trustees	507 SANTA FE DR .VANCOUVER,WA,98661
Ad Hoc Payment	Check	23476	1/22/2025	73.45	Reserve and Evergreen House Llc	1701 E EVERGREEN BLVD .VANCOUVER,WA,98661
Ad Hoc Payment	Check	23477	1/22/2025	225.00	Robert Beaver Jr	4307 NE 47TH AVE .VANCOUVER,WA,98661
Ad Hoc Payment	Check	23478	1/22/2025	186.00	Robert Taylor Personal Representative	605 SE 121ST AVE .VANCOUVER,WA,98683
Ad Hoc Payment	Check	23479	1/22/2025	137.45	Roddy,Stephanie	3601 SE 142ND CT .VANCOUVER,WA,98683
Ad Hoc Payment	Check	23480	1/22/2025	194.93	Sabahi,Houman	2113 E 26TH ST .VANCOUVER,WA,98661
Ad Hoc Payment	Check	23481	1/22/2025	229.13	Singsit,Chongkhohao & Rhoda M	10508 NE 41ST ST .VANCOUVER,WA,98682
Ad Hoc Payment	Check	23482	1/22/2025	535.24	Suzanne Michalik Trust	5705 NE 56TH ST .VANCOUVER,WA,98661
Ad Hoc Payment	Check	23483	1/22/2025	96.08	Timpke,Jeannie M	6516 NE 52ND ST .VANCOUVER,WA,98661
Ad Hoc Payment	Check	23484	1/22/2025	42.01	Topper,Alishia	710 W 21ST ST .VANCOUVER,WA,98660
Ad Hoc Payment	Check	23485	1/22/2025	146.27	Underbakke,Matthew	5917 NE 34TH ST .VANCOUVER,WA,98661
Ad Hoc Payment	Check	23486	1/22/2025	43.18	Vanessa or Danny Amundson or Samuel Holt	3309 NE 42ND PL .VANCOUVER,WA,98661
Ad Hoc Payment	Check	23487	1/22/2025	32.16	Vik Investments Llc	2904 R ST .VANCOUVER,WA,98663
Ad Hoc Payment	Check	23488	1/22/2025	156.00	Walton,Rhonda	2212 SE BLAIRMONT DR .VANCOUVER,WA,98683
Ad Hoc Payment	Check	23489	1/22/2025	362.92	William Dong or Yan Gan	613 NE 101ST CT .VANCOUVER,WA,98664
Ad Hoc Payment	Check	23490	1/22/2025	52.36	Zirkle,Glenn	2323 GENERAL ANDERSON .VANCOUVER,WA,98660
Miscellaneous Payment	Check	23491	1/22/2025	500.00	ANGIE ALMAN	Damage deposit refund
Miscellaneous Payment	Check	23492	1/22/2025	9,702.00	Bloomquist Septic Inspections, LLC	Robin L Comeau (9400 Saint Helens Ave) Invoice # 23056
Miscellaneous Payment	Check	23493	1/22/2025	51.61	Jahmil Johnson	Refund Parking Permit COV14047 - permit no longer needed
Supplier Payment	Check	23494	1/24/2025	5,937.10	Aflac	
Supplier Payment	Check	23495	1/24/2025	6,360.93	AFSCME Local #307	
Supplier Payment	Check	23496	1/24/2025	334.00	California State Disbursement Unit	
Supplier Payment	Check	23497	1/24/2025	1,033.50	Chapter 13 - Trustee	
Supplier Payment	Check	23498	1/24/2025	491.00	Hawaii SDU	
Supplier Payment	Check	23499	1/24/2025	780.65	IAM Local #1374	
Supplier Payment	Check	23500	1/24/2025	9,092.71	Life Insurance Company of North America	
Supplier Payment	Check	23501	1/24/2025	1,175.00	MFS Service Center Inc	
Supplier Payment	Check	23502	1/24/2025	25.00	OPEIU Local #11	
Supplier Payment	Check	23503	1/24/2025	4,762.77	OPEIU Local #11	
Supplier Payment	Check	23504	1/24/2025	888.00	Teamsters Local #58	
Supplier Payment	Check	23505	1/24/2025	245.00	UA Local #290	
Supplier Payment	Check	23506	1/24/2025	3,182.40	Western Conference of Teamsters	
Supplier Payment	Check	23507	1/24/2025	1,504.20	Western Metal Industry Pension Plan	
	Check			1,003,081.14		
Expense Payment	Direct Deposit	EFT-00280843	1/23/2025	104.05	Jacob Cook	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280844	1/23/2025	136.00	Bryan Carter	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280845	1/23/2025	81.80	Steve Morehouse	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280846	1/23/2025	203.24	Gary Allmon	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280847	1/23/2025	179.30	Douglas Messner	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280848	1/23/2025	220.94	Jason Ayers	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280849	1/23/2025	168.16	Gary Grimes	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280850	1/23/2025	1,514.25	Luke Koistinen	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280851	1/23/2025	29.99	Patrick Kennedy	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280852	1/23/2025	107.28	Adrienne Powers	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280853	1/23/2025	42.58	Stacey Dalgaard	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280854	1/23/2025	136.00	David Swift	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280855	1/23/2025	568.52	Kevin Wilson	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280856	1/23/2025	164.99	Tiffini Dillard	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280857	1/23/2025	202.17	Keegan Benenati	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280858	1/23/2025	135.82	Maxwell Archer	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280859	1/23/2025	250.00	Carlos Cedeno-Contreras	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280860	1/23/2025	457.81	Jeremiah Frenz	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280861	1/23/2025	367.74	Connor Rock	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280862	1/23/2025	106.00	Casey Hootenpyl	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280863	1/23/2025	250.00	Jacinto Gazcon	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280864	1/23/2025	250.00	Daniel Avery	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280865	1/23/2025	42.00	Tim Higgins	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280866	1/23/2025	113.17	Chris Riches	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280867	1/23/2025	179.99	Austin Craig	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280868	1/23/2025	88.16	Kyle Bequelin Flores	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280869	1/23/2025	30.91	Tyler Knotts	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280870	1/23/2025	20.19	Andrew Jorgenson	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280871	1/23/2025	106.00	Trevor Graff	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00280872	1/23/2025	212.39	Ejaz Khan	Employee Reimbursement
Cash Advance Payment	Direct Deposit	EFT-00280873	1/23/2025	136.75	Paul Benton	Travel Advance
Cash Advance Payment	Direct Deposit	EFT-00280874	1/23/2025	230.00	Darren McShea	Travel Advance
	Direct Deposit			6,836.20		

*Please contact Procurement Services if you would like to review the justification for EMERGENCY procurement.

INVOICE PAYMENTS REPORT

Supplier Payment	EFT	EFT-00280875	1/23/2025	750.00	Thomas Garvey	
Supplier Payment	EFT	EFT-00280876	1/23/2025	29,838.00	United Site Services of Nevada, Inc.	
Supplier Payment	EFT	EFT-00280877	1/23/2025	175,650.45	Western United Civil Group, LLC - Remit-To: Western United Civil Group, LLC	
Supplier Payment	EFT	EFT-00280878	1/23/2025	789.51	HDR Engineering Inc - Remit-To: HDR Engineering - Chicago	
Supplier Payment	EFT	EFT-00280879	1/23/2025	31,438.43	PBS Engineering and Environmental Inc	
Supplier Payment	EFT	EFT-00280880	1/23/2025	3,900.00	Curtis Miller	
Supplier Payment	EFT	EFT-00280881	1/23/2025	2,004.00	Terracon Consultants Inc	
Supplier Payment	EFT	EFT-00280882	1/23/2025	9,692.89	Vancouver Housing Authority	
Supplier Payment	EFT	EFT-00280883	1/23/2025	38,768.75	Sazan Group, Inc	
Supplier Payment	EFT	EFT-00280884	1/23/2025	116,960.00	Brown and Caldwell - Remit-To: Brown & Caldwell - San Francisco	
Supplier Payment	EFT	EFT-00280885	1/23/2025	1,622.08	Hermanson Company, LLC - Remit-To: Hermanson Company, LLC	
Supplier Payment	EFT	EFT-00280886	1/23/2025	2,700.00	AgreeYa Solutions, Inc. - Remit-To: AgreeYa Solutions, Inc	
Supplier Payment	EFT	EFT-00280887	1/23/2025	203,002.21	Consort North America Inc	
Supplier Payment	EFT	EFT-00280888	1/23/2025	329.86	Pitney Bowes Inc	
Supplier Payment	EFT	EFT-00280889	1/23/2025	23,793.75	Elizabeth Kunesh	
Supplier Payment	EFT	EFT-00280890	1/23/2025	13,658.30	Tapari Inc	
Supplier Payment	EFT	EFT-00280891	1/23/2025	250.00	Walker Consultants, Inc	
Supplier Payment	EFT	EFT-00280892	1/23/2025	552.22	Commonstreet Consulting, LLC	
Supplier Payment	EFT	EFT-00280893	1/23/2025	56,396.16	Outsiderinn.org	
Supplier Payment	EFT	EFT-00280894	1/23/2025	2,150.00	Date Park Condominium Inc.	
Supplier Payment	EFT	EFT-00280895	1/23/2025	38.38	Ziply Fiber	
Supplier Payment	EFT	EFT-00280896	1/23/2025	770.00	City Electric Co of WA	
Supplier Payment	EFT	EFT-00280897	1/23/2025	32,370.00	The Exhibits Department, LLC	
Supplier Payment	EFT	EFT-00280898	1/23/2025	280.00	Brad Piesch Aggressive Enterprises, Inc	
Supplier Payment	EFT	EFT-00280899	1/23/2025	58.00	Tierra Right of Way Services LTD	
Supplier Payment	EFT	EFT-00280900	1/23/2025	426,269.38	Operations Management International Inc	
Supplier Payment	EFT	EFT-00280901	1/23/2025	8,792.55	Northwest Staffing Resources Inc - Remit-To: Northwest Staffing Resources	
Supplier Payment	EFT	EFT-00280902	1/23/2025	345.42	Branlo Enterprises, LLC	
Supplier Payment	EFT	EFT-00280903	1/23/2025	161,547.63	Jacobs Engineering Group Inc	
Supplier Payment	EFT	EFT-00280904	1/23/2025	7,147.75	Vancouvercenter Condominium Association	
Supplier Payment	EFT	EFT-00280905	1/23/2025	223.09	Archaeological Investigations Northwest Inc	
Supplier Payment	EFT	EFT-00280906	1/23/2025	48,513.61	MacKay Sposito Inc	
Supplier Payment	EFT	EFT-00280907	1/23/2025	91,300.71	Halme Excavating Inc	
Supplier Payment	EFT	EFT-00280908	1/23/2025	58,374.57	Alta Planning & Design	
Supplier Payment	EFT	EFT-00280909	1/23/2025	8,455.00	StreamlineAM LLC	
Supplier Payment	EFT	EFT-00280910	1/23/2025	150,152.77	Share	
Supplier Payment	EFT	EFT-00280911	1/23/2025	5,858.93	Copiers Northwest Inc.	
Supplier Payment	EFT	EFT-00280912	1/23/2025	207,205.68	McClure and Sons Inc.	
Supplier Payment	EFT	EFT-00280913	1/23/2025	836.27	Accurate Investigation Services	
Supplier Payment	EFT	EFT-00280914	1/23/2025	203,551.00	First Forty Feet LLC	
Supplier Payment	EFT	EFT-00280915	1/23/2025	43,643.35	Rotschy Inc	
Supplier Payment	EFT	EFT-00282816	1/24/2025	33,564.12	IAFF Local #452	
Supplier Payment	EFT	EFT-00282817	1/24/2025	12,478.41	Vancouver Police Officer Guild	
Supplier Payment	EFT	EFT-00282818	1/24/2025	1,077.80	Vancouver Command Guild	
Supplier Payment	EFT	EFT-00282819	1/24/2025	20,260.59	Allegiance Benefit Plan Management Inc (COBRA)	
Supplier Payment	EFT	EFT-00282820	1/24/2025	130.47	Legal Shield	
Supplier Payment	Manual Wire	EFT	1/15/2025	2,237,492.09		
Supplier Payment	Manual Wire		1/15/2025	718.97	JP Morgan Chase Bank, N.A.	
Supplier Payment	Manual Wire		1/21/2025	68,125.07	Liberty Mutual Group Inc.	
Supplier Payment	Manual Wire		1/21/2025	6,586.81	Superior, LLC	
Supplier Payment	Manual Wire		1/21/2025	1,650.00	Bank Of America N.A. - Remit-To: Charlotte NC	
Supplier Payment	Manual Wire		1/23/2025	27,051.82	Washington Dental Service	
Supplier Payment	Manual Wire		1/23/2025	159,660.67	Blue Cross Blue Shield of Oregon	
Supplier Payment	Manual Wire		1/23/2025	50,725.69	The Bank Of New York Mellon Trust Company	
Supplier Payment	Manual Wire		1/23/2025	21,286.25	The Bank Of New York Mellon Trust Company	
Supplier Payment	Manual Wire		1/24/2025	6,260.27	Washington SDU	

*Please contact Procurement Services if you would like to review the justification for EMERGENCY procurement.

INVOICE PAYMENTS REPORT

Supplier Payment	Manual Wire		1/24/2025	28,375.00	Washington State Firefighters	
Supplier Payment	Manual Wire		1/24/2025	34,130.00	Vancouver Firefighters Union Health & Welfare Trust	
Supplier Payment	Manual Wire		1/24/2025	7,055.46	Western States Health & Welfare Trust	
Supplier Payment	Manual Wire		1/24/2025	340,122.69	International City Management Association Retirement Corporation	
Supplier Payment	Manual Wire		1/24/2025	586.00	Oregon SDU	
Supplier Payment	Manual Wire		1/24/2025	97,255.45	Liberty Mutual Group Inc.	
Supplier Payment	Manual Wire		1/24/2025	68,873.82	State of Washington Department of Retirement Systems (DRS)	
	Manual Wire		Manual Wire	918,463.97		
			Checks	1,003,081.14		
			Direct Deposit	6,836.20		
			EFT	2,237,492.09		
			1/27/2025	3,185.97	City Payments	Posted 01-20-25 to 01-26-25
			Hansen Total	3,185.97		
			1/27/2025	689.00	Miscellaneous	Parks Class Refunds FCC 01-20-25 to 01-26-25
			1/27/2025	479.00	Miscellaneous	Parks Class Refunds MCC 01-20-25 to 01-26-25
			VISA Total	1,168.00		
			Payroll Total	4,275,452.96		
			GRAND TOTAL	8,445,680.33		

City of Vancouver
Payroll Council Report
January 20, 2024 - January 26, 2025

Check No.	Date	Explanation	Amount
2594 - 2609	01/24/25	January 24th Payroll	\$ 5,280.88
280916 - 282815	01/24/25	January 24th Direct Deposits	\$ 4,270,172.08

\$ 4,275,452.96

AN ORDINANCE of the City of Vancouver relating to changes to the City's Multi-Family Housing Tax Exemption Program (MFTE); adopting amendments to the Mill Plain Target Area Boundary amending Section 3.22.030, of the Vancouver Municipal Code (VMC); providing for severability; and setting an immediate effective date.

Staff Report: 016-25

To: Mayor and City Council
From: City Manager
Date: February 3, 2025

Subject

Multi-Family Tax Exemption Boundary Expansion

Key Points

- Request to expand the Mill Plain multifamily tax exemption target area.
- Subject expansion site is 10.10 acres of land recently rezoned to R-22 higher density residential.

Strategic Plan Alignment

Housing and Human Needs – meeting basic needs and partnering with organizations to support the community.

Present Situation

Staff is presenting a proposed expansion of the multifamily tax exemption (MFTE) Mill Plain target area boundary. The subject land is located at the northwest corner of the intersection of SE 192nd Avenue and SE 15th Street.

The MFTE target area boundaries were significantly expanded in July 2023 to increase the scope and eligibility of the MFTE program. At that time the subject land area was zoned R-6 for single family uses with a density of 5-6 residential units per acre and as such was not eligible for inclusion in the MFTE target area. The subject land was rezoned in 2024 to R-22 for higher density residential use at 22 units per acre, making the land eligible for inclusion into the MFTE program.

The subject land meets the requirements to be included in a target area:

- The site is with an urban area.
- The City of Vancouver is still facing a shortage of affordable housing and is under an emergency declaration for homelessness (November 2023) related to lack of affordable housing resulting in people living on streets, in makeshift encampments, and in vehicles.
- The addition of the proposed site to the eligible target area will meet the City goals of providing short-term income restricted housing units and a long-term addition of permanent housing units to the overall City housing supply.

If this target area expansion amendment is successful, the applicant intends to apply to the MFTE

program for a 222-unit apartment development. The future MFTE application will include a separate analysis and council review of the MFTE development approval criteria prior to issuing a conditional MFTE certificate. The 2024 site rezone ordinance included a Development Agreement with the City Council as part of the rezone process requiring enhanced landscaping setbacks, affordability housing provisions, green building elements, and site access restrictions. These approval conditions will also be reviewed and considered with any future MFTE development application.

Advantage(s)

- Adds opportunity to add additional short-term income restricted rental units.
- Adds opportunity to add additional permanent rental units to the City's housing stock.
- Site has conditional land use permit approval (Oct 2024) and is construction ready.

Challenge(s)

None

Budget Impact

If the developer subsequently applies for and receives approval for an income-restricted multifamily tax exemption, the structural portion of the development's property taxes will be exempt for 12 years. The specific foregone tax amount will be assessed with the future MFTE application approval process.

Prior Council Review

- Oct 23, 2023- Workshop Presentation- Annual Comprehensive Plan and Rezone process
- Nov 20, 2023- Workshop Presentation- Annual Comprehensive Plan and Rezone process
- Jan 8, 2024- Public Hearing- Site specific rezone ordinance and development agreement adoption
- January 27, 2025 - Consent Agenda

Action Requested

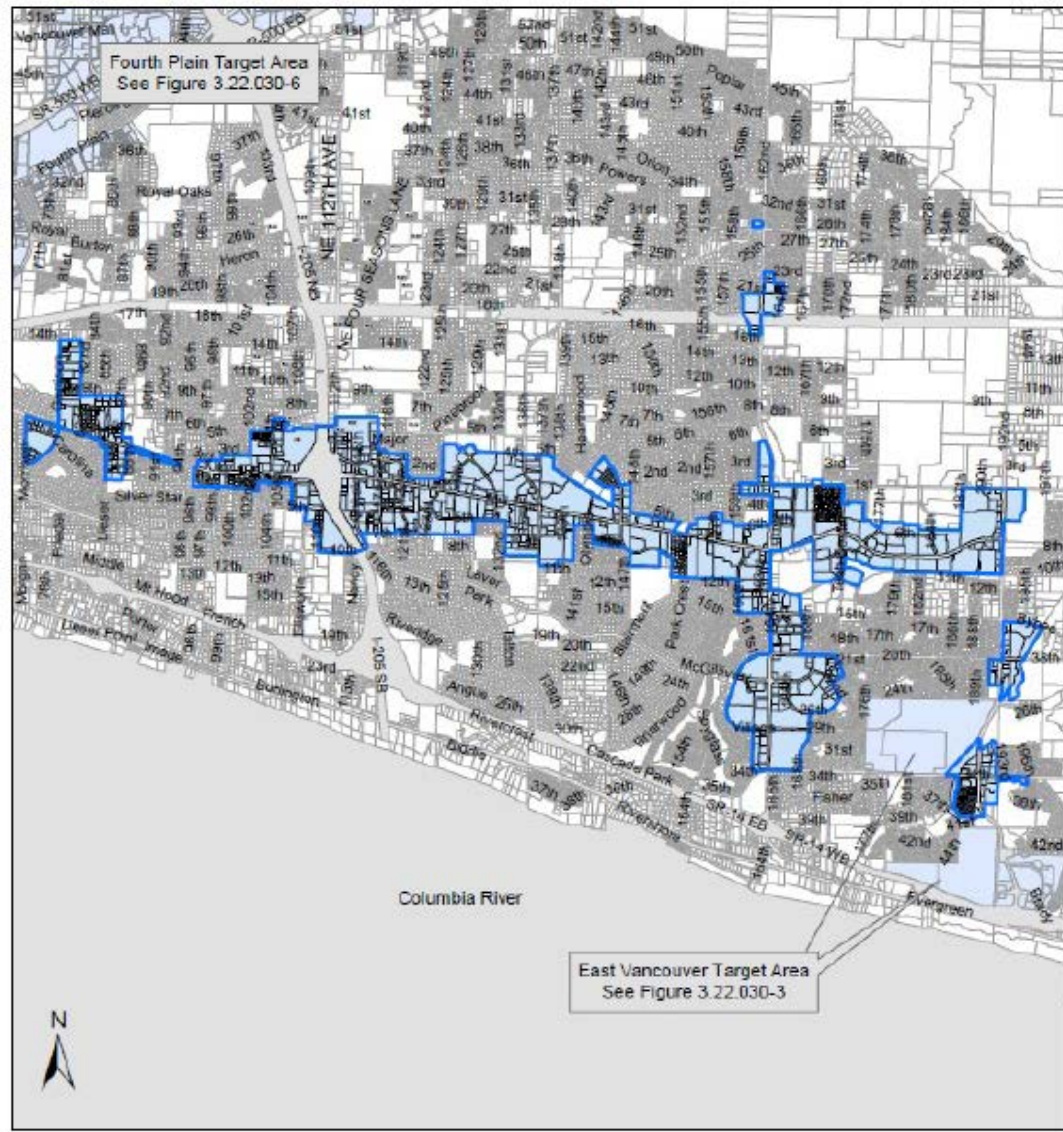
On Monday, February 3, 2025, upon second reading and a public hearing, approve the ordinance.

Staff Contact

Bryan Monroe, Associate Housing Project Coordinator, bryan.monroe@cityofvancouver.us

Attachments:

1. Presentation
2. Ordinance Amendment
3. Applicant Request Letter-MFTE Expansion



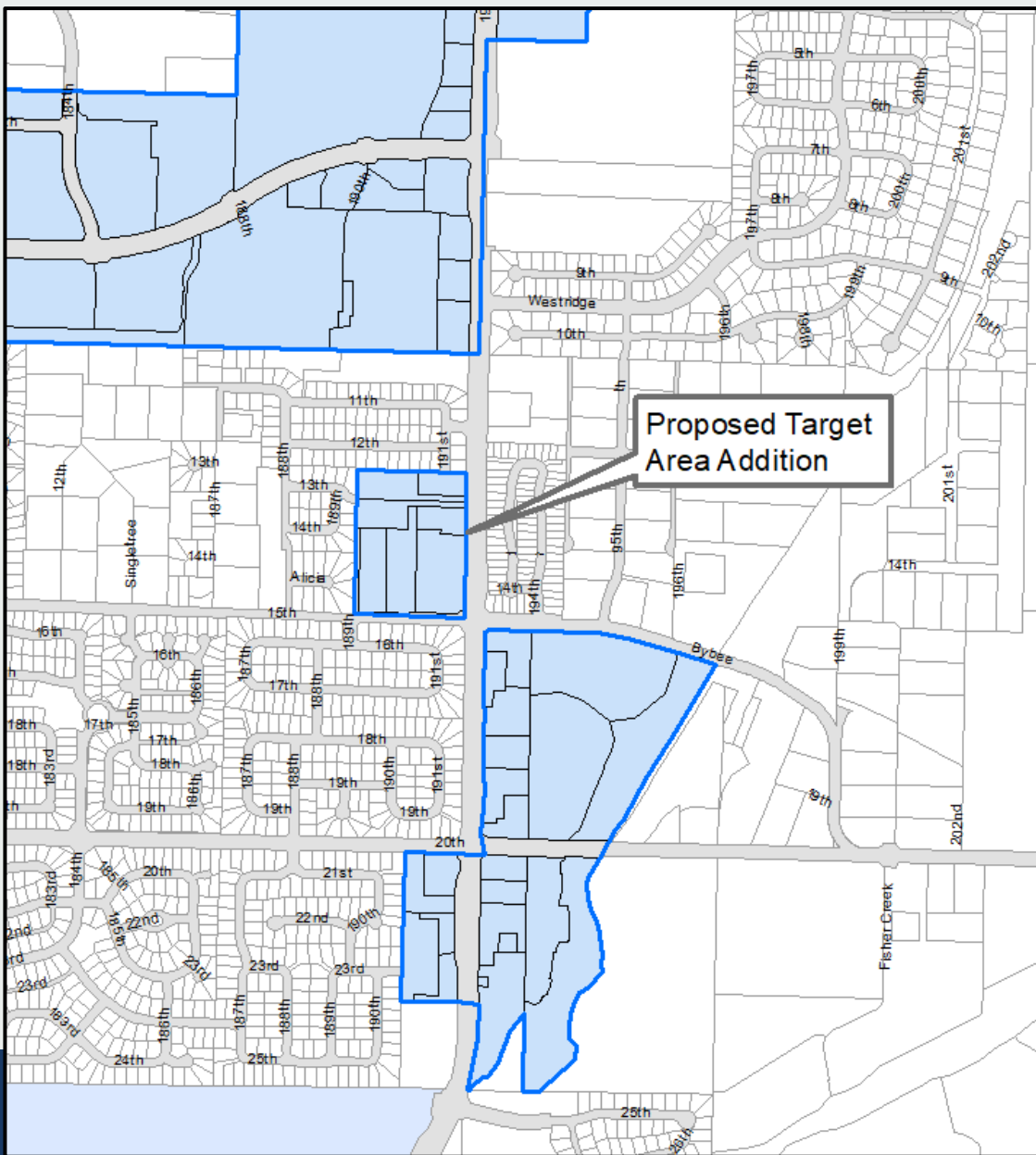
CITY OF
Vancouver
WASHINGTON

MFTE Mill Plain Target Area Amendment

Bryan Monroe

Associate Housing Coordinator
Economic Prosperity & Housing

February 3, 2025, 2nd reading- Public Hearing

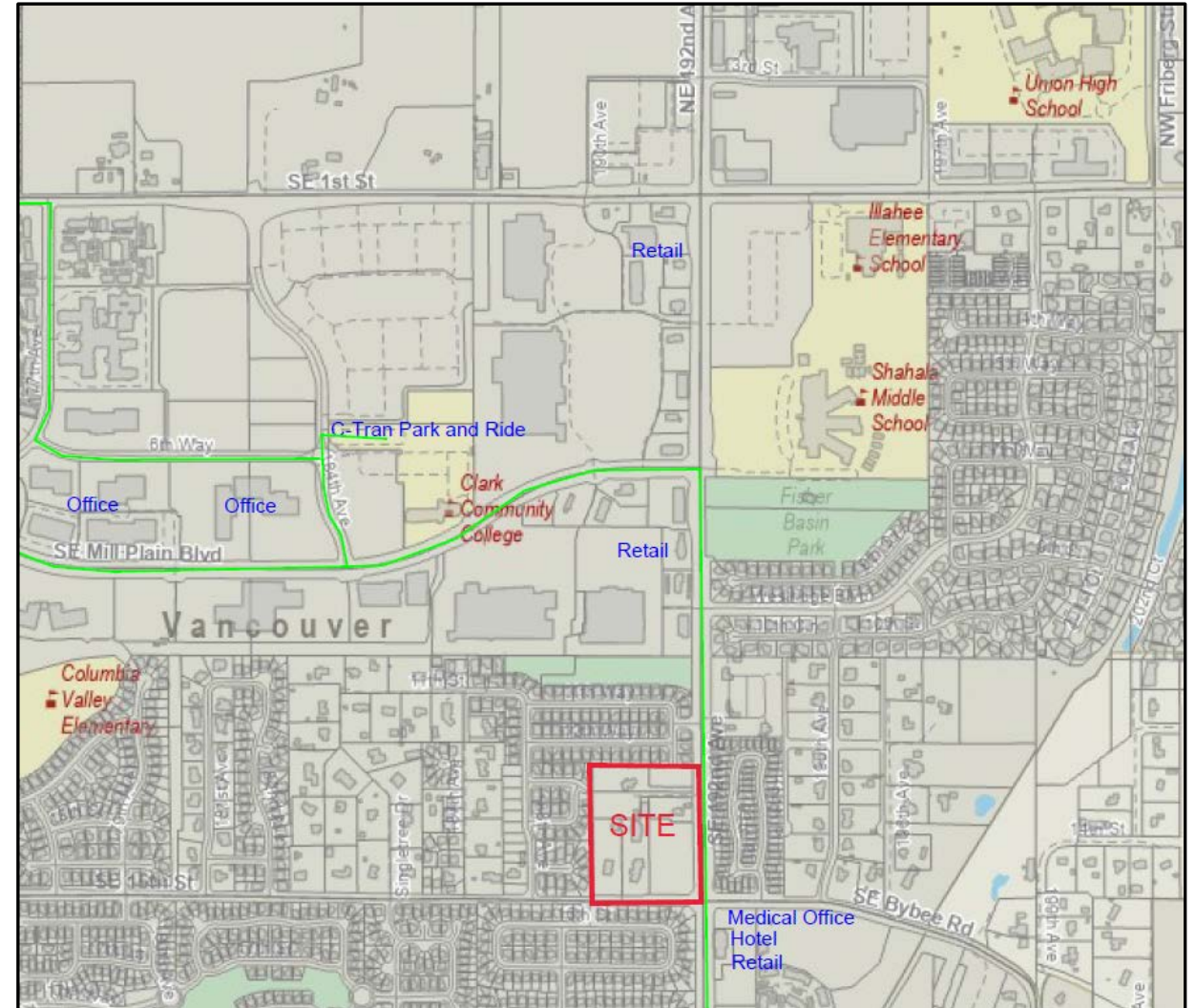


Agenda

- Target Area Criteria
- Expansion Site Conditions
- Next Steps
- Discussion / Questions

Target Area Site Criteria

- In urbanized area lacking sufficient housing
- Stimulates construction of new housing units
- Increased density supports GMA planning goals
- Transit accessible



Site Conditions

- 10.10 Acre Site
- Rezoned to R-22
- On C-Tran routes 34, 92
- ¼ mile to employment, retail, services, schools, recreation
- Proposed 222-unit apartment development





Next Steps

- VMC Ordinance Adoption Hearing
- Site specific MFTE application process

Discussion / Questions



bryan.monroe@cityofvancouver.us | 360-487-7958



1/27/25 (Date of First Reading)

2/3/25 (Date of Public Hearing)

ORDINANCE NO. M- [Ordinance Number]

AN ORDINANCE of the City of Vancouver relating to changes to the City's Multi-Family Housing Tax Exemption Program (MFTE); adopting amendments to the Mill Plain Target Area Boundary amending Section 3.22.030, of the Vancouver Municipal Code (VMC); providing for severability; and setting an immediate effective date.

WHEREAS, Washington State law (RCW 84.14) authorizes cities to adopt an MFTE program in certain residential target areas for the purpose of incentivizing the development of multiple-unit housing including creating additional affordable housing, encouraging urban development and density, increasing market rate workforce housing, developing permanently affordable housing opportunities, promoting economic investment and recovery, and creating family-wage jobs, and

WHEREAS, the City of Vancouver adopted a Multi-Family Housing Tax Exemption (MFTE) program in 1997 through Ordinance M-3314 and updated most recently in December 2024 through Ord M-4474, and

WHEREAS, the City of Vancouver adopted the Mill Plain Target Area in 2011 through Ordinance M-3990 and updated most recently in July 2023 by Ord M-4416, and

WHEREAS, at the time of the last target area boundary amendment several parcels were ineligible due to their single-family zoning designation, but have since been rezoned to an eligible multifamily zoning district, and

WHEREAS, City Council desires to update the MFTE section of the municipal code to expand the Mill Plain MFTE target area boundary, and

WHEREAS, the City Council adopts and incorporates by reference Staff Report SR ____ and finds that the amendment of the Mill Plain Target Area Boundary under the MFTE program set forth in this Ordinance will promote the general welfare and convenience of the people of Vancouver, and will encourage the development of additional multi-family housing units within the City; and

WHEREAS, with proper notice to the public, the Vancouver City Council conducted a first reading of the proposed ordinance on January 27, 2025, and a public hearing concerning the ordinance and proposed code change on February 3, 2025.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF VANCOUVER:

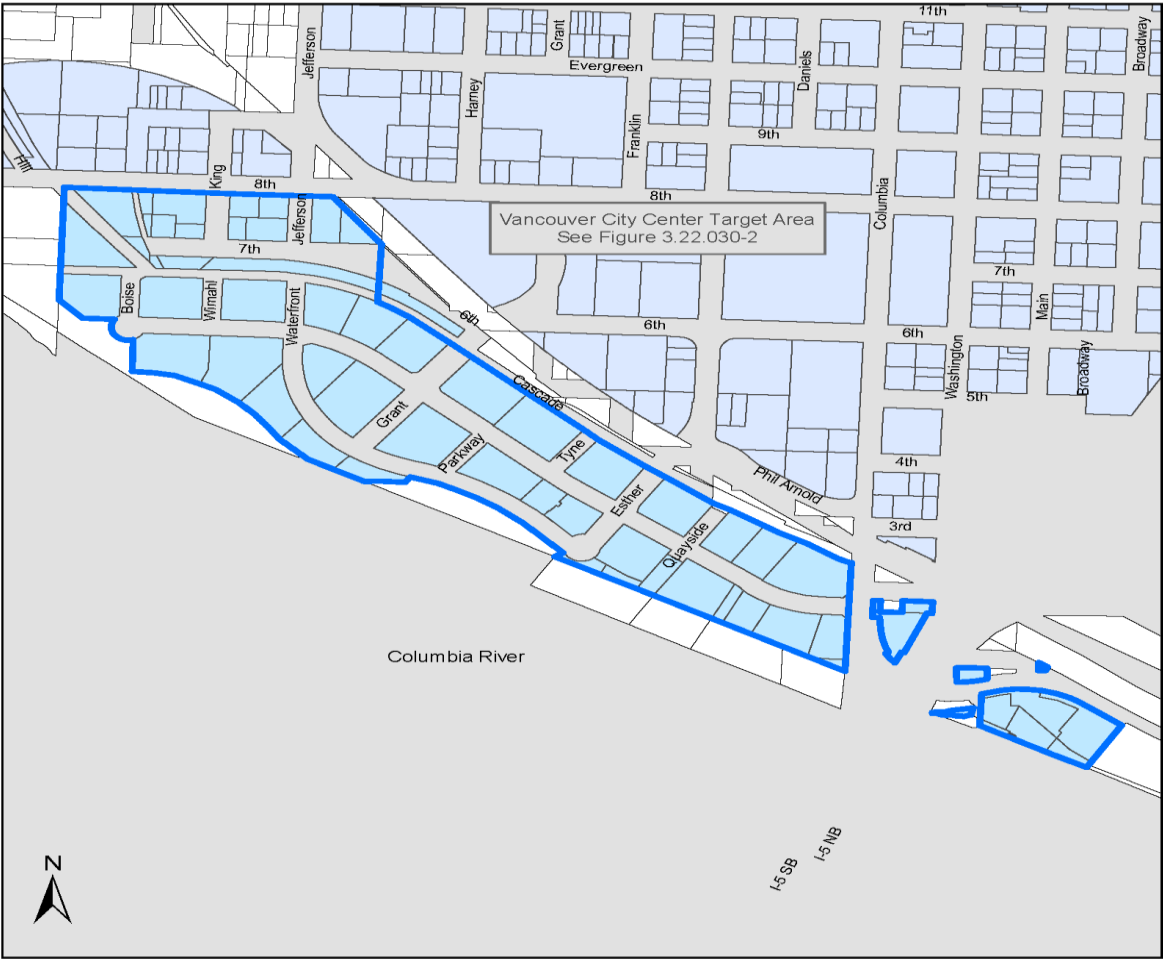
Section 1. **Recitals Adopted as Findings.** The City Council hereby adopts and incorporates by reference the above recitals as findings in support of this Ordinance.

Section 2. **Amendment.** Vancouver Municipal Code Section 3.22.030 (C) entitled “Designated Target Areas” as initially codified by Ordinance Ord. M-3314 and last amended by Ordinance M-4474 is hereby amended as follows:

C. Designated Target Areas. The following “residential target areas” are designated in the City of Vancouver:

1. The Vancouver Waterfront Target Area depicted on Map 1 below. Projects in this target area must meet the zoning requirements of the underlying zoning district as well as the market rate or income-based requirements under VMC 3.22.040(D)(9)(a):

Map 1: Vancouver Waterfront Target Area



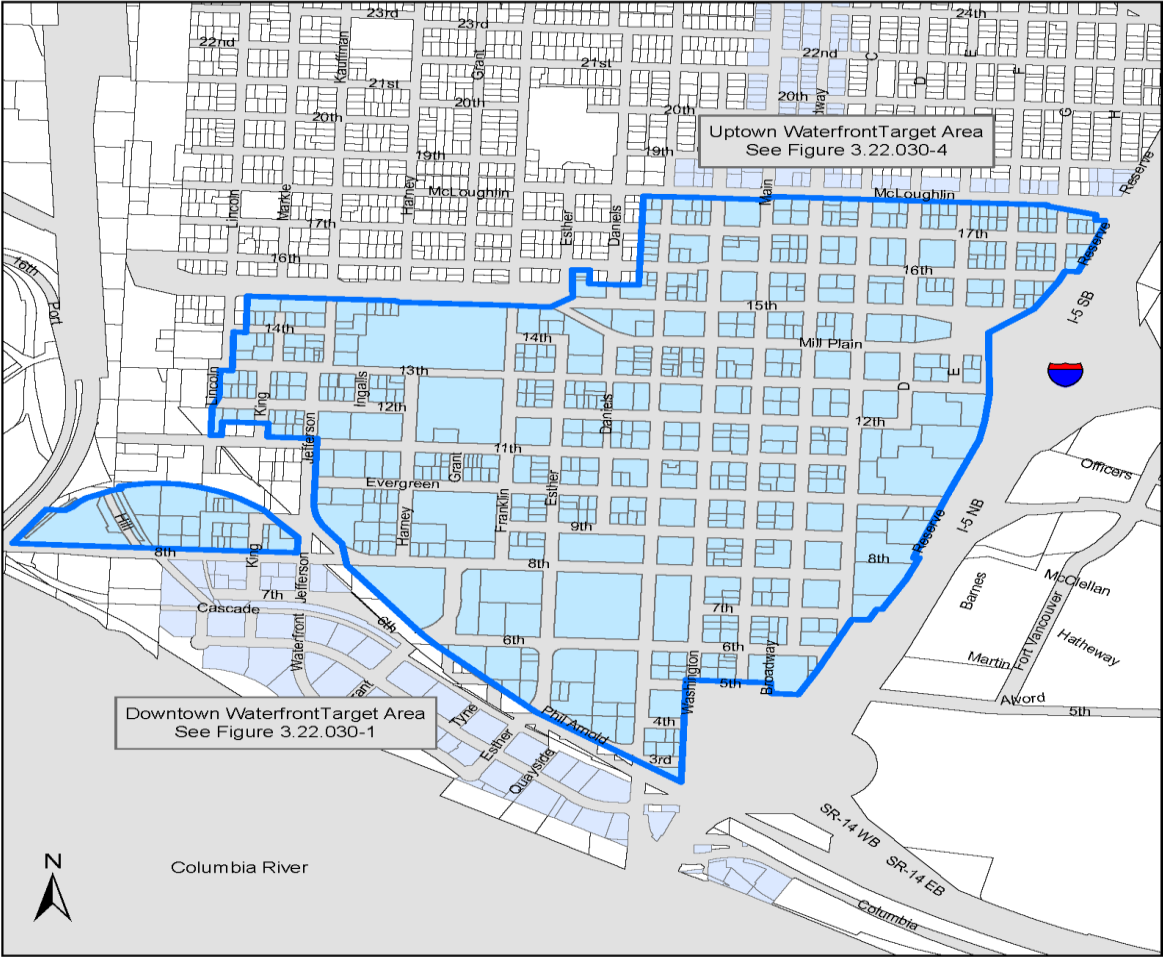
**FIGURE
3.22.030-1**

 Downtown Waterfront MFTE Target Area Boundary

Multifamily Tax Exemption Boundary

2. The Vancouver City Center Target Area depicted on Map 2 below. Projects in this target area must meet the zoning requirements of the underlying zoning district as well as the market rate or income-based requirements under VMC 3.22.040(D)(9)(a):

Map 2: Vancouver City Center Target Area



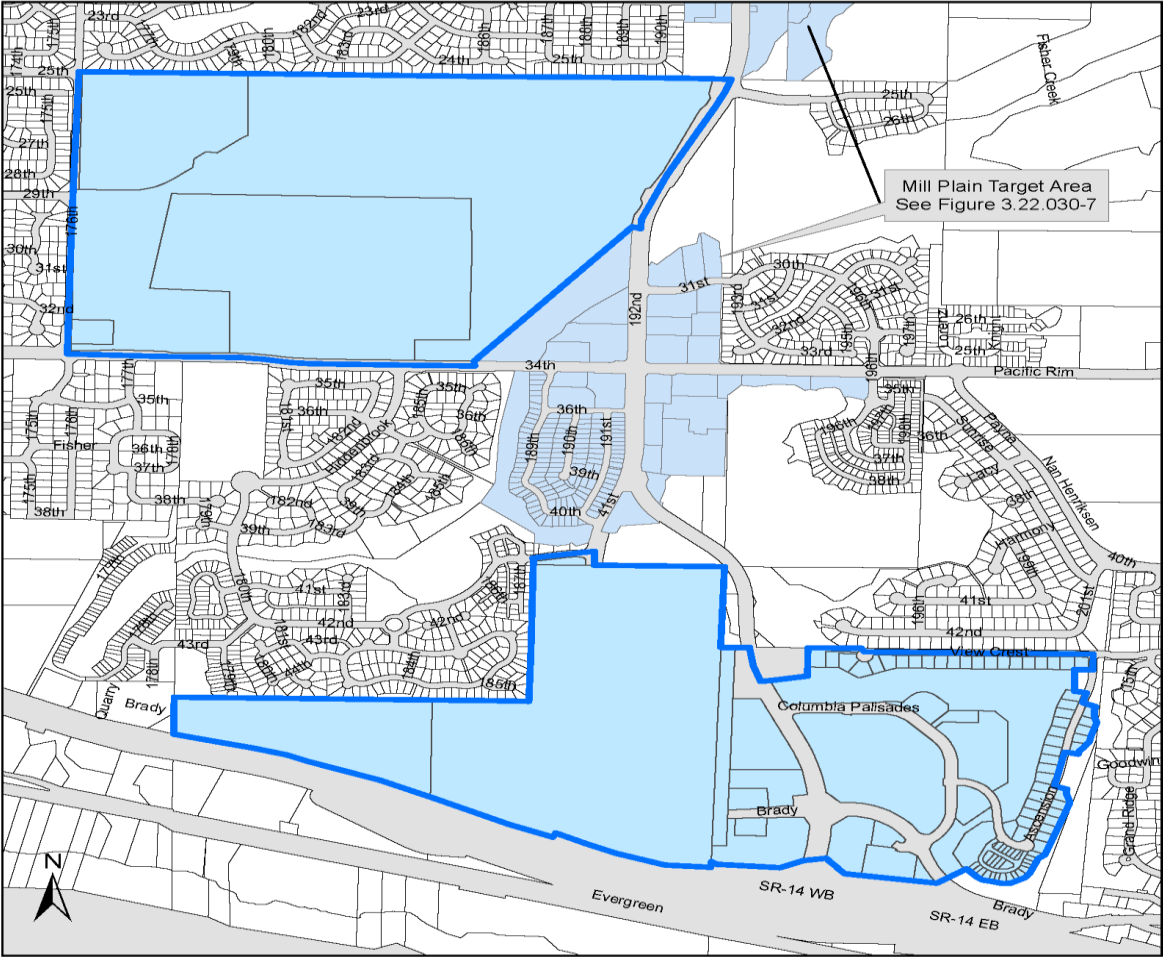
**FIGURE
3.22.030-2**

 Vancouver City Center MFTE Target Area Boundary

Multifamily Tax Exemption Boundary

3. East Vancouver Target Area depicted on Map 3 below. Projects in this target area must meet the zoning requirements of the underlying zoning district as the market rate or income-based requirements under VMC 3.22.040(D)(9)(a):

Map 3: East Vancouver Target Area



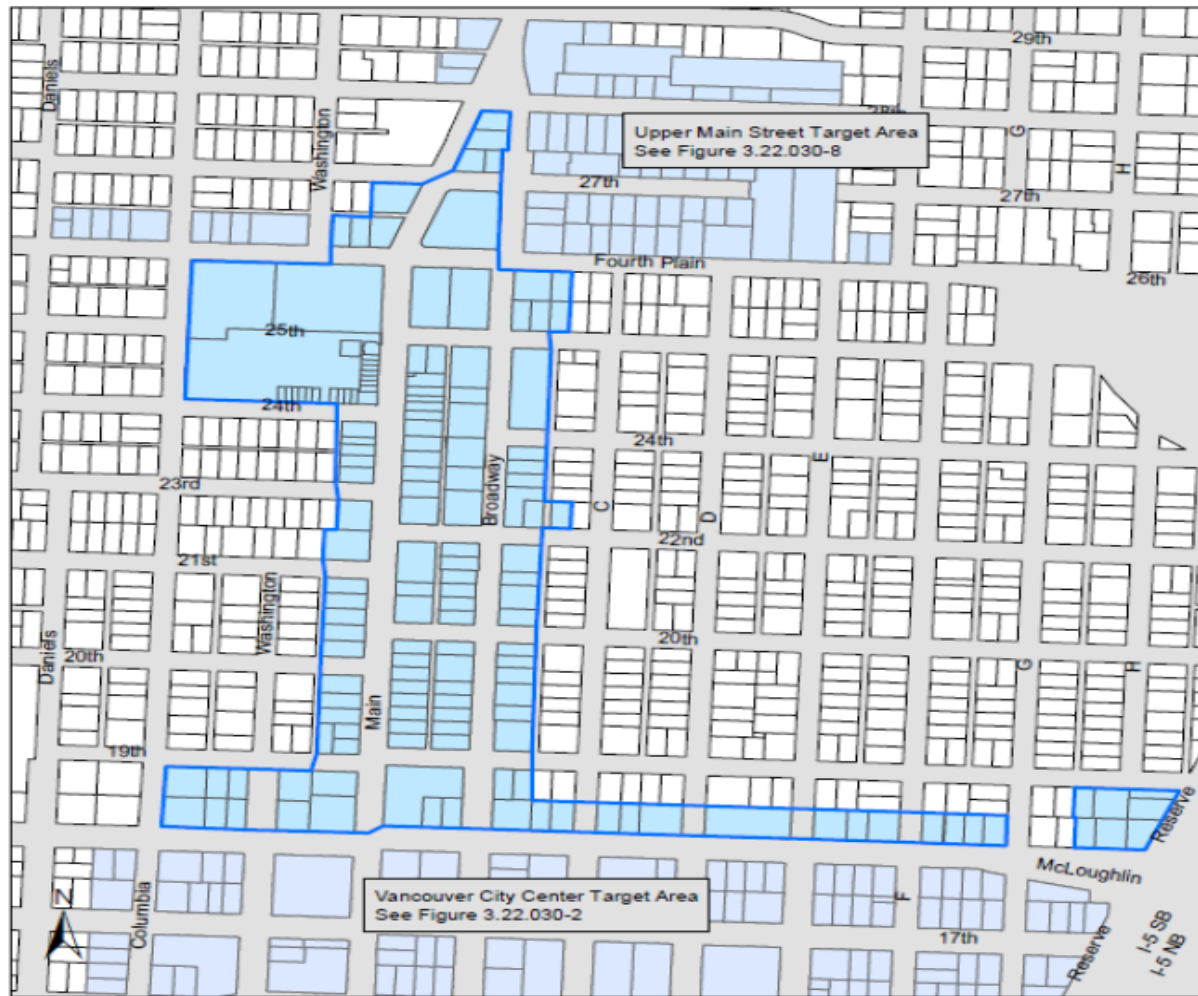
**FIGURE
3.22.030-3**

 East Vancouver MFTE Target Area Boundary

Multifamily Tax Exemption Boundary

4. The Uptown Target Area depicted on Map 4 below. Projects in this target area must meet the zoning requirements of the underlying zoning district as well as the market rate or income-based requirements under VMC 3.22.040(D)(9)(a):

Map 4: Uptown Target Area



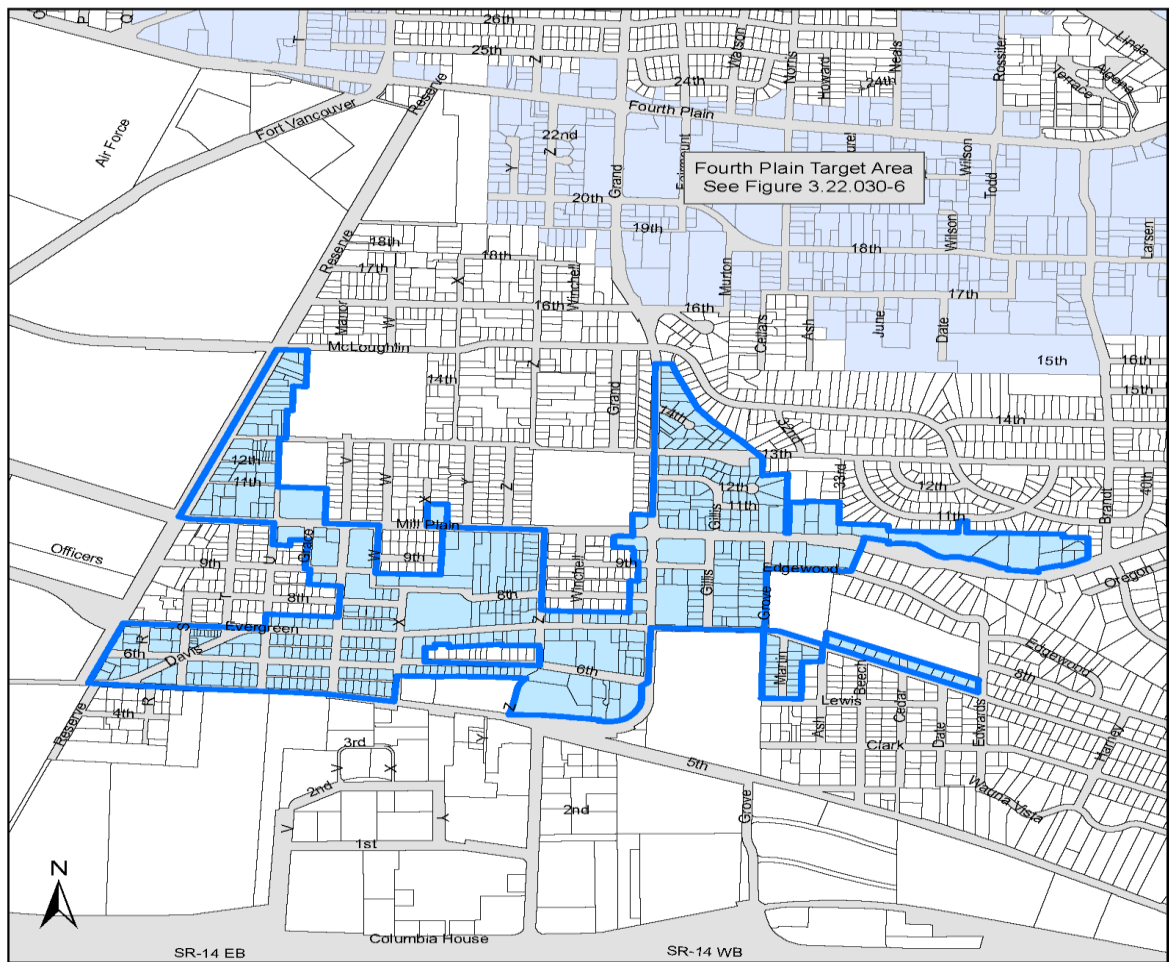
**FIGURE
3.22.030-4**

 Uptown MFTE Target Area Boundary

Multifamily Tax Exemption Boundary

5. The Evergreen/Grand Target Area depicted on Map 5 below. Projects in this target area must meet the zoning requirements of the underlying zoning district as well as the market rate or income-based requirements under VMC 3.22.040(D)(9)(a):

Map 5: Evergreen/Grand Target Area



0 500 1,000 2,000 Feet

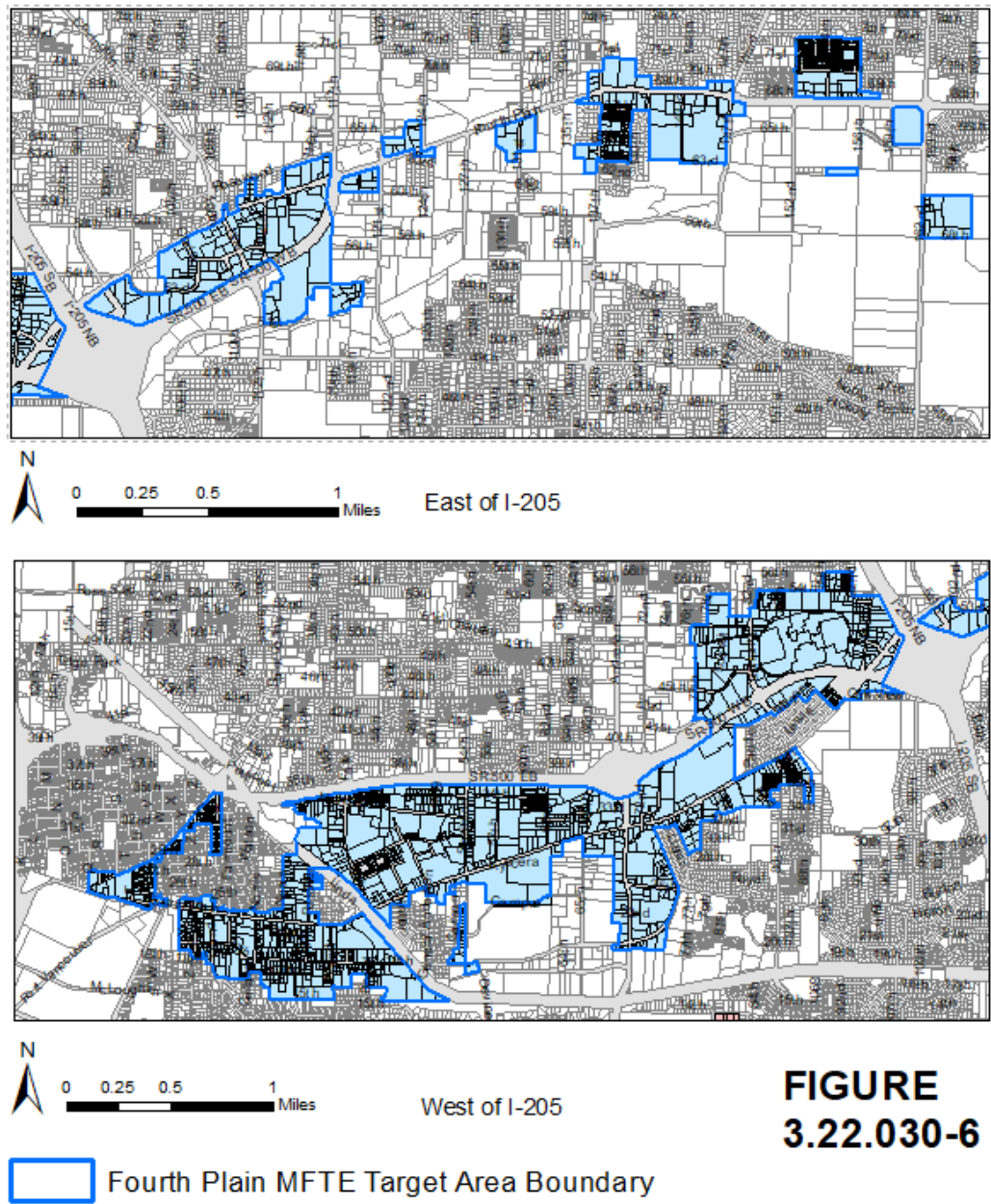
FIGURE
3.22.030-5

 Evergreen / Grand MFTE Target Area Boundary

Multifamily Tax Exemption Boundary

6. Fourth Plain Target Area depicted on Map 6 below. Projects in this target area must meet the zoning requirements of the underlying zoning district as the market rate or income-based requirements under VMC 3.22.040(D)(9)(a):

Map 6: Fourth Plain Target Area

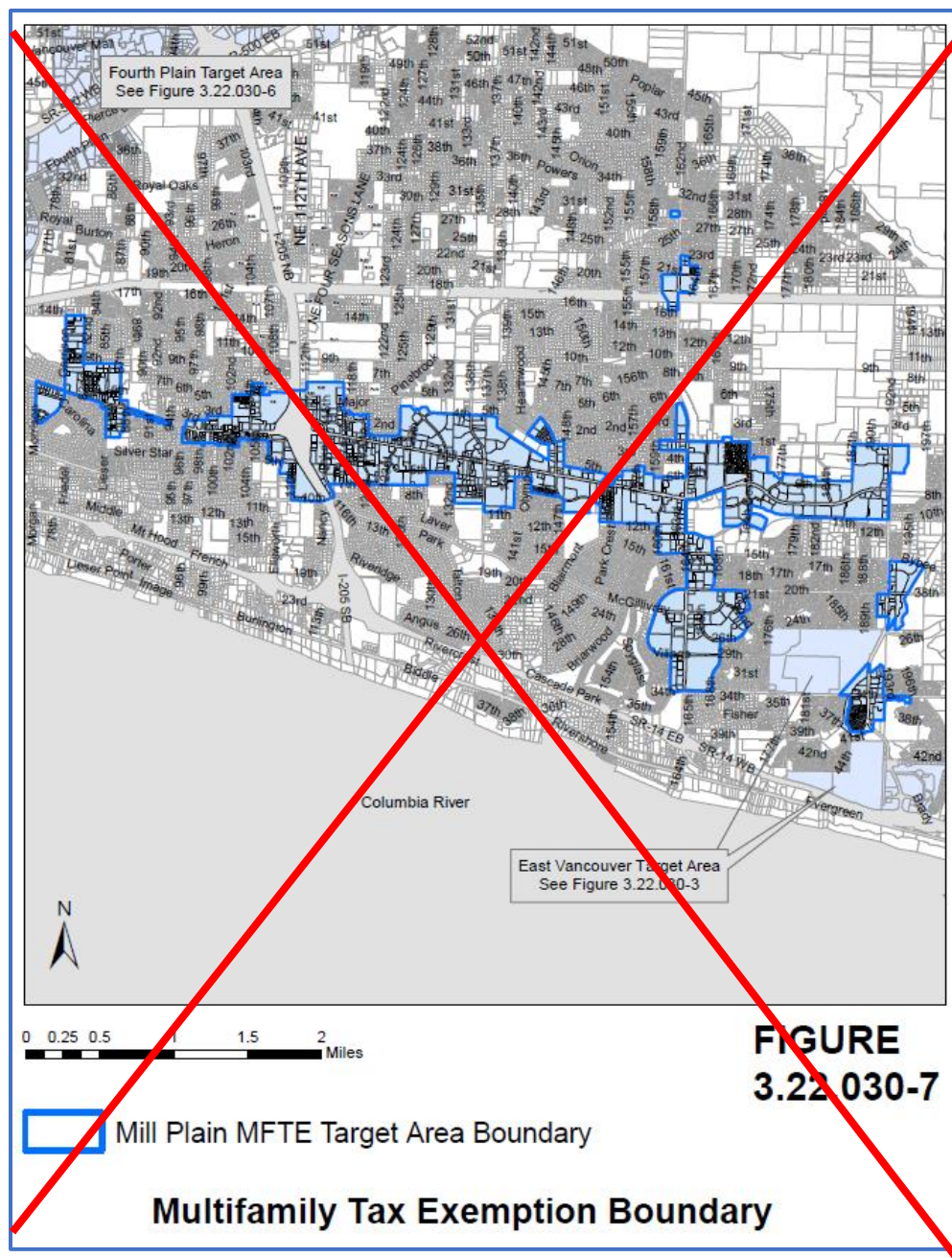


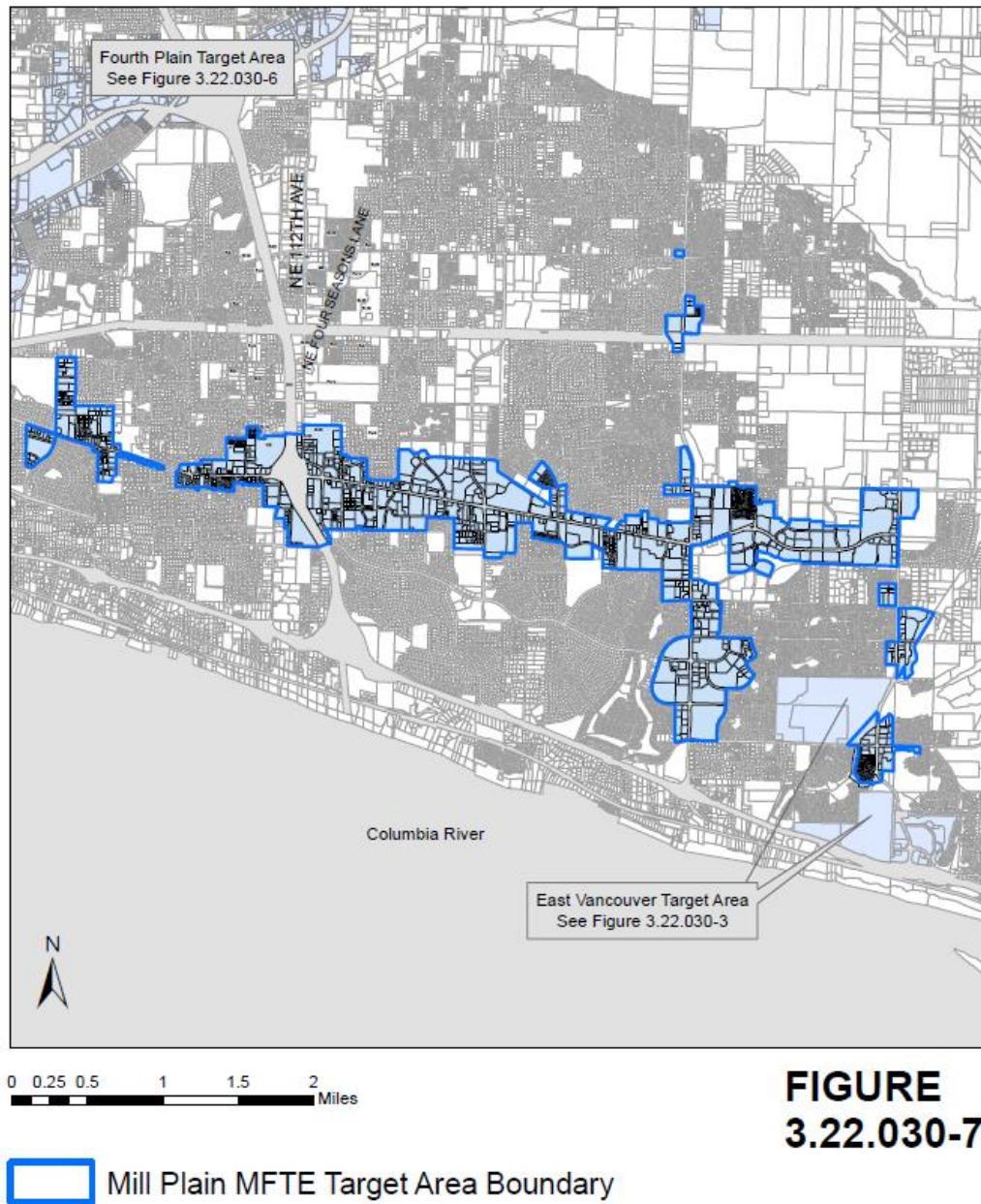
**FIGURE
3.22.030-6**

Multifamily Tax Exemption Boundary

7. Mill Plain Target Area depicted on Map 7 below. Projects in this target area must meet the zoning requirements of the underlying zoning district as the market rate or income-based requirements under VMC 3.22.040(D)(9)(a):

Map 7: Mill Plain Target Area

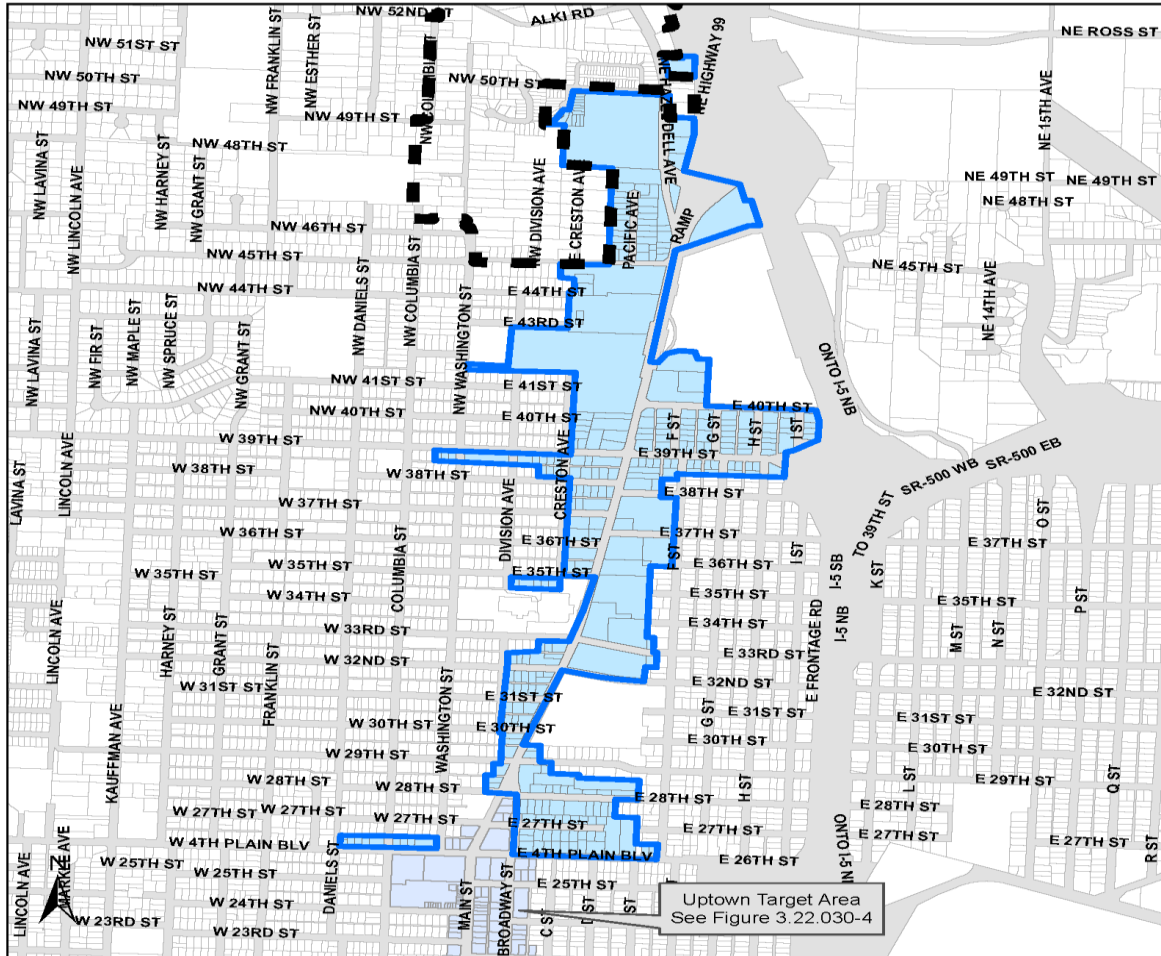




**FIGURE
3.22.030-7**

8. The Upper Main Street Target Area depicted on Map 8 below. Projects in this target area must meet the zoning requirements of the underlying zoning district as well as the market rate or income-based requirements under VMC 3.22.040(D)(9)(a):

Map 8: Upper Main Street Target Area



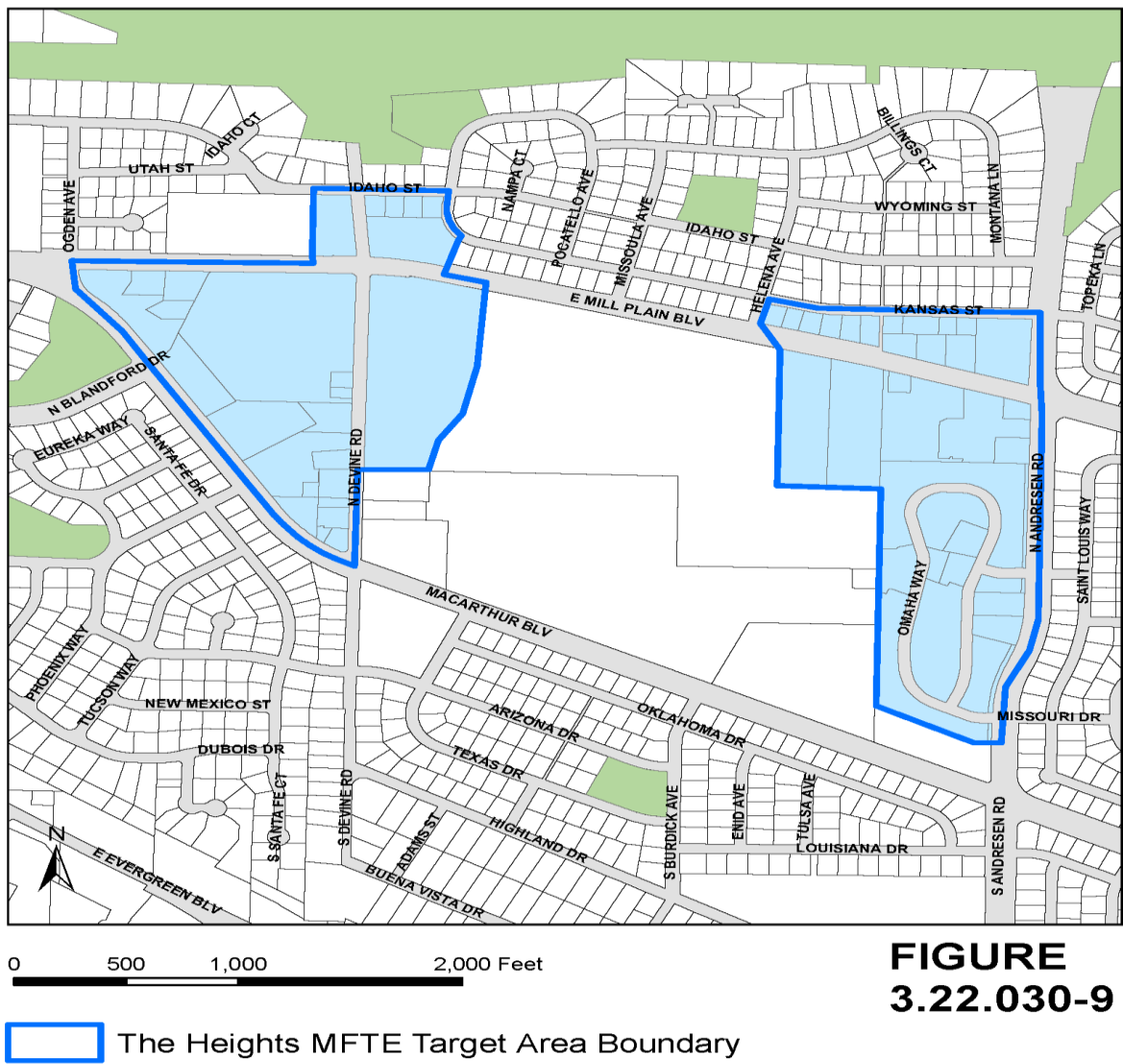
**FIGURE
3.22.030-8**

 Upper Main Street Target Area Boundary

Multifamily Tax Exemption Boundary

9. The Heights Target Area depicted on Map 9 below. Projects in this target area must meet the zoning requirements of the underlying zoning district as well as the income-based requirements under VMC 3.22.040(D)(9)(a):

Map 9: The Heights Target Area



Multifamily Tax Exemption Boundary

D. *Target Area Map Boundary Interpretation.* Target area boundary lines are intended to follow property lot lines or be parallel or perpendicular thereto, or along the centerline of alleys, streets, rights-of-way or watercourses. Where, due to the scale, lack of detail or illegibility of the target area maps, there is uncertainty, contradiction or conflict as to the intended location of any target area boundary as shown thereon, the director shall provide an interpretation of said map upon request.

Section 3. **Effective Date.** This ordinance shall be effective immediately upon passage.

DATE OF FINAL PASSAGE by the Vancouver City Council:

SIGNED this _____ day of _____, 2025.

Anne McEnerny-Ogle, Mayor

Attest:

Approved as to form:

Natasha Ramras, City Clerk

Nena Cook, Interim City Attorney

November 27, 2024

VIA EMAIL ONLY

Mayor Ann McEnerny-Ogle
City of Vancouver
City Hall
415 W. 6th St
Vancouver, WA 98660
Email: anne.mcenerny-ogle@cityofvancouver.us

Re: **SE 192nd Avenue and SE 15th Street Project**

Dear Mayor McEnerny-Ogle:

We represent Vance Development, LLC, a Washington limited liability company and the applicant for the multifamily project located at the northwest corner of SE 192nd Avenue and SE 15th Street in the City of Vancouver. In order to facilitate the project, the City changed the comprehensive plan designation for the property from Urban Low Density Residential to Urban High Density Residential and the zoning from R-6 to R-22. Additionally, the City and project applicant entered into a development agreement, which included a number of development concessions including the requirements for enhanced landscape buffering, enhanced setbacks, and affordable housing in the project. Specifically, the development agreement required that the project include 5% of the total units as covenanted affordable housing for those making no more than 80% of the medium income for a period of 25 years. With this requirement, the project will play an important role in bringing covenanted affordable housing to the City of Vancouver, at a time when such housing is critically needed.

Due to continued challenges with multifamily housing financing, it is unlikely that the applicant can advance and build the project in the timeline consistent with the City's goals. However, if the project could avail itself to the tax incentives that the City already offers as part of the Multifamily Housing Tax Exemption (MHTE) program, the project could provide additional affordable housing and – importantly – move forward to the development and construction stages. As such, we respectfully request that the City open negotiations with the applicant to amend the development agreement in order to have the project participate in the framework that already exists under the City's MHTE program.

November 27, 2024

Page 2

Doing so would increase the covenanted affordable housing in the project fourfold, from 5% to 20%. In return the project would receive a 12-year ad valorem tax exemption that would bolster underwriting and facilitate financing.

Importantly, the project is immediately adjacent to the existing MHTE boundary. Additionally, based on a review of the boundary itself, it is likely the City would have included the underlying property within the MHTE boundary had the new comprehensive plan and zoning been in place at the time of boundary adoption. For these reasons, we believe that negotiating an amendment to the development agreement that would increase affordable housing in the project in return for tax abatement is wholly in alignment with the City's goals under the comprehensive plan.

We thank you for considering our request and hope to work collaboratively to bring this important project to fruition for the benefit of all Vancouver residents.

Sincerely,

JORDAN RAMIS PC



Jamie D. Howsley

Admitted in Oregon and Washington

cc (via email: council@cityofvancouver.us):

Mayor Pro Tem Paulsen, Seat 2

Councilor Kim Harless, Seat 1

Councilor Diana Perez, Seat 3

Councilor Bart Hansen, Seat 4

Councilor Ty Stober, Seat 5

Councilor Sarah Fox, Seat 6

City Manager Lon Pluckhahn, CMO@cityofvancouver.us

Client

AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and the Vancouver Municipal Code (VMC) Title 20; amending the Capital Facilities Plan 6-year project list, a part of the Vancouver Comprehensive Plan 2011-2030; amending VMC 20.210, 20.245, 20.290, 20.320, 20.330, and 20.430; providing for severability; and establishing an effective date.

Staff Report: 017-25

To: Mayor and City Council
From: City Manager
Date: February 3, 2025

Subject

2024 Comprehensive Plan and Zoning Text Changes

Key Points

- Minor Comprehensive Plan or zoning code changes are typically reviewed annually. In advance of the 2025 Comprehensive Plan and zoning code update, Resolution 4255 limits amendments to those needed to facilitate housing, advance previously adopted actions, avoid sub-optimal outcomes, or ensure development process predictability and clarity.
- Three changes were unanimously recommended by the Vancouver Planning Commission on November 12, 2024, with no public comment submitted. These include updates to Vancouver zoning standards for development project timelines and notification provisions, and the addition of two new individual projects to the Capital Facilities Plan portion of the Comprehensive Plan.
- Two additional changes are also recommended, one to amend zoning standards to prohibit new drive through facilities in the downtown CX zone following recent inquiries, and one to add another individual project to the Capital Facilities Plan as originally recommended by the Planning Commission in 2023 but accidentally left out of the package of changes that Council reviewed and adopted.

Strategic Plan Alignment

Safe and Prepared Community – a safe place to live, work, learn and play

Housing and Human Needs – meeting basic needs and partnering with organizations to support the community

High Performing Government – a government that is reliable, fiscally responsible, equitable, and open to compromise

Present Situation

City code currently requires review of Type III applications within 120 days. The proposed code change would allow review to extend to 170 days as allowed by recent statutory changes while retaining 120 days an internal goal, in recognition that the number of outlying complex cases may increase in the face of significant upcoming code changes. The recent statutory requirement to shorten required review timelines of Type II applications may require some shifting of staff resources to those applications, and the new Comprehensive Plan and zoning standards required to be adopted

in December 2025 in compliance with aggressive new housing mandates may increase the number of complex cases, particularly in the initial years after adoption.

City code currently prohibits downtown drive through facilities only in the case of artisanal uses, but allows them for all other types of uses. This appears to have been an oversight. Existing Downtown Design Guidelines prohibit drive through facilities for all uses, but these are not legally mandatory without similar language in the development code.

Advantage(s)

1. Proposed changes to notice timelines would make City standards consistent with allowances of state law, and preserve procedural flexibility for complex projects that may be needed with increasing levels of development and legislative mandates.
2. Proposed additions of individual projects to the Capital Facilities Plan project list make them eligible for grant funding by explicitly demonstrating the projects are consistent with the Comprehensive Plan.
3. The proposed prohibition of drive-through facilities downtown fosters a vibrant and walkable downtown environment, and consistency with existing downtown Design Guidelines.

Challenge(s)

None

Budget Impact

No significant impacts are anticipated.

Prior Council Review

- [December 16, 2024 – Communications](#)
- January 27, 2025 - Consent Agenda

Action Requested

On Monday, February 3, 2025, upon second reading and a public hearing, approve the ordinance.

Staff Contact

Bryan Snodgrass, Principal Planner, bryan.snodgrass@cityofvancouver.us

Attachments:

1. Presentation
2. Ordinance



CITY OF
Vancouver
WASHINGTON

2024 Comprehensive Plan and Zoning Code Text Changes

Bryan Snodgrass

Principal Planner, Community Development
Department

City Council First Reading January 27, Public Hearing February 3, 2025



Agenda

- Staff presentation of proposed changes – updated application processing timelines, updated submittal requirements, new individual capital facilities plan projects, codification of downtown drive through prohibition
- Council questions, public testimony, Council deliberations and decision



Updated application processing timelines

Triggered by statutory changes (HB 5290)

Permit Review	New GMA requirement	Current City Code	Proposed New City Code
Type I (Ministerial)	Final decision no later than 65 calendar days from receipt of complete application	28 days	No change
Type II (Site Plans and other Administrative Reviews)	No later than 100 days	120 days	100 days
Type III (Subdivisions, Conditional Use Permits and other Public Hearing Review)	No later than 170 days	120 days	170 days. City will continue to use current 120-day timeline as internal goal.



Updated application submittal requirements

- Due to increasing development, shortened timelines, more nearby properties, budget constraints
- Shifts notification burden on applicants for addresses, labelled envelopes, postage



New individual projects in Capital Facilities Plan list

To support project grants

- NE 18th Street Powerline Trail
- Downtown Library/Riverwest Parking Structure and Parking Extension Projects (Planning Commission reviewed in 2023)



Codified prohibition of downtown drive-throughs

Triggered by recent inquiry

- Downtown Design Guidelines currently prohibit
- CX zone current only prohibits, but only for artisanal uses



Discussion



Thank You



ATTACHMENT – ORDINANCE FOR COMPREHENSIVE PLAN AND ZONING TEXT CHANGES

01/27/25 (Date of First Reading)

02/03/25 (Date of Public Hearing)

ORDINANCE NO. M_____

AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and the Vancouver Municipal Code (VMC) Title 20; amending the Capital Facilities Plan 6-year project list, a part of the Vancouver Comprehensive Plan 2011-2030; amending VMC 20.210, 20.245, 20.290, 20.320, 20.330, and 20.430; providing for severability; and establishing an effective date.

WHEREAS, pursuant to the Washington Growth Management Act (Chapter 36.70a RCW) the City Council has adopted a Comprehensive Plan for the City of Vancouver (Ordinance M-3994), and Title 20 zoning standards (last amended through Ordinance M-4034); and

WHEREAS, the cumulative environmental impacts of the proposed 2024 Comprehensive Plan and zoning changes have been reviewed and determined to be nonsignificant pursuant to the State Environmental Policy Act (SEPA). A Determinations of Non-significance (DNS) was issued on October 9, 2024 for the proposed text changes, and no SEPA comments or appeals were received; and

WHEREAS, the Vancouver Planning Commission reviewed proposed changes at duly advertised public meeting workshop on September 10, 2024 and a duly advertised public hearing on November 12, 2024, and at that hearing voted to recommend approval of the Comprehensive Plan and zoning text amendments described herein for adoption to the City Council; and

WHEREAS, the Vancouver City Council conducted a communications discussion

regarding proposed changes at its duly advertised public meeting on December 16, 2024, following which Council agreed with the Planning Commission recommendations, and also supported an additional zoning code text change to provide clarifying language making explicit current planning intent and two Comprehensive Plan text changes incorporating individual Capital Facilities Plan projects previously evaluated and recommended for approval and inclusion by the Planning Commission following a duly advertised public hearing on October 10, 2023 but inadvertently omitted from Ordinance M-4034 and such additional changes are presented in compliance with RCW 36.70A.035;

WHEREAS, City Council conducted a duly advertised public first reading proposing this ordinance on January 27, 2025 and a duly advertised public hearing on February 3, 2025; and

WHEREAS, City Council finds and concludes that the proposed changes are consistent with the policies and provisions of the Comprehensive Plan that encourage orderly development within the community and the Growth Management Act pursuant to the requirements of Chapter 36.70A. RCW; and

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Findings and Conclusions. The Planning Commission findings and conclusions as set forth in the staff report for the November 12, 2024 public hearing, and Commission discussions at those hearings, and the findings and conclusions set forth in the staff memo for the December 16, 2024 City Council regular public meeting, and as presented by staff and discussed by City Council at that December 16, 2024 meeting, are hereby adopted as the City Council's findings of fact and legislative conclusions; and

Section 2. Comprehensive Plan Text Changes. The Vancouver Capital Facilities 6-year project list, adopted by reference in Appendix E of the Vancouver Comprehensive Plan 2011-2030, adopted through Ordinance M-3994, is amended to include the following projects:

- a. Library Square/Riverwest Parking Structure
- b. Downtown Parking Extension Project
- c. 18th Street Corridor Powerline Trail

Section 3. Zoning Code Text Changes.

A. VMC 20.210.050, which was adopted by Ordinance 3643 is amended as follows:

20.210.050 Type II Applications.

A. *Pre-application conference.* A pre-application conference is required for all Type II applications, unless waived under Section [20.210.080\(B\)](#) VMC before a Type II application is submitted. Pre-application conference requirements and procedures are set forth in Section [20.210.080](#) VMC.

B. *Application requirements.*

1. *Application forms.* Type II applications shall be made on forms provided by the planning official.

2. *Submittal information.* Type II applications shall:

- a. Include the information set forth in the chapter of this title governing the permit requested;
- b. Address the relevant criteria applicable to the permit requested in sufficient detail for review and action; and
- c. Be accompanied by the required fees.

C. *Counter-complete determination.* At the time of application submittal, the city shall make a determination of counter-complete status pursuant to Section [20.210.090](#) VMC.

D. *Fully-complete determination.* No later than 28 calendar days after receipt of a counter-complete Type II application, the planning official shall notify the applicant as to the completeness of the application. Determination of fully-complete status shall be pursuant to Section [20.210.100](#) VMC. An application shall not be deemed fully complete until all

information listed in the code applicable to the action requested and/or in the pre-application conference summary is submitted.

E. *Notice of Application.* Within 14 calendar days after the date a Type II application is determined fully complete, the planning official shall issue a Notice of Application which shall include all of the following:

1. The case file number(s), the date of application, and the date a fully complete application was filed;
2. A description of the proposed project, and a list of project permits included with the application, as well as the identification of other permits not included in the application, to the extent known to the city;
3. The proposed SEPA Threshold Determination, if the Optional SEPA Process is used; whether the application is categorically exempt from SEPA, the deadline for submitting comments or appeals under Chapter [20.790](#) VMC, if applicable, or other matters covered by SEPA;
4. The identification of any existing environmental documents that may be used to evaluate the proposed project;
5. A statement of the public comment period, a statement that the public has the right to comment on the application, receive notice of the decision, request a copy of the decision once made, and a notice of any appeal rights;
6. An indication that failure of any party to address the relevant approval criteria with sufficient specificity may preclude subsequent appeals on that issue. Comments directed at the relevant approval criteria are what constitute relevant evidence;
7. An indication that all evidence relied upon by the planning official to make the decision shall be contained within the record and is available for public review. Copies of this evidence can be obtained at a reasonable cost from the planning official;
8. The name of the applicant or applicant's representative and the name, address, and telephone number of a contact person for the applicant, if any;
9. A description of the site, including current zoning and nearest road intersections, sufficient to inform the reader of its location and zoning;
10. A map showing the subject property in relation to other properties or a reduced copy of the site plan;
11. The date, place, and times where information about the application may be examined and the name and telephone number of the city representative to contact about the application;
12. An indication that after the comment period closes, the planning official shall issue a Type II Notice of Decision; and

13. Any additional information determined appropriate by the planning official.

F. *Distribution of Notice of Application.* The Notice of Application shall be published in a newspaper of local circulation and sent to the following persons by regular mail:

1. The applicant and all owners of the site which is the subject of the application;
2. All owners and residents of record of property as shown on the most recent property tax assessment roll, located within 500 feet of the site;
3. Any city recognized neighborhood association whose boundaries include the site;
4. City recognized neighborhood associations adjacent to the city recognized neighborhood association whose boundaries include the site;
5. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the city which includes provision for such notice or which is otherwise entitled to such notice;
6. Any person who requested, in writing, to receive a copy of the Notice of Application.

G. *Comment period.* The planning official shall allow 14 calendar days after the date of Notice of Application is mailed and published in the paper for individuals to submit comments. Within seven calendar days after the close of the public comment period, the Planning official shall mail to the applicant a copy of written comments, including email communications, timely received in response to the Notice of Application together with a statement that the applicant may submit a written response to the comments of the planning official within 14 calendar days from the date the comments are mailed. The planning official in making his decision shall consider written comments timely received in response to the Notice of Application and timely written responses to those comments, including e-mail communications, submitted by the applicant.

H. *Timeline to make Final Decision.* The Final Decision on a Type II application shall be made and mailed pursuant to Section [20.210.050\(I\)](#) VMC not more than **100 120 calendar days** (90 days for short subdivisions) after the date a fully complete determination is made. This period shall not include:

1. Time spent by the applicant to revise plans or provide additional studies or materials requested by the city.
2. Time spent preparing an environmental impact statement.
3. Time between submittal and resolution of an appeal.
4. Any extension of time mutually agreed upon by the applicant and the city in writing.

I. *Final Decision.* The Final Decision on a Type II application shall contain the following information:

1. The nature of the application in sufficient detail to apprise persons entitled to notice of the applicant's proposal and of the decision;
 2. The address or other geographic description of the subject property, including a map of the site in relation to the surrounding area, where applicable;
 3. The date the planning official's decision shall become final, unless appealed;
 4. A statement that all persons entitled to notice or who have standing under Section [20.210.130\(B\)\(2\)](#) VMC may appeal the decision;
 5. A statement in boldface type briefly explaining how an appeal can be filed, the deadline for filing such an appeal, and where further information can be obtained concerning the appeal;
 6. A statement that the complete case file, including findings, conclusions and conditions of approval, if any, is available for review. The notice shall list the place, days and times where the case file is available and the name and telephone number of the city representative to contact about reviewing the case file;
 7. A statement of the applicable criteria and standards pursuant to the Vancouver Municipal Code and other applicable law;
 8. A statement of the facts demonstrating how the application does or does not comply with applicable approval criteria;
 9. The reasons for a conclusion to approve, approve with conditions or deny the application;
 10. The decision to approve or deny the application and, if approved, conditions of approval necessary to ensure the proposed development will comply with applicable law;
 11. The date the Final Decision is mailed; and
 12. A copy of the mailing labels showing (1) the persons who were mailed the Final Decision, and (2) the persons who were mailed the Notice of Decision.
- J. *Distribution of the Final Decision.* The planning official shall provide an affidavit of mailing of the Final Decision as part of the file. The Final Decision shall indicate the date the Final Decision was mailed and demonstrate that the required Final Decision was mailed to the necessary parties in a timely manner. A Final Decision shall be sent by regular mail to:
1. The applicant and all owners of the site which is the subject of the application;
 2. Any city recognized neighborhood association whose boundaries include the boundaries of the project site;
 3. City recognized neighborhood associations adjacent to the city recognized neighborhood association whose boundaries include the site;

4. Any person who requested, in writing, to receive a copy of the Final Decision of the planning official; and

K. *Notice of Decision.* A Notice of Decision shall include the information contained in Sections [20.210.050](#)(l)(1)-(6), (10) and (11) VMC above.

L. *Distribution of Notice of Decision.* The planning official shall provide an affidavit of mailing of the Notice of Decision as part of the file. The Notice of Decision shall indicate the date the notice was mailed and demonstrate that the required notice was mailed to the necessary parties in a timely manner. A Notice of Decision shall be sent on the same day as the Final Decision by regular mail to:

1. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the city which includes provision for such notice or who is otherwise entitled to such notice;

2. Any person who provided written comments on the application during the public comment period and provided a mailing address.

M. *Final Decision and effective date.* A Type II decision is subject to the required appeal period when the Final Decision and the Notice of Decision are mailed. A Type II decision becomes effective on the day after the appeal period expires, unless an appeal is filed, in which case the procedures of Section [20.210.130](#) VMC shall apply. (Ord. M-3643, 01/26/2004)

20.210.060 Type III Applications.

A. *Pre-application conference.* A pre-application conference is required for all Type III applications, unless waived under Section [20.210.080\(B\)](#) VMC before a Type III application is submitted. Pre-application conference requirements and procedures are set forth in Section [20.210.080](#) VMC.

B. *Application requirements.*

1. *Application forms.* Type III applications shall be made on forms provided by the planning official.

2. *Required submittals.* Type III applications shall:

a. Include the information set forth in the chapter of this title governing the action requested;

b. Address the relevant criteria applicable to the action requested in sufficient detail for review and action; and

c. Be accompanied by the required fees.

C. *Counter-complete determination.* Section [20.210.050\(C\)](#) VMC shall apply to Type III applications.

D. *Fully-complete determination.* Section [20.210.050\(D\)](#) VMC shall apply to Type III applications.

E. *Notice of Application/Hearing.* Within 14 calendar days after the date a Type III application is determined fully complete, the planning official shall issue a Notice of Application to a newspaper of local circulation and to the parties listed in Section [20.210.050\(F\)](#) VMC which shall include:

1. The case file number(s), the date of application, and the date a fully complete application was filed;
2. A description of the proposed project and a list of project permits included with the application, as well as the identification of other permits not included in the application, to the extent known to the city;
3. The proposed SEPA Threshold Determination, if the Optional SEPA Process is used; whether the application is categorically exempt from SEPA, the deadline for submitting comments or appeals under Chapter [20.790](#) VMC, if applicable, or other matters covered by SEPA;
4. The identification of any existing environmental documents that may be used to evaluate the proposed project;
5. A statement of the public comment period; a statement that the public has the right to comment on the application, receive notice of and participate in any hearings, and request a copy of the decision once made; and a notice of any appeal rights;
6. The date, time, place, and type of hearing, if established at the time of the Notice of Application. If the hearing date has not been established at the time of issuance of the Notice of Application, the notice of hearing procedures of [20.210.120\(B\)\(1\)](#) and (2) shall apply;
7. A statement that a consolidated staff report and SEPA review will be available for inspection at no cost at least 10 calendar days before the public hearing and the deadline for submitting written comments;
8. The name of the applicant or applicant's representative and the name, address and telephone number of a contact person for the applicant, if any;
9. A description of the site, including current zoning and nearest road intersections, reasonably sufficient to inform the reader of its location and zoning;
10. A map showing the subject property in relation to other properties or a reduced copy of the site plan;

11. The date, place, and times where information about the application may be examined and the name and telephone number of the city representative to contact about the application;

12. The designation of the review authority, and a statement that the hearing will be conducted in accordance with the rules of procedure adopted by the review authority;

13. Any additional information determined appropriate by the planning official.

F. *Comment period.* The planning official shall allow 30 calendar days after the date of Notice of Application is mailed and published in the paper for individuals to submit comments. Within seven calendar days after the close of the public comment period, the planning official shall mail to the applicant a copy of written comments, including email communications, timely received in response to the Notice of Application together with a statement that the applicant may submit a written response to the comments of the planning official within 14 calendar days from the date the comments are mailed. The planning official in making his decision shall consider written comments timely received in response to the Notice of Application and timely written responses to those comments, including e-mail communications, submitted by the applicant.

G. *Timeline to Make Final Decision.* The Final Decision on a Type III application shall be made and mailed pursuant to Section [20.210.050\(H\)\(1\)](#) VMC not more than **170-120-calendar days** (90 days for subdivisions) after the date a fully-complete determination is made. This period shall not include:

1. Time spent by the applicant to revise plans or provide additional studies or materials requested by the city.
2. Time spent preparing an environmental impact statement.
3. Time between submittal and resolution of an appeal.
4. Any extension of time mutually agreed upon by the applicant and the city in writing.

H. *Hearing Procedures and Final Decision.* Section [20.210.120\(B\)\(1\)\(b\)-\(d\)](#) and (B)(3)-(14) VMC shall govern the hearing procedures and Final Decision for a Type III application.

I. *Distribution of Final Decision.* Section [20.210.120\(B\)\(11\)](#) VMC shall govern distribution of a Final Decision on a Type III application.

J. *Distribution of Notice of Decision.* Section [20.210.120\(B\)\(13\)](#) VMC shall govern distribution of Notice of Decision on a Type III application.

K. *Appeal.* [20.210.130](#) VMC shall govern an appeal of a Final Decision on a Type III application. (Ord. M-3643, 01/26/2004)

B. VMC 20.245.030, which was adopted by Ordinance M-3643, and last amended by M-4325, is amended as follows

20.245.030 Submission Requirements

A. *Submission requirements.* The applicant must submit a completed application form as prescribed by the planning official with applicable fee per Chapter [20.180](#) VMC, containing the following information:

1. Narrative describing the proposed uses for the site, hours of operation, hours and the frequency of deliveries, and construction schedule.
2. Drawn to scale site plan, legible for digital reproduction, showing accurate representation of the size and shape of the parcel(s), including easements of any kind, all dimensions, and parcel orientation. Include north arrow.
3. Locations, dimensions, and height of all existing and proposed buildings and structures, including garages, carports, decks, patio covers, and other accessory structures. Include dimensions from each other and from all property lines. Show dimensions from each other and from all property lines. Show dimension of eaves projecting beyond a wall or supporting post. Indicate usage of all structures.
4. Location, height, and material of fences, buffers, berms, walls, and other proposed screening. Note the location and dimensions of area of terraces, decks, shelters, and play areas.
5. Lighting plan. This plan shall show all proposed fixtures on-site and within rights-of-way. Show all existing above and underground power lines. (This plan will be routed to Clark County PUD by a city workgroup for comments and compliance with standards.)
6. Location and detailed layout of vehicle access, site circulation, off-street parking and loading areas, lighting, landscaping, and buffering as required by Chapter [20.925](#) VMC. Include handicap parking stalls and disembarking areas, accessible route of travel, proposed ramp, and signage, as required by the most current version of the Washington Administrative Code governing accessibility for disabled persons. Include location and screening for proposed solid waste and recyclables storage areas.
7. Summary table which includes parcel zone, total site area, gross floor area by use (e.g., manufacturing, office, retail, storage), itemized number of full size, compact and handicap parking stalls and the collective total number, total lot coverage proposed, and amount of landscaped area.
8. *Certified mailing list.* Certified mailing list. Current Clark County assessor map(s) showing the property(ies) within a 500-foot radius of the site, per the requirements in VMC [20.210.050](#) and [20.210.060](#), decision-making procedures, and **one set of stamped and addressed envelopes and two sets one set** of mailing labels with the names and addresses of owners of all properties within the 500-foot radius. Such list shall be certified as accurate and complete by the Clark County assessor or a title company. For non-owner-occupied properties, provide **one set of stamped and addressed envelopes and one set of** mailing labels addressed to "occupant" as can be determined from available county assessor records **(two copies)**.

C. VMC 20.245.030, which was adopted by Ordinance M-3643, and last amended by M-3840, is amended as follows

20.290.030 Submission Requirements

A. *Application – Fees.* The applicant must submit a completed application form as prescribed by the planning official with applicable fee per Chapter [20.180](#) VMC.

B. *Required information.*

1. Narrative statement describing the requested variance(s) and demonstration of compliance to the appropriate approval criteria contained in VMC [20.290.040](#).
2. A site plan drawn to scale legible for digital reproduction showing the arrangement of the proposed development, and accurate representation of the size and shape of the parcel(s) including easements of any kind, all dimensions and parcel orientation. Include appropriate scale and north arrow.
3. Locations, dimensions and height of all existing and proposed buildings and structures, including garages, carports, fences, decks, patio covers and other accessory structures. Include dimensions from each other and from all property lines. Show dimension of eaves projecting beyond a wall or supporting post. Indicate usage of all structures.
4. Elevation of site at two-foot contour intervals for grades zero to 10 percent and at five-foot contour intervals for grades greater than 10 percent.
5. Existing and proposed curbs, sidewalks and curb-cuts. Indicate center line of street(s).
6. Location and detailed layout of off-street parking and loading areas.
7. Location of unstable ground, including high seasonal water table, impermeable soils, areas having a severe soil erosion potential, areas having severely weak foundation soils, significant historical, cultural or archaeological resources, significant wildlife habitat, and rock outcroppings. Note if none of these apply.
8. Archaeological pre-determination report, if necessary.
9. The approximate location and type of vegetation, including individual trees that have a diameter of six inches or more measured four feet above grade. The plan may show clusters of such trees rather than individual trees when individual trees are near one another. Provide proposed plan for compliance with Chapter [20.770](#) VMC, Tree Conservation, if necessary.
10. *Certified mailing list (Type II only).* Current Clark County assessor map(s) showing the property(ies) within a 500-foot radius of the site, per the requirements in VMC [20.210.050](#) and [20.210.060](#), decision-making procedures, and **one set of stamped and addressed envelopes and two sets one set** of mailing labels with the names and addresses of owners of all properties within the 500-foot radius. Such list shall be certified as accurate and complete by the Clark County assessor or a title company. For non-owner-occupied properties,

provide **one set of stamped and addressed envelopes and one set of** mailing labels addressed to "occupant" as can be determined from available county assessor records **(two copies)**.

ATTACHMENT B - UPDATED NOTIFICATION REQUIREMENTS

The following changes are to VMC 20.245.030.A.8.035 Submission Requirements {for Conditional Use Permits}; VMC 20.290.035.A.10 Submission Requirements {for Variances}; VMC 20.320.030.B.4.i Submission Requirements {for Subdivisions}; and VMC 20.330.030.B.4.h Submission Requirements {for Binding Site Plans}

Certified mailing list. Current Clark County assessor map(s) showing the property(ies) within a 500-foot radius of the site, per the requirements in VMC [20.210.050](#) and [20.210.060](#), decision-making procedures, and **one set of stamped and addressed envelopes and two sets one set** of mailing labels with the names and addresses of owners of all properties within the 500-foot radius. Such list shall be certified as accurate and complete by the Clark County assessor or a title company. For non-owner-occupied properties, provide **one set of stamped and addressed envelopes and one set of** mailing labels addressed to "occupant" as can be determined from available county assessor records **(two copies)**.

D. VMC 20.320, Subdivisions, which was adopted by Ordinance M-3643 and last amended by M-4402, is amended as follows:

20.320.30 Preliminary Plat Application Requirements

A. *Application – Fees*. The applicant must submit a completed application form as prescribed by the planning official with applicable fee per Chapter [20.180](#) VMC.

B. *Submittal Requirements*. Applications for preliminary short subdivisions or subdivisions shall be on a scale legible for digital reproduction and shall include the following:

1. *Existing conditions plan*. The existing conditions plan shall include pertinent survey data compiled as a result of a survey made by or under the supervision of a licensed land surveyor in the state of Washington and shall include the following information:

- a. A vicinity map showing streets and access points, pedestrian and bicycle pathways, transit stops and utility locations within a 500-foot radius of the site;
- b. The site size, dimensions and orientation relative to true north;
- c. Remaining easements;
- d. The location, name and dimensions of public and private streets adjoining the site, identifying whether the streets are public or private;
- e. Location, dimension, and purpose of existing easements;

- f. The location of existing structures and other improvements on the site, including buildings, driveways, parking, loading, pedestrian and bicycle paths, passive or active recreational facilities or open space and utilities;
 - g. Elevation of the site at two-foot contour intervals for grades zero percent to 10 percent and at five-foot contour intervals for grades more than 10 percent;
 - h. The location of natural conditions such as:
 - i. Water bodies, the 100-year floodplain, aquatic habitats, natural drainage courses, wetlands, springs, seeps, closed depression areas, groundwater elevations, aquifers, and wellhead protection areas;
 - ii. Geological hazard areas such as slopes in excess of 15 percent, unstable or weak soils, soils with high erosion potential, rock outcroppings, and areas of healthy native soils and hydraulic conductivity;
 - iii. Existing vegetation including stands of trees and individual trees, additional information necessary to comply with Chapter [20.770](#) VMC, Tree, Vegetation, and Soil Conservation, and areas of wildlife habitat.
2. *Preliminary plat.* The proposed preliminary plat shall include the name of the subdivision or short subdivision which shall not be named the same as an existing plat recorded in Clark County, Washington, along with the following:
- a. The proposed site and its dimensions and area.
 - b. Proposed lots, tracts and easements, including dimensions, individual lot areas and total acreage.
 - c. Abutting properties or, if abutting properties extend more than 100 feet from the site, the portion of abutting properties within 100 feet of the site, and the approximate location of structures and uses on abutting property or portion of the abutting property.
 - d. The location and dimensions of development, including but not limited to the following:
 - i. Streets and other rights-of-way and public or private access easements on and adjoining the site;
 - ii. Vehicle and bicycle parking and pedestrian bicycle and vehicular circulation areas;
 - iii. Loading and service areas;
 - iv. Active or passive recreational or open space features;
 - v. All utilities;
 - vi. Existing structures to be retained on the site and their distance from proposed property lines;
 - vii. Proposed structures on the site, including signs and fences, and their distance from property lines if known at time of land division;

viii. The location and type of proposed outdoor lighting and existing lighting to be retained if known at time of land division; and

ix. Boundary delineation of any wetlands including required buffers and shoreline setback lines if applicable.

3. *Narrative.* The narrative shall include the following:

a. A comprehensive narrative addressing how the development complies with preliminary plat approval criteria in VMC [20.320.040](#) and the technical standards in VMC [20.320.070](#); other applicable standards of this title and the policies of the comprehensive plan outlined by staff as being applicable to the proposed development;

b. Description of the uses proposed for the site;

c. Phasing plan, if applicable;

d. Any variances requested pursuant to the regulations in Chapter [20.290](#) VMC;

e. Existing covenants or restrictions and easements, if applicable; and

f. History of any previous subdivisions and short subdivisions of the property.

4. *Supplementary information.* The following supplemental information shall also be submitted unless otherwise indicated in parentheses:

a. Environmental checklist that complies with Chapter [20.790](#) VMC, SEPA Regulations (if applicable);

b. Legal description;

c. Geotechnical/soils survey, if applicable;

d. Tree, vegetation, and soil plan that complies with the requirements of Chapter [20.770](#) VMC, Tree, Vegetation, and Soil Conservation;

e. *Preliminary grading, erosion prevention and stormwater plans.*

i. Grading plan indicating areas of soil protection and compaction prevention;

ii. Erosion prevention measures as required in Chapter [14.24](#) VMC; and

iii. Stormwater site plan as required in Chapter [14.25](#) VMC.

f. Archaeological predetermination report, if applicable, that complies with the requirements of Chapter [20.710](#) VMC, Archaeological Resource Protection;

g. *Repealed by* [Ord. M-4402](#).

h. Clark County public health development review evaluation form or copy of application to Clark County public health;

i. Certified mailing list. Current Clark County assessor map(s) showing the property(ies) within a 500-foot radius of the site, per the requirements in VMC [20.210.050](#) and [20.210.060](#),

decision-making procedures, and one set of stamped and addressed envelopes and two sets one set of mailing labels with the names and addresses of owners of all properties within the 500-foot radius. Such list shall be certified as accurate and complete by the Clark County assessor or a title company. For non-owner-occupied properties, provide one set of stamped and addressed envelopes and one set of mailing labels addressed to "occupant" as can be determined from available county assessor records (two copies).

E. VMC 20.330, Binding Site Plans, which was adopted by Ordinance M-3643 and last amended by M-4438, is amended as follows:

C. Preliminary plat information. The applicant shall provide the following information:

1. *Existing conditions plan.* The following information shall be provided on one or more to-scale drawings:

- a. A vicinity map showing streets and access points, pedestrian and bicycle pathways, transit stops and utility locations within a given radius of the site;
- b. The site size, dimensions and orientation relative north;
- c. The location, name and dimensions of public and private streets adjoining the site;
- d. The location of existing structures and other improvements on the site, including structures, driveways, parking, loading, pedestrian and bicycle paths, passive or active recreational facilities or open space and utilities;
- e. Elevation of the site at two-foot contour intervals for grades zero to 10 percent and at five-foot contour intervals for grades more than 10 percent;
- f. The approximate location of significant natural conditions as available from the city's and/or county's GIS system such as:
 - i. The 100-year flood plain;
 - ii. The location of drainage patterns and drainage courses;
 - iii. Unstable ground (lands subject to slumping, slides or movement);
 - iv. High seasonal water table or impermeable soils;
 - v. Areas having severe soil erosion potential;
 - vi. Areas having severe weak foundation soils;
 - vii. Significant wildlife habitat or vegetation;
 - viii. Slopes in excess of 15 percent;
 - ix. Significant historic, cultural or archaeological resources, rock outcroppings;
 - x. Location, dimensions, and purpose of existing easements.

2. *Preliminary Binding Site Plan.* The proposed preliminary binding site plan shall include the following information presented on one or more drawings:

- a. The proposed site and its dimensions and area.
- b. Proposed lots, tracts and easements including dimensions and total acreage.
- c. Abutting properties or, if abutting properties extend more than 100 feet from the site, the portion of abutting properties within about 100 feet of the site, and the approximate location of structures and uses on abutting property or portion of the abutting property.
- d. The location and dimensions of development if proposed, including the following:
 - i. Streets and other rights-of-way and public or private access easements on and adjoining the site;
 - ii. All parking and circulation areas;
 - iii. Loading and service areas;
 - iv. Active or passive recreational or open space features;
 - v. All utilities;
 - vi. Existing structures to be retained on the site and their distance from property lines;
 - vii. Proposed structures on the site, including signs, fences, etc., and their distance from property lines if known at time of land division; and
 - viii. The location and type of proposed outdoor lighting and existing lighting to be retained if known at time of land division;
 - ix. Location, dimensions, and purpose of existing easements.

3. *Narrative.* A Preliminary plat application shall include the following:

- a. A comprehensive narrative addressing how the development complies with the technical standards in VMC [20.320.070](#); other applicable standards of this Title [20](#) and the applicable plan policies of the Comprehensive Plan outlined by staff as being applicable to the proposed development
- b. Description of the uses proposed for the site;
- c. Phasing plan, if applicable;
- d. Construction schedule;
- e. Any variances requested pursuant to the regulations in Chapter [20.270](#) VMC;
- f. Existing covenants or restrictions and easements, if applicable; and
- g. History of any previous subdivisions and short subdivisions of the property.

4. *Supplementary information.* The following supplemental information shall also be submitted unless otherwise indicated in parenthesis:

- a. Environmental checklist that complies with Chapter [20.790](#) VMC, SEPA Regulations, if applicable;
- b. Geotechnical/soils survey, if applicable;
- c. Tree plan that complies with the requirements of Chapter [20.770](#) VMC, Tree, Vegetation, and Soil Conservation, if applicable;
- d. Preliminary stormwater and erosion control plans as governed by Chapter [14.25](#) VMC, Stormwater Control, and Chapter [14.24](#) VMC, Erosion Control, if applicable;
- e. Landscape plan, if known at the time of land division, that complies with the requirements of Chapter [20.925](#) VMC, Landscaping. If applicable, the landscape plan shall be drawn at the same scale as the existing conditions plan, or a larger scale if necessary. Where proposed development affects only a portion of a site, the landscape plan need show only the areas where existing soil contours and vegetation will be disturbed by the construction or use, or other areas where landscaping is required. Note: many aspects of this plan, including street trees, may already be incorporated into the Tree Plan;
- f. Archaeological Pre-Determination Report, if applicable, that complies with the requirements of Chapter [20.710](#) VMC, Archaeological Resource Protection (two copies);
- g. Clark County Public Health Development Review Evaluation Form;
- h. *Certified mailing list*. Current Clark County assessor map(s) showing the property(ies) within a 500-foot radius of the site, per the requirements in Chapter [20.210](#) VMC, Decision Making Procedures, and **one set of stamped and addressed envelopes and two sets one set** of mailing labels with the names and addresses of owners of all properties within a 500-foot radius certified as accurate and complete by the Clark County assessor or a title company. For non-owner-occupied properties, provide **one set of stamped and addressed envelopes and one set of** mailing labels addressed to "occupant" as can be determined from available County assessor records.

F. VMC 20.430, Commercial and Mixed Use Districts, which was adopted by Ordinance M-3643 and last amended by M-4341, is amended as follows:

20.430.050 Special Limitations on Uses

A. *CX, CC, CG and HX Zones*. The following special use limitations apply:

1. *Artisan and Specialty Goods Production Uses*.

a. The artisan and specialty goods production structure shall not encompass more than 10,000 square feet of area. The 10,000 square feet total shall include all storage areas associated with the manufacturing operation. These types of uses are limited in size to assure that they will not dominate the commercial area and to limit the potential impacts on residential and commercial uses. Upon application the planning official may increase the

square feet of area by no more than 20 percent if it is determined that the additional area will not adversely impact neighboring uses and improvements, and will be consistent with the intent of the zoning district.

b. All activities except loading shall occur within buildings; outdoor storage/repair is prohibited.

c. All artisan and specialty goods production uses are required to accommodate public viewing or a customer service space as defined below.

i. Public viewing shall be accomplished with windows or glass doors covering at least 25 percent of the front of the building face abutting the street or indoor lobby wall, allowing direct views of manufacturing; openings between the display or lobby area and manufacturing/work space may be reduced below 25 percent where fire rated separation requirements restrict opening size as determined by the planning official; or

ii. A customer service space includes a showroom, tasting room, restaurant, or retail space.

Bd. In the CX zone, dD Drive-through facilities are prohibited.

Section 4. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any parts thereof to any other person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 5. Effective Date. This ordinance shall go into effect 30 days after adoption.

Section 6. Instruction to City Clerk. The City Clerk shall transmit a copy of the revised development code to the Washington Department of Commerce.

DATE OF FINAL PASSAGE at a Regular Meeting of the Vancouver City Council: _____.

SIGNED this _____ day of _____, 2025

Anne McEnerny-Ogle, Mayor

Attest:

Natasha Ramras, Chief Financial Officer

Approved as to form:

Nena Cook, Interim City Attorney

SUMMARY

ORDINANCE NO. M_____

AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and the Vancouver Municipal Code (VMC) Title 20; amending the Capital Facilities Plan 6-year project list, a part of the Vancouver Comprehensive Plan 2011-2030; amending VMC 20.210, 20.245, 20.290, 20.320, 20.330, and 20.430; providing for severability; and establishing an effective date.

The full text of this ordinance will be mailed upon request. Contact public records staff at (360) 487-8480, citypdr@cityofvancouver.us, or via [Public Records Request -The City of Vancouver, WA](#).