

September 27, 2021 - Vancouver City Council Meeting Minutes

WORKSHOPS

Workshops were conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting 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, or listen via the GoToMeeting conference call.

Councilmember Stober arrived at 4:29 p.m.

4:00-5:00 p.m. Vancouver Parks, Recreation & Cultural Services Comprehensive Plan 2022-2032 Update

David Perlick, Parks and Recreation Interim Director, 360-487-8309; Monica Tubberville, Senior Planner, 360-487-8353; Laura Hoggatt, Planner

Summary

Staff provided an overview of the most recent work on the process to update the City's Parks, Recreation and Cultural Services Comprehensive Plan for 2022-2032.

5:00-6:00 p.m. Diversity, Equity & Inclusion Update

Alicia Sojourner, Director of Diversity, Equity & Inclusion, 360-487-8618

Summary

Staff provided Council with an overview the City's Diversity, Equity and Inclusion program and previewed work to come.

COUNCIL CONSENT AGENDA MEETING

This meeting was conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting via the live broadcast on www.cvtv.org and CTV 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 via the GoToMeeting conference call.

Call to Order and Roll Call

The consent agenda meeting of the Vancouver City Council was called to order at 6:30 p.m. by Mayor McEnery-Ogle. This meeting was conducted remotely over video conference.

Present: Councilmembers Fox, Paulsen, Lebowsky Glover, Stober, Hansen, Mayor McEnery-Ogle

Absent: None

Proclamation: Good Neighbor Day

Mayor McEnery-Ogle read and presented a proclamation to Judi Bailey, Office of Neighborhoods Coordinator, proclaiming September 28, 2021, as Good Neighbor Day.

Community Communication (Items 1-12)

Mayor McEnery-Ogle opened Community Communication and received the following testimony:

- Glen Yung, Vancouver, spoke in support of the Fourth Plain Commons Project but expressed concerns about waiving Park Impact Fees without backfilling that funding through the City's general fund. He also spoke in support of Item 8 but noted an exhibit was missing from published contract.
- Siobhana McEwan, representing Council for the Homeless, spoke in support of Item 8 and urged the City to support the work of Outsiders Inn.

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

Consent Agenda (Items 1-12)

Mayor McEnerny-Ogle pulled Item 10 to return to staff for further development.

Council requested Items 4, 7, and 8 be pulled for discussion.

Regarding Item 4, Councilmember Stober thanked staff for taking this agreement back to WSDOT to negotiate terms for mutual indemnification.

Motion by Councilmember Stober, seconded by Councilmember Glover, and carried unanimously to approve Item 4.

Regarding Item 7, Councilmember Stober expressed concerns about the size of the impact fees being waived and asked if there was any opportunity for that amount to be covered elsewhere, considering there are a number of partners involved in the project.

City Manager Eric Holmes noted the City's ordinance on impact fee waivers does not differentiate between different funding types or project details. He noted because of the volatility in the construction environment, this project has experienced cost increases that have made the budget tighter.

Councilmember Stober requested Council and staff further explore generally how to be more proactive regarding how to replace funds that are waived in these situations.

Regarding Item 8, Councilmember Stober stated he wants to clarify that in the system of homelessness response, the City of Vancouver is not the entity assigned by the state with the responsibility for homeless services or housing, but the City has proactively made the decision to use general fund and CDBG funding, and Vancouver residents have authorized the Affordable Housing Fund, to make investments in homelessness services as a commitment to the community and unhoused residents.

Councilmember Fox requested Item 8 be moved to later in the agenda after Council has an opportunity to review the exhibit that was missing from the advance documents.

Motion by Councilmember Fox, seconded by Councilmember Stober, and carried unanimously to move Item 8 to follow the Community Forum.

Motion by Councilmember Hansen, seconded by Councilmember Stober, and carried unanimously to approve Items 1-3, 5-7, 9, and 11-12.

- 1. Bid Award - Southside Interceptor CIPP Sewer Rehabilitation Phase 2**

Summary

This project will rehabilitate approximately 2,800 linear feet of existing 36-inch interceptor sewer mains using the trenchless process of Cured-In-Place-Pipe (CIPP). The Southside Interceptor is part of the backbone of the sewer system that transports wastewater to the Westside Reclamation Facility. This project is the result of an interceptor condition assessment project completed in 2016 that provided a list of capital projects needed to maintain the system.

On August 31, 2021, the City received 4 bids for the subject project. The bids ranged between \$976,000 and \$1,562,000.00. The bids are as follows:

SUMMARY OF BIDS	
BIDDER	AMOUNT
<i>Allied Plumbing & Pumps, Wenatchee, WA</i>	<i>\$976,348.10</i>
<i>Iron Horse, LLC, Farview, OR</i>	<i>\$1,390,249.56</i>
<i>Michels Corporation, Salem, OR</i>	<i>\$1,531,673.89</i>
<i>Insituform Technologies LLC, Chesterfield, MO</i>	<i>\$1,561,384.44</i>
<i>Engineers' Estimate</i>	<i>\$1,440,000.00</i>

An Apprenticeship Program Waiver Request was approved for this project. A copy of the waiver request is attached. From experience with past similar CIPP projects the City has confirmed that for rehabilitation projects that utilize CIPP trenchless technology, the labor hours and subsequent labor costs required to complete the project are very low compared to the higher cost of the materials needed. Using the projects that appear in the waiver request, the Central Van North project, which was built with traditional open-trench digging methods, had approximately 47% labor costs and 53% materials/other costs. The Southside Interceptor CIPP project had approximately 14% labor costs and 86% materials/other costs.

Following the City's current apprenticeship policy, this project meets both of the criteria for waiver of an apprenticeship requirement: the project is a high materials cost but low labor hours project, and the contractor will only be allowed 30 working days to complete the work.

Request: Award a contract contract for the Southside Interceptor Phase 2 - CIPP project to the lowest responsive and responsible bidder, Allied Plumbing & Pumps of Wenatchee, WA at their bid price of \$976,348.10, which includes Washington State sales tax.

Sheryl Hale, Senior Engineering Supervisor, 360-487-7151

Motion approved the request.

2. Approval of Cost Increase to Contract No. C-100466 Elevator Maintenance and Services

Staff Report 137-21

Summary

On November 23, 2020, City Council approved a five- (5) year contract with George Elevator Service, LLC for elevator preventative maintenance, on-call services and new installation/additions or required upgrades to the elevator systems with a “not to exceed” cost of \$450,000.00. Facilities received an approved capital budget for upgrade improvements for City Hall (3 elevators) and the Marshall Center (1 elevator), for budget years 2021 and 2022. Currently, City Hall Elevator #1 upgrade is complete, and Elevator #2 parts are ordered. The Contract amount of \$450,000 is expected to be exceeded due to the required upgrades for City Hall Elevators #2 & #3 and Marshall Center Elevator upgrades along with the normal monthly maintenance and on-call services.

Request: Approve a Contract Amount increase of \$570,308.52 for Contract No. C-100466 Elevator Maintenance and Services and authorize the City Manager, or his designee, to increase the total Contract Amount to \$1,020,308.52.

*Michael Shrum, Facilities Contract Services Supervisor,
360-487-8260*

Motion approved the request.

3. Professional Services Agreement Extension & Increase Herrera Environmental Consultants Inc. C-100130

Staff Report 138-21

Summary

The City currently contracts with Herrera Environmental Inc. to conduct water quality monitoring in the Burnt Bridge Creek watershed. The monitoring schedule follows the USGS water-year from October 1 through September 30. The contract includes data review and analysis and a final technical report due in January following the second year of monitoring. The current contract will end January 2022 for data collected September 2019 – October 2021.

To provide for seamless data collection into the next two-year monitoring

cycle, staff is requesting an increase of the professional services contract to \$533,158 to support current and future stormwater management activities by extending the contract through February 15, 2024. This requested increased amount is approved in the Surface Water capital budget.

Request: Authorize the City Manager or designee to execute a contract amendment increasing the maximum amount payable to Herrera Environmental Consultants Inc. for professional services by \$277,624 to a not-to-exceed contract amount of \$533,158.

Annette Griffy, Engineering Program Manager, 360-487-7190; Kris Olinger, Senior Civil Engineer, 360-487-7188

Motion approved the request.

4. Intergovernmental Agreement for Interstate 5 Bridge Replacement Project

Staff Report 139-21

Summary

The IBRP has begun the process to develop design options for replacement of an Interstate 5 bridge and associated elements. City of Vancouver staff are participating in this process through regularly scheduled staff level group meetings and support for community and executive leadership meetings. Additionally, staff is participating in communication efforts, transportation planning, environmental review as defined through federal processes, transit planning/engineering, and design engineering. These efforts in addition to administration of staff engagement are further defined in Attachment C, Exhibit A.

The attached revised Intergovernmental Agreement addresses the concerns raised by Council at the August 2, 2021 session by indemnifying both City of Vancouver and WSDOT equally (Section 8). Specifically:

The language that now appears within Section 8.4 was previously the only indemnity language in the agreement. This imposed an obligation on the planning agency (the City) to indemnify and defend WSDOT and ODOT and their respective officials.

In response to Council's feedback, a new section (8.3) was added which requires WSDOT to also defend and indemnify the City and its officials for any liability arising from WSDOT's work on this project.

In addition, the revised Intergovernmental Agreement:

- *Changes the City of Vancouver's status from 'subrecipient' (of Program reimbursement funds) to 'vendor'. Per Federal Highways Administration direction, every City WSDOT enters into a contract with is considered a vendor, not a subrecipient, of federal funds. This means that the federal funding subrecipient requirements do not flow through WSDOT to City of Vancouver (new section 1.3 clarifies this and CFR references in 3.1, 6.3, and 15.1 in the August 2, 2021 version of the Agreement have been deleted, since these are requirements for subrecipients).*
- *Revises the total authorized reimbursement amount to include an increase in the Limited Notice to Proceed amount (see: Attachment C, Exhibit A). The increase is included to correctly capture costs accrued for consultant work that the City has commissioned for review of traffic modeling.*

Request: Authorize the City Manager to execute the intergovernmental agreement with the Washington State Department of Transportation.

Katherine Kelly, Senior Policy Advisor, 360-487-7947

Motion approved the request.

5. **Name Recommendation for New Park at 52nd Street and 137th Avenue**

Staff Report 140-21

A RESOLUTION naming the neighborhood park informally known as "North Image Park" at 52nd Street and 137th Avenue, on the parcel located at 5009 NE 135th Avenue, Vancouver, Washington 98682, as "Nikkei Park."

Summary

Prior to development, the park had been referred to as North Image Park simply based on its geographic location within the North Image neighborhood in east Vancouver. The name "Image" was researched to ensure a critical and relevant piece of history was not overlooked, and a committee member found that the name originated from Lewis and Clark, used to describe Hayden Island, then became associated with an area along the Columbia River near SE 88th Street. While the Corps of Discovery Expedition is certainly an important part of our region's history, it is already well-represented and remembered through a wide variety of landmarks, areas, buildings and other institutions throughout Vancouver.

Today, the neighborhood surrounding the park site is very diverse. Based on the most recent school data, 47.4% of students at the nearby elementary

school identify as a race or ethnicity other than white. The PNC believes that naming government parks, buildings, and structures is an important task that should be thought provoking, educational and encourage representational naming where there is a logical connection. Naming the new park after the Japanese Americans who farmed in that area prior to incarceration during World War II seems like a geographically and historically appropriate recognition.

While Nochi Park was a strong contender due to its connection to farmland, "Nikkei Park" received the largest number of votes submitted through the park naming survey (45.9%). A number of survey respondents who identified themselves as Japanese American also stated that Nikkei is the name choice that holds the most significant cultural meaning.

Request: On September 27, 2021, adopt a resolution naming the neighborhood park located at 52nd Street and 137th Avenue "Nikkei Park" and direct staff to update signage as needed.

Melody Burton, Parks and Recreation Communications Specialist, 360-487-8306

Motion adopted Res. M-4144 to approve the request.

6. Ratify Memorandum of Understanding (MOU) Between the City of Vancouver and the Vancouver Police Officer's Guild (VPOG) to Implement Policy 701 for a Comprehensive Police Camera Program

Staff Report 141-21

Summary

Over the last several months, the City has been engaged with the community via the Community Task Force on Policing to explore a range of policy and operational changes within VPD, including establishing a police camera program. This community engagement informed the City's development of a new camera program policy for VPD, which is the foundation for bargaining contract terms with the Police Officer's Guild to implement a program. The resulting policy and contract terms establish management and employee rights and responsibilities, community rights and protections, as well as compensation for officers associated with establishment and deployment of a camera program.

Based on this, the City of Vancouver and the VPOG jointly wish to implement a comprehensive police camera program, to include body-worn and in-car cameras, for purposes of enhancing the safety of police officers and building transparency with the public, along with increasing the

availability and protection of evidence during civil, administrative, and criminal investigations.

The camera program is anticipated to be fully implemented in the second quarter of 2022.

Request: Ratify a Memorandum of Understanding between the City of Vancouver and the Vancouver Police Officers Guild regarding the police camera program.

Lisa Takach, Human Resources Director, 360-487-8611

Motion approved the request.

7. Fourth Plain Commons 80% Impact fee Waiver

Staff Report 142-21

A RESOLUTION of the City Council of the City of Vancouver, Washington, approving a partial exemption of the collection of Traffic Impact fees in the amount of \$70,624.80 and Park Impact Fees in the amount of \$147,467.20 for the Fourth Plain Commons low-income housing development.

Summary

In 2016 Council approved Ordinance M-4154 allowing a partial exemption or full waiver of transportation and parks impact fees to spur affordable housing projects. A waiver of the school district impact fees is only available upon approval by the school district in which the project is located.

For residential developments of four or more units Council may, by resolution, partially exempt up to 80% of the transportation and park impact fees or fully waive 100% of the impact fees. If Council only partially exempts the development there is no requirement to pay the exempted portion of the fee from public funds. If Council fully waives the development from impact fees, the remaining 20% of the waived fee must be paid from public funds other than impact fee accounts.

Fourth Plain Commons

The Fourth Plain Community Commons is a mixed-use development that will include both housing and community space. This project is a collaboration between the Vancouver Housing Authority (VHA) and the City of Vancouver. The Vancouver Housing Authority plans to own and operate the apartments located on the upper floors. The City of Vancouver will

develop the ground floor space and partner with community-based organizations to operate it.

The project site is located at 2200 Norris Road at the intersection of Fourth Plain Boulevard and Norris Road. The proposal is to build 106 new income-restricted housing units as part of a mixed use development. The residential unit types will include studios up to three bedrooms restricted for low-income households and individuals. The project is using Vancouver affordable housing funds that restrict tenants to those earning 50 percent or less of the area median income. At 50% of AMI the maximum income for a family of four would be \$48,350. The 30% monthly housing expense limit for rent and utilities would be \$1,209.

This waiver request is for an 80% partial impact fee exemption of City of Vancouver Transportation and Park impact fees.

The transportation impact fees are based on the new vehicle trips generated and designated fee subarea. The Columbia impact fee subarea requires \$180 per new average daily trip. The new trips generated from the residential portion of the development are 577. After a 15% tax reduction the total impact fee for the residential units is \$88,281 (Exhibit A). After an 80% waiver of \$70,624.80 the remaining transportation impact fee paid by the developer would be \$17,656.20.

Park impact fees are based on the number of residential units and the park district subarea. The site is located within Park District B, which has a rate of \$1,739 per unit. The total park impact fee is \$184,334 (Exhibit A). After an 80% reduction of \$147,467.20, the remaining required park impact fee would be \$36,866.80.

School impact fees are based on the number of residential units and the school district subarea. The project site is located within the Vancouver School District which requires \$2,381.93 per multi-family unit. The Vancouver School District has declined to waive impact fees in this case. All impact fees are due prior to the issuance of building permits.

Request: Adopt a resolution to exempt 80% of Transportation and Park impact fees for the Fourth Plain Commons low-income housing development.

*Peggy Sheehan, Community Development Programs
Manager, 360-487-7952*

Motion adopted Res. M-4145 to approve the request.

**8. Professional Services Agreement with Outsiders Inn for
Management of Supportive Campsite**

Summary

An estimated 500-600 individuals reside in tents or vehicles within the City of Vancouver, which poses significant health and safety risks to the individuals experiencing unsheltered homelessness, as well as the rest of the community and the environment. At this time, our community does not have an adequate supply of shelter or housing options to meet the growing need. This Council has observed that many individuals who camp on public property do so, not by choice, but due to a lack of financial means to afford adequate shelter. These individuals are adversely mentally and physically impacted by camping. Single female camp occupants experience a disproportionately high incidence of violent crime as compared to other people. Families with children who camp as a result of a lack of adequate shelter are also disproportionately adversely impacted through risk of physical danger and impediments to childhood education.

Simultaneously, Council has also observed that the City's sensitive ecological areas are adversely impacted by adverse secondary impacts of camping. The City's sensitive waterways, water treatment facilities, stormwater and wastewater facilities are particularly vulnerable to impacts of illegal dumping and improper disposal of human waste. Additionally, individuals living outdoors in greenways and wooded areas, who utilize fire as a source of heat, or to cook with, increase the potential for wildfire in those areas, particularly during our dry/summer months.

In an effort to reduce the aforementioned negative impacts of unsheltered homelessness, provide for greater safety, stability, and access to needed services for individuals experiencing unsheltered homelessness, and to remain in compliance with Martin v. Boise, staff has proposed, and this Council has approved, the establishment of City-sponsored supportive campsites in designated areas. These campsites will be managed and supported by a contracted service provider who will work to:

- ensure safety and sanitation within and immediately surrounding the designated campsite,*
- assist camp residents with obtaining stability, accessing needed resources, and transitioning into a more permanent housing situation, and*
- proactively engage with the surrounding neighborhood(s) to mitigate potential negative impacts to the neighborhood, facilitate neighborhood participation and volunteer opportunities within the campsite, and encourage participation in neighborhood/community events, neighborhood association meetings, etc. amongst camp residents.*

Request: Award a professional services contract to Outsiders Inn of Vancouver, WA, and authorize the City Manager or designee to execute a contract for delivery of supportive services and site

management at city-sanctioned supportive campsite in an amount not to exceed \$571,148.00 over the life of the contract.

Jamie Spinelli, Homeless Resource Coordinator, 360-487-8610

9. **Approval of Project Policy Charter for New Public Works Operations Center**

Staff Report 144-21

Summary

The City of Vancouver Public Works Operations Center is the maintenance hub for providing these essential public services for the City of Vancouver and the surrounding urban area. Existing facilities are inadequate to serve the current and forecasted population, are vulnerable to moderate seismic events and do not meet current minimum building code standards. The existing Operations site at Fourth Plain Blvd and General Andersen cannot be efficiently or economically restructured to meet present and future needs.

The purpose of the New Operations Center Project is to meet service levels for public works, provide efficiency of operations, modernization of services, and serve as an Emergency Operations Center (EOC).

Request: Ratify the project policy charter, September 2021 version 1, for the New Public Works Operations Center.

Jennifer Belknap Williamson, Public Works Director, 360-487-7131; Jean Singer, Capital Facilities Projects Manager, 360-487-6740

Motion approved the request.

10. **Adoption of Rules and Regulations Document for Pearson Airfield**

Staff Report 145-21

A RESOLUTION relating to the adoption of the Pearson Field Airport Rules and Regulations providing for severability and an effective date.

Summary

Vancouver Municipal Code section 10.05.030 requires and references a separate "Rules and Regulations" document containing guidance and direction for the management and use of Pearson Airfield.

The previous Vancouver Municipal Code, Title 10.05, contained codification of many operational rules for Pearson Airfield. Recent City Council changes to VMC Title 10.05 moved many of these operational rules out of code and into the proposed “Rules and Regulations” document. The recently revised code includes a requirement for the “Rules and Regulations” document to be adopted by Council resolution. This change creates a more streamlined way for the “Rules and Regulations” to be changed in the future when needed.

Request: Adopt a resolution adopting the proposed “Pearson Field Airport – Rules and Regulations.”

Jennifer Belknap Williamson, Public Works Director, 360-487-7131; Guy Lennon, Airport Manager, 360-487-8619

Item returned to staff for further development.

11. Addendum to City Manager Employment Agreement

Staff Report 146-21

Summary

Council Policy 100-31A, as well as the employment agreement between the City and the City Manager, calls for an annual performance evaluation and compensation adjustment. Council initiated the Manager Evaluation process in July 2021 and completed the evaluation on September 20, 2021. Based on the evaluation, a compensation adjustment of 10% is reflected in the addendum.

Request: Approve the Addendum to the City Manager Employment Agreement and authorize the Mayor to execute the same.

Jonathan Young, City Attorney, 360-487-8500

Motion approved the request.

12. Approval of Claim Vouchers

Request: Approve claim vouchers for September 27, 2021.

Motion approved claim vouchers for September 27, 2021, in the amount of \$7,828,903.26.

Community Forum

Mayor McEnerny-Ogle opened the Community Forum and received the following testimony:

- Kimberly Bliss, Vancouver, requested the Council consider forgiving the required shared equity on a loan she holds through the City's First Time Homebuyers Program due to personal hardship.
- Elena Cumming, Vancouver, requested the Council consider forgiving the required shared equity on a loan she holds through the City's First Time Homebuyers Program due to personal hardship.
- Dan Packard, Vancouver, thanked the City for improving bike lanes on McLoughlin and Grand Boulevard, and requested safety improvements be made to the 112th Avenue corridor as well.
- Glen Yung, Vancouver, requested an extension of the registration time period for people who wish to testify during Council meetings.
- Kimberlee Elbon, La Center, Washington, expressed concerns about the Local Governments for Sustainability (ICLEI).
- Cathryn Chudy, Vancouver, urged the City to take action as soon as possible to lessen climate impacts driven by fossil fuel carbon emissions.
- Laurel Pascual, Vancouver, expressed concerns about the COVID-19 vaccine and state and federal mandates.
- Wynn Grich, Vancouver, expressed concerns about the COVID-19 vaccine and state and federal mandates.
- Teresa Hardy, Vancouver, expressed concerns about a lack of clarity about how much of the forested area on the Vancouver Innovation Center site will be preserved when the land is developed.
- Ellen Sward, Vancouver, expressed concerns regarding the improvements made along NE 18th Street and urged the City to look for alternative ways of making this corridor more inviting and welcoming for pedestrians.
- Rebecca Duvall, Ridgefield, Washington, expressed concerns about the COVID-19 vaccine and state and federal mandates.

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

8. Professional Services Agreement with Outsiders Inn for Management of Supportive Campsite *(continued)*

Council reviewed Attachment A (attached) to the proposed contract with Outsiders Inn.

Councilmember Fox stated she does not have any further questions on this item.

Motion by Councilmember Fox, seconded by Councilmember Hansen, and carried unanimously to award a professional services contract to Outsiders Inn of Vancouver, WA, and authorize the City Manager or designee to execute a contract for delivery of supportive services and site management at city-sanctioned supportive campsite inn an amount not to exceed \$571,148.00 over the life of the contract.

Adjournment

7:29 p.m.

Anne McEnerny-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Meetings of the Vancouver City Council are electronically recorded on audio and video. The audio records are kept on file in the office of the City Clerk for a period of six years.

Supportive Campsite Program								
Outsiders Inn								
Personnel Cost								
	Hourly rate	Number of Staff	Hours per week	Monthly Salary	Monthly Taxes & Benefits* (\$15/hr)	Total per month	Total per year	
Peer support advocate (weekday)	19.00	4	40.00	13,173	9,600	22,773	273,276	
Peer support advocate (weekend)	19.00	4	16.00	5,269	3,840	9,109	109,308	
Community Coordinator Admin	21.00	1	20.00	1,820	1,200	3,020	36,240	
Homeless Services Manager	29.00	1	15.00	1,885	900	2,785	33,420	
Total							452,244	
Plus Indirect Cost 10%**							45,224	
Total Annual Base for Contract							497,468	
Two paid staff at each day and swing shifts (with residents sharing graveyard watch duty after 6 months, tentative)								
* Includes health benefits								
**Includes accounting, payroll admin and billing services								
Other Costs								
					Monthly	Yearly		
Employee training & travel mileage					250	3,000		
Resident Stipend	\$160 per month per resident for cleanup and nightly gate duty				3,200	38,400		
Location Phone & wifi	phone & wi-fi				400	4,800		
Security - four times per day	\$800 per month				800	9,600		
Security Camera / storage	cameras, storage, maintenance				350	4,200		
Professional Fees - legal, mediation, open house events					300	3,600		
Insurance					200	2,400		
Laundry vouchers for clients	\$240 for 40 passes				240	2,880		
Sleeping bags, outdoor supplies					200	2,400		
Hygiene, sanitizers, trash bags					200	2,400		
Total Annual Base for Contract						73,680		
Total Annual Cost							571,148	
						Monthly	47,596	

September 26, 2021

Mayor McEnerny-Ogle
Councilmember Hansen
Councilmember Stober
Mayor Pro Tem Glover

Councilmember Lebowsky
Councilmember Paulson
Councilmember Fox

Subject: Pearson Field Airport Rules and Regulations

On Monday September 27, 2021 the Vancouver City Council will be considering a resolution for the adoption of Pearson Field Airport Rules and Regulations, including incorporation of previously adopted Minimum Standards for Commercial Activities at Pearson Field (March 13, 2015, M-3857).

I have reviewed this new combined document as published at <https://vancouvercity.novusagenda.com/agendapublic/CoverSheet.aspx?ItemID=2114&MeetingID=250>, and offer the following recommendations for your consideration prior to conducting a vote on the matter.

RESOLUTION PAGE and ARTICLE 1(D). Previously adopted Minimum Standards for Commercial Activities at Pearson Field are being incorporated into this new document and referenced as "Part II". Repealing the existing document and removing ARTICLE 1(D) sentence 3 to reflect this incorporation is recommended.

ARTICLE 2. As noted in my written comments to the September VMC 10 hearing, Council has approved adoption of inconsistent definitions between the new VMC 10, proposed Pearson Field Airport Rules and Regulations, and existing Minimum Standards for Commercial Activities at Pearson Field. Additional inconsistencies exist between definitions 5, 12, 13, and 33 in the proposed Pearson Field Airport Rules and Regulations (Part I) and existing Minimum Standards for Commercial Activities (Part II) now being considered. Combining the two definition sections into one would best harmonize this mashup of documents. Short of that I recommend updating definition 13 to match that in the Minimum Standards section (Part II) of the document, as it has implications for how this document is interpreted for nonprofit organizations operating at Pearson Field Airport.

ARTICLE 5. I recommend updating this article to address ongoing unsafe pedestrian access to movement and operating areas, runway and taxiway obstacle free areas, and proximate grass areas at Pearson Field Airport from adjoining public property, including that under local (city of Vancouver), state (WA DOT) and Federal (NPS) jurisdictions.

ARTICLE 6(G). Per ARTICLE 2 Definitions, this language precludes a taxi picking up or dropping off a passenger in the airport parking lot without Airport Manager approval. This is not a reasonable requirement; I recommend updating accordingly.

ARTICLE 8(B) I recommend removal of sub-bullets (a), (b), (c), (d) and (e). I and all pilots I know completely support and expect responsible and community minded operation of aircraft at Pearson Field. If the city believes there are operations taking place inconsistent with FAA regulations, referral to the FAA Flight Standards District Office for investigation and action can take place. However, I do not believe it is in the best interest of the city, the airport, or the community to co-opt this article from its original intent by including these sub-bullets.

Council should be aware that in April of 2021 the city's interim Pearson advisory group strongly encouraged removal of these sub-bullets, expressing concern over several unintended consequences and unenforceability.

In July of 2021 each of you were advised of this in writing as well. In an April 2021 letter from the then acting public works director, we were advised "*We [city staff] disagree that inclusion [of these sub-bullets] into the Rules and Regulations is of no utility. Disregard or violation of the Rules and Regulations is a path toward the revocation of airport tenancy and/or use privileges. Being able to refer to them in the Rules and Regs document, especially for repeat transgressors, does have utility.*" This response clearly communicated intent to enforce. Since April, the city has received input from the Federal Aviation Administration, Washington Department of Transportation Aviation Division, Washington Pilot's Association, and the national Aircraft Owners and Pilot's Association agreeing with our position regarding unenforceability. Rather than simply removing the sub-bullets the city has chosen to insert wording into Article 17 Penalties for Violation that uniquely nullify the sub-bullets in Article 8(B). This is convoluted and opens the door to future issues due to either misinterpretation or change in intent through future edits.

Concern has also been expressed to the city that unilaterally inserting these bullets is in conflict with the premise of this Article 8(B) that "'Fly Quiet' procedures may exist through cooperative agreement of airport users, the community and city." No effort has been made by the city to convene these groups, and no requests have been made from the city to either the Port of Portland Noise Office or PDX tower for relevant historic noise complaint, noise contours, or flight track data demonstrating there being an issue. Finally, what is being proposed in the Pearson Field Airport Rules and Regulations Document does not match fly quiet information provide on the city's airport web page, does not match what the city has posted on runway signage at the airport, and does not match the Pearson Airport section of the FAA's published Flight Supplement guide. Adding a list of unenforceable bullets to a regulations document provides no additional clarity and sets the precedent before these rules are even established for city decision making without attempting cooperative agreement with interested parties.

If you do choose to retain sub-bullet (b), Mrs. Short, I'm sure, would appreciate her name being spelled correctly.

ARTICLE 13(H) Insert missing period ".".

ARTICLE 14(B)(b) Remove reference to March 23, 2015 as this document is now incorporated into the Pearson Field Airport Rules and Regulations document as Part II.

ARTICLE 15 Preamble. Remove second sentence "All tenants shall provide one serviceable and readily accessible fire extinguisher, type 2A-10-BC, in each T-hangar[.]" This is redundant with ARTICLE 15(B).

Minimum Standards for Commercial Operations at Pearson Field Airport (Part II). I have been advised by city staff that there have been no changes to the document as approved in 2015 (M-3857) on incorporation into the new Pearson Field Airport Rules and Regulations document. As a significant contributor to the original work, I have no content input to Part II. I do recommend adding "Part II" to the title page to match reference in Article 1(D) and for readability.

Regards,

Paul Speer

From: [Jean M. Avery](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: Citizen Comment for 9/27 City Council Meeting
Date: Monday, September 27, 2021 11:18:44 AM

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.

To: Madam Mayor and City Council

Re: VIC Development, forested tract

I continue to urge you to maintain the entire forested tract in the Vancouver Innovation Center. Specifically, I am waiting for clarification of the terms of the "Covenant" promised by VIC's attorney, Mr. Horenstein.

On August 17, I sent an email to Mr. Horenstein's Law Group website, but never received a reply. My email stated:

Dear Mr. Horenstein,

At the August 9, 2021 meeting of the Vancouver City Council, I was pleased to hear you say that the forested section of the VIC property would be retained in its current, natural state (except for the removal of a few unhealthy trees).

Would you please clarify whether there is indeed a "Covenant" on the forested section of the property, and what that entails?

*Thank you for your reply,
[Jean M. Avery]*

City Council, in my view, this a matter of preserving trees AND a matter of preserving credibility with the citizens of Vancouver. There are various and vague reports of how many acres will be retained in VIC's forested tract. Please hold the developer to the highest standard of conservation, as exemplified by your Leading Edge climate strategy.

Thank you,
Jean M. Avery
Vancouver resident

To: Vancouver City Council and Staff
Citizen Forum Public Comment/September 27, 2021/Cathryn Chudy

It is with a sigh of relief that we greet rain in Vancouver after several months of drought turning everything brown instead of the green we are used to seeing around us. And our September thankfully did not bring us the toxic smoke filled air that we suffered through a year ago. If only we could count on enough rain and temperatures that do not trend to the extreme, now that we have turned to autumn and watch the leaves turning and feel the air cooling.

Realistically and practically, we are not out of the woods with climate emergency conditions that we are likely to experience with more frequency and intensity as time goes by. Which gives the work currently in progress on Vancouver's Climate Action Plan to reduce GHG emissions and implement resilience actions both timely and urgent.

I sent all of you a report in early September with links to a recently released resource for public officials about health and building decarbonization. Physicians for Social Responsibility and other groups co-authored the report, that summarizes health impacts, science, feasibility of methane, and greenwashing efforts by the gas industry to influence policy. We have seen that greenwashing happening here in Vancouver, as they have in Oregon. The conclusion of the report, which I hope you will take the time to read if you haven't already, states:

Gas is now the leading contributor to global fossil fuel carbon emissions increases. Despite what the fossil fuel industry would have you believe, methane gas has no role in decarbonizing Washington and Oregon's built environment. Ongoing and expanding gas use is, instead, putting Oregon and Washington's communities' health and safety at risk, especially low-income and BIPOC communities. Both public health concerns and climate research support rapid electrification of buildings. Numerous safety concerns, coupled with the recent International Energy Agency report on necessary reductions in methane to address the climate crisis, and the multiple studies comparing methane gas, RNG and building electrification, build a strong case for prohibiting expansion of methane gas infrastructure and beginning to prioritize ways to equitably scale back existing gas infrastructure.. It is imperative that all levels of government take decisive action to adopt policies to ensure a just transition to a more healthy, equitable, and electric future."

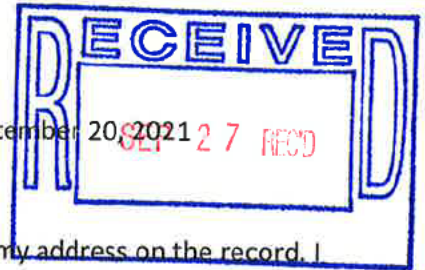
We are seeing now, at the federal level, how our deeply divided country is being stalled instead of activated in the face of the climate emergency, largely due to the outsized influence of fossil fuel money attempting to preserve their profits at the expense of our children's future. The window of time, to make and implement decisions that will allow a healthy and safe future for our young people, is closing this decade. Decisions being made for Climate Action policy with regard to Vancouver's built environment cannot be made by allowing for false solutions that will not meet the necessary emissions reduction targets being set in our state and in our city.

We need meaningful climate action policy to be set locally, consistent with the direction being taken statewide. I encourage you to stay informed in order to decide wisely the most viable way to ensure that Vancouver does nothing to make the problem of climate impacts (driven by fossil fuel carbon emissions) worse, rather than better.

To the City of Vancouver, WA

c/o City Clerk,

September 20, 2021 27 RECD



Please put my letter and cover letter on public record. I do not wish to have my address on the record. I am including it on the cover letter so you know where to respond but please black it out.

To the Mayor of Vancouver WA, the Vancouver City Council, and the City Clerk,

Enclosed is a letter. I would appreciate a response in writing in 10 business days sent to my address below.

Please Note: *In the letter, all of my comments are in italic, and questions are in red italic.* The articles and materials from the websites are in regular text.

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Page 1-25 I have presented material such as articles, MSDS, US Patents, Information from government websites, etc. I show why we should not trust some key figures in the FDA, CDC, NIH, and NIAID. These are the people that effect the COVID-19 related mandates and bans. I believe the information provided supports my request to end all COVID-19 bans, and a few suggestions how to make things better. I show information about breakthrough cases as evidence that it isn't just unvaccinated getting and spreading the delta variant, therefore to mandate these vaccinations in order to work is discrimination. I also show that there are effective treatments proven in India and El Salvador, and the CDC should stop the ban on Ivermectin and Hydroxychloroquine for treating COVID19 patients. Waiting to give patients care until they become critically ill goes against the doctors Hippocratic oath. Using a vaccine that is only efficient for a very limited time is ridiculous specially as the variants keep changing.

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Laurel Pascual



To the Mayor of Vancouver WA, the Vancouver City Council, and the City Clerk, September 20, 2021

City of Vancouver
P.O. Box 1995
Vancouver, WA 98668-1995

I am asking that the City Clerk put my documents on public record ASAP!

My Request:

I am asking that you put an end to all the COVID19 related mandates in the City of Vancouver, and to do what you need to stop the CDC's ban on Ivermectin and Hydroxychloroquine for treating COVID19 patients because the data shows they are effective when used in conjunction with other meds, vitamins, and minerals. Data shows that the various treatments have reduced the hospitalization and death rates significantly.

Please note: I have no problem sharing this information with the different unions and business owners.

I would appreciate if you would respond to my letter in writing.

I) Our governor, mayors, and council members took a Constitutional Oath to uphold the laws of the land when they enter office.

Where in the Constitution or Bill of Rights is our president allowed to make healthcare decisions for myself or anyone else?

What happened to my body, my choice? If a person feels safe with a vaccine, why would there be any concern if someone chose not to, unless that is you have doubts that the vaccine works? Shouldn't I be the one to decide whether the risks outweigh the gain for myself? Please remember, we are still waiting to find out the long-term effects. Who gave the president of the USA that authority?

Are Biden's vaccine requirements legal?

Yahoo news LAURA RAMIREZ-FELDMAN September 20, 2021

<https://www.aol.com/news/bidens-vaccine-requirements-legal-171409503.html>

From the website:

Shortly after President Biden announced a new vaccine mandate to combat the recent COVID-19 surge driven by the Delta variant, some conservative governors vowed to file lawsuits challenging the plan. Some already have.

Last Tuesday, Arizona became the first state to sue the Biden administration over COVID-19 vaccine mandates.

Republican threats to Biden's vaccine mandates unlikely to succeed, experts say

NBC News By Adam Edelman Sept. 10, 2021

<https://www.nbcnews.com/politics/politics-news/republicans-threats-biden-s-vaccine-mandates-unlikely-succeed-experts-say-n1278936>

From the website:

Nearly two dozen Republican governors, as well as the GOP itself, have vowed to file lawsuits or take other actions to block President Joe Biden's newly announced vaccination mandates — but legal experts say they'll have a hard time successfully making their case in court.

Biden on Thursday issued two executive orders mandating vaccines for federal workers and contractors and also announced new requirements for large employers and health care providers that he said would affect around 100 million workers, more than two-thirds of the U.S. workforce. Following the announcement, Republicans across the country slammed the moves.

South Dakota Gov. Kristie Noem tweeted that her state would "Stand up to defend freedom," adding, "@Joe Biden see you in court."

Georgia Gov. Brian Kemp tweeted he would "pursue every legal option available" to stop "this blatantly unlawful overreach," while Arizona Gov. Doug Ducey tweeted that the White House was "hammering down on private businesses and individual freedoms in an unprecedented and dangerous way" and that "we must and will push back." ...

II) Dr. Joseph Mercola: Will Fauci Be Held Accountable for Lying to Congress?

by Dr. Joseph Mercola September 9, 2021

<https://nqreport.com/2021/09/09/dr-joseph-mercola-will-fauci-be-held-accountable-for-lying-to-congress/>

Fauci Funded 60 Projects At The Wuhan Institute Of Virology

By Team Tucker Carlson Sept. 20, 2021

<https://teamtuckercarlson.com/news/fauci-funded-60-projects-at-the-wuhan-institute-of-virology/>

From the website:

Sharri Markson from Sky News is coming out with a book that's a culmination of her efforts studying Anthony Fauci. She notes the following on Sky News hours ago:

Dr Anthony Fauci was "up to his neck" funding coronavirus research in Wuhan, which "just shows how incredibly stupid" he is, says Sky News host Sharri Markson. Ms Markson has been investigating Anthony Fauci's involvement in funding the Wuhan Institute of Virology and discovered his agency "had funded 60 projects at the Wuhan laboratory."

"Then he wrote a paper where he said gain of function research was worth the risk of a pandemic, and that he had even funded coronavirus research in conjunction with the Chinese military," Ms Markson said.

Mr Fauci, who has been the Director of the National Institute of Allergy and Infectious Diseases since 1984, apparently stayed silent during Oval Office meetings at the start of the pandemic about the "risky research that was underway at the Wuhan Institute of Virology".

Dr. Anthony Fauci, Director of the NIAID and COVID19 advisor to President Biden, has lied to the Congress and to the people numerous times. Senator Rand Paul caught Fauci lying to the Congress on July 20, 2021.

- *Fauci lied about the origin of the virus.*

- He lied to the Congress about the funding the Gain-of Function Research at the Wuhan Institute of Virology through the **EcoHealth Alliance**.
- Fauci lied to the public about masks. Dr. Fauci told his co-worker in an email that drugstore masks don't work.
(Someone once compared the COVID19 virus relative to the space between the fibers in a mask like a mosquito flying through a chin-linked fence. The fence won't stop the mosquito!)

*Did you know that **Dr. Fauci, the director of the NIAID, funded the research at the University of North Carolina for Methods for Producing Recombinant Coronavirus** filed on April 19, 2002 **patent # 7,279,327 B2?** It was a helper cell for producing an infectious, replication defective coronavirus with hopes to develop an HIV vaccine. No Vaccine was ever produced. **This gain-of-function research has been going on for almost 2 decades. Fauci funded it in the US and abroad.***

Bill Gates and the Vaccine Heist

By Dr. Joseph Mercola

September 1, 2021

<https://truthcomestolight.com/bill-gates-and-the-vaccine-heist/>

According to Dr. Mercola's article, in 2002, the Gates Foundation invested \$205 million in 9 drug companies, including Pfizer and Johnson & Johnson.

Did you know on April 12, 2004 patent # US 7,220,852 B1., The United States of America as represented by the Secretary of the Department of Health and Human Services, Centers for Disease Control and Prevention (CDC) patented the Coronavirus Isolated From Humans, For SARS-CoV and SARS-CoV-2 genome? Did you know that Patent laws prohibit patents for naturally occurring virus therefore the SARS-CoV and SARS-CoV-2 genome must have been manmade?

On April 28, 2004, Sequoia Pharmaceuticals, Inc. filed for Patent # US 7,151,163 B2 for Antiviral Agents For the Treatment, Control and Prevention Of Infections By Coronavirus. *(This company was later absorbed by Pfizer and Johnson & Johnson.)* On June 5, 2009, Ablynx (former Sequoia Pharmaceuticals) filed Patent # US 9,193,780 B2 for Amino Acid Sequences Directed Against Envelope Proteins of a Virus and Polypeptides Comprising The Same For The Treatment Of Viral Diseases. The patent was approved on Nov. 24, 2015.

Company History and Information: mRNA Science - Moderna

<https://www.modernatx.com/about-us/moderna-facts>

January 2016 the Gates Foundation committed \$20 million in research for potential mRNA medicine to help prevent human immunodeficiency virus or HIV.

(The Bill & Melinda Gates Foundation is one of the partners with Moderna. DARPA is also a partner with Moderna.)

On October 2014 a moratorium was placed on this type of research because there was concern about pathogens escaping. On Dec 19, 2017 the NIH resumed the funding. This is when Fauci funded the research through the EcoHealth Alliance for the Wuhan Lab.

On Dec. 18, 2017, Moderna filed Patent # 10,442,756 B2 for Compounds and Compositions For Intracellular Delivery of Therapeutic Agents. On June 12, 2019, Moderna TX, Inc. filed Patent # US 10,577,403 B2 approved March 3, 2020, and Patent # US 10,703,789 B2 approved July 7, 2020, for Modified Polynucleotides For The Production Of Secreted Proteins.

In October 2019, the Gates Foundation co-sponsored Event 201, a pandemic preparedness simulation for the "novel coronavirus," with the World Economic Forum and John Hopkins Center of Health Security.

On Nov. 20, 2019 the European Patent Specification #EP 3 172 319 B1 for the Coronavirus was approved.

On Feb. 28, 2020, Moderna TX Inc. filed Patent # US 10,702,600 B1 for Betacoronavirus MRNA Vaccine. It was approved on July 7, 2020.

Fauci botched the AIDS epidemic so big pharma could profit. He's doing it again with COVID
Pharmaceutical Fraud 9/16/21

<https://pharmaceuticalfraud.com/2021-09-16-fauci-botched-the-aids-epidemic-for-big-pharma.html>

From the website:

Fauci, named head of the National Institute of Allergy and Infectious Diseases in 1984, sparked panic among Americans in the 1980s when he wrote in a medical journal that AIDS could be transmitted not only through sexual contact and sharing needles, but also through "ordinary close contact" with the infected.

Iversen says Fauci's remarks followed the discovery of an infant diagnosed with AIDS — a case we would later learn was caused when the child passed through the womb of an infected mother.

But the damage was already done, said Iversen:

"Public panic had intensified and people were fearing they could get aids from sharing a toilet seat or even from shaking hands. People living with AIDS were being alienated and ostracized from their jobs, homes, communities, and gay men, in particular, were heavily stigmatized."

Meanwhile, Fauci and his team of scientists at the National Institutes of Health (NIH) went full speed ahead on developing a vaccine for AIDS. However, despite promises from the U.S. Department of Health and Human Services that it would roll out an AIDS/HIV vaccine, Iversen says that never happened.

Realizing the potential to earn big profits, Iversen says pharmaceutical companies soon began developing treatments for AIDS.

The British drug company, Burroughs Wellcome & Co., said its failed cancer drug AZT could be used to treat AIDS.

Few studies were done, said Iversen, and the long-term side effects were unknown. But in March 1987, the U.S. Food and Drug Administration approved AZT, claiming the benefits outweighed the risks.

Celia Farber, who in 1989 reported on the approval of AZT and its potential health risks, wrote at the time:

"The majority of those in the AIDS-afflicted and medical communities held the drug up as the first breakthrough on AIDS. For better or worse, AZT had been approved faster than any drug in FDA history, and activists considered it a victory. The price paid for the victory, however, was that almost all government drug trials, from then on, focused on AZT — while over 100 other promising drugs were left uninvestigated."

The drug was "one of the most toxic, expensive and controversial drugs in the history of medicine," Farber wrote.

In 1989, Iversen said Fauci started promoting the drug not only for critically ill AIDS patients, but for anyone who tested positive for HIV, including those who were asymptomatic and showed no sign of the disease.

"Those patients included hospital workers, pregnant women and even children," said Iversen. "Doctors were stunned."

Despite limited data, the NIH went all in on AZT, ignoring evidence that the drug was toxic, caused liver damage and destroyed white blood cells, Iversen said.

"The drug continued to be used for years," she explained.

(This goes to show that the US government should share in the blame that enabled the China virus to be developed, and it points back to Dr. Fauci. How Dr. Fauci remained in his position with the NIAID is beyond me with his horrible record for the HIV/AIDS virus. 20 years of research and still no cure but the FDA can approve an emergency use authorization for a fast-tracked vaccine for COVID-19. How is that possible?)

Cornell Law School

Legal Information Institute

<https://www.law.cornell.edu/uscode/text/18/1621>

18 U.S. Code § 1621 - Perjury generally

Whoever—

- (1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or
- (2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

Under 18 U.S. Code § 1621, shouldn't Fauci be fined or imprisoned for 5 years for lying to the Congress?

Do you still trust Dr. Fauci after he openly lied to the Congress and American public when responding to Senator Rand Paul's questions? If so, please explain why.

III) The Nuremberg Code and HIPPA

The Nuremberg Code From the NIH website

<https://history.nih.gov/display/history/Nuremberg%2BCode>

- (1) The voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved, as to enable him to make an understanding and enlightened decision.

*Do you trust Pfizer, Moderna, and Johnson & Johnson? Did you know that the vaccine inserts were blank before FDA approval? Wasn't that a violation of the Nuremberg Code? The vaccine inserts only had the name of the manufacturer. It made me wonder, are they trying to hide something? The bare minimum, they should have listed **all** of the ingredients and possible side effects per ingredient when they first conducted the experiment. Isn't the list of ingredients vital should a person has an allergy to one of them? It didn't seem like informed consent to me.*

Why did the government coerce people to take the Covid -19 vaccine if they were so great? Take the vaccine or lose your job definitely looks like coercion to me. Isn't that another violation of the Nuremberg Code?

- (3) The experiment should be so designed and based on the results of animal experimentation and a knowledge of the natural history of the disease or other problem under study, that the anticipated results will justify the performance of the experiment.

Did the COVID-19 vaccine manufacturers do animal tests before they made people a part of the experiment? If not, that is another violation of the Nuremberg Code. If they did, how long did they test the animals?

- (4) The experiment should be so conducted as to avoid all unnecessary physical and mental suffering and injury.
- (7) Proper preparations should be made and adequate facilities provided to protect the experimental subject against even remote possibilities of injury, disability, or death.

If you look at the VAERS website for the COVID-19 vaccines, I would think that that was quite enough injury and suffering to stop the experiment to pull the COVID-19 Vaccines. What about the deaths that occurred after the COVID 19 vaccines? Wouldn't that be another violation of the Nuremberg Code?

Health Insurance Portability and Accountability Act of 1996 (HIPAA)

<https://www.cdc.gov/phlp/publications/topic/hipaa.html>

HIPAA Privacy Rule

The Privacy Rule standards address the use and disclosure of individuals' health information (known as "protected health information") by entities subject to the Privacy Rule. These individuals and organizations are called "covered entities." The Privacy Rule also contains standards for individuals' rights to understand and control how their health information is used. A major goal of the Privacy Rule is to ensure that individuals' health information is properly protected while allowing the flow of health information needed to provide and promote high quality health care and to protect the public's health and well-being. The Privacy Rule strikes a balance that permits important uses of information while protecting the privacy of people who seek care and healing.

Don't vaccine mandates violate the HIPPA Privacy Rule? If you have to show that you have been vaccinated to keep your job, isn't that a violation?

DeSantis: Businesses Asking For Proof Of Vax Will Be Fined \$5,000 A Violation

Daily Wire By Amanda Prestigiacomo Sept. 13, 2021

<https://www.dailywire.com/news/desantis-businesses-asking-for-proof-of-vax-will-be-fined-5000-a-violation?fbclid=IwAR3AzFj-z-q-g9eUAQaX-WqRIUgDZ7Kn5gEUX0aYpbV3j7MzD091Rs3ncb8>

The article:

Businesses asking for proof of vaccination or government agencies mandating vaccination for employees will be facing \$5,000 fines per violation, Florida Governor Ron DeSantis (R) reiterated this week.

DeSantis in May signed a bill allowing "the state to issue fines beginning Sept. 16 if people are asked to show proof they have received a COVID-19 vaccine before being allowed in businesses, schools, or government buildings," WFTV 9 reported.

According to the legislation, businesses, government agencies, and schools in the state of Florida will be fined \$5,000 "per individual and separate violation."

"Those who violate the rule will be issued a notice of the infraction and have a chance to appeal the fine," WFTV 9 noted. "If the appeal fails, the fine must be paid within 30 days."

"If a government agency in the state of Florida forces a vaccine as a condition of employment, that violates Florida law and you will face a \$5,000 fine for every single violation," the Republican governor recently said.

DeSantis, who's been one of the nation's most prominent governors leading in vaccination accessibility, recently blasted President Joe Biden for indicating he'll mandate vaccination for all federal employees — with some apparent exemptions — and force many private businesses to mandate vaccination against COVID, too.

"These mandates, this is not about science — because if it was about science, you would recognize the infection conferred immunity," DeSantis recently said. "Israel did a study. They said it was much, much more protective than the Pfizer vaccine. Cleveland clinic did a study, same thing. Every single credible study always shows that it [natural immunity] provides good protection. And so that's just the reality." "So I don't support mandates at all, but if you're doing mandate based off this, if you were really following science, you would acknowledge this natural immunity," the Republican continued. "And instead they ignore it."

DeSantis also slammed Biden for apparent exemptions to his mandates that are inconsistent with science.

The Biden administration “issuing this mandate for private-sector employees, but also for all federal employees, but they’re exempting the post office. They’re exempting members of Congress and members of Congress’s staff. So how does that work?” questioned DeSantis. “Can someone explain the science to me behind exempting? First of all, I don’t think the post office should be forced either, but if you’re going to do a mandate and you say you’re following science and you exempt a major part of the federal workforce, and then you exempt Congress and you exempt the staff of Congress.”

“When I was in Congress, I actually proposed the 28th amendment,” he said. “Congress shouldn’t make any law that doesn’t apply to them and their staff. So those glaring exemptions. So if you’re somebody who’s working again, I don’t think postal should be forced. Don’t get me wrong. But Biden thinks everyone should be forced except you deliver mail somehow. That’s fine. But if you’re somebody — a nurse who’s been working in the ICU for a private hospital for a year and a half treating COVID patients and likely has already had COVID then somehow you’re going to get fired unless you follow the mandate. How does that make sense at all?”

*(I think DeSantis fines per violation would go along with HIPPA. I view these mandates as being discriminatory against the unvaxxed when both vaccinated and unvaccinated can get and spread the delta variant. To exempt Congress’s staff and postal workers shows favoritism when rule or laws should be the same for everyone. **Is the Mayor and City Council willing to consider a similar rule in Vancouver WA like DeSantis \$5,000 fine per violation if employers or businesses ask for proof of vaccination?** No one should be fired or laid off due to vaccination status when anyone can spread the virus. These mandates are not just!)*

IV) **Are COVID-19 Vaccines Safe?**

Stew Peters Show Poisonous Proof

<https://drcharlieward.com/stew-peters-scientific-proof-covid-injections-are-mass-poisoning/>

Dr. Jane Ruby said in the Pfizer vile for each dose had the ratio of 6 n grams per ul RNA, there was 747 n grams per ul of graphene oxide. That is 99.99% of graphene oxide which is a poison it creates oxidated stress. It destroys everything inside the cell. It explodes the mitochondria. It causes inflammation s.a. acute inflammation of the lungs, in cardiac tissue, and in brain tissue. It ties directly to strokes and heart attacks. They were also examined under a regular and an electron microscope.

DrJaneRuby.com

RedVoiceMedia.com

COVID "vaccine" contents finally revealed....

Stew Peters Show August 30, 2021

<https://raypeatforum.com/community/threads/covid-vaccine-contents-finally-revealed.42301/#:~:text=Dr.%20Robert%20Young%2C%20a%20microscopy%20expert%20holding%20two,and%20stainless%20steel%2C%20among%20other%20metals%20and%20contents.>

From the website:

Dr. Robert Young, a microscopy expert holding two PhD's says he has examined the contents of the four publicly-available CoV-19 "vaccines", and determined the vials to contain graphene oxide, deadly parasites and stainless steel, among other metals and contents.

Dr. Jane Ruby joins Stew Peters to break the findings, and issues a WARNING to anyone considering the inoculation.

Stew Peters Show August 30, 2021

From the website:

Japan have halted their use because of metallic contaminants-

www.ibtimes.sg

Japan Suspends Moderna Covid-19 Vaccine Doses after Metallic Containment Found in Dozens of Vials

By R. Ghosh August 27, 2021

The country's health has dismissed concerns over significant health problems for those who have been administered the vaccine from those vials, as the chances of the metals entering the body are extremely low.

www.ibtimes.sg

"Trust the science", "trust the experts", a little graphene oxide, stainless steel and the odd parasite is a form of hormesis, I'm sure an expert can be paid to write an article extolling the genius of the vaccine magicians and their thought process behind said hormesis styled vaccine.

Peat spoke in his recent newsletter about Iron excess leaving you more susceptible to a worse outcome from covid infection, some of vaccines contain iron oxide, if that wasn't bad enough, we now have stainless steel to worry about, probably a canteen knife accidentally dropped into the mix at the Moderna factory by the experts.

Idaho doctor reports "20 times increase" in cancer among those "vaccinated" for covid

Written by DR. EDDY BETTERMANN MD SEPTEMBER 16, 2021

<https://dreddymd.com/2021/09/16/idaho-doctor-reports-20-times-increase-in-cancer-among-those-vaccinated-for-covid/>

From the article:

Dr. Ryan Cole, a board-certified pathologist and diagnostics lab owner and operator based out of Idaho, has released shocking new information about how Wuhan coronavirus (Covid-19) "vaccines" are causing a massive "uptick" in autoimmune diseases and cancer.

In a video produced by the Idaho state government's "Capitol Clarity" project, Cole revealed how he is now seeing a 2,000 percent chronic illness increase in folks who took Donald "father of the vaccine" Trump's "Operation Warp Speed" injections.

"Since January 1, in the laboratory, I'm seeing a 20-times increase of endometrial cancers over what I see on an annual basis," Cole stated in the video.

"I'm not exaggerating at all because I look at my numbers year over year, and I'm like 'Gosh, I've never seen this many endometrial cancers before.'"

Cole revealed these and other statistics at a March 18 event, telling Idahoans that the so-called "vaccines" for the Fauci Flu are invoking a "reverse HIV" type of autoimmune response in people's bodies.

With U.S. government funding at nearly \$1 billion for one company, Moderna may be too big to fail. However, this is perplexing for a company that has never produced a single vaccine. According to a CNN report, Moderna was only established in 2010, has never brought a product to market, nor gotten any of its nine or so vaccine candidates approved for use by the FDA.

However, it has been a long-term Pentagon contractor for biodefense, working closely with Defense Advanced Research Project Agency (DARPA) on gene-editing and mRNA therapeutics. DARPA is focused on developing emerging disruptive technologies to maintain a competitive edge over adversaries, including many 'transhuman' projects such as genetic engineering and soldier enhancement via robotics.

In the case of Moderna and mRNA therapeutics, DNA vaccines is considered a new paradigm that would disrupt the pharmaceutical industry. Its vision is to harness a new technology that synthesizes messenger RNA, or mRNA—which is an instruction manual in every living cell for creating protein—to prompt the human body to make its own medicine.

So instead of injecting a piece of virus into a person to stimulate the immune system, the synthesized genes would be shot into the body whereby the genes are edited, deleted, added, to re-engineer human DNA to resist the disease. If successful, scientists hope DNA vaccines could be a “transformative” treatment for heart disease, metabolic and genetic diseases, kidney failure and even cancer. Moreover, it could be an effective form of biodefense to protect the population against biological warfare, which is also the mandate for DARPA and BARDA.

If the Defense Advanced Research Project Agency (DARPA) is working on gene-editing and mRNA therapeutics, are the MRNA Vaccines bioweapons with the intent to make people transhuman in the future?

Interim Clinical Considerations for Use of COVID-19 Vaccines Currently Approved or Authorized in the United States

<https://www.cdc.gov/vaccines/covid-19/clinical-considerations/covid-19-vaccines-us.html>

From the website:

Patient counseling

mRNA COVID-19 vaccines (Pfizer-BioNTech and Moderna)

Before vaccination, vaccination providers should counsel mRNA COVID-19 vaccine recipients about expected local (e.g., pain, swelling, erythema at the injection site, localized axillary lymphadenopathy¹ on the same side as the vaccinated arm) and systemic (e.g., fever, fatigue, headache, chills, myalgia, arthralgia) post-vaccination symptoms.

Most systemic post-vaccination symptoms are mild to moderate in severity, occur within the first three days of vaccination resolve within 1–2 days of onset. Overall, symptoms are more frequent and severe following the second dose and among younger people compared with older people (i.e., aged >55 or ≥65 years [for Pfizer-BioNTech or Moderna vaccines, respectively]). People with prior SARS-CoV-2 infection may be more likely to experience symptoms such as fever, chills, and myalgia after the first mRNA COVID-19 vaccine dose. Unless people have a contraindication to vaccination, they should be encouraged to complete the series to optimize protection against COVID-19 even if they experience local or systemic symptoms following the first dose.

Myocarditis and pericarditis

Reports of adverse events following use of the Janssen COVID-19 Vaccine under EUA suggest an increased risk of GBS^{external icon} during the 42 days following vaccination. The Fact Sheet^{external icon} for Recipients and Caregivers includes information about GBS (a neurological disorder in which the body's immune system damages nerve cells, causing muscle weakness and sometimes paralysis) and notes that in most people symptoms began within 42 days following receipt of Janssen COVID-19 vaccine. Although the chance of GBS occurring is very low, vaccine recipients should seek medical attention right away if they develop any of the following symptoms after receiving Janssen COVID-19 vaccine:

- Weakness or tingling sensations, especially in the legs or arms, that is worsening and spreading to other parts of the body
- Difficulty walking
- Difficulty with facial movements, including speaking, chewing, or swallowing
- Double vision or inability to move eyes
- Difficulty with bladder control or bowel function

Contraindications and precautions

Contraindications

CDC considers a history of the following to be a contraindication to vaccination with COVID-19 vaccines:

- Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a component of the COVID-19 vaccine
- Immediate allergic reaction of any severity to a previous dose or known (diagnosed) allergy to a component of the COVID-19 vaccine

Precautions

Most people deemed to have a precaution to a COVID-19 vaccine at the time of their vaccination appointment can and should be administered vaccine. CDC considers a history of an immediate allergic reaction to any vaccine other than COVID-19 vaccine or to any injectable therapy (i.e., intramuscular, intravenous, or subcutaneous vaccines or therapies [excluding subcutaneous immunotherapy for allergies, i.e., “allergy shots”]) as a precaution but not a contraindication to vaccination. People with a history of an immediate allergic reaction to a vaccine or injectable therapy that contains multiple components, one or more of which is a component of a COVID-19 vaccine, have a precaution to vaccination with that COVID-19 vaccine, even if it is unknown which component elicited the allergic reaction.

People with a contraindication to one type of the currently FDA-approved or FDA-authorized COVID-19 vaccines (e.g., mRNA) have a precaution to the other (e.g., Janssen viral vector). However, because of potential cross-reactive hypersensitivity between ingredients in mRNA and Janssen COVID-19 vaccines, consultation with an allergist-immunologist should be considered to help determine if the patient can safely receive vaccination. Healthcare professionals and health departments may also request a consultation from the Clinical Immunization Safety Assessment COVIDvax project. Vaccination of these individuals should only be undertaken in an appropriate setting under the supervision of a healthcare professional experienced in the management of severe allergic reactions.

- People with a contraindication to mRNA COVID-19 vaccines (including due to a known PEG allergy): Consideration may be given to vaccination with Janssen COVID-19 vaccine. People who have received one mRNA COVID-19 vaccine dose but for whom the second dose is contraindicated should wait at least 28 days after the mRNA vaccine dose to receive Janssen COVID-19 vaccine.

Would you take this vaccine if you knew your chance of getting cancer goes up?

Would you take the vaccine if you knew ahead that you could develop Myocarditis and pericarditis, Thrombosis with thrombocytopenia syndrome, or Guillain-Barré Syndrome? I think I have better odds of surviving the virus than surviving anyone of these complications that can arise from the vaccine.

How can people give informed consent without all of the facts? As of now, the COVID-19 vaccine manufacturers should be including all of the side effects that have been reported to VAERS as possible side effects if the COVID-19 vaccine is taken. In the past, this information was not available. In addition, doctors should be providing the inserts for all of the vaccines before giving any vaccine is given to their patient. They should include all of the ingredients and the possible side effects.

*It is amazing how the Gates Foundation money went towards the making of the coronaviruses and the research and development of vaccines to combat it. Just think how much money one can make developing a biological weapon and its cure! The timing of **Event 201** was just remarkable with the actual outbreak. *How on earth could Moderna file a patent for by Feb 28, 2020 for Betacoronavirus MRNA Vaccine when the USA was only discovering what they were combating?* Politicians wonder why there is vaccine hesitancy when we are still waiting to find out the long-term effects. I personally wait to buy anything new like a car until all of the bugs have been worked out. I would not sign up for an experimental vaccine if I didn't know what was in it, possible side effects, and who is liable if I became vaccine injured.*

Why is the president pushing these vaccines when people under 70 or in good health have an excellent chance of survival? Don't old people and those with pre-existing conditions have a higher chance of dying anyway?

V) Discrimination of unvaxxed and coercion to take the vaccine despite breakthrough cases:

*We were told that the unvaxxed people were the ones spreading the disease. This was deceptive because both the vaccinated and unvaxxed are spreading the delta variant. **Israel and Iceland are 2 of the most highly vaccinated countries in the world, Massachusetts is 74% fully vaccinated, 3 private universities (Chapman, Duke, and Rice) were 89%+ fully vaccinated. All of these places had huge amounts of breakthrough COVID-19 cases. This is a clear indication that the vaccines have lost their efficiency or just don't work, so why is President Biden pushing mandates? Why is the Vancouver WA Mayor and City Council pushing these mandates?** This seems purely discrimination against the unvaxxed people and a deliberate attempt to divide the people. We have laws against discrimination! In addition, **why did Biden consider boosters?** That is like giving last year's flu shot for this year's flu. The virus has mutated so many times it doesn't make sense.*

- **Vaxxed Make Up '85–90% of the Hospitalizations' from COVID Infection in Israel: Dr. Kobi Haviv**
American Faith By Jon Fleetwood August 8, 2021
<https://americanfaith.com/vaxxed-make-up-85-90-of-the-hospitalizations-from-covid-infection-in-israel-dr-kobi-haviv/>
 The Director of the Herzog Hospital in Jerusalem says the Covid-19 vaccine's "effectiveness is waning."
QUICK FACTS:

Rice University, Covid at Rice letter from David W. Leebron May 28, 2021

From the Letter:

We realize that for a variety of reasons – including medical, religious, and logistical challenges – a 100% vaccination rate may not be possible. Our previous survey of the Rice community showed a vaccination rate of approximately 80%, and we continue to encourage all members of our community — students, faculty, and staff — to get vaccinated. Our goal is to get to at least 90%.

So, we are announcing today that we expect all students who come to campus, except those with an approved waiver for medical or religious reasons, to be fully vaccinated against COVID-19 in order to start the fall 2021 semester.

Rice University Shifts to Online Classes As Covid Cases Rise

BloombergQuint.com article by Janet Lorin Aug. 20, 2021

The Dean Bridget Gorman said, “ I’ll be blunt: the level of breakthrough cases (positive tests among vaccinated persons) is much higher than anticipated.

VI) *Why is the USA concentrating on vaccines and snuffing effective treatments?*

In 1976 the swine flu vaccine was pulled after 32 deaths. That was back in the day when the vaccine manufacturers still had liability.

In 1986, Congress passed HR 5546. It is the National Childhood Vaccine Injury Act of 1986. This act releases vaccine manufacturers of all liability if you are vaccine injured. If you are vaccine injured if you can prove it, and have a symptom on their list you could sue in vaccine court.

Under the EUA, anyone who agreed to take the experimental vaccine and became vaccine injured was screwed, they signed up for the experiment.

Since you can’t sue the vaccine manufacturers if you are vaccine injured, and the City of Vancouver is imposing these mandates, are you, the City of Vancouver willing to take on the liability if a person is vaccine injured?

VAERS COVID Vaccine Adverse Event Reports

<https://openvaers.com/covid-data>

The FDA, CDC, NIH, and NIAID say the experimental COVID19 Vaccines are safe! I beg to differ. The latest VAERS COVID Vaccine Adverse Event Reports through September 10, 2021 shows 701,559 Reports, 14,925 deaths, 60,741 Hospitalizations, 80,393 Urgent Care, 110,839 Doctor Office Visits, 5,959 Anaphylaxis, 8,156 Bell’s Palsy, 1,862 Miscarriages, 6,637 Heart Attacks, 5,765 Myocarditis/Pericarditis, 19,210 Permanently Disabled, 3,025 Thrombocytopenia/Low Platelet, 15,013 Life Threatening, 28,168 Severe Allergic Reaction, and 8,153 Shingles cases.

How many autopsies has the CDC done to verify if the cause of death was from the COVID-19 Vaccines? Is the CDC afraid to find out the real cause of death since they rushed for the approval of the EAU and

He added that based on the findings from Agra, the state government sanctioned the use of Ivermectin as a prophylactic for all the contacts of Covid patients and later cleared the administration of therapeutic doses for the treatment of such patients.

Claiming that timely introduction of Ivermectin since the first wave has helped the state maintain a relatively low positivity rate despite its high population density, he said, "Despite being the state with the largest population base and a high population density, we have maintained a relatively low positivity rate and cases per million of population."

He said that apart from aggressive contact tracing and surveillance, the lower positivity and fatality rates may be attributed to the large-scale use of Ivermectin use in the state, adding that the drug has recently been introduced in the National Protocol for Covid treatment and management. "Once the second wave subsides, we would conduct our own study as there has been an emerging body of evidence to substantiate our timely use of Ivermectin from the first wave itself," Vikasendu told The Indian Express."

One would think the World Health Organization, Big Pharma, the mainstream media, and Dr. Anthony Fauci would be overjoyed by this development that ivermectin is undoubtedly saving lives.

But don't count on them celebrating that, because that would hurt their bottom lines of profit and power from their experimental and ineffective vaccines.

That's why they've been melting down over ivermectin after Joe Rogan successfully used it to treat his COVID infection earlier this month.

El Salvador Government Gives Medicine Packets to All COVID-19 Patients. Guess What They Contain?

We Love Trump

By Daniel

Sept. 18, 2021

<https://welovetrump.com/?s=el+salvador+government+gives+medicine+packets>

Here at WLT, we've brought you the truth about Ivermectin.

And we've shown you the wonder drug's success for treating COVID-19 in Uttar Pradesh, India.

Here in the United States:

-Mainstream media spreads lies by calling Ivermectin "horse dewormer."

-Hospitals deny Ivermectin to patients who need it.

-The federal government pushes dangerous injections instead of the safe, effective treatment.

All three are complicit with crimes against humanity.

If we lived in a sane society, Ivermectin would be available to every American household to treat COVID-19.

But in the United States, our society has fallen off a cliff.

For a semblance of sanity, we must turn to El Salvador.

The Central American nation has taken a common sense approach to treat citizens who contract COVID-19.

El Salvador's government now sends medicine packets and instructions for self-treatment.

Let's see what's included in those medicine packets:

Tweeter

sv HLE.HOLD sv

- baricitinib immunosuppressant (a medicine that reduces the activity of the immune system) from Eli Lilly: an application for extension of marketing authorization for COVID-19 indication is under assessment

Newly developed monoclonal antibodies under rolling review - a regulatory tool to speed up the assessment of a promising medicine during a public health emergency:

- combination of bamlanivimab and etesevimab from Eli Lilly: under rolling review
- combination of casirivimab and imdevimab from Regeneron Pharmaceuticals, Inc. and F. Hoffman-La Roche, Ltd: under rolling review
- regdanvimab from Celltrion: under rolling review
- sotrovimab from GlaxoSmithKline and Vir Biotechnology, Inc.: under rolling review

*The real problem is that in order to use the **Emergency Use Authorization (EUA)**, the FDA can only use unapproved medical products in an emergency to treat or prevent life-threatening diseases providing there is no adequate, approved, available alternatives. Dr. Simone Gold put a team of doctors together called The American Frontline Doctors come up with the best treatment possible. Dr. Stella Immanuel joined in. Other doctors such as Dr. Vladimir Zelenko, Dr. Peter Mc Cullough, and Dr. Mercola also developed effective treatments. Dr. Ryan Cole discussed the importance of Vitamin D to maintain good health. These doctors put together protocols usually including either **Hydroxychloroquine or Ivermectin, zinc, and other supplements**. Sometimes breathing treatments and anti-inflammatories were included depending on their patient's needs. They had great success with these inexpensive meds and some over-the-counter items. There are a couple of issues:*

(a) The FDA refused to approve these inexpensive repurposed drugs such as Hydroxychloroquine or Ivermectin, because if there was an effective treatment, the FDA could not push the new experimental vaccines under the EUA. People with symptoms are not being treated early on and told to come back if things get worse such as shortness of breath, dehydration, etc. By this time, it becomes harder to treat a patient and the chance of survival is reduced.

The FDA ban on these repurposed drugs needs to be over turned!** There is plenty of evidence these repurposed meds work. In Uttar Pradesh, India, medicine kits with Ivermectin, Vitamin C, & Zinc, were being used to treat people at home. Dr. De Costa said it had a great impact. The WHO and the FDA would not acknowledge his results. El Salvador had similar packets sent out and great success too! In addition, the European Commission will have effective treatments this coming October 2021. There won't be a need to mandate these vaccines any more. **The FDA director should be fired!

The Hippocratic Oath Today | NOVA | PBS

<https://www.pbs.org/wgbh/nova/article/hippocratic-oath-today/>

Hippocratic Oath: Modern Version

I swear to fulfill, to the best of my ability and judgment, this covenant:

has banned the use of repurposed meds and tied the hands of doctors. These effective treatments worked for all the variants. These are Crimes Against Humanity!

VII) *Why are PCR tests used when they have a high false positive rate?*

StandForHealthFreedom.com on Feb. 3, 2021

"to guarantee a positive test is accurate, the test must be run at 17 cycles. By 33 cycles, 80% are false positives. The CDC declared it will withdraw its request use on an emergency basis on December 31, 2021." *Why wait when the don't work?*

In addition, the nasal swab tests from China have ethylene oxide on it. According to the NIH National Cancer Institute, Ethylene Oxide is used as a pesticide and sterilizing agent. The ability of ethylene oxide to damage DNA makes it an effective sterilizing agent but also accounts for its cancer-causing activity. Is this something you want up your nose near your brain? I don't want it.

Why does the City of Vancouver continue to use the PCR tests with that kind of error? Shouldn't doctors use other methods to identify whether a patient is sick with COVID-19 or not? When people are forced to quarantine because they test positive, they can't work! This will affect their livelihoods if they are not sick and can't work.

VIII) CDC Director Walensky Lies, Contradicting CDC's Own Data.

New American article:

<https://www.bing.com/search?q=cdc+director+walemsky+lies+contradicting+cdc%27s+own+data&form=ANSPH1&refid=b1283e9536ac4508b6962c6649c82e9c&pc=U531#:~:text=CDC%E2%80%99s%20OWN%20DATA%20...-,https%3A//thenewamerican.com/cdc-director-walensky,-Jul%2029%2C%202021>

Tucker Carlson's News Report on July 28, 2021, Walensky stated in a clip played by Carlson, "If you look at the mortality rate of COVID, just this past year for children, it's more than twice the mortality rate that we see in influenza in a given year."

The problem is that unless Walensky is profoundly ignorant of her own CDC's data and what attentive laymen have known for more than a year, her claim is a lie.

New American writes, The Truth: "From 2019 to 2020, according to the CDC, a total of 124 children died of COVID. From 2020 to 2021, 213 children died of COVID. By comparison, influenza killed more than 400 children just last year," Carlson related, "In fact, that was not an aberration. Influenza has killed far more children than COVID has in each of the past five years. It's not even close."

Does the City of Vancouver trust the CDC director when she contradicts the CDC's data?

IX) *Mask Mandates:*

Federal Judge Embarrasses the CDC With A Crucial Question on Mask Science

useless (the judge points that out) and 2) because they have no affirmative evidence that masks reduce the spread of COVID-19. If they did, they'd be announcing it from the rooftops. That they aren't is dispositive on its own.

Mask Mandate for Children Is Not Backed by Science: New Jersey Senators

The Epoch Times

By Ella Kietlinska

July 17, 2021

https://www.theepochtimes.com/mask-mandate-for-children-is-not-backed-by-science-new-jersey-senators_3903570.html

From the article:

Health Professionals and parents talked about the impact of masks on children's health and well-being.

Mask Effectiveness for Children

There have not been any randomized clinical trials on children to assess the benefits of wearing masks, but different countries responded differently to the pandemic, said Dr. Martin Kulldorff, professor of medicine at Harvard Medical School, and a biostatistician and epidemiologist.

"During the first wave [of the COVID-19 pandemic] in the spring of 2020, most large Western countries closed their schools for longer or shorter time periods, including more states in the U.S. The one exception was Sweden, which kept schools and daycare open from ages 1 to 15, for which there are 1.8 million children."

At that time, there was no mask-wearing, no social distancing, and no COVID-19 testing for children in Sweden, Kulldorff said at the hearing, but there was more cleaning than normal in schools and daycare facilities and children who got sick were sent home.

Despite this lack of restrictions, "none of these 1.8 million children died [of COVID-19]," Kulldorff emphasized.

"COVID is primarily spread through adults. When children do get infected ... they typically get it from an adult. And it's very unusual to get transmission from children to adults."

The risk of COVID-19 infection for teachers is the same or slightly lower than the average in other professions, Kulldorff said. "There's no purpose of wearing masks, either for the benefit of the children or for the benefit of teachers. There's no public health reasons to do that."

"I think in the United States, for this whole pandemic, there have been about 350 reported COVID deaths among children. And we don't know exactly how many of those are due to COVID versus how many are with COVID because [the] CDC hasn't done that evaluation."

Kulldorff said that the number of child deaths due to influenza is between 200 and 1,000 every year depending on the severity of influenza.

"Every one of these deaths is tragic," Kulldorff said, but "for children, [mask] doesn't particularly give them any protection from COVID."

(We keep hearing the Science, the Science, when the CDC has nothing to back it up.)

If the CDC has been making decisions without the data or evidence, why does the City of Vancouver go along with these mask mandates? Isn't it time to stop enforcing them? Isn't it time to let the people decide for themselves whether they choose to mask or not?

X) Dr Mike Yeadon's Final Warning to Humanity – Rights and Freedoms

Rights and Freedoms

BY CAPTAINDARETOFLY

JULY 27, 2021

<https://rightsandfreedoms.wordpress.com/2021/07/31/dr-mike-yeadons-final-warning-to-humanity/>

From the website:

In an interview posted online, **former Vice President and Chief Science Officer of Pfizer for 16 years, Dr Mike Yeadon**, gave a staunch warning to humanity that they must wake up before it's too late.

Dr Yeadon outlined that the government has been lying to the public throughout the entirety of the Covid pandemic and that it's up to the masses to stop them.

In the video, Dr Yeadon explained the Covid-19 restrictions that were introduced at the start of the pandemic (and continue to be used) don't work. For example, he explains how masks are incapable of preventing the spread of the alleged virus, and that lockdowns never slowed transmission.

Additionally, Dr Yeadon told viewers that they "don't need to be vaccinated by inadequately tested and somewhat dangerous gene-based, spike protein inducing proteins", and should instead ignore what corrupt scientists tell them to do.

The former Pfizer Vice President warned that if people don't wake up in the next few weeks, they will have lost the chance to take back freedoms and return to normal society as vaccine passports will be introduced.

"You need to be symptomatic in order to be infectious but what we do we quarantine the sick, we've always done that.

"We've quarantined the sick because that's how you avoid infecting the wider population. So, the idea of quarantining the well with these so-called lockdowns is a new invention, and it has no foundations whatsoever either in science or in the history of controlling epidemics."

Furthermore, Dr Yeadon explained that Covid-19 does pose a threat to the elderly and those with underlying health conditions, but is not a risk to those who are younger, fit, and healthy. To the younger demographic, he says, Covid-19 is less of a threat than influenza.

(When the former Vice President and Chief Science Officer of Pfizer warns you about the vaccine, masks, and lock downs, I am going to listen.)

As you see, I have presented plenty of reasons why the City of Vancouver should put an end to all of the Covid-19 mandates and make a public announcement doing so. If you know something is wrong (specifically these mandates), and you continue to go along with it, isn't that aiding abetting in a crime? I have asked you to consider DeSantis fining policy in Florida for Vancouver Washington so the unvaxxed won't be penalized or coerced to vaccinate against their will to keep their jobs. I ask that you contact

the FDA director as to why she is ignoring the data out of India and that given by the Frontline Doctors, people are dying needlessly because they aren't getting treatment early on. Doctors should be free to choose the best treatment for their patient especially when meds like Ivermectin have been approved for humans for 2 decades. They also should be able to use treatments available by the European Commission. In addition, please ask the FDA director how many must die or be seriously injured by these COVID-19 vaccines before she is willing to pull them off the shelves? 14,925 deaths after a Covid-19 vaccine seems way too much, is that acceptable to you?

Please respond in writing in 10 business days,

A handwritten signature in black ink that reads "Laurel Pascual". The script is cursive and fluid, with the first name "Laurel" being more prominent than the last name "Pascual".

Laurel Pascual

Address is on cover letter

October 4, 2021 - Vancouver City Council Meeting Minutes

WORKSHOPS

Workshops were conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting 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, or listen via the GoToMeeting conference call.

Councilmember Lebowsky was absent from workshops.

4:00-6:00 p.m. Fire and EMS: Standard of Cover Options

Eric Holmes, City Manager; Brennan Blue, Vancouver Fire Chief, 360-487-7201

Summary

City Manager Eric Holmes and Vancouver Fire Chief Brennan Blue presented Council with options for improving fire and EMS service delivery.

REGULAR COUNCIL MEETING

This meeting was conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting 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 were also facilitated via the GoToMeeting conference call.

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 McEnery-Ogle. This meeting was conducted remotely over video conference.

Present: Councilmembers Fox, Paulsen, Lebowsky Glover, Stober,
Mayor McEnery-Ogle

Absent: Councilmember Hansen

Motion by Councilmember Paulsen, seconded by Councilmember Lebowsky, and carried unanimously to excuse Councilmember Hansen.

Approval of Minutes

Minutes - September 13, 2021

Motion by Councilmember Glover, seconded by Councilmember Paulsen, and carried unanimously to approve the meeting minutes of September 13, 2021.

Proclamations

Disability Employment Awareness Month

Mayor McEnery-Ogle read and presented a proclamation to Maradee Potter, Clark County Development Disabilities Advisory Board member, and Angela Gomez, Clark County Developmental Disabilities Program Coordinator, proclaiming October 2021 as Disability Employment Awareness Month.

Great Washington Shake-Out

Mayor McEnery-Ogle read and presented a proclamation to Lisa Brandl, Vancouver Deputy City Manager, encouraging participation in the Great Washington ShakeOut on October 21, 2021.

Community Communication (Items 1-4)

Mayor McEnery-Ogle opened Community Communication and received the following testimony:

- Peter Fels, Vancouver, spoke regarding Item 2, and encouraged the City to request bidders for this and other projects provide information pertaining to proposed environmental mitigation efforts, such as using electric equipment while working on such projects for the City.

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

Consent Agenda (Items 1-4)

Council requested Item 2 be pulled for discussion.

Councilmember Fox asked when the City uses on-call services, and whether the City will be going directly back out for bids with this project. Charles Ray, Urban Forester, explained the Urban Forestry division would utilize on-call services whenever trees of significant size need to be pruned or removed, as there currently is not staff capacity or expertise to do this in-house. City crews do some minimum pruning and removal when it is safe to do so. Mr. Ray stated the City is brushing up against the spending ceiling on the existing contract for these services, and so would be reissuing the request for proposals soon in order to get a new contract in place before the end of the year.

Motion by Councilmember Stober, seconded by Councilmember Fox, and carried unanimously to approve the Consent Agenda.

1. Purchase of Turbine-Style Aeration Blower for Wastewater Treatment - Sole Source (Renewal)

Staff Report 147-21

Summary

Current and increasing wastewater treatment demands require more than one blower to provide aeration air to treatment processes. The current configuration with a turbo blower paired with an older centrifugal blower presents process control challenges in delivering aeration air to treatment processes.

The new turbo blower will allow for streamlined operation and improved air supply after implementation. The existing turbo blowers at Westside and Marine Park have proven effective in their nearly 10-year continuous operation, with no major maintenance or repair required. A new, second turbo blower was installed at Marine Park treatment plant in August 2021 and is performing as designed.

Request: Authorize the City Manager or his designee to award and execute a purchase order and any required amendments with APG Neuros for a turbine-style blower at their proposal total price of \$376,000, which includes Washington State sales tax.

Frank Dick, Wastewater Engineering Supervisor, 360-487-7179

Motion approved the request.

2. **Request to Reject All Bids - ITB 21-30: Tree Pruning and Removal**

Staff Report 148-21

Summary

On September 14, 2021, the City received two bids for the subject project. The bids were based upon estimates of work needed within a one-year period of the contract. One bid was deemed non-responsive as it did not include the required bid bond with the bid. The second bidder was responsive. The bids are as follows:

SUMMARY OF BIDS	
BIDDER	AMOUNT
Arborscape LTD Inc., Vancouver, WA	\$1,519,010.85
Pacific Land Preservation, LLC, MarbleMount, WA	Non-responsive
Engineers' Estimate	\$500,000 per year

City Staff recommends rejecting all bids to re-solicit this project at a later time in hopes to widen competition by advertising the project for a longer period of time and advertise within local contractor communities and arborist communities. City Staff feels it would be in the best interest of the City to encourage more contractors to bid on the contract.

Request: On October 4, 2021, reject all bids for the On-Call Tree Pruning and Removal, ITB 21-30 project and direct City Staff to re-advertise the project.

Charles Ray, Urban Forester, 360-487-8328

Motion approved the request.

3. **Fourth Plain Commons VHA Bond Issuance**

Staff Report 149-21

A RESOLUTION providing approval, solely for purposes of section 147(f) of the Internal Revenue Code, of the issuance of revenue obligations by the Housing Authority of the City of Vancouver in the principal amount not to exceed \$22,000,000 to finance the construction and equipping of a multifamily housing complex to provide housing for low-income persons in the City of

Vancouver, Washington.

Summary

The VHA will construct the project known as Fourth Plain Commons located at 2200 Norris Road. The project will consist of a ground floor community center and plaza and 106 units of affordable housing. The City will purchase the Community Center and Plaza when completed. Funding for the purchase will come from CDBG and Dept. of Commerce funding.

If approved, the bond obligations would be issued pursuant to a plan of financing consistent with Treasury Regulations. The schedule for issuance will require that the first issue of the obligations for the project be issued no later than one year after the City's approval and that any subsequent issuance for the project be issued no later than three years after the first bond issuance for the project. The maximum principal amount of the bond obligations for the project will not exceed \$22 million.

Unlike "governmental" tax-exempt bonds, qualified private activity bonds may finance a facility to be used primarily by a private entity, so long as 95% of the proceeds of the bonds are applied to a qualifying purpose (here, provision of low-income housing) and certain other requirements are met. Among the special requirements applicable to qualified private activity bonds are those contained in Section 147(f) of the Internal Revenue Code (the "Code"). Under these provisions, added by the Tax Equity and Fiscal Responsibility Act and therefore often referred to by the acronym "TEFRA") are notice, hearing and local government approval requirements. These TEFRA requirements are intended to provide opportunities for the public to be made aware of projects to be financed with tax-exempt qualified private activity bonds.

Although the City's approval is required for the issuance of the Obligations, the City's approval does not create or imply any responsibility on the part of the City to issue the Obligations, to pay debt service on the Obligations or to determine whether the Obligations or the Project are financially feasible.

Request: Adopt a resolution authorizing issuance of tax-exempt qualified private activity bond obligations by the Vancouver Housing Authority to support the Fourth Plain Commons project.

Jonathan Young, City Attorney, 360-487-8500

Motion adopted Res. M-4146 to approve the request.

4. Approval of Claim Vouchers

Request: Approve claim vouchers for October 4, 2021.

Motion approved claim vouchers in the amount of \$7,724,150.01.

Communications

- A. From the Council**
- B. From the Mayor**
- C. From the City Manager**

Adjournment

6:54 p.m.

Anne McEnerny-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Meetings of the Vancouver City Council are electronically recorded on audio and video. The audio records are kept on file in the office of the City Clerk for a period of six years.

September 20, 2021 - Vancouver City Council Meeting Minutes

WORKSHOPS

Workshops were conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting 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, or listen via the GoToMeeting conference call.

Councilmember Fox arrived at 5:21 p.m.

4:00-5:00 p.m. Commercial Corridors Strategy - Evergreen and Grand Boulevards

Bryan Snodgrass, Principal Planner, 360-487-7946

Summary

Staff provided an update and overview of next steps pertaining to the Commercial Corridors Strategy for Evergreen and Grand boulevards.

5:00-6:00 p.m. Housing Code Updates

Bryan Snodgrass, Principal Planner, 360-487-7946

Summary

Staff provided Council with an update on the housing code updates project.

REGULAR COUNCIL MEETING

This meeting was conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting 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 and Public Hearing items were also facilitated via the GoToMeeting conference call.

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 remotely over video conference.

Present: Councilmembers Paulsen, Lebowsky Glover, Stober, Hansen, Mayor McEnerny-Ogle

Absent: Councilmember Fox (arrived at 7:41 p.m.)

Motion by Councilmember Paulsen, seconded by Councilmember Stober, and carried unanimously to excuse Councilmember Fox.

Approval of Minutes

Minutes - August 16, 2021

Motion by Councilmember Stober, seconded by Councilmember Lebowsky, and carried unanimously to approve the meeting minutes of August 16, 2021.

Proclamation: National Preparedness Month

Mayor McEnerny-Ogle read and presented a proclamation to Gene Juve, the City's Emergency Preparedness Manager, proclaiming September 2021 as National Preparedness Month in the city.

Community Communication (Items 1-3)

Mayor McEnerny-Ogle opened Community Communication and, receiving no testimony, closed Community Communication.

Consent Agenda (Items 1-3)

1. **Interlocal Agreement with Clark Public Utilities (CPU) for Overhead Electric Line Relocation associated with the Northwest Neighborhood Connectivity Improvements transportation project (on NW Lincoln Avenue – NW 43rd Street to NW 53rd Street. (Project #PRJ072461)**

Staff Report 134-21

Summary

The City and CPU have been working cooperatively to complete the Northwest Neighborhood Connectivity Improvements transportation project. Relocation is required for CPU facilities. When CPU has facilities located within the right-of-way, CPU is responsible for the cost of relocation to accommodate roadway reconstruction. When the facilities are located in CPU easements, CPU can require reimbursement for the relocation of the facilities. An Interlocal Agreement must be executed to enable the City to reimburse CPU for these costs.

Request: Authorize the City Manager or designee to sign an Interlocal Agreement with Clark Public Utilities for reimbursement of expenses for Overhead Electric Line Relocation – Northwest Neighborhood Connectivity Improvements project, currently estimated to be \$39,683.66, which includes sales tax.

*Ivar Christensen, PE, Senior Civil Engineer, 360-487-7765;
Hassan Abdalla, PE, Engineering Manager, 360-487-7704*

Councilmember Hansen recused himself from discussion and action on this item, as he is employed by Clark Public Utilities.

Motion by Councilmember Glover, seconded by Councilmember Lebowsky, and carried unanimously to approve the request. Councilmember Hansen recused.

2. **Bid Award for SE 1st Street – 164th Avenue to 177th Avenue transportation improvement project, per Bid #21-20 (Project #PRJ071612)**

Staff Report 122A-21

Summary

The existing SE 1st Street corridor is a two-lane rural road that provides no center turn lanes or bike lanes and inadequate scattered sidewalks. SE 1st Street serves as an east-west arterial road connecting busy corridors in East Vancouver that collectively carry more than 60,000 vehicles a day. As the area around SE 1st Street has grown with more residential, retail, commercial and industrial sites, the street has not grown concurrently in order to safely provide access for increasing demand for multimodal

transportation options to suit the urban environment it has become.

On July 13, 2021, the City received 10 bids for the subject project. The bids ranged between \$9.89 million and \$12.24 million. The low bidder was responsive. The bids are as follows:

SUMMARY OF BIDS	
BIDDER	AMOUNT
<i>Lee Contractors, LLC, Battle Ground, Washington</i>	<i>\$9,887,587.00</i>
<i>Rotschy, Inc., Vancouver, Washington</i>	<i>\$10,972,319.75</i>
<i>Nutter Corporation, Vancouver, Washington</i>	<i>\$11,267,264.22</i>
<i>James W. Fowler, Dallas, Oregon</i>	<i>\$11,717,851.18</i>
<i>J. Joe Thompson, Vancouver, Washington</i>	<i>\$11,870,453.50</i>
<i>Tapani, Inc., Battle Ground, Washington</i>	<i>\$11,978,000.00</i>
<i>McDonald Excavating, Washougal, Washington</i>	<i>\$12,153,274.50</i>
<i>Granite Construction Company, Vancouver, Washington</i>	<i>\$12,238,238.00</i>
<i>Carlson Testing, Tigard, Oregon</i>	<i>Non-responsive</i>
<i>Kerr Contractors Oregon, Woodburn, Oregon</i>	<i>Non-responsive</i>
<i>Engineer's Estimate</i>	<i>\$9,000,000 to \$9,500,000</i>

Due to the federal funding associated with this project, the Washington State Department of Transportation (WSDOT) set a Disadvantaged Business Enterprise (DBE) goal of 19% and a training goal of 400 hours. Lee Contractors, LLC from Battle Ground, Washington, has provided a DBE Utilization Form and has committed to meeting these goals. The training goal is included in the list of bid items and pursuant to WSDOT requirements, the contractor is required to submit a training plan prior to the start of construction.

During the project, City staff will be monitoring the contractor's progress at meeting the DBE and training requirements by way of monthly evaluations and a review of the mandatory information provided by the contractor to the Washington State Office of Minority & Women's Business Enterprises and the Department of Labor and Industries. In addition, City staff will also be conducting on-site reviews with the contractor to ensure they are meeting the DBE and training goals throughout the construction of the project. In the event the contractor fails to meet either the DBE or Training goals, the City may impose monetary penalties and the contractor can be precluded from bidding on future City projects.

The SE 1st Street project does not include any City apprenticeship utilization requirements as federal grant funding requirements do not allow the inclusion of local agency apprenticeship programs.

Request: On September 20, 2021, award a construction contract for the SE 1st Street – 164th Avenue to 177th Avenue project to the lowest responsive and responsible bidder, Lee Contractors, LLC of Battle Ground, Washington, at their bid price of \$9,887,587.00, which includes Washington State Sales Tax and authorize the City Manager or designee to execute the same.

Leslie Degenhart, PE, Senior Civil Engineer, 360-487-7710

Motion approved the request.

3. Approval of Claim Vouchers

Request: Approve claim vouchers for September 20, 2021.

Motion approved claim vouchers in the amount of \$5,060,474.96.

Public Hearings (Items 4-6)

4. 2020 CDBG/HOME Program Consolidated Annual Performance Evaluation Report

Staff Report 135-21

The Consolidated Annual Performance Evaluation Report (CAPER), is designed to provide a meaningful overview of the funding activities administered by the City of Vancouver CDBG and HOME programs for the 2020 Program Year (July 1, 2020 through June 30, 2021). The CAPER also provides a measuring tool to track the City's progress in meeting the goals, objectives, and areas of priority identified in the 2019-2023 Consolidated 5-year Plan. The 2020 CAPER marks the eighteenth year for Vancouver as a CDBG entitlement city and the twelfth year as a HOME Investment Partnership Program participating jurisdiction. The 2020 CAPER is the second year of reporting under the 2019-2023 five-year Consolidated Plan. In the 2020 Program Year Vancouver expended \$2,212,699.98 in CDBG funds, and \$774,908.62 in HOME funds. (These amounts may also include funding from previous program years that was expended during the 2020 program year.) These funds were spent on programs focused on local needs that follow the national objectives, goals and outcomes for the CDBG and HOME programs administered by the U.S. Department of Housing and Urban Development. The intended recipients of program funding are low and moderate-income families and

individuals. A four person moderate income (80% AMI) family earns \$77,360 per year or less. A low-income (50% AMI) four person household earns \$48,350 or less annually. The City of Vancouver Community Development Block Grant (CDBG) and the HOME Investment Partnership programs strive to provide a coordinated approach to addressing community needs. The CDBG and HOME programs partner with the Vancouver Transportation, Public Works, Police and Parks programs, Clark County, Vancouver Housing Authority, and many local non-profit agencies and businesses on CDBG/HOME projects.

In 2020 the City paid down its Section 108 loan for the Waterfront access improvements by \$302,251.50 and has a principal balance of \$2,305,000 remaining. Additionally, the City has applied for a new Section 108 loan for the Fourth Plain Commons Community Center and expects to receive the outcome of that application from HUD in September 2021.

In 2020, the goals and outcomes of the City of Vancouver's CDBG and HOME programs were significantly impacted due to the global effects of COVID-19. Many of the City's CDBG and HOME supported projects were at a standstill as the organizations adjusted to operating under the pandemic. However, through CDBG and HOME funding, the City of Vancouver was still able to support the City's most vulnerable residents during this time.

The following table is a summary of the accomplishments and people assisted with CDBG and HOME funds during the 2020 program year including activities with funding from prior years.

Goal	Beneficiary Outcome
<i>Increase and Preserve Affordable Housing</i>	<i>49 Households</i>
<i>Increase Economic Opportunity</i>	<i>323 Businesses</i>
<i>Public Services for At-Risk & Homeless Persons</i>	<i>1,952 Persons</i>
<i>Public Facilities and Improvements</i>	<i>144 Persons</i>

Request: Following a public hearing, approve the 2020 CAPER report for submission to the HUD Region X Office for approval.

Peggy Sheehan, Community Development Programs Manager, 360-487-7952; Bryan Monroe, Associate Planner, 360-487-7958

Peggy Sheehan, Community Development Programs Manager, and Bryan Monroe, Associate Planner, provided an overview of the annual report.

Mayor McEnerny-Ogle opened the public hearing and, receiving no testimony, closed the public hearing.

Motion by Councilmember Hansen, seconded by Councilmember Paulsen, and carried unanimously to approve the request.

5. Amendments to VMC Title 10 - Pearson Airfield

Staff Report 131-21

AN ORDINANCE relating to Pearson Field Airport, substantively amending multiple sections of the VMC, re-codifying and amending several other sections of the VMC, and repealing multiple sections of the VMC in order to update and reflect preferred management practices, clarify and update the Aviation Advisory Committee and establish separate stand-alone Rules and Regulations applicable to Pearson Airport; providing for savings, severability and an effective date.

The current Vancouver Municipal Code, Title 10 "Aircraft and Airports" contains many rules and regulations that control the operation and use of Pearson Airfield. Some of current sections of Title 10 are out of date and do not reflect preferred management practices. In addition, many of these existing rules should not be codified, but rather, should be in a separate Rules and Regulations document that City Council could adjust, modify or change through resolution rather than through the more formal and lengthy code change processes.

Also included in the proposed code update, in proposed section 10.05.04, is an update to the makeup and responsibilities for the Aviation Advisory Committee.

After a period of consultation with the users of Pearson Airfield, City staff has drafted the proposed VMC Title 10 ordinance changes for Council consideration.

If Council approves the proposed code changes, which include references to a new Rules and Regulations document, a proposed Rules and Regulations document will come before City Council for consideration on September 27.

Request: On Monday, September 20, 2021, subject to second reading and public hearing, approve the ordinance.

Jennifer Belknap Williamson, Public Works Director, 360-487-7131; Guy Lennon, Airport Manager, 360-487-8619

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

Jennifer Belknap Williamson, Public Works Director, presented an overview of

the proposed code amendments. Dan Swensen, Construction and Engineering Manager, was also available to respond to Council questions.

Councilmember Stober stated that Vancouver resident Paul Speer had sent correspondence (attached) to the Council regarding this item and making note of several places where the ordinance should be corrected.

Ms. Belknap Williamson noted one of the errors pertains to the number of members being proposed to sit on the Aviation Advisory Committee (AAC). She explained one section refers to nine members while another refers to seven, which should be corrected to nine.

Mr. Swensen noted that there is a perceived conflict between the VMC Title 3 and VMC Title 10 in regards to airport funding and how it can be spent. Title 3 currently would require the AAC to review any expense, which logistically would be very difficult from an operations stand point. He stated staff intends to return to Council at a later date with revisions to Title 3 that would make it consistent with the changes to Title 10 if approved by Council.

Councilmember Stober expressed concerns about creating inconsistencies between the two codes by approving the currently proposed changes to Title 10 and questioned whether those changes should be delayed so they could be brought forward concurrently with the revisions to Title 3. Ms. Belknap Williamson stated the AAC is currently suspended, so that provision in Title 3 is moot. She stated staff would bring back the Title 3 revisions for Council consideration prior to reinstatement of the AAC. She noted the advisory committee would continue to be heavily involved in audits and financial reports pertaining to the airport.

Councilmember Stober asked what the downside would be to delaying the Title 10 revisions if staff is going to be bring Title 3 forward soon. Mr. Swensen stated the Title 10 revisions include a lot of good changes that need to be approved as soon as possible, and noted there have already been concerns expressed about the amount of time it has taken to bring these revisions forward for approval.

Councilmember Paulsen asked to what extent scrivener's errors in the current version of the ordinance would be made. City Attorney Jonathan Young explained Council could make a motion to approve the ordinance with the correction of scrivener's errors without making a substantive change as follows:

- Correct throughout instances of "Pearson Airport" to state "Pearson Field Airport";
- Section 10.05.040(1) - edit typo to change "wells" to "well";
- Section 10.05.060 - edit typo to insert a period after the final word "committee";
- Section 10.05.075(5) - edit typo to change "websites" to "website";
- Section 10.05.015 - edit typo to insert a period after "(NPS)" in the first sentence.

Motion by Councilmember Paulsen, seconded by Councilmember Glover, and carried 5-1 to approve the Ordinance M-4347, as read by the Mayor and amended in a non-substantive manner as outlined by the City Attorney (above). Councilmember Stober voted No.

6. Amendments to VMC 8.22 - Camping

Staff Report 132-21

AN ORDINANCE of the City of Vancouver, Washington establishing Supportive Campsites to facilitate the provision of temporary shelter incidental to the provision of supportive services to individuals experiencing unsheltered homelessness; authorizing the establishment of two Themed Supportive Campsites, one for Families with Children and one for Single-Occupant Females; establishing Camping Impact Areas to protect ecologically sensitive areas and areas within the immediate vicinity of Supportive Campsites; establishing an exemption from the prohibition against daytime camping for individuals who present satisfactory evidence of nighttime employment and obtain a Nighttime Worker Camping Permit; Amending VMC 8.22.010 "Findings", VMC 8.22.020 "Purpose", VMC 8.22.030 "Definitions", VMC 8.22.040 "Unlawful Camping", VMC 8.22.050 "Unlawful Storage of Personal Property in Public Places", VMC 8.22.070 "Permit"; providing for severability; and providing for an effective date.

Currently, the City of Vancouver's Unlawful Camping Ordinance (Chapter 8.22 VMC) provides that it is unlawful for any person to camp or store personal property on any public land during daytime hours of 6:30 a.m. through 9:30 p.m.

Despite this Ordinance, an estimated 500-600 individuals still reside in tents or vehicles within the City of Vancouver. This Council has observed that many individuals who camp on public property do so, not by choice, but due to a lack of financial means to afford adequate shelter. These individuals are adversely mentally and physically impacted by camping. Some people hold nighttime employment and cannot reasonably be expected to sleep during the hours allowed by VMC 8.22 (9:30 p.m. through 6:30 a.m.). Single female camp occupants experience a disproportionately high incidence of violent crime as compared to other people. Families with children who camp as a result of a lack adequate shelter are also disproportionately adversely impacted through risk of physical danger and impediments to childhood education.

Simultaneously, Council has also observed that the City's sensitive ecological areas are adversely impacted by adverse secondary impacts of camping. The City's sensitive waterways, water treatment facilities,

stormwater and wastewater facilities are particularly vulnerable to impacts of illegal dumping and improper disposal of human waste.

There are also Constitutional constraints on cities' authority to regulate camping. The Ninth Circuit Court of Appeals has held that cities cannot criminalize camping in all places, at all times, unless there is adequate access to temporary shelter (Martin v. Boise). As a corollary to this holding, cities may impose 24-hour daily prohibitions against unlawful camping "in particular locations." However, the City Attorney's Office has advised that these locations should be no broader than necessary and Council should ensure that adequate public space remains for nighttime camping throughout the rest of the City.

To balance these competing interests, Staff has proposed that the City revise VMC 8.22 "Camping" from a system in which camping is criminalized everywhere from 6:30a.m. to 9:30p.m., to one that seeks to address a variety of competing interests by (a) legalizing camping within Supportive Campsites, (b) prohibiting camping 24/7/365 in certain 'camping impact areas' to include ecologically sensitive areas, (c) allowing camping at night throughout most of the City, and (d) establishing an exemption for nighttime workers.

Accompanying this Staff Report are two ordinances for Council's consideration ("Ordinance Option A" and "Ordinance Option B"). The only distinction between the two versions is the verbiage relating to Camping Impact Areas. Both ordinances indicate that unless occurring within a City-approved Supportive Campsite, camping shall be illegal 24/7/365 within Camping Impact Areas. However the locations of the Camping Impact Areas differ as follows:

<i>The term "Camping Impact Areas" means:</i>	
<i>Both Ordinances:</i>	
<i>1000' from Supportive Campsites;</i>	
<i>At a public water station, wastewater or stormwater facility; and</i>	
<i>Ordinance Option A</i>	<i>Ordinance Option B</i>
<i>Within two hundred feet (200') of the nearest edge of the Columbia River, Vancouver Lake, Burton Channel, Peterson Channel, Fisher's Creek, or Burnt Bridge Creek.</i>	<i>Upon land classified as one or more of the following:</i> <i>a. Habitats of Local Importance as defined by VMC 20.740.100;</i> <i>b. Riparian Buffers of Fish and Wildlife Habitat Conservation areas as defined by VMC 20.740.110;</i>

	c. Frequently Flooded Areas as defined by VMC 20.740.120; or d. Wetland Buffer area of Wetlands as defined by VMC 20.740.140.
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Staff recommends adoption of Option A for a few reasons. First, Option A is more easily mapped and provides greater clarity to the public and law enforcement regarding areas where camping is prohibited. Additionally, the designations of flood areas, wetlands, and habitat conservation areas under Option B will change over time with environmental changes, so a Critical Areas Protection Map would need to be continuously updated, which may cause more uncertainty regarding the location of Camping Impact Areas. Finally, Option B may be over-inclusive in protecting environmentally sensitive areas. For example, during certain seasons, designated wetlands are dry and isolated camping may not have a significant impact on such land.

Request: On September 20, 2021, subject to second reading and public hearing, approve the Option A or Option B ordinance.

Jamie Spinelli, Homeless Response Coordinator, 360-487-8610; Jonathan Young, City Attorney, 360-487-8500; Sara Baynard-Cooke, Assistant City Attorney, 360-487-8500

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

Jamie Spinelli, Homeless Response Coordinator, summarized the proposed ordinance amendments.

Mayor McEnerny-Ogle opened the public hearing and received the following testimony:

- Peter Fels, Vancouver, thanked the City for moving forward to more realistically address homelessness. He stated the supportive campsite program is a good start, and asked the City to take further steps to supporting the unhoused residents.

There being no further testimony, Mayor McEnerny-Ogle closed the public hearing.

Motion by Councilmember Stober, seconded by Councilmember Glover to approve Ordinance Option A.

Councilmember Hansen stated he would not be supporting this ordinance as he has serious concerns about potential impacts to environmentally sensitive areas and steps need to be taken to protect those areas from potential supported camp sites. He stated he believes staff has done a good job of

addressing some of these concerns and they have done great work on this project, but he believes this ordinance still leaves these critical areas too vulnerable to environmental impacts.

Councilmember Paulsen stated he appreciates and shares many of the same concerns as Councilmember Hansen, but he stated he would be supporting the ordinance with a request that staff bring back to Council as soon as possible a plan to evaluate and bring in additional sensitive areas and also to work closely with BPA regarding concerns about environmental impacts on that agency's land. He stated he thinks Option A is a positive step and he does not want to hold the program up any further.

Motion to approve Ordinance M-4348 (Option A) approved 5-1. Councilmember Hansen voted No.

Communications

A. From the Council

B. From the Mayor

a. Interstate Bridge Replacement Program - Executive Steering Group Update

Councilmember Lebowsky stated she would recuse herself from this discussion, as she is employed by the Washington State Department of Transportation.

Katherine Kelly, Senior Policy Advisory, provided an update on the most recent activities of the Interstate Bridge Replacement Project Executive Steering Group.

C. From the City Manager

a. Multifamily Tax Exemption (MFTE) Program Update

Chad Eiken, Community and Economic Development Director, provided an update on the comprehensive review being conducted of the City's multi-family tax exemption program.

Community Forum

Mayor McEnerny-Ogle opened the Community Forum and received the following testimony:

- Jaynee Haygood, Vancouver, expressed concerns about an interaction

she witnessed and experienced between the Vancouver Police Department and a mother whose daughter was experiencing a mental health crisis.

- Glen Yung, Vancouver, spoke regarding the Council's housing options workshop and requested the City allow accessory dwelling units to be used for short-term rentals. He also urged the City to audit the multi-family tax exemption program.
- Wynn Grcich, Vancouver, expressed concerns about the COVID-19 vaccine and state and federal mandates.
- Peter Fels, Vancouver, urged the City to make changes to single-family zoning to allow duplexes and triplexes to increase density.
- Teresa Hardy, Vancouver, expressed concerns about a lack of clarity about how much of the forested area on the Vancouver Innovation Center site will be preserved when the land is developed.
- Laurel Pascual, Vancouver, expressed concerns about the COVID-19 vaccine and state and federal mandates.
- Carmen de Leon, Vancouver, expressed concerns about activity at the apartment complex managed by Share adjacent to her home.
- Justin Forsman, Vancouver, expressed concerns about the COVID-19 vaccine and state and federal mandates.

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

Executive Session re: Labor Negotiation Strategy (30 minutes); City Manager Performance Evaluation (1 hour - continued from September 13, 2021)

Mayor McEnerny-Ogle announced the Council would enter executive session to discuss Labor Negotiation Strategy for approximately 30 minutes, followed by executive session regarding the City Manager's annual performance evaluation, which had been continued from September 13, 2021.

Adjournment

10:14 p.m.

Anne McEnerny-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

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September 18, 2021

Mayor McEnerny-Ogle
Councilmember Hansen
Councilmember Stober
Mayor Pro Tem Glover
Councilmember Lebowsky
Councilmember Paulsen
Councilmember Fox

Subject: VMC 10 Hearing

On Monday September 20, 2021 the Vancouver City Council will be conducting a hearing to consider updates to VMC 10 pertaining to Pearson Field Airport.

I have reviewed the most current proposed changes and offer the following recommendations for your consideration prior to conducting a vote on the matter.¹ A number of these recommendations are administrative in nature; you will of course need to decide the editorial quality expected of a document receiving your approval. I believe my comments to Section 10.05.040(1)(x), Section 10.05.040(2), and Section 10.05.060, and Section 10.05.015 are of the most material policy nature.

Ordinance page 1; Replace two instances of "Pearson Airport" with "Pearson Field Airport" for consistency with language used throughout the document.

Section 10.05.010; Replace one instance of "Pearson Airport" with "Pearson Field Airport" for consistency with language used throughout the document.

Section 10.05.020; Update definitions 1, 3, 4, & 5 to match those used in the companion Rules and Regulations and Minimum Standards for Commercial Activities documents. Update definition 7 to match that used in companion Minimum Standards for Commercial Activities document. Update definitions 2, 8, and 10 to match those used in the Rules and Regulations document. Add numbering (11) for term "Tie-Down" and update definition to match its equivalent in the Rules and Regulations document. Change numbering from "11" to "12" for the term "Fees and Charges."

Section 10.05.040(1); Change "wells" to "well" in line 2 of opening paragraph.

Section 10.05.040(1)(iii); This language is in material conflict with VMC 3.12.095.

Section 10.05.040(1)(x); Remove sentence "The exception will be if grant acceptance and Council action is required sooner than the AAC can meet."

In the entirety of my involvement with the city and airport I am aware of no instance where the AAC has delayed such action. I am, however, aware of instances where city staff has used this practice as a means to avoid AAC review of matters prior to going to Council. With proper planning such delays should not occur, and if it were to, there are processes to call a special meeting of the AAC. I do not believe it is in the public interest to build mechanisms into the VMC that reduce transparency to the public.

Section 10.05.040(2); Remove sentence "In support of assuring a balanced range of community perspective on the AAC and subject to exception by the City Council in their process of appointing members of the Committee, no more than three (3) members of the Committee may be a tenant of the Airport, subject to Council exception."

Because it is the Council who is both responsible for AAC member selection and authorized to make an exception, this sentence serves no purpose.

If you choose to retain this limitation I would ask that Council be honest and replace "In support of assuring a balanced range of community perspectives the AAC...." with "As a matter of staff preference....." The pretext of increasing community perspective is simply not grounded in any objective read of history:

- The AAC, without membership limits, has always had 3-4 non-tenants in its membership. The Council has and presumably in the future would continue to select the most qualified candidates.
- The AAC conducts its business consistent with RCW 42.30; the community has and would be able to participate whenever it chose to. This is an advisory group, not a decision-making body.
- Multiple community forums have been conducted by the AAC in the past, producing significant feedback on ways to increase the community value of the airport. The city has not chosen to act on the vast majority of these; AAC composition has not been a barrier.
- For over a decade the AAC advised the city that the Pearson Field Airport 2005 Business Plan be updated, including goals set for the airport's contribution to regional business development, jobs, education, public safety, tourism, and other community valued metrics. Past and current mayors and council members, in public meetings, have requested this of city staff. Despite repeated commitment to act, no progress has been made on this; AAC composition has not been a barrier.
- "Tenants" do not suddenly cease being "community members" upon joining the AAC. Past AAC members have come from every sector – business, non-nonprofit, military, and government, small and large organizations. They have lived in neighborhoods right under the airport pattern as well as in outlying areas. They have brought with them significant community networks and professional backgrounds and with few exceptions have not been single issue community members.
- The AAC is not a tenant's representative group, and over the years has taken numerous positions that some tenants may have disagreed with.
- City council has found it acceptable not having an AAC or any structured community input for over 3-years, and has relied entirely on city staff's advisement at airport workshops since 2015. That this situation has been allowed to persist has been far more stifling of public input than any membership limits.
- No other board or commission in the city has membership limitations like this; the Parking Advisory Committee is not limited to 3 automobile users, the Parks and Recreation Advisory Committee does not limit to 3 people who are users of city parks, etc.

It is troubling how the topic of AAC limits has even come about – this continues to appear as a solution looking for a problem. Membership limitation was never discussed in 2018 when the AAC was disbanded, was never discussed with the interim Kitchen Cabinet advisory group, and unilaterally inserted late in the process by the City Manager and staff. City staff, City Manager, and Council have received pushback on this idea from multiple tenants and non-tenants in public meetings and in writing. No publicly available arguments of support for member limitations have been made visible through this process. If you are being honest, I suspect the majority of Council was not even aware of the number and mix of AAC members prior to it coming up in this process. In 2018 the city committed to a ["comprehensive assessment of the governance, operations and management of](#)

[Pearson Field including a review of the role and responsibilities of the Aviation Advisory Committee. The City Council has temporarily suspended the operation of Aviation Advisory Committee pending the completion of that assessment.](#)" This was expected to be a few months' long exercise. Over three years later no such assessment has been conducted and an entirely new city staff is in place having never experienced an ACC meeting or joint briefing to the council – seeking to rearchitect the committee. Of greatest concern is that all of the same dynamics that precipitated the 2018 disbanding are still taking place. If Council is truly interested in more public engagement in Pearson matters it will not come through reduction in tenant members. Rather, it will come through Council holding the city accountable for demonstration of collaborative practices and progress on community valued projects and metrics.

If what you are really trying to address is improving equity in the city's advisory groups, I would be more than happy to share specific recommendations of how this might be done, including more equitable outreach, description of duties, improved transparency on selection criteria and processes, etc. All ideas that I know you have been presented with through other community advisory groups.

Section 10.05.040(3) As written, this paragraph directly conflicts with 10.05.040(2).

Section 10.05.040(7) The second sentence references bylaws being "consistent with City values". I support this intent however my research finds multiple sets of city documents describing city values without a lot of consistency between them. I advise that this language be struck, or reference a specific source document, or list what those values are. The third sentence, as it pertains to approval of changes to bylaws is ambiguous in its use of the term "if appropriate" and in conflict with Article V of the bylaw draft that the city has put forth indicating Council approval is required for updates to bylaws.

Section 10.05.060; Insert a period (".") after the final word "Committee". Add the following or substantially equivalent text "Third party audits of Pearson Field Airport shall be comprehensive, including assessment of compliance with standards, laws and regulations relating to financial controls (including rental and lease agreements, state and federal matching funds, and FAA grant assurances), capital asset management (including aging asset management), maintenance, safety, policy compliance, and progress on identified goals."

As currently written, this section may be interpreted by future readers in its most narrow form as being simply an audit of financial compliance only. This was not the intention in the creation of this section.

This is perhaps the most important section in the VMC. In 2019 a [highly visible audit](#) publicized shortcomings in the city's management of Pearson Field Airport. On examination these findings were a byproduct of deficiencies in structure, processes, culture, and accountability; many of which were observed by the AAC and conveyed to staff, City Manager, and Council members over a period of years without action. Section 10.05.060 was added by the Kitchen Cabinet to provide a backstop in oversight given there has not been an effective issue escalation process from the AAC to the city for years. In order to protect the city, city staff, the airport, and the community, audits are the only mechanism shown to be effective in causing change.

Section 10.05.075(5). In sentence two insert the word "Airport" after "Pearson Field" and change "websites" to "website."

Section 10.05.075(6). Replace "Pearson Airport" with "Pearson Field Airport" for consistency with language used throughout the document.

Section 10.05.015 Inset a period (".") after (NPS) in the first sentence. Expand the second sentence to read:
"Management of Pearson Field Airport shall be consistent with all applicable local, State and Federal Regulations, including the following designations and policies:

1. Pearson Field Airport is part of the Vancouver National Historic Reserve (Section 503 of Public Law No. 104-133, November 12, 1996 and RCW 27.34.390.)
2. Pearson Field Airport is designated as an Essential Public Facility (WAC 365-196-550.)
3. Pearson Field Airport is classified as a General Aviation (GA) airport by the Federal Aviation Administration (FAA) as part of the National Plan of Integrated Airport Systems (NPIAS) and a Community Service Airport by the Washington State Department of Transportation (WSDOT) Long-Term Air Transportation Study (LATS.)
4. Pearson Field Airport and relevant proximate properties are regulated by and contained within the Airport Height Overlay District (VMC 20.570). Additional airport compatibility requirements are described in Downtown District (VMC 20.630).
5. Airspace above and surrounding Pearson Field Airport is regulated by the FAA including but not limited to Special Federal Aviation Regulations Airspace Rule (FAR-93.)
6. FAA Grant Assurances requirements."

There is a significant and not well understood framework of regulatory requirements related to Pearson Field Airport and its operation. Transparency to airport users, the community, future AAC members, future Council members, and other interested parties provides a common basis for decision making and conversation. Without this information, countless hours are wasted on conjecture and speculation; none of which is in the best interest of Pearson Field Airport or the city.

Section 10.05.035. Update the last sentence to "Any change or amendment requires City Council approval, subject to review and recommendation by the Aviation Advisory Committee."

This aligns with language in 10.05.030 pertaining to the Rules and Regulations document in which the Minimum Standards for Commercial Activities document is now embedded.

Ordinance page 18; Replace one instance of "Pearson Airport" with "Pearson Field Airport" for consistency with language used throughout the document.

As council members I recognize the breadth of challenges that you are presented with and where this particular matter likely falls in your list of priorities. I and others will be happy to see this put to bed as well. Updating VMC 10 has taken far longer than it should have, I thank you for your thoughtful consideration of these remaining matters.

Regards,

Paul Speer

1. Multiple update versions of VMC 10 and the combined Rules and Regulations / Minimum Standards for Commercial Activities have been made publicly available by the city without revision control markings. This analysis relies on the most recent VMC 10 document referenced in [Staff Report 131-21 \(9/20/21\)](#) and [Draft Pearson Field Airport Rules and Regulations \(8/16/2021\)](#).

From: [City of Vancouver - Office of the City Manager](#)
To: [Delapena, Amanda](#)
Subject: FW: Housing Code Updates, Climate change and Homelessness
Date: Monday, September 20, 2021 10:56:41 AM
Attachments: [image001.png](#)

For council

Kerry Peck | Administrative Assistant



CITY OF VANCOUVER, WASHINGTON
City Manager's Office/Administrative Assistant
P: (360) 487-8616

www.cityofvancouver.us | www.cityofvancouver.us/socialmedia



[LEARN ABOUT VANCOUVER'S COVID-19 RESPONSE HERE](#)

From: Peter L. Fels <plfels@gmail.com>
Sent: Monday, September 20, 2021 10:28 AM
To: City of Vancouver - Office of the City Manager <CMO@cityofvancouver.us>; Snodgrass, Bryan <Bryan.Snodgrass@cityofvancouver.us>
Subject: Housing Code Updates, Climate change and Homelessness

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.

Peter Fels
5121 NW Franklin Street
Vancouver WA 98663
telephone: (360) 737-3154 • plfels@gmail.com

Via email to: cmo@cityofvancouver.us; Bryan.Snodgrass@cityofvancouver.us

To: Mayor McEnerny-Ogle and Vancouver City Councilors, Bryan Snodgrass

RE: Public Forum Testimony concerning Housing Code Updates

Dear Mayor and Councilors:

I appreciate the efforts of the planning staff to increase housing options as presented at the workshop today. However, I am surprised that staff is so reluctant to pursue one of the recommendations of the Affordable Housing Task Force made over 5 years ago.

As noted in Mr. Snodgrass' memo, the Task Force recommended changes to the SFR zone to allow increased density in the form of duplexes and triplexes. Single family zoning has been outlawed statewide in both Oregon and California in recognition of the affordable housing shortage and climate change.

Homelessness and global warming are both urgent issues and need immediate attention.

Increased density helps increase affordability and reduce greenhouse gas emissions. It also improves equity by reducing the exclusivity of SFR neighborhoods. All three of these issues, climate, homelessness and equity, are top priorities of the City according to your strategic plan.

Mr. Snodgrass' memo states that discussion of changes to the SFR zones will begin in 2022 and will require more extensive community feedback. I have no doubt that some residents of current SFR zones will object to any proposed changes that increase density for fear of increased crime and reduction of their property values. However, there already are duplexes and triplexes in many SFR neighborhoods and there is no evidence of increased crime related to those units, while property values throughout Vancouver have soared in recent years. Furthermore, while some increased density may change the character of neighborhoods, in my opinion increased diversity will change their character for the better.

One of the things you can do as part of your climate planning is to move forward quickly on this issue. While history shows that infill and small MFR units are built up slowly, allowing them sooner rather than later is an important step and will move us closer to a more equitable and affordable city.

I also encourage you and the planning staff to look at revising current codes to allow long term parking and habitation of RV units and campers on private property at least during the current housing crisis, treating them as similar to ADUs. This can be a short term solution to the housing crisis while also allowing family members to stay together and allowing some residents to stay in their homes by sharing expenses with extended family or multiple generations.

Please urge the planning staff to move more quickly to recommend changes to increase density in SFR zones.

Thank you.

s/Peter Fels

From: [City of Vancouver - Office of the City Manager](#)
To: [Delapena, Amanda](#)
Subject: FW: Comment for City Council meeting 9/20/2021
Date: Monday, September 20, 2021 9:49:36 AM
Attachments: [image001.png](#)

They would like to register for council tonight

Kerry Peck | Administrative Assistant



CITY OF VANCOUVER, WASHINGTON

City Manager's Office/Administrative Assistant

P: (360) 487-8616

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From: Kristin Edmark <kristinedmark@hotmail.com>
Sent: Monday, September 20, 2021 8:53 AM
To: City of Vancouver - Office of the City Manager <CMO@cityofvancouver.us>
Subject: Comment for City Council meeting 9/20/2021

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.

I want the City Council to know their work is appreciated. I would like to register the following comment at the 9/20/2021 City Council Meeting

Please continue your excellent work pushing for the Climate Action Plan to do the most we can for our citizens and for our world. Citizens support as many Bold measures as possible. Thank you for realizing the urgency and implementing an Early Action Plan.

I urge you to do what you can to implement green building policy in all new construction. Electrical wiring for all appliances, solar panels and EV charging should be in all new construction especially rental residences.

Thank you. Kristin Edmark

Procurement Policy Discussion

VANCOUVER
CITY HALL



October 18, 2021

Anna Vogel, Procurement Manager

Presentation Overview

- City Apprenticeship Program:
 - History, outcomes, remaining issues and current efforts under way
- City Efforts to better position Minority-owned, Women-owned and Disadvantaged Business (MWDBE) to successfully compete for City contracts.
 - Environmental Scan
 - Opportunities for Certified Firms
 - Recommendations on changes in policies and processes

Target Workshop Outcomes

- Outline city current efforts to continue improving outcomes of the Apprenticeship Program
- Get Council Direction on program modifications, if any
- Provide an overview of the current efforts related to improving MWDBE companies effectiveness in competing for city business
- Get Council Direction on desired program modifications in the short and medium-long term

Context

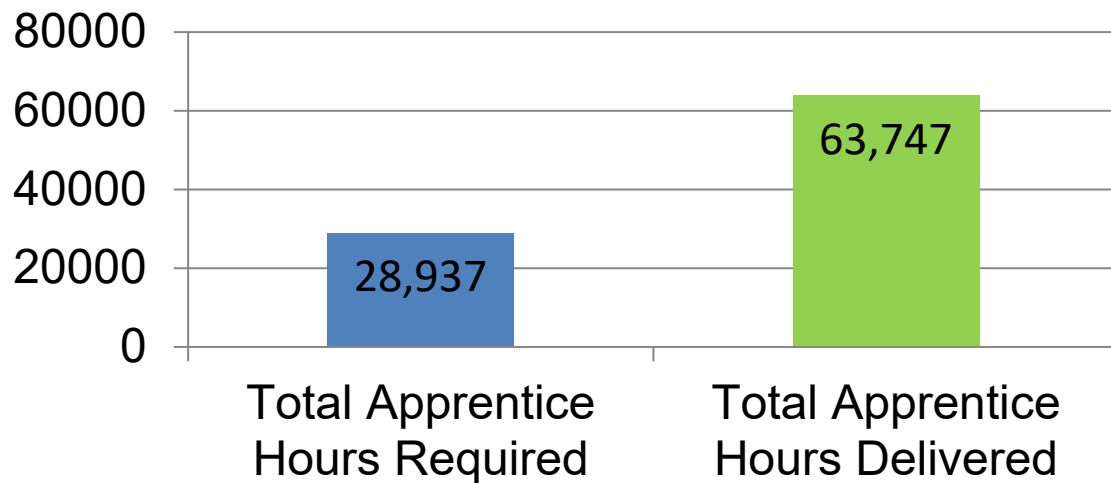
- Vancouver/Clark County itself still a relatively small labor and contracting market
- Bi-state regional dynamics (multiple tax structures, laborshed) are relevant
- Breadth, availability and capacity of local firms a consideration
- State Labor & Industries a significant factor in overall workforce development programs
- Opportunities for long term expansion of City's role in equitable opportunity and workforce development

Apprenticeship Program Changes Over Time

	2004 Program	2015 Program	2020 Program
Threshold	\$500,000 +	\$500,000 +	\$500,000 +
Goal Range	2-3 %	3-8%	3-8%
Incentive	\$3.00/hour	None	None
Penalty	\$1.00/hour	\$10.00/hour	\$100.00/hour

Apprenticeship Program – Success over 10 Yrs.

Apprentice Hours 2010 - 2021



- 84 projects (\$139 mil) met and exceeded the minimum required hours under the program.
- Additional 11 projects are currently under way, not included here

Apprenticeship Program – Current Efforts

- Reasons why certain contractors are not able to meet goals:
 - Some projects are material cost intensive, versus labor hours intensive
 - Lack of available apprentices
 - Projects that are short in duration
 - Cost to the contractors to participate in certified programs

Apprenticeship Program – Current Efforts

- Close monitoring of project performance on attaining apprenticeship goals
 - Monthly review and contractor outreach if not meeting the program goals
- Continuing to seek additional partnership opportunities with Workforce Southwest Washington and other like agencies in the region to help grow the number of apprentices locally:
 - Pre-apprenticeship program utilization
 - Help local contractors to certify their existing training programs through WA Labor and Industries

Apprenticeship Program – Policy Options

Policy Option	Considerations
Increase penalties for failure to meet an apprenticeship goal	• Unlikely to have a material impact on apprentice utilization • May reduce competition for city contracts • May impact other Equity in Contracting efforts
Define failure to meet an apprenticeship goal as a breach of contract with the City	• May reduce competition for city contracts. • Over time, may reduce number of contractors eligible to complete for city contracts. • May impact other Equity in Contracting efforts

- Can be implemented by end of year; no additional staff required to administer.

Workforce Development

Workforce Development is a broader concept that covers a wider range of programs that can be put into place to help encourage apprenticeship development and additional opportunities in the Construction Industry.

Options to explore over the longer term:

- **Community Workforce Agreements**
- **Priority Hire Program**

Workforce Development – Policy Options

- **Community Workforce Agreements** – set the basic terms and conditions for employment for public works construction projects. Frequently include priority hire, diversity goals for workforce and apprenticeship utilization as well as define work hours, safety requirements, benefits and pay.
- **Priority Hire Program** to require a certain percentage of workers be hired locally on large capital projects.

Workforce Development – Policy Options

Policy Option	Considerations
Community Workforce Agreements	• Applicable to only large complex projects (more than \$10 million) • Not eligible for federally funded projects • Extended solicitation timelines • Enhance workforce development over time
Priority Hire Program	• Applicable to larger projects (more than \$5 million) • Enhance workforce development over time

- Both options would require approximately 1-2 years to develop and additional staffing to implement.

Apprenticeship Program: Council Direction

City of Vancouver: Equity in Contracting

City Efforts Underway

Procurement provides education opportunities to all firms interested in doing business with the City with a specific focus on efforts for minority-owned, women-owned, and disadvantaged businesses (MWDBEs) and Small Businesses to effectively compete for City business through:

- Targeted education and outreach
- Improved transparency and user friendliness of City procurement process
- Increased awareness of city contracting opportunities

City Efforts Underway

- Current efforts are centered on increased outreach to the MWDBE and Small Business community:
 - City staff participates in regional outreach and networking events, like Reverse Vendor Tradeshow
 - Formal and informal participation in meet-and-greet opportunities with vendors
- Routinely advertise in minority newspapers for federal projects
- Include solicitation language encouraging participation by certified firms

Current Challenges

- Currently not actively tracking City business with certified firms
- No stated goals in hiring MWDBE companies at the City level
- No stated goals in hiring Small Business companies at the City level
- Low number of certified firms locally

Washington State Certification Process

- State of Washington Office of Minority Women Owned Business Enterprises certifies firms based on specified criteria that meet State and Federal standards.
- Certified Firms in Clark County: 116
 - Small Business Enterprises: 53
 - Minority Business Enterprises: 36
 - Disadvantaged Business Enterprises: 48
 - Women Business Enterprises: 46
 - Minority Women Business Enterprises: 17

Opportunities for Certified Firms – Options to Advance

Short Term (End of 2022):

\$150-200K/year

- Increase City participation in outreach and networking events
- Expand targeted advertisement to provide a wider reach
- Initiate a tracking program for City contracting with certified firms
- Increased outreach to vendors to encourage certification and understand barriers to certification
- Increase procurement thresholds to allow for more direct awards

Opportunities for Certified Firms – Options to Advance

Medium to Long-Term (4 to 5 years):

\$1.0 mil one-time + \$500K/yr.

- Conduct a Disparity Study tailored to the City
 - Explore feasibility of setting goals related to MWDBE businesses utilization based on the results of the Disparity Study
- Change VMC to set Small Business Enterprise (SBE) procurement Goals
- Partner with local development agencies to outreach to their clients
- Collaborate with Minority Chambers, the Vancouver Chamber of Commerce, and Small Business Administration to increase outreach to MWDBE and SBE businesses
- Enhanced City monitoring, tracking and joint problem solving for targeted businesses

Council Direction on Further Steps Related to Advancing the City's Equity in Contracting Initiatives

Next Steps

- Further research identifying what, if anything, can be done to increase local firm participation in the City procurement process
- Potential discussion on incorporating City climate action goals in City contracts.

Questions and Discussion

Anna Vogel, Procurement Manager
360-487-8429



Heights District Plan Implementation

VANCOUVER
CITY HALL



October 18, 2021
City Council Workshop

Rebecca Kennedy, Deputy Director
Community Development
Dave Perlick, Interim Director
Parks, Recreation & Cultural Services

Presentation Overview

- Vision for the Heights District
- Implementation efforts to date
- Next phase of implementation
 - Public infrastructure design and engineering
 - Equitable Development Strategy
- Immediate next steps
- Questions and Discussion

Presentation Purpose

- Update Council on implementation efforts and forthcoming Council action needed
- Council questions and discussion

Heights District Plan: Project Goals

- Establish a vision for a **vibrant neighborhood center**
- Catalyze additional **private development** in the District
- **Involve the public** in the planning / design process
- Include **affordable** income-based housing
- Include accessible **public open space**
- Utilize innovative urban design and **sustainable development practices**
- Plan for the creative and functional **integration of transit**
- Increase **multi-modal connectivity** in the District uses



Heights District Vision & Guiding Principles

The Heights District is envisioned as a vibrant neighborhood center that is sustainable, healthy, equitable, accessible and safe, and includes engaging public open space, diverse housing affordable to a wide range of community members and safe multimodal travel opportunities within the district and to transit and nearby neighborhoods. As the area develops, it will contribute to a shared identity that reflects the value placed on the past and current community with an eye toward welcoming future generations in an inclusive and equitable manner.

Guiding Principles: Inclusive housing, connectivity, community health and wellness, sustainability, accessible and vibrant public realm, arts/culture, economic development, high quality and aesthetically pleasing architecture/urban form

Implementation to Date

Following the August 2020 adoption of the Heights District Plan, the following implementation work has been completed or is currently underway:

- ✓ Heights Mixed Use (HX) zoning district
- ✓ Heights District Urban Design Guidelines
- ✓ Planned Action for the District
- ✓ Updates to street standard details
- ✓ Lifting of Tower Mall Development Moratorium
- ❖ Fitwell community certification for the Tower Mall Redevelopment Area (underway)
- ❖ Demolition of Tower Mall building (underway)



Next Phase of Implementation

- Public infrastructure
 - Parks, roads and utilities
 - Design & engineering to advance to constructability
- Equitable Development Strategy
 - Anti-displacement and inclusive development tools and programs
- Extension of Multi-Family Tax Exemption (MFTE) Program to the Heights
 - Part of broader effort to update program structure and eligible areas
 - Will be calibrated specifically to the Heights to achieve desired public benefits and mixed income development



Public Infrastructure

- Public infrastructure Scope: Parks, roads and utilities
 - Focus on National-Class Placemaking
 - Community engagement
 - Transportation: The Loop, MacArthur Greenbelt, major intersections
 - Parks: urban plaza and neighborhood park
 - Utilities to support transportation and parks investments
 - Wayfinding, lighting, transit enhancements, public art
 - Funding and partnership strategies
- Public Infrastructure Contract
 - Council direction to proceed via budget allocation in spring 2021
 - RFQ process initiated in July 2021
 - Contract approval anticipated in November 2021

Equitable Development

- Equitable Development Strategy- Anti-displacement and inclusive development
 - Mixed income housing
 - Implementation of Reside Vancouver
 - Small business retention
 - Inclusive, local small business recruitment
 - Community benefits agreements
 - Workforce, contracting and family wage jobs
- Equitable Development Strategy Contract
 - Council direction to proceed via budget allocation in spring 2021
 - RFQ to be issued early Nov. 2021
 - Contract approval request to Council by end of 2021

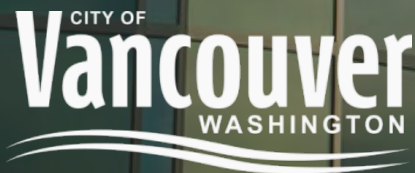


Questions and Discussion

Rebecca Kennedy, Rebecca.Kennedy@cityofvancouver.us

David Perlick, David.Perlick@cityofvancouver.us

www.cityofvancouver.us/TheHeights





Staff Report 153-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 10/18/2021

SUBJECT Northwest Staffing Resources Agreement C-100478, Contract Increase

Key Points

- The City's procurement regulations require professional services contracts in excess of \$300,000 be approved by City Council.
- Due to increased demand for temporary staffing in 2021, the City has encumbered nearly the total increase approved by City Council in June.
- Staff requests the not-to-exceed amount of the contract be increased an additional \$500,000 from \$880,000 to \$1,380,000 to continue to cover the costs for temporary and seasonal staffing invoiced in October and through the life of the contract, which ends in November 2025.

Strategic Plan Alignment

N/A

Present Situation

The City of Vancouver, through the Human Resources Department, currently contracts with Northwest Staffing Resources to provide staff augmentation services on an on-call, as-needed, and occasionally on-going basis. The services required may include, but are not limited to, clerical, light industrial, technical, and professional level staffing. The contract with Northwest Staffing Resources began on November 20, 2020, and ends November 19, 2025. It is anticipated the contract not-to-exceed amount (C-100478) of \$880,000 will be exhausted by the end of October if not increased. Staff requests an increase to the authorized amount of the contract.

Advantage(s)

Increasing the contract should continue uninterrupted temporary staffing services for the City through the end of the contract.

Disadvantage(s)

None

Budget Impact

None. This is solely an issue with the authorized amount of the contract. Current department budgets have sufficient appropriations to fund the cost of planned temporary and seasonal staffing services, but the contractual not-to-exceed amount is not sufficient to cover future expenses, unless increased.

Prior Council Review

Amendment No. 1 to increase contract amount approved on June 7, 2021.

Action Requested

Authorize the City Manager or designee to execute an amendment increasing the authorized not-to-exceed amount of the contract with Northwest Staffing Resources from \$880,000 to \$1,380,000.

Dean Perez, Human Resources Deputy Director, 360-487-8406

ATTACHMENTS:

- ▢ Northwest Staffing Professional Services Agreement Amendment No. 3
- ▢ Northwest Staffing Professional Services Agreement for Temporary Staffing Services No. C-100478 with Amendments 1 and 2

SERVICE AGREEMENT #C-100478

AMENDMENT No. 3

Temporary Staffing Services

This Agreement amends the Professional Services Agreement number C-100478 by and between the City of Vancouver, hereinafter referred to as "City", and Northwest Staffing Resources hereinafter referred to as "Contractor", whose address is 315 West Mill Plain Blvd, Suite 100, Vancouver, WA 98660, for services offered.

This amendment amends the original agreement, Amendment No 1 and Amendment No 2 as follows:

1. Increase the authorized amount of the Agreement by \$500,000.00 to a revised authorized amount of \$1,380,000.00 USD.

This amendment in no way alters any other provisions of the original agreement.

CITY OF VANCOUVER

A municipal corporation

CONTRACTOR:

Northwest Staffing Resources

Eric Holmes, City Manager

Signature

Date

Printed Name /Title

Attest:

Date

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

CITY OF VANCOUVER
PROFESSIONAL SERVICES AGREEMENT No. C-100478
TEMPORARY STAFFING SERVICES

This Agreement by and between the City of Vancouver, a municipal corporation, under the laws of the State of Washington, hereinafter referred to as "City" and Northwest Staffing Resources hereinafter referred to as "Contractor", whose address is 315 West Mill Plain Blvd., Suite 100, Vancouver, Washington 98660.

WHEREAS, the City desires to engage the Contractor to provide staff augmentation services on an on-call-, as-needed, and occasionally on-going basis. Services required may include, but are not limited to, clerical, light industrial, technical, and professional level staffing. and other related services on an as needed basis. Contractor has agreed to offer its professional services to perform said work per City issued Request for Proposal (RFP) No. 37-20, Contractor's proposal to said RFP; and

WHEREAS, the Contractor has represented by entering into this Agreement that it is fully qualified to perform the work to which it will be assigned in a competent and professional manner, and to the standards required by City.

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

The City hereby agrees to engage the Contractor and the Contractor hereby agrees to perform, in a satisfactory and proper manner, as determined by the City, the services hereafter set forth in connection with this Agreement:

1. Statement of Work.

Contractor agrees to provide staff augmentation services on an on-call, as-needed, and occasionally on-going basis. Services required may include, but are not limited to, clerical, light industrial, technical, and professional level staffing. per RFP No. 37-20 and Contractor's response to said RFP on file in City of Vancouver Procurement Services by reference hereto made a part of this Agreement.

All work must be authorized and approved by the City's Project Manager in writing before any work begins. Contractor shall approach this project in a manner consistent with its customary practice. Contractor shall actively seek collaborative input from City staff.

Compensation is limited to the amount specified for each temporary staffing position, unless amended per Section 15 of this Agreement. The City expects Contractor to complete the work

stated within the timeframe identified by the City. Compensation may be amended, at the City's sole discretion, for documentable circumstances not reasonably foreseeable to either party at the time the task and/or subtask is initiated, or for changes to the scope of work or deliverables requested by the City. All deliverables must be acceptable to the City, at the sole discretion of the City.

Travel expenses are not included in this contract.

This agreement is a purchase of professional services at the rates shown below. The markups include all applicable withholding taxes, FICA, FUTA, SUTA and worker's compensation. Payment for these services shall not exceed \$300,000.00 USD unless authorized in writing by the City, according to Section 7 of this Agreement. If additional time is needed, please refer to Section 6 of this agreement. A written amendment must be attached.

LEVEL OF SERVICE	AGENCY HOURLY RANGE	AGENCY REGULAR MARK-UP	PAYROLL SERVICE (Scope of Work, Item #8, Payroll Service)
Clerical	Regular Bill Rate Range: \$19.95-39.90 Employee Pay Range: \$15.00-30.00	33%	28%
Light Industrial	Regular Bill Rate Range: \$21.75-29.00 Employee Pay Range: \$15.00-20.00	45%	39%
Professional	Regular Bill Rate Range: \$33.25-133.00 Employee Pay Range: \$25.00-100.00	33%	26%
Technical	Regular Bill Rate Range: \$21.28-79.80 Employee Pay Range: \$16.00-60.00	33%	26%
Other Specialized Areas: Light Industrial Workers Compensation Codes 7113, 7117, 7118, 7119	Regular Bill Rate Range: \$22.95-38.25 Employee Pay Range: \$15.00-25.00	53%	47%

2. Order of Precedence.

Where there is a conflict among or between any of these documents, the controlling documents shall be the first listed in the following sequence: Amendments to this Agreement; this Agreement; Purchase Orders; Contractor's submitted proposal to RFP No. 37-20 and RFP No. 37-20.

3. Relation of Parties.

The Contractor, its sub consultants, agents and employees are independent contractors performing professional services for City and are not employees of City. The Contractor, its

subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees. The Contractor, sub consultants, agents and employees shall not have the authority to bind City in any way except as may be specifically provided herein.

4. E-Verify.

Contractor shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. Contractor shall ensure all Contractor employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Contractor shall provide verification of compliance upon City request. Failure by Contractor to comply with this subsection shall be considered a material breach.

5. Time of Performance.

The service of the Contractor is to commence as of November 20, 2020. It is agreed services hereunder shall be completed by November 19, 2025.

6. Delays and Extensions of Time.

If the Contractor is delayed at any time in the progress of providing services covered by the Agreement, by any causes beyond Contractor's control, the time for performance may be extended by such time as shall be mutually agreed upon by Contractor and City and shall be incorporated in a written amendment to this Agreement. Any request for an extension of time shall be made in writing to City.

7. Compensation and Schedule of Payments.

City shall pay the Contractor at the rates indicated in Section 1 for work performed under the terms of this Agreement. This is the maximum amount to be paid under this Agreement and it shall not be exceeded without City's prior written authorization in the form of a negotiated and executed amendment. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the project as set forth herein. The Contractor shall submit monthly invoices to City covering both professional fees and project expenses, if any, for fees and expenses from the previous month. Payments to Contractor shall be net 30 days.

The City reserves the right to correct any invoices paid in error according to the rates set forth in this Agreement. City and Contractor agree that any amount paid in error by City does not constitute a rate change in the amount of the contract. The City's contract/purchase order (PO) number given on the notice to proceed **must** be referenced on any invoice submitted for payment.

During the life of this Contract, 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 for the actual cost of services. 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.

8. Ownership of Records and Documents.

Any and all work product prepared by the Contractor in the course of performing this Contract shall immediately become the property of the City. In consideration of the compensation provided for by this Agreement, the Contractor hereby further assigns all copyright interests in such work product to the City. A copy may be retained by the Contractor. Previously owned intellectual property of Contractor, and any know-how, methodologies or processes used by Contractor to provide the services or project deliverables under this Contract shall remain property of Contractor.

9. Termination.

The City, at its sole discretion, may terminate this contract for convenience at any time for any reason deemed appropriate. Termination is effective immediately upon notice of termination given by the City.

In the event this Agreement is terminated prior to the completion of work, Contractor will only be paid for the portion of the work completed at the time of termination of the Agreement.

10. Evaluation and Compliance with the Law.

The Contractor shall have the authority to control and direct the performance and details of the work described herein. The Contractor agrees to comply with all relevant, federal, state and municipal laws, rules and regulations.

11. City Business and Occupation License.

Contractors will be required to obtain a business license when contracting with the City of Vancouver, unless allowable exemptions apply. Businesses/Contractors shall contact the State of Washington Business License Service (BLS) at: <http://bls.dor.wa.gov/file.aspx>, telephone 800-451-7985, or go to www.bls.dor.wa.gov/cities/vancouver.aspx or www.cityofvancouver.us/businesslicense, to determine whether a business license is required pursuant to VMC Ch. 5.04.

12. Liability and Hold Harmless.

Contractor agrees to indemnify, defend, save and hold harmless the City, its officials, employees and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees and expenses incurred in connection therewith, of whatsoever kind or nature (including patent infringement or copyright claims) to the extent arising out of, or in connection with, or incident to, the negligent performance or willful misconduct pursuant to this Agreement. This indemnity and hold harmless shall include any claim made against the City by an employee of Contractor or subcontractor or agent even if Contractor is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the concurrent negligence of both the City and the Contractor, such cost, fees and expenses shall be shared between the City and the Contractor in proportion to their relative degrees of negligence. Contractor specifically acknowledges the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that Contractor provide the broadest scope of indemnity permitted by RCW 4.24.115. Contractor is an independent contractor and responsible for the safety of its employees.

13. Insurance.

Contractor shall obtain and keep in force during the entire term of this agreement, liability insurance against any and all claims for damages to person or property which may arise out of the performance of this Contract whether such work shall be by the Contractor, subcontractor or anyone directly or indirectly employed by either the Contractor or a subcontractor.

a. **Liability Insurance.** Contractor shall maintain commercial General Liability insurance with a limit of not less than one million dollars (\$1,000,000) for each occurrence, two million dollars (\$2,000,000) aggregate and not less than one million dollars (\$1,000,000) combined single limit automobile liability coverage. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operation and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Agreement. All liability insurance required herein shall be under a comprehensive or commercial general liability and business, policies.

b. **City Listed as an Additional Insured:** The City of Vancouver, its agents, representatives, officers, directors, officials, and employees must be named as an additional insured on the Commercial General Liability policy and shown on the certificate as an additional insured. A copy of the additional insured endorsement 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.

c. The commercial general liability policy must be endorsed to include "Washington Stop Gap" insurance. The limits and aggregates referenced must apply to the Stop Gap coverage as well. This must be indicated on the certificate.

d. Worker's Compensation. Contractor shall carry workers' compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than one million dollars (\$1,000,000) for each accident, five hundred thousand dollars (\$500,000) for each disease for each employee, and one million dollars (\$1,000,000) for each disease policy limit.

i. Employment Security. The Contractor shall comply with all employment security laws of the state in which services are provided, and shall timely make all required payments in connection therewith.

j. The City of Vancouver shall be listed on the Certificate as the Certificate Holder.

k. Coverage Trigger: The insurance must be written on an "occurrence" basis. This must be indicated on the certificate. Claims made policies will be accepted for professional liability coverage only.

Contractor shall provide evidence of all insurance required, at the City's request, by submitting an insurance certificate to the City on a standard "ACORD" or comparable form..

14. Notices.

All notices which are given or required to be given pursuant to this Agreement shall be hand delivered or mailed postage paid as follows:

City:

Anna Vogel
City of Vancouver
415 W 6th Street
P O Box 1995
Vancouver WA 98668-1995

Contractor:

Hailey Mark
NW Staffing Resources
315 West Mill Plain Blvd.
Suite 100
Vancouver, Washington 98660

15. Amendments.

All changes to this Agreement, including changes to the statement of work and compensation, must be made by written amendment and signed by all parties to this Agreement.

16. Scope of Agreement.

This Agreement incorporates all the agreements, covenants and understanding between the parties hereto and are merged into this written Agreement. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement.

17. Ratification.

Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

18. Governing Law/Venue.

This Agreement shall be deemed to have been executed and delivered within the State of Washington, and the rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of Washington without regard to the principles of conflict of laws. The contractor shall have legal authority to enter into this agreement and be at least 18 years of age. Any action or suit brought in connection with this Agreement shall be brought in the Superior Court of Clark County, Washington.

19. Cooperative Purchasing:

The Washington State Inter-local Cooperation Act, Ch. 39.34 RCW, authorizes public agencies to cooperatively purchase goods and services if all parties agree. By having executed this Agreement, the Contractor agrees that other public agencies may purchase goods and services under this solicitation or contract at their own cost and without the City of Vancouver incurring any financial or legal liability for such purchases. The City of Vancouver agrees to allow other public agencies to purchase goods and services under this solicitation or contract, provided that the City of Vancouver is not held financially or legally liable for purchases and that any public agency purchasing under such solicitation or contract file a copy of this invitation and such contract in accordance with RCW 39.34.040.

20. Public Disclosure Compliance.

The parties acknowledge that the City is an "agency" within the meaning of the Washington Public Records Act, Ch 42.56 RCW, and that materials submitted by the Contractor to the City become public record. Such records may be subject to public disclosure, in whole or part and may be required to be released by the City in the event of a request for disclosure. In the event the City receives a public record request for any data or deliverable that is provided to the City and that is licensed from the Contractor, the City shall notify the Contractor of such request and withhold disclosure of such information for not less than five (5) business days, to permit the Contractor to

seek judicial protection of such information, provided that the Contractor shall be responsible for attorney fees and costs in such action and shall save and hold harmless the City from any costs, attorney fees or penalty assessment under Ch.42.17 RCW for withholding or delaying public disclosure of such information.

22. Debarment.

The Contractor certifies that 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.

23. Nondiscrimination.

The City of Vancouver, WA is an equal opportunity employer. In the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, sexual orientation, marital status, age or the presence of any sensory, mental or physical handicap.

This Contract is effective as of the last signature dated below.

CITY OF VANCOUVER

A municipal corporation

DocuSigned by:

Anna Vogel

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Anna Vogel, Procurement Manager

11/20/2020

Date

Attest:

DocuSigned by:

Natasha Ramras

11/20/2020

BCF6734E40E94AE...

Natasha Ramras, City Clerk

Approved as to form:

DocuSigned by:

Michael Nigrey

11/20/2020

0246396B4BEC412...

Michael Nigrey, Assistant City Attorney

For: Jonathan Young, City Attorney

CONTRACTOR:

Company Name

DocuSigned by:

Hailey Mark

D8369CC4665E444...

Signature

Hailey Mark

Branch Manager

Printed Name /Title

11/19/2020

Date

SERVICE AGREEMENT #C-100478**AMENDMENT No. 1****Temporary Staffing Services**

This Agreement amends the Professional Services Agreement number C-100478 by and between the City of Vancouver, hereinafter referred to as "City", and Northwest Staffing Resources hereinafter referred to as "Contractor", whose address is 315 West Mill Plain Blvd, Suite 100, Vancouver, WA 98660, for services offered.

This amendment amends the original agreement as follows:

1. Increase the authorized amount of the Agreement by \$500,000.00 to a revised authorized amount of \$800,000.00 USD.

This amendment in no way alters any other provisions of the original agreement.

CITY OF VANCOUVER

A municipal corporation

DocuSigned by:



Eric Holmes, City Manager

6/21/2021

Date

Attest:

DocuSigned by:



Natasha Ramras, City Clerk

Approved as to form:

DocuSigned by:



Jonathan Young, City Attorney

CONTRACTOR:

Northwest Staffing Resources

DocuSigned by:



Signature

Hailey Mark Branch Manager

Printed Name /Title

6/9/2021

Date

SERVICE AGREEMENT #C-100478

AMENDMENT No. 2

Temporary Staffing Services

This Agreement amends the Professional Services Agreement number C-100478 by and between the City of Vancouver, hereinafter referred to as "City", and Northwest Staffing Resources hereinafter referred to as "Contractor", whose address is 315 West Mill Plain Blvd, Suite 100, Vancouver, WA 98660, for services offered.

This amendment amends the original agreement and Amendment No 1 as follows:

1. Increase the authorized amount of the Agreement by \$80,000.00 to a revised authorized amount of \$880,000.00 USD.

This amendment in no way alters any other provisions of the original agreement.

CITY OF VANCOUVER

A municipal corporation

DocuSigned by:



75A8183485CA487...

Eric Holmes, City Manager

9/10/2021

Date

Attest:

DocuSigned by:



BCF6734E40E94AE...

Natasha Ramras, City Clerk

Approved as to form:

DocuSigned by:



9A7DC2E31F694A2...

Jonathan Young, City Attorney

CONTRACTOR:

Northwest Staffing Resources

DocuSigned by:



D8368CC4065F444...

Signature

Hailey Mark

Branch Manager

Printed Name /Title

9/10/2021

Date



Staff Report 154-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 10/18/2021

SUBJECT Ratify Memorandum of Understanding (MOU) Between the City of Vancouver and the Vancouver Police Command Guild (VCG) to Implement Policy 701 for a Comprehensive Police Camera Program

Key Points

- The City of Vancouver and VCG agree to the terms of Policy 701 (Exhibit A – VPD Policy 701, Police Camera Program).
- Both parties agree to the delineation for the Information Technology work associated with camera technology equipment as outlined in the MOU.
- Both parties agree to a 2% base wage increase effective January 1, 2022, to address the impacts of implementing the police camera program (Exhibit B – Updated Salary Schedule).
- Both parties agree the implementation of a police camera program will increase transparency and safety for both officers and the public we serve. The police camera program will also allow the Vancouver Police Department to purchase a camera system that adheres to the highest standards and quality to meet the City's needs and the needs of the community.

Strategic Plan Alignment

Goal 2: Provide effective, innovative and well-resourced police, fire and emergency medical services.

Present Situation

Over the last several months, the City has been engaged with the community via the Community Task Force on Policing to explore a range of policy and operational changes within the Vancouver Police Department (VPD), including establishing a police camera program. This community engagement informed the City's development of a new camera program policy for VPD, which was the foundation for bargaining contract terms with both the Vancouver Police Officer Guild and Vancouver Police Command Guild to implement this key program. The resulting policy and

contract terms establish management and employee rights and responsibilities, community rights and protections, as well as compensation for officers associated with establishment and deployment of a camera program.

Based on this, the City of Vancouver and the VCG jointly wish to implement a comprehensive police camera program, to include body-worn and in-car cameras, for purposes of enhancing the safety of police officers and building transparency with the public, along with increasing the availability and protection of evidence during civil, administrative, and criminal investigations.

The camera program is anticipated to be fully implemented in the second quarter of 2022.

Advantage(s)

If the MOU is ratified, the City of Vancouver and VCG bargaining unit will have an agreement to the implementation of Policy 701, Police Camera Program.

Disadvantage(s)

There are no known disadvantages to ratifying the MOU.

Budget Impact

The City of Vancouver has budgeted \$3 million in this biennium to support the police camera program.

The total annual cost of a 2% base wage adjustment for Vancouver Command Guild Lieutenants and Commanders effective January 1, 2022, is estimated to be \$46,023.

Prior Council Review

Memorandum of Understanding with the Vancouver Police Officer's Guild ratified on September 27, 2021.

Action Requested

Ratify a Memorandum of Understanding between the City of Vancouver and the Vancouver Police Command Guild regarding the police camera program.

Lisa Takach, Human Resource Director, 360-487-8611

ATTACHMENTS:

- ▢ Memorandum of Understanding
- ▢ Exhibit A - Vancouver Police Department Policy 701, Camera Program
- ▢ Exhibit B - Updated Salary Schedule Effective January 1, 2022

MEMORANDUM OF UNDERSTANDING POLICY 701

This Memorandum of Understanding ("MOU") is made between the City of Vancouver ("City") and the Vancouver Command Guild ("Guild"), collectively the "Parties", as of the date signed below.

Background:

WHEREAS, the City and the Guild jointly wish to implement a comprehensive police camera program, to include body-worn and in-car cameras, for purposes of enhancing the safety of police officers and building transparency with the public, along with increasing the availability and protection of evidence during civil, administrative, and criminal investigations; and

WHEREAS, the Parties agree to the provisions of Vancouver Police Department's Policy 701, Police Camera Program, Exhibit A to this MOU; and

WHEREAS, the Parties wish to set forth their agreement as to the implementation of Policy 701;

THEREFORE, the parties agree as follows:

Agreement:

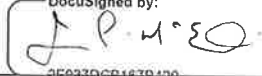
1. **Effective Date.** Unless otherwise specified, this MOU becomes effective when signed by all Parties on the date below.
2. **Policy 701.** Policy 701, attached as Exhibit A, shall become effective on the date when the City commences the Police Camera pilot program, which date will be determined by the City after a preferred vendor is chosen. However, the City will "train VPD members deploying police cameras consistent with Section 701.4 of this policy prior to any such commencement of a pilot program. Additionally, any changes to Policy 701 require the Parties' mutual, written agreement consistent with Section 701.23 of Policy 701.
3. **Camera Technology Equipment.** All purchasing, building, repairing, and maintaining of camera technology equipment, including software and hardware (*e.g.*, body-worn cameras, in-car cameras, covert surveillance cameras, unmanned aerial surveillance equipment, etc.), along with quality control audits related to the police camera program, may be handled by City Information Technology (IT) staff or other non-Guild personnel as determined by the City.

4. **Base Pay Increase.** To address the impacts of implementation of the Police Camera Program and the midterm change in working conditions, effective January 1, 2022, the previously negotiated increases to the 2022 base wages will be increased by an additional two percent (2%) across the board for the classifications of Lieutenants and Commanders. An updated salary schedule effective January 1, 2022 is attached as Exhibit B.
5. **Disputes.** This MOU is non-precedent setting except for the terms set forth herein. Any dispute between the City and the Guild concerning the interpretation, application, or alleged violation of any term of this MOU will be resolved under the Parties' grievance procedure at Article 23 of the CBA
6. **Amendments.** Any changes to this MOU will be mutually agreed upon and reduced to writing.

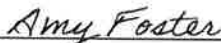
9/27/2021

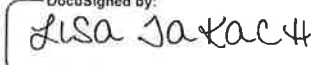
Dated September __, 2021.

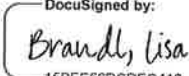
City of Vancouver

DocuSigned by:

2E9370CB1679426
James McElvain, Chief of Police

Vancouver Command Guild


Amy Foster, President

DocuSigned by:

13E8A18F4C114DF
Lisa Takach, HR Director

DocuSigned by:

15BEE58DCDEC410
Lisa Brandl, Deputy City Manager

Vancouver Police Department

Vancouver PD Policy Manual

Police Camera Program

Policy
701

Vancouver Police Department

Vancouver PD Policy Manual

Police Camera Program

701.1 PURPOSE

The Vancouver Police Department (VPD) Police Camera Program includes all forms of cameras either worn by its members or mounted in its vehicles for the purpose of contemporaneously and objectively document citizen contacts. Throughout this policy, the term "Body Worn Camera" (BWC or BWCs) is used to reference these cameras. For clarity, BWCs do not include covert or undercover camera systems used specifically for other investigative or undercover operation purposes. BWCs are a valuable tool for promoting transparency in law enforcement by recording community member contacts with police officers. Video/audio footage produced by BWCs may be used as evidence in civil or criminal investigations, reviewed administratively for employee compliance with Department policies (as set forth below), used as a tool in law enforcement training, and utilized as a reference in incident documentation.

701.2 POLICY INTENT

It is the VPD's intent to use BWCs to effectively document in-person (non-telephonic) law enforcement-related community contacts when incidents of use of force or negative interaction most frequently occur and, due to the nature of the work, is more likely to occur (e.g., patrol, traffic, SWAT and specialty team enforcement activity). Simultaneously, this policy takes legitimate individual privacy interests into account. Facial recognition software will not be utilized under this program or policy without legal authorization.

701.3 DEFINITIONS

Advisement: Statement made by a Department member that a communication, conversation, or interaction with a community member is being recorded.

Activation: The process that turns on the BWC and causes it to record or to store audio and video data.

Body Worn Camera (BWC): Camera system that captures audio and video signals, capable of being worn on an officer that includes, at minimum, a camera, microphone, and data storage ability. In this policy, BWC also refers to vehicle mounted camera/audio recording systems.

Employee: In this policy, employee refers to any VPD member, regardless of rank, or commissioned / non-commissioned status.

Involved Employee: Any officer who used or directed the use of force.

Surreptitious Recording: A surreptitious recording is a recording made without the knowledge of one or more of the parties to a conversation of communication and is a violation of the Washington Privacy Act, RCW Chapter 9.73.

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Witness Employee: A Vancouver Police Department member who observes or has firsthand knowledge of the events surrounding an in-custody death or the use of force by another Department member and did not use physical force. Additionally, this refers to an employee who observes or has firsthand knowledge of the events surrounding a Department member's direction to another to use force.

701.4 TRAINING

Prior to wearing and operating a BWC, employees are required to successfully complete Department authorized BWC training. The training, at a minimum, will include the following:

- VPD BWC policy
- System preparation and operation
- Placement of the BWC
- Procedure for downloading and tagging recorded data

701.5 EMPLOYEE RESPONSIBILITIES

- **Inspection** – Department members shall inspect their BWC at the start of every shift. If an employee discovers the BWC equipment is not functioning during this inspection or at any other time, they are responsible for notifying their supervisor and arranging for repair as soon as practical. Officers will obtain a spare BWC from their supervisor while their BWC is being repaired.
- **Requirement to wear the BWC:** The intent for this policy is to ensure BWCs are used by Department personnel who have the most frequent contact with the public. This includes all uniformed Department members working in a Patrol / Patrol support capacity while on-duty and serving in this capacity. This requirement includes Neighborhood Police Officers (NPOs), Neighborhood Response Team (NRT) Detectives, Homeless Assistance and Response Team (HART) Team members and Traffic Officers.
- Non-uniformed personnel, such as Detectives, shall activate their assigned BWC during pre-planned investigative events including but not limited to, residential search warrants, serving an arrest warrant, or those instances that may result in the arrest of a subject. The use of a BWC will be discretionary for interviews with witnesses and victims during ongoing/evolving investigations. It is permissible under this policy for Detectives to exercise reasonable discretion to record or not record events and circumstances in accordance with state law. Detectives may activate their BWC any time they determine it would be beneficial to capture an event or activity. If a Detective works in a patrol capacity, they will be governed by the policy referencing uniformed department members.
- Personnel performing tasks as part of a specialty team or unit will, activate their camera while performing enforcement activities (e.g., SWAT, CNT deployments and/or serving arrest/search warrants, etc.) It is permissible under this policy for SWAT/CNT or other specialty units to not record either pre and/or post operational briefings, tactical planning sessions or law enforcement intelligence/information gathering sessions in regards to tactical operations.

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- Employees assigned to duties involving explosives (e.g. MEDU) and/or personnel dispatched or otherwise present at the scene of a bomb threat are not required to wear or otherwise turn on their assigned BWC.
- Officers shall affix their camera on their person (e.g., the chest area of their uniform/external vest) where it is unobstructed by the uniform or other equipment. This requirement does not include circumstances in which the camera becomes unintentionally obstructed or dislodged during police activity.
- Exceptions to the requirement include uniformed Department members working in administrative assignments (e.g., modified duty, command personnel, etc.) where there is little to no risk of a negative encounter with the public or use of force.
- Privately owned BWCs or recording with privately owned equipment is not permitted.

701.6 WHEN TO RECORD

When equipped with a BWC system, members shall activate the BWC, when circumstances and officer safety permit, in any of the following situations:

- Prior to exiting their vehicle when arriving at a dispatched call. However, nothing in this policy prohibits the officer from activating the camera earlier.
- As soon as practical upon making the decision to engage in any self-initiated law enforcement activity
- Specific situations include, but are not limited to:
 - arrests
 - issuance of a restraining order or citation
 - vehicle pursuits
 - foot pursuits
 - victim, witness and suspect interviews
 - consent searches
 - search warrant service
 - staffing a containment position during a K9 search
 - all enforcement and investigative stops including voluntary contacts and investigatory detentions
 - vehicle stops including traffic violations when possible
 - stranded motorist assistance
 - contact with a person in mental health crisis
 - at the request of a citizen when doing so would not violate the prohibitive sections of this policy
 - any other encounter with the community that becomes adversarial after the initial contact in a situation that would not otherwise require recording
- With the exception of prohibited recordings (Section 701.9), employees may, at their discretion, activate their BWC any time they determine it would be beneficial to capture an event or activity.

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Police Camera Program

- If circumstances prevent an employee from activating their BWC at the start of an event, the employee will activate the BWC as soon as practicable. Nothing in this policy should be interpreted as placing the BWC activation over the safety of a VPD member or community member.
- Remote BWC activation is not authorized for any purpose under this policy and will not be employed.
- Live Feed activation will not be employed except in the following limited circumstance: When previously identified employees, prior to deployment in the field and with knowledge they will be livestreaming are tasked with gathering intelligence during a civil unrest/riot/protest response, such information is solely used for the purpose of providing situational awareness information to Command Post personnel.

Activation Amnesty.

- No employee will be subject to discipline for failing to activate a camera for any reason for the first month or 16 shifts, whichever occurs later, after he or she is assigned to wear a BWC. Evidence of a failure to activate a BWC during the amnesty period shall not be used or considered for performance evaluations or discipline after this amnesty period.
- The amnesty period will apply again anytime an employee is reassigned to a position without a BWC for a period of six months or more, and then returns to an assignment with a BWC.
- Employees assigned to positions without a BWC who work extra shifts on assignments with a BWC will not be subject to discipline for an unintentional failure to activate the BWC.

701.7 ADVISEMENT - WHEN REQUIRED

Conversations between uniformed police employees and community members that occur during the performance of official duties are not recognized as private conversations under Washington State law and therefore generally do not require an advisement the interaction is being recorded. The exceptions to this are traffic stops and custodial interrogations.

- Employees conducting traffic stops while equipped with a BWC shall notify the occupants there is an audio and video recording occurring. This statement should be given at the beginning of the contact, absent an emergent situation, and captured on the recording.
- Prior to custodial interrogation, employees shall inform arrested people they are being audio and video recorded with a BWC. This statement, along with the Miranda advisement (if given), shall be included in the recording.

Nothing in this policy precludes an employee from advising a community member they are being recorded. If a community member asks if an employee is recording the event, employees must answer truthfully.

701.8 WHEN TO STOP RECORDING

Once activated, the employee shall not purposely turn off the BWC until the employee's involvement in the incident has concluded. The Department member should cease recording

Vancouver Police Department

Vancouver PD Policy Manual

Police Camera Program

when their part of the active investigation is completed and there is little possibility the employee will have further contact with any person involved in the event. If a supervisor is required to obtain a Public Safety Statement, he/she will ensure their BWC as well as the BWC of the involved officer(s) is not recording to prevent compelled information from accidentally being provided to the IIT-OIS Policy 309. Exceptions may occur when recording has commenced and a prohibition (see below) situation follows.

701.9 RECORDING PROHIBITED

The BWC shall not be used to record:

- Anything not involved with official duties.
- Communications with other police personnel while not on a call.
- Communications with undercover officers or confidential informants.
- While on break or otherwise engaged in personal activities.
- While in the jail unless for an in-progress call for service. Transferring custody of a suspect to jail staff is not considered an in-progress call for service. For this section, the jail sallyport will not be considered part of the jail. Recording should end at the point of entering the secured booking area.
- While in the interior of a medical, mental health, domestic violence shelter, counseling or therapeutic facility unless investigating a call for service. For example, recording of an investigation of a crime committed at the facility, the drawing of blood at a facility following a DUI or taking a statement from a suspect, witness or victim while in the facility.
- While inside a police station, except for taking law enforcement actions such as: Conducting interviews, taking an in-person report, processing a DUI, or guarding an in-custody person. The employee should announce as they enter the station that they are recording.
- Any privileged conversations, such as attorney-client, peer support or labor privileged conversations.
- During community policing activities where no law enforcement action is anticipated, like Shop with a Cop, Police Activity League events or community meetings.
- VPD employees are prohibited from surreptitiously or overtly recording any employee of the Department or any other person in a manner inconsistent with this policy. It is understood that cameras will record the activity of other employees during calls for service.
- VPD employees may not use BWCs for non-work-related purposes or otherwise operate the BWC outside their legitimate law enforcement duties.

701.10 DISCRETIONARY RECORDING

It is permissible under this policy for employees to exercise reasonable discretion to not record events in only the following circumstances:

- When the employee is in a location where people have a reasonable expectation of privacy, such as a bathroom or locker room and the employee is not there to make an arrest or serve a warrant.
- When consideration and respect for a person's privacy or dignity outweighs the need

Vancouver Police Department

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Police Camera Program

to record an event. Examples may include death notifications, child or sexual assault victim interviews and a person's cultural or religious objections to being recorded.

- Sensitive communications that include law enforcement intelligence information or tactical planning. If these sensitive communications occur mid-call, the Department member shall turn the BWC back on when these conversations are over unless there is another approved exception to keep it off.
- If a community member objects to being recorded, the Department member may elect to record despite the objection. Since conversations with police officers are not considered private under Washington State law, there is no requirement that an employee turn off the camera for a community member who objects to having the interaction recorded.

Prior to deactivating a BWC during a call, and if the circumstances permit, the officer shall document the reason for stopping the recording on camera prior to deactivation.

701.11 END OF SHIFT RESPONSIBILITIES

Employees shall, prior to the end of their shift, or as soon as practical, follow the protocol to label, categorize and upload videos to the storage system. Additionally, Department members shall upload their BWC footage during their shift if the BWC storage capacity is reaching its limit.

- All BWC footage shall be uploaded prior to going home.
 - Department members unable to complete these end of shift responsibilities will notify a supervisor prior to leaving for the day and will complete the process at the beginning of their next regular or overtime shift, whichever occurs first.
- Employees with take-home vehicles will follow the same direction for uploading.

701.12 DOCUMENT USE OF THE BWC

Employees shall document in their police report they operated a BWC during the incident. In situations where no police report is needed, Department members shall indicate through Computer Assisted Dispatching (CAD) notes they operated a BWC during the call.

701.13 REPORT WRITING

An incident recorded on the BWC is not a substitute for a complete and thoroughly written police report. In situations that require an employee to write a police report, the employee may not use the BWC video as a substitute for, or basis to abbreviate, their documentation of the incident.

701.14 UNAUTHORIZED USE OF BODY WORN CAMERAS AND VIDEO

All employees of the Vancouver Police Department shall abide by the policies and procedures related to BWCs and BWC video as set forth in this policy.

- Employees may not use BWCs for non-work-related purposes or otherwise operate the BWC outside their legitimate law enforcement duties.
- All BWC videos are the property of the Vancouver Police Department. Dissemination outside of the agency is strictly prohibited except as required by law and pursuant to the provisions of Vancouver Police Department policy. Any dissemination outside this policy is prohibited without the consent of the Office of the Chief.

Vancouver Police Department

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- Employees are prohibited from accessing stored camera data, except for legitimate law enforcement purposes, including authorized review as described in this policy.

701.15 DOWNLOADING OF VIDEOS

The only personnel allowed to download BWC videos will be Records staff assigned to public disclosure assignments, Professional Standards Unit (PSU) staff for administrative investigation purposes, Investigations Units for investigative purposes, and the Training Unit Sergeant for training purposes. When a video is downloaded, the employee conducting the download will note in the system the purpose for the download and where the video will be maintained, if possible.

If any downloads are needed from an employee not listed above, a request will be sent to PSU.

701.16 REVIEW OF BWC VIDEO

1. Employees may view their own BWC video at any time in accordance with this policy.
2. Recordings may be reviewed by individuals other than the recording employee in any of the following situations:
 - (a) By employees prior to completing their police report or providing a statement pursuant to an internal affairs or criminal investigation, subject to the following:
 - i. All employees in any administrative investigation will be allowed to view all footage of the incident prior to any interview or answering questions related to any administrative investigation.
 - ii. Involved and witness employees in a use of force investigation will be provided with and allowed to review relevant BWC footage prior to any interview, answering questions or writing reports. The BWC footage viewed by the involved and witness employees should show actions, items or other relevant factors the employee could have seen or heard from their vantage point and could have been used in making a determination to use force against an individual(s) at the time of the incident.
 - iii. During an Officer Involved Shooting or Use of Force incident that results in significant bodily injury or death, the supervisor of the employee wearing a BWC or their designee will obtain and lock any relevant BWC footage of these incidents.
 - (b) By any supervisor/investigator conducting an internal affairs investigation. Review of the BWC video shall be related to the specific complaint(s) and not used as the basis to randomly search for other possible violations. Discovery of other allegations during this review shall require the supervisor to articulate the purpose of expanding the scope of the review. Inadvertent discovery of certain policy violations (e.g., those defined as those violations that would amount to a crime, excessive force, or retaliation/discrimination/biased-based policing) noted during this review, but not mentioned in the complaint, shall be addressed at the lowest reasonable level in accordance with VPD Policy 1004. Inadvertent discovery of other policy violations (e.g., rudeness or procedural violations) should not be the basis of disciplinary action and may be addressed through appropriate corrective action. Any disagreements about the processing of these violations shall be handled between the Office of the Chief and the collective

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bargaining unit's president or representative.

- (c) By technical support staff for the purposes of assessing proper functioning of BWCs.
- (d) By the City and County Prosecutors.
- (e) By a Department investigator or officer, with the approval of a supervisor, who is participating in a criminal investigation providing the requested recording is specific to that investigation.
- (f) By legal counsel and/or union representation representing an officer in a critical incident prior to providing a statement pursuant to an administrative investigation.
- (g) Training - Recordings may be reviewed for training purposes. Prior to any recordings being used for training purposes, the Training Unit will notify all involved employees. If an involved employee objects to showing a recording, they will submit a department memo to the Administrative Bureau Lieutenant documenting their objection. The Administrative Bureau Lieutenant will determine whether other training resources exist that serve the same purpose. Only in unique circumstances should the recording be used after approved through the employee's chain of command and the Office of the Chief. Inadvertent discovery of minor policy violations shall not be the basis of disciplinary action.
- (h) By an employee's legal representative and/or bargaining unit representative who is involved in representing the employee in an administrative investigation or a criminal investigation.
- (i) By the City's legal representative and/or bargaining unit representative who is involved in representing the City in an official matter, such as an administrative investigation, a lawsuit, or a criminal investigation.
- (j) Pursuant to a subpoena or public records request.
- (k) Specific acts showcasing the Department that reflect positively on VPD, may be of interest to the public, and are to be made available to the media.

701.17 RETENTION OF BODY WORN CAMERA VIDEOS

1. In general, videos related to officer-involved shootings, critical incidents, homicides, sexual assaults, and cases in which VPD has received notice to preserve evidence shall be retained in the system until all trial and appellate litigation has been completed. The Investigations Bureau shall be responsible for Records notification under these circumstances. Videos related to unsolved homicides and sexual assaults shall be kept consistent with the State of Washington rules and VPD policy regarding records retention.
2. Videos related to PSU investigations shall be transferred to a format compatible with Blue Team and made part of the file. PSU will be responsible for downloading relevant BWC footage related to any administrative investigation.
3. All other BWC video shall be retained in the system for 12 months, and then deleted.
4. Accidental Activation - An employee may inadvertently/accidentally record themselves or others. These particular inadvertent/accidental recordings typically do

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not meet the statutory definition of a public recording (as defined in RCW 40.14.010) because they are not made "in connection with the transaction of public business" and, as such, may be deleted. In the event of an accidental activation of the BWC, the employee may request the BWC video in question be deleted forthwith by submitting a written request by email, including the date and time of the inadvertent / accidental recording through their chain of command to the Commander or designee. The Commander or designee shall approve or deny the request and forward the decision to the VPD Records Unit.

5. Employees shall not intentionally tamper with, alter, or delete video. This does not apply to personnel tasked with system maintenance who purge videos under established guidelines or who redact videos as part of their duties.

701.18 RELEASE OF BWC VIDEOS

1. **For Criminal Justice Purposes:** BWC videos may be accessed for criminal discovery purposes directly by Prosecuting Attorneys / City of Vancouver (COV) Attorneys, who have an account in the video cache system. Prosecutors will be able to locate the existence of a BWC video by its reference in the police report and/or CAD notes and a search for videos related to pending cases by inputting the law enforcement incident report number into the system. Discovery of BWC videos to the defense bar shall be made through the prosecutor.
2. **To the Public:** BWC videos will be made available to the public through public records requests pursuant to RCW 42.56. Public records requests for BWC videos should be processed by VPD Records. The release of any public record involving BWC footage will include a notation to the requestor of such information that the frame rate/recording speed of any such video may not necessarily capture all segments of an event nor provide a sharp or clear image of the recorded event. Prior to release, videos from BWCs will be reviewed and redacted by Records and will be consistent with statutory exemptions under Washington State law, including the following:
 - (a) The images of any witness who expresses safety concerns or who requests that their identity not be disclosed.
 - (b) The image of domestic violence, sexual assault, trafficking, or stalking victims.
 - (c) People experiencing a medical emergency or receiving medical treatment.
 - (d) Child victims, child witnesses and juveniles in the court system.
 - (e) Images that are highly offensive to a reasonable person, such as images of deceased or seriously injured people.
 - (f) People with apparent mental illness in crisis or who are detained for a mental health evaluation.
 - (g) The image of anything which reveals personal identifying information.
3. The Records Division may provide third party notification to allow any person whose privacy may be impacted by the release of a BWC video time to file a petition for injunctive relief.
4. Community members shall not be allowed to view BWC camera recordings except in the instances listed above.
5. Officer Involved Shooting / In-Custody Death cases.

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701.19 CAMERA FUNCTION AND QUALITY CONTROL AUDIT

1. Each camera in this program will be audited on a rotating basis beginning with the lowest serial number and progressing to the highest.
2. The audit will consist of:
 - (a) Function test to determine that the camera powers on and off appropriately
 - (b) Activation test to determine that the camera begins recording when activated via the activation button
 - (c) Upload test which involves reviewing recently captured video uploaded to the cloud to determine that the data upload process is functioning properly
 - (d) Video/audio test which involves reviewing recently captured video to determine that there are no issues with the camera lens or microphone
3. Cameras failing the audit will be removed from service for repairs and immediately replaced with an available spare

701.20 GPS Associated with BWC. In the event GPS or other location capabilities (hereinafter "GPS") are available with the BWC, the GPS will not be randomly reviewed or used for disciplinary purposes, but may be used for operational reasons for the purpose of officer safety, public safety, or efficient deployment of resources.

701.21 BWC Limitations. BWC recordings provide only a two-dimensional perspective with limited vantage points of an incident. Consequently, no employee will ever rely solely upon the review of video recordings as the basis for discipline against an employee. Instead, the department shall review and consider all available evidence (including witness statements, employee interviews, forensic analysis, documentary evidence, etc.), prior to imposing discipline against an officer.

701.22 Pre-event Recording. Pre-event recording is a feature that allows the Body Worn Camera to capture footage for a pre-determined amount of time prior to the activation of the camera (e.g., the time period the camera records to memory prior to the camera being turned on). The agreed upon pre-event recording time between the respective labor parties and the City of Vancouver for this policy will be fifteen (15) seconds.

701.23 The parties agree that the implementation and wearing of Body Worn Cameras is a mandatory subject of bargaining. Any changes to this Body Worn Camera policy shall be developed jointly between the affected labor organization and the Office of the Chief. However, nothing in this section should be construed as preventing the addition or removal of language regarding body worn cameras based upon a change in State or Federal law.

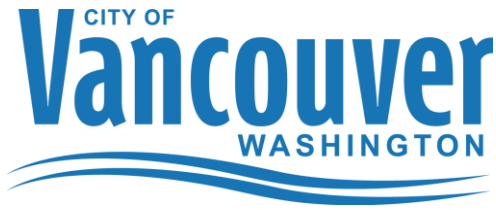
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Exhibit B
VANCOUVER COMMAND GUILD
Rates of Pay
Effective January 1, 2022

JOB CLASS TITLE	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
POLICE COMMANDER		11476	12049	12652	13285	13949
POLICE LIEUTENANT		10432	10953	11501	12076	12680



MEMORANDUM

DATE: Monday, October 12, 2021

TO: Mayor and City Councilmembers

FROM: Council Subcommittee 1 (Hansen, Glover and Fox)

CC: Eric J. Holmes, City Manager
Shannon Ripp, Boards & Commissions

RE: Nomination for appointment to the Clark County Public Health Advisory Council

The Public Health Advisory Council advises the Clark County Board of Health on issues related to public health including improving the health of citizens of Clark County, promoting public participation in and identification of public health needs and providing communication between the Board of Health and Clark County Citizens. The council is a direct link between the Clark County Board of Health and Clark County's residents, providing a local focus on public health. The council identifies priority public health issues, and most recently has been researching obesity, health disparities, access to care, tobacco prevention, violence prevention and methamphetamine use.

After a recent set of interviews, Council Committee 1 nominated a candidate for appointment to this Public Health Advisory Council and that candidate had to step-down. Due to the close proximity of those interviews and the need to re-nominate a candidate, Council Committee 1 chose to recommend the nomination of a second, qualified candidate, Elma Blum. This nomination would then be brought before the Board of Health to be fully appointed to the Clark County Public Health Advisory Council.

Council Committee 1 recommends the nomination of Elma Blum, with a term beginning as determined and expiring September 30, 2024.

If there are no objections, we would like to make this nomination for appointment at the Monday, October 18, 2021, Council meeting.

Attachments:
Application
Roster

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:

\$ 7,423,626.94 this 18th day of October 2021.

MAYOR

Carrie Lewellen

AUDITING OFFICER

COUNCILMEMBER

COUNCILMEMBER

DATE	INCLUSIVE CHECK NUMBERS	CHECK TOTAL
October 5, 2021 - October 11, 2021	Accounts Payable Checks (see attached)	\$ 4,206,737.39
October 5, 2021 - October 11, 2021	Hansen City Payments (see attached)	\$ 8,893.79
October 5, 2021 - October 11, 2021	Visa Refunds (see attached)	\$ 2,847.50
October 5, 2021 - October 11, 2021	Payroll Checks (see attached)	\$ 3,205,148.26
TOTAL		\$ 7,423,626.94

INVOICE PAYMENTS REPORT

<u>Payment Category</u>	<u>Payment Type</u>	<u>Check Number</u>	<u>Payment Date</u>	<u>Payment Amount</u>	<u>Payment Payee</u>	<u>Payment Memo if applicable</u>
Supplier Payment	Manual Wire	No Reference	10/1/2021	30,775.16	Gallagher Bassett Services Inc	
Supplier Payment	Manual Wire	No Reference	10/4/2021	22,487.60	Bankof America N.A.	
Supplier Payment	Manual Wire	No Reference	10/5/2021	409,296.60	Vancouver Firefighters Union Health & Welfare Trust	
Supplier Payment	Manual Wire	No Reference	10/5/2021	177,550.00	Western States Health & Welfare Trust	
Supplier Payment	Manual Wire	No Reference	10/6/2021	7,065.16	VSP Vision Care Inc	
Supplier Payment	Manual Wire	No Reference	10/7/2021	31,872.18	Gallagher Bassett Services Inc	
Supplier Payment	Manual Wire	No Reference	10/7/2021	741.00	State of Washington Department of Licensing - Remit-To: DOL - Seattle Remit	
Supplier Payment	Manual Wire	No Reference	10/8/2021	75.00	HRA VEBA Plan	
Supplier Payment	Manual Wire	No Reference	10/8/2021	5,517.52	ICMA 401A	
Supplier Payment	Manual Wire	No Reference	10/8/2021	225,618.47	ICMA Corp	
Supplier Payment	Manual Wire	No Reference	10/8/2021	245.00	Oregon SDU	
Supplier Payment	Manual Wire	No Reference	10/8/2021	49,484.02	State of Washington Department of Retirement System (PERS)	
Supplier Payment	Manual Wire	No Reference	10/8/2021	834.80	Vancouver Fire Command Officers	
Supplier Payment	Manual Wire	No Reference	10/8/2021	23,807.85	Vancouver Firefighters Union Health & Welfare Trust	
Supplier Payment	Manual Wire	No Reference	10/8/2021	5,791.63	Washington SDU	
Supplier Payment	Manual Wire	No Reference	10/8/2021	18,000.00	Washington State Firefighters	
Supplier Payment	Manual Wire	No Reference	10/8/2021	18,315.45	Western States Health & Welfare Trust	
Supplier Payment	EFT	EFT-00118485	10/7/2021	14,615.38	Summerhill Inspections LLC	
Supplier Payment	EFT	EFT-00118486	10/7/2021	21,146.14	Lynn K Wittwer MD PC	
Supplier Payment	EFT	EFT-00118487	10/7/2021	8,670.00	JCI Jones Chemicals Inc	
Supplier Payment	EFT	EFT-00118488	10/7/2021	5,129.19	Vancouvercenter Condominium Association	
Supplier Payment	EFT	EFT-00118489	10/7/2021	2,764.85	Net Transcripts Inc	
Supplier Payment	EFT	EFT-00118490	10/7/2021	4,806.00	Second Step Housing	
Supplier Payment	EFT	EFT-00118491	10/7/2021	987.00	Allegiance Benefit Plan Management Inc	
Supplier Payment	EFT	EFT-00118492	10/7/2021	379.75	Metro Overhead Door Inc	
Supplier Payment	EFT	EFT-00118493	10/7/2021	3,482.70	Otak Inc	
Supplier Payment	EFT	EFT-00118494	10/7/2021	2,000.03	Six Degrees Inc	
Supplier Payment	EFT	EFT-00118495	10/7/2021	56,813.86	Lee Contractors LLC	
Supplier Payment	EFT	EFT-00118496	10/7/2021	1,547.88	Emerald Services Inc	
Supplier Payment	EFT	EFT-00118497	10/7/2021	526.23	International Graphics & Nameplate Inc	
Supplier Payment	EFT	EFT-00118498	10/7/2021	9,603.66	Accenture LLP	
Supplier Payment	EFT	EFT-00118499	10/7/2021	19,348.08	Sea Mar Community Health Center	
Supplier Payment	EFT	EFT-00118500	10/7/2021	6,562.08	Consolidated Electrical Distribution	
Supplier Payment	EFT	EFT-00118501	10/7/2021	1,743.88	Lifeline Connections	
Supplier Payment	EFT	EFT-00118502	10/7/2021	468.00	Mead and Hunt Inc	
Supplier Payment	EFT	EFT-00118503	10/7/2021	65,351.28	Halme Excavating Inc	
Supplier Payment	EFT	EFT-00118504	10/7/2021	789,908.54	Operations Management International Inc	
Supplier Payment	EFT	EFT-00118505	10/7/2021	95.00	T2 Systems Inc - Remit-To: T2- Atlanta	
Supplier Payment	EFT	EFT-00118506	10/7/2021	620.39	Praxair Distribution Inc	
Supplier Payment	EFT	EFT-00118507	10/7/2021	240.00	Rotschy Inc	
Cash Advance Payment	Direct Deposit	EFT-00118508	10/7/2021	308.50	Ross Keys	Travel Advance
Cash Advance Payment	Direct Deposit	EFT-00118509	10/7/2021	190.00	Holly Musser	Travel Advance
Expense Payment	Direct Deposit	EFT-00118510	10/7/2021	226.00	Mitch Bielas	Employee Reimbursement

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<u>Payment Category</u>	<u>Payment Type</u>	<u>Check Number</u>	<u>Payment Date</u>	<u>Payment Amount</u>	<u>Payment Payee</u>	<u>Payment Memo if applicable</u>
Expense Payment	Direct Deposit	EFT-00118511	10/7/2021	15.75	Tyler Chavers	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00118512	10/7/2021	157.24	Casey Sawyer	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00118513	10/7/2021	194.32	Kyle Ulsh	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00118514	10/7/2021	222.11	Amanda Delapena	Employee Reimbursement
Supplier Payment	EFT	EFT-00120233	10/8/2021	10,743.74	Vancouver Police Officer Guild	
Supplier Payment	EFT	EFT-00120234	10/8/2021	14,397.60	Allegiance Benefit Plan Management Inc	
Supplier Payment	EFT	EFT-00120235	10/8/2021	68.12	Legal Shield	
Supplier Payment	EFT	EFT-00120236	10/8/2021	917.40	Vancouver Command Guild	
Ad Hoc Payment	Check	25527	10/6/2021	113.56	Alasdair & Lindsey Waterhouse	Replaces Check 6796 - Utility Refunds: 0069053808-02
Ad Hoc Payment	Check	25528	10/6/2021	20.00	Auto Plus Auto Parts	Refund: alarm billing acct 18482 inv 99365491
Ad Hoc Payment	Check	25529	10/6/2021	1,847.04	Bergelectric Corp	MPE-308645
Ad Hoc Payment	Check	25530	10/6/2021	200.06	Beverly Wastradowski & Arthur Wastradowski	refund: 545 LID Loan 5450001
Ad Hoc Payment	Check	25531	10/6/2021	194.91	Brown,Bryan	Utility Refunds: 0010032000-19
Ad Hoc Payment	Check	25532	10/6/2021	85.08	CATAMOUNT PROPERTIES 2018 LLC	Utility Refunds: 0055023008-14
Ad Hoc Payment	Check	25533	10/6/2021	117.15	Chanchaleune,Sengprasong	Utility Refunds: 0075007300-06
Ad Hoc Payment	Check	25534	10/6/2021	440.00	Choice Charities	Damage Deposit Refund - Esther Short Park
Ad Hoc Payment	Check	25535	10/6/2021	87.73	Christa L Finney	Refund: 600 SCIP Loan 6000166
Ad Hoc Payment	Check	25536	10/6/2021	23.00	Crystal Lambert	Replace Ck 16810 - 9/18 Friday Flicks Cancellation Refund
Ad Hoc Payment	Check	25537	10/6/2021	23.00	Crystal Lambert	Replace Ck 16809 - 9/18 Friday Flicks Cancellation Refund
Ad Hoc Payment	Check	25538	10/6/2021	50.68	Daniel Wasilewski & Kristin Adamczyk	Utility Refunds: 0003014300-12
Ad Hoc Payment	Check	25539	10/6/2021	88.06	DAVID AND KAREN HOOVER	Utility Refunds: 0035011500-02
Ad Hoc Payment	Check	25540	10/6/2021	205.86	Dillingham,Randall D & Cynthia L	Utility Refunds: 0064029600-02
Ad Hoc Payment	Check	25541	10/6/2021	5,967.50	Earthworks Excavating Services Inc.	SCIP prog Robinett 13601 NE 49th St
Ad Hoc Payment	Check	25542	10/6/2021	5,642.00	Earthworks Excavating Services Inc.	SCIP prog Le & Nguyen 11721 SE McGillivray blvd
Ad Hoc Payment	Check	25543	10/6/2021	30.99	ERDMANN,CHIEKO	Utility Refunds: 0038046600-06
Ad Hoc Payment	Check	25544	10/6/2021	210.21	Feldshtein,Alex & Misty	Utility Refunds: 0107006080-03
Ad Hoc Payment	Check	25545	10/6/2021	40.00	First Aid Only Inc/Acme United Corp	Refund: Alarm billing acct 228 inv 99444017
Ad Hoc Payment	Check	25546	10/6/2021	67.01	FRANCISCO CORPUS & MARISA J OMAR	Utility Refunds: 0042050100-07
Ad Hoc Payment	Check	25547	10/6/2021	154.58	Garcia,Francisco & Anyy	Utility Refunds: 0000008786-02
Ad Hoc Payment	Check	25548	10/6/2021	133.66	Harrison Christopher Leaf	Refund: 600 SCIP loan 6000459
Ad Hoc Payment	Check	25549	10/6/2021	134.74	HINSLEY,DESIREE	Utility Refunds: 0036038100-06
Ad Hoc Payment	Check	25550	10/6/2021	20.00	HI School Pharmacy	Refund: Alarm Billing acct 14158 inv 99446623
Ad Hoc Payment	Check	25551	10/6/2021	525.69	Ilya Bykov & Inna Kuznetsova	Utility Refunds: 0500001207-02 Consolidated refund created from multiple refunds
Ad Hoc Payment	Check	25552	10/6/2021	58.32	JACKSON,ROBERT	Utility Refunds: 0051020800-00
Ad Hoc Payment	Check	25553	10/6/2021	204.42	Jarvis,Greg & Robin	Utility Refunds: 0071085627-10
Ad Hoc Payment	Check	25554	10/6/2021	82.09	Jeremiah A Porter & Nina R Porter	Refund: 600 SCIP Loan 6000383
Ad Hoc Payment	Check	25555	10/6/2021	8.33	Jim L Martin	Ballet Prorated Refund
Ad Hoc Payment	Check	25556	10/6/2021	174.92	John Barber & Rudyne Grigar	Refund: 600 SCIP Loan 6000247
Ad Hoc Payment	Check	25557	10/6/2021	93.43	Junker,Ryan	Utility Refunds: 0086003500-18
Ad Hoc Payment	Check	25558	10/6/2021	36.57	Junker,Sarah & Ryan	Utility Refunds: 0086003500-18
Ad Hoc Payment	Check	25559	10/6/2021	66.47	Kannal,Joshua & Tasha	Utility Refunds: 0000007239-03
Ad Hoc Payment	Check	25560	10/6/2021	20.00	LBF Distributing	Refund: Alarm billing acct 20914 inv 99450370
Ad Hoc Payment	Check	25561	10/6/2021	63.79	Lenard Yarnell & Cynthia Yarnell	Refund: 600 SCIP loan 6000066
Ad Hoc Payment	Check	25562	10/6/2021	200.00	Li Anne Mattheney	Replace Ck 16421 - Utility Refunds: 0054027230-11
Ad Hoc Payment	Check	25563	10/6/2021	214.36	Lynne Gray	Refund: COV10978 no longer needs permit
Ad Hoc Payment	Check	25564	10/6/2021	1,208.56	Main Street Trader	Utility Refunds: 0014026500-03

INVOICE PAYMENTS REPORT

<u>Payment Category</u>	<u>Payment Type</u>	<u>Check Number</u>	<u>Payment Date</u>	<u>Payment Amount</u>	<u>Payment Payee</u>	<u>Payment Memo if applicable</u>
Ad Hoc Payment	Check	25565	10/6/2021	46.42	MARCELLA D AND DANIEL W DICKSON	Utility Refunds: 0039009300-14
Ad Hoc Payment	Check	25566	10/6/2021	95.00	Matthew Palmer & Heather Palmer	Refund: 600 SCIP Loan 6000070
Ad Hoc Payment	Check	25567	10/6/2021	100.00	Meineke Car Care Center	Refund: alarm billing acct 18810 inv 99448491
Ad Hoc Payment	Check	25568	10/6/2021	32.28	Patrick Steen & Cheryl Ayers-Steen	Utility Refunds: 0051073700-16
Ad Hoc Payment	Check	25569	10/6/2021	20.00	PCS	Refund: alarm billing cust 21282 inv 99441746 Caliber Collison Centers
Ad Hoc Payment	Check	25570	10/6/2021	4.00	PCS	Refund: alarm billing Canepa Dental acct 9760 inv 99352324
Ad Hoc Payment	Check	25571	10/6/2021	402.00	Petsmart #0386	Refund: Alarm billing acct 96 inv 99439919, 99451386, 99445161
Ad Hoc Payment	Check	25572	10/6/2021	57.34	PITNER,CHRISTOPHER	Utility Refunds: 0046025780-01
Ad Hoc Payment	Check	25573	10/6/2021	20.00	Ralph Lobdell	Refund: Alarm billing acct 51942 inv 99445055
Ad Hoc Payment	Check	25574	10/6/2021	297.00	Raymond & Shirley Wilson Rev Lvng Trust	Utility Refunds: 0017099902-00
Ad Hoc Payment	Check	25575	10/6/2021	27.50	Reagan Mims	Damage Deposit Refund
Ad Hoc Payment	Check	25576	10/6/2021	99.04	Rees,Bryant & Holly	Utility Refunds: 0078099000-04
Ad Hoc Payment	Check	25577	10/6/2021	20.00	Rickey/April Murchinson	Refund: Alarm billing acct 18751 inv 99450180
Ad Hoc Payment	Check	25578	10/6/2021	74.00	ROBERT A AND JACQUELYN M SHAFFER	Utility Refunds: 0052060500-07
Ad Hoc Payment	Check	25579	10/6/2021	208.00	Rosanski,Edward M	Utility Refunds: 0103000071-02 Consolidated refund created from multiple refunds
Ad Hoc Payment	Check	25580	10/6/2021	193.42	Sarah Shaffer	MPE-308647
Ad Hoc Payment	Check	25581	10/6/2021	7,371.20	Sark Point Inc	SCIP prog D. Horne and M. Horne 6209 NE 70th St
Ad Hoc Payment	Check	25582	10/6/2021	350.00	Sednev,Pavel and Lyubov	Utility Refunds: 0149001224-03
Ad Hoc Payment	Check	25583	10/6/2021	56.00	SEUFE,MICHAEL	Utility Refunds: 0500002320-02
Ad Hoc Payment	Check	25584	10/6/2021	87.00	Smirna Christian Church	Refund: CIVICGOV cust 101238 inv 77034432
Ad Hoc Payment	Check	25585	10/6/2021	187.67	STEPHANIE SHUFELT AND JAMES R SHUFELT JR	Utility Refunds: 0051011800-02
Ad Hoc Payment	Check	25586	10/6/2021	11,563.77	Steven Crawford	Claim Payment - DOL: 06/01/21 - Risk
Ad Hoc Payment	Check	25587	10/6/2021	246.34	Tarah Gardner	RES-299059
Ad Hoc Payment	Check	25588	10/6/2021	112.00	THE MANAGEMENT GROUP	Utility Refunds: 0049067050-02
Ad Hoc Payment	Check	25589	10/6/2021	227.68	THE MANAGEMENT GROUP	Utility Refunds: 0043068084-02
Ad Hoc Payment	Check	25590	10/6/2021	360.00	TJ's Cascade Bar & Grill INC	Refund: Bus Lic fees COVID 19 surch ref prog
Ad Hoc Payment	Check	25591	10/6/2021	201.34	Total Solutions Management LLC	Refund: 600 SCIP loan 600489
Ad Hoc Payment	Check	25592	10/6/2021	91.84	Tracy A Spence	Refund: 600 SCIP Loan 6000395
Ad Hoc Payment	Check	25593	10/6/2021	92.83	VANDEBERG,ELIZABETH	Utility Refunds: 0046063000-00
Ad Hoc Payment	Check	25594	10/6/2021	71.58	Van Den Brink,Ryan E & Michelena	Utility Refunds: 0074053150-04
Ad Hoc Payment	Check	25595	10/6/2021	168.21	Verne,Gary & Joan	Utility Refunds: 0159004200-05
Ad Hoc Payment	Check	25596	10/6/2021	20.00	Wellons Group INC	Refund: alarm billing acct 21243 acct 99443619
Ad Hoc Payment	Check	25597	10/6/2021	150.16	WILSON,BERTA	Utility Refunds: 0059043002-22
Ad Hoc Payment	Check	25598	10/6/2021	270.00	World Class Taekwondo INC	Refund: bus lic fees COVID 19 surch ref prog
Supplier Payment	Check	25599	10/6/2021	80.29	Accurate Corporate Services Inc	
Supplier Payment	Check	25600	10/6/2021	6,234.42	Action Technology Systems	
Supplier Payment	Check	25601	10/6/2021	255.00	Advantage Environmental Inc	
Supplier Payment	Check	25602	10/6/2021	169.20	Airgas, Inc	
Supplier Payment	Check	25603	10/6/2021	583.29	Albina Holdings Inc	
Supplier Payment	Check	25604	10/6/2021	798.00	Allegheny Answering Services	
Supplier Payment	Check	25605	10/6/2021	60.00	American Sani-Can	
Supplier Payment	Check	25606	10/6/2021	615.74	Annas Consultants Inc	
Supplier Payment	Check	25607	10/6/2021	285.74	Aramark Uniform & Career Apparel LLC - Remit-To: Aramark - Pasadena	
Supplier Payment	Check	25608	10/6/2021	728.70	Archaeological Investigations Northwest Inc	
Supplier Payment	Check	25609	10/6/2021	8,249.40	AT & T Mobility II LLC	
Supplier Payment	Check	25610	10/6/2021	1,750.00	BLX Group LLC - Remit-To: BLX - San Francisco	
Supplier Payment	Check	25611	10/6/2021	42.49	Bound Tree Medical LLC	

INVOICE PAYMENTS REPORT

<u>Payment Category</u>	<u>Payment Type</u>	<u>Check Number</u>	<u>Payment Date</u>	<u>Payment Amount</u>	<u>Payment Payee</u>	<u>Payment Memo if applicable</u>
Supplier Payment	Check	25612	10/6/2021	2,245.50	BSK Associates - Remit-To: Supplier BSK Associates	
Supplier Payment	Check	25613	10/6/2021	585,365.50	Clark County - Remit-To: Clark County - Treasurer Vancouver	
Supplier Payment	Check	25614	10/6/2021	659.03	Code Publishing Co	
Supplier Payment	Check	25615	10/6/2021	15,994.78	Columbia Resource Company	
Supplier Payment	Check	25616	10/6/2021	151.11	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	25617	10/6/2021	109.92	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	25618	10/6/2021	114.92	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	25619	10/6/2021	17,323.30	Comcast Holdings Corporation - Remit-To: Comcast Holdings Corporation - Philadelphia	
Supplier Payment	Check	25620	10/6/2021	4,828.00	Confluence Engineering Group LLC	
Supplier Payment	Check	25621	10/6/2021	3,112.70	CyberSource Corporation - Remit-To: CyberSource - Los Angeles	
Supplier Payment	Check	25622	10/6/2021	1,500.00	David Corey PHD PC	
Supplier Payment	Check	25623	10/6/2021	84,161.74	Del Sol Inc	
Supplier Payment	Check	25624	10/6/2021	27,685.47	DLT Solutions LLC	
Supplier Payment	Check	25625	10/6/2021	5,425.00	ESRI Inc	
Supplier Payment	Check	25626	10/6/2021	56.42	Experian Marketing Solutions - Remit-To: Experian - Los Angeles	
Supplier Payment	Check	25627	10/6/2021	306.67	Ferguson Enterprises - Remit-To: Ferguson - Dallas	
Supplier Payment	Check	25628	10/6/2021	1,964.24	Gallagher Bassett Services Inc	
Supplier Payment	Check	25629	10/6/2021	751.61	Genuine Parts Company	
Supplier Payment	Check	25630	10/6/2021	270.98	Goble Sampson Associates	
Supplier Payment	Check	25631	10/6/2021	199.22	Graphic Information Systems Inc	
Supplier Payment	Check	25632	10/6/2021	783.29	Gray & Osborne Inc	
Supplier Payment	Check	25633	10/6/2021	30,313.10	Halbert Construction Services LLC	
Supplier Payment	Check	25634	10/6/2021	3,406.82	H D Fowler Company Inc	
Supplier Payment	Check	25635	10/6/2021	34,455.75	His Masterpiece LLC	
Supplier Payment	Check	25636	10/6/2021	3,900.00	Innovative Data Acquisition, LLC	
Supplier Payment	Check	25637	10/6/2021	362,200.32	Insituform Technologies, LLC	
Supplier Payment	Check	25638	10/6/2021	371.95	Iron Mountain Inc - Remit-To: Iron Mountain - New York	
Supplier Payment	Check	25639	10/6/2021	518.88	J-2 Blueprint Supply Co.	
Supplier Payment	Check	25640	10/6/2021	1,464.75	Jamestown Networks	
Supplier Payment	Check	25641	10/6/2021	1,000.00	Jessica Leigh Graff	
Supplier Payment	Check	25642	10/6/2021	2,126.49	J Frank Schmidt and Son Co	
Supplier Payment	Check	25643	10/6/2021	65.00	Kaiser Permanente - Remit-To: Kaiser Permanente	
Supplier Payment	Check	25644	10/6/2021	802.50	Kennedy Jenks Consultants - Remit-To: Kennedy Jenks Consulting	
Supplier Payment	Check	25645	10/6/2021	496,909.12	Kirby Nagelhout Construction Company	
Supplier Payment	Check	25646	10/6/2021	772.03	Kittelson & Associates Inc	
Supplier Payment	Check	25647	10/6/2021	29.44	Kronos Incorporated - Remit-To: Atlanta	
Supplier Payment	Check	25648	10/6/2021	9,590.55	Kurita America Inc - Remit-To: US Water - Minneapolis	
Supplier Payment	Check	25649	10/6/2021	1,546.13	MacKay Meters inc	
Supplier Payment	Check	25650	10/6/2021	298.38	Mark IV Enterprises Inc	
Supplier Payment	Check	25651	10/6/2021	375.00	Marquam Group LTD	

INVOICE PAYMENTS REPORT

<u>Payment Category</u>	<u>Payment Type</u>	<u>Check Number</u>	<u>Payment Date</u>	<u>Payment Amount</u>	<u>Payment Payee</u>	<u>Payment Memo if applicable</u>
Supplier Payment	Check	25652	10/6/2021	2,000.00	Message Gears LLC	
Supplier Payment	Check	25653	10/6/2021	315.00	NCC Group Software Resilience (NA) LLC	
Supplier Payment	Check	25654	10/6/2021	28,313.91	Nelson Nygaard Consulting Associates Inc - Remit-To: Nelson Nygaard Consulting Associates Inc	
Supplier Payment	Check	25655	10/6/2021	63.88	Northwest Cascade Inc	
Supplier Payment	Check	25656	10/6/2021	11,222.47	Northwest Staffing Resources Inc - Remit-To: NW Staffing - Portland	
Supplier Payment	Check	25657	10/6/2021	1,606.07	One Call Concepts Inc	
Supplier Payment	Check	25658	10/6/2021	283.66	Orion Medical Supply	
Supplier Payment	Check	25659	10/6/2021	9,823.11	Parametrix, Inc	
Supplier Payment	Check	25660	10/6/2021	8,840.00	Parkeon	
Supplier Payment	Check	25661	10/6/2021	4,388.87	PBS Engineering and Environmental Inc	
Supplier Payment	Check	25662	10/6/2021	4,058.39	Physio-Control Inc - Remit-To: Stryker Medical	
Supplier Payment	Check	25663	10/6/2021	641.29	Portland Adventist Medical Center	
Supplier Payment	Check	25664	10/6/2021	2,514.24	PPC Solutions Inc	
Supplier Payment	Check	25665	10/6/2021	1,995.00	Professional Development Academy, LLC	
Supplier Payment	Check	25666	10/6/2021	3,174.00	Professional Service Industries	
Supplier Payment	Check	25667	10/6/2021	104,661.28	PSI Water Technologies Inc	
Supplier Payment	Check	25668	10/6/2021	380.00	Public Safety Testing Inc	
Supplier Payment	Check	25669	10/6/2021	6,683.50	Qwest Corp - Remit-To: Qwest Corp- Seattle	
Supplier Payment	Check	25670	10/6/2021	5,821.65	Retail Lockbox Inc	
Supplier Payment	Check	25671	10/6/2021	17,902.50	Right Systems Inc	
Supplier Payment	Check	25672	10/6/2021	1,560.96	Robert Fuller	
Supplier Payment	Check	25673	10/6/2021	1,040.00	Rock Creek Communications, LLC	
Supplier Payment	Check	25674	10/6/2021	9,370.06	SDB Contracting Services	
Supplier Payment	Check	25675	10/6/2021	9,424.25	Sequence Graphics LLC	
Supplier Payment	Check	25676	10/6/2021	1,174.86	Software House International SHI - Remit-To: SHI - Dallas	
Supplier Payment	Check	25677	10/6/2021	284.44	SP Plus Corporation	
Supplier Payment	Check	25678	10/6/2021	8.48	State of Oregon Department of Transportation - Remit-To: OR DMV - Salem	
Supplier Payment	Check	25679	10/6/2021	759.00	Summit Law Group	
Supplier Payment	Check	25680	10/6/2021	569.63	Towing & Recovering Services Inc	
Supplier Payment	Check	25681	10/6/2021	1,187.64	Transunion Risk & Alternative Data Solutions Inc	
Supplier Payment	Check	25682	10/6/2021	2,716.90	Triple J Enterprises	
Supplier Payment	Check	25683	10/6/2021	1,699.55	Tyree Oil Inc	
Supplier Payment	Check	25684	10/6/2021	9.46	United Parcel Service	
Supplier Payment	Check	25685	10/6/2021	635.24	United States Dosimetry Technology Inc	
Supplier Payment	Check	25686	10/6/2021	248.00	Vast Data Concepts	
Supplier Payment	Check	25687	10/6/2021	403.25	Washington State Fire Fighters Apprenticeship Trust	
Supplier Payment	Check	25688	10/6/2021	32,653.84	Wilson Oil Inc	
Supplier Payment	Check	25689	10/6/2021	3,319.78	WW Grainger Inc	
Supplier Payment	Check	25690	10/6/2021	124.02	XPO Logistics Enterprise Services, Inc - Remit-To: XPO - Portland	
Supplier Payment	Check	25691	10/6/2021	10.00	Clark County	
Supplier Payment	Check	25692	10/6/2021	34,259.81	Life Insurance Company of North America	
Supplier Payment	Check	25693	10/8/2021	7,976.13	Aflac	
Supplier Payment	Check	25694	10/8/2021	4,956.67	AFSCME Local #307	
Supplier Payment	Check	25695	10/8/2021	22,326.78	IAFF Local #452	

INVOICE PAYMENTS REPORT

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Supplier Payment	Check	25696	10/8/2021	712.50	IAM Local #1374	
Supplier Payment	Check	25697	10/8/2021	8,181.65	Life Insurance Company of North America	
Supplier Payment	Check	25698	10/8/2021	475.00	MFS Service Center Inc	
Supplier Payment	Check	25699	10/8/2021	75.00	OPEIU Local #11	
Supplier Payment	Check	25700	10/8/2021	4,021.44	OPEIU Local #11	
Supplier Payment	Check	25701	10/8/2021	608.00	Teamsters Local #58	
Supplier Payment	Check	25702	10/8/2021	297.50	UA Local #290	
Supplier Payment	Check	25703	10/8/2021	2,847.48	Western Conference of Teamsters	
Supplier Payment	Check	25704	10/8/2021	1,197.84	Western Metal Industry Pension Plan	
			SUBTOTAL	4,206,737.39		
Hansen			10/11/2021	8,893.79	City Payments	Posted 10-04-21 thru 10-10-21
			SUBTOTAL	8,893.79		
Visa			10/11/2021	1,828.50	Miscellaneous	Parks Class Refunds - FCC 10-04-21 thru 10-10-21
Visa			10/11/2021	1,019.00	Miscellaneous	Parks Class Refunds - MCC 10-04-21 thru 10-10-21
Visa			10/11/2021	-	Miscellaneous	Parks Class Refunds - Special Events 10-04-21 thru 10-10-21
Visa			10/11/2021	-	Miscellaneous	Parks Class Refunds - WREC 10-04-21 thru 10-10-21
			SUBTOTAL	2,847.50		
			TOTAL	4,218,478.68		

City of Vancouver
Payroll Council Report
October 5, 2021 - October 11, 2021

Check No.	Date	Explanation	Amount
3409-3432	10/08/21	19 2021 Payroll	\$17,160.89
118515-120232	10/08/21	19 2021 Direct Deposits	\$3,187,987.37

\$ 3,205,148.26



Staff Report 155-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 10/18/2021

SUBJECT Academy Smokestack Demolition Appeal

Key Points

- On January 26, 2021, the Historic Trust (Applicant) submitted a demolition permit application for the Smokestack building located on parcel 5 of the Providence Academy property located at 400 E. Evergreen Blvd.
- The Providence Academy site is on the National Register of Historic Places, the highest level of recognition for historic sites and buildings in the US.
- In January of 2018, the City received an application for redevelopment of the Academy site. Shortly thereafter, the City met with the property owner to discuss safety concerns related to the Smokestack, Laundry and Boiler buildings.
- On September 1, 2020, the property owner provided the City with a request for an unfit building determination Per [VMC 17.32](#) *Unfit Buildings and Premises Code* for the Smokestack.
- On December 15, 2020, the City of Vancouver Building Official declared the Smokestack unfit and ordered it to be repaired or demolished.
- On July 7, 2021, the Clark County Historic Preservation Commission ("HPC" or "Commission") held a public hearing regarding the Applicant's request for approval of a demolition permit for the smokestack associated with the Providence Academy.
- On July 9, 2021, after review of the record and deliberation, the Commission approved the applicant's demolition permit request, subject to the additional condition of approval that the effective date of the permit be delayed for 90 days to allow third parties to propose alternatives to demolition to the owner.
- On July 29, 2021, an appeal of the Commission Decision ("Appeal") was submitted by Connie and Lee Kearney ("Appellant") and is properly before the Vancouver City Council in

accordance with VMC 20.510.040.

Present Situation

On January 26, 2021, the Applicant submitted a demolition permit application for the Smokestack building located on parcel 5 of the Providence Academy property located at 400 E. Evergreen Blvd. The property is also located in Heritage Overlay District Number One[1].

The main Academy building is the major historic asset in the area, but the outbuildings and the grounds of the Academy are also important historical and architectural features because of their relationship to the main building, and their influence on views of the main building and on the character of the immediate environs. The Providence Academy site is on the National Register of Historic Places, the highest level of recognition for historic sites and buildings in the US. According to the Vancouver Municipal Code, Providence Academy is the "...most important historic building in downtown Vancouver." [2]

Begun in 1873, the complex was built to serve as a boarding school, orphanage, convent, and headquarters for the Sisters of Charity of the House of Providence, incorporated in 1859, and one of the oldest corporations in the northwest. The main building was designed by and constructed under the direction of Mother Joseph of the Sacred Heart. It is widely regarded as one of her most outstanding architectural achievements and is one of only two buildings remaining today which bear her design imprint, though many of the institutions created under her direction remain in other buildings.

The Academy grounds have historically included numerous outbuildings, up to a total of as many as 14 at a time. The remaining historic outbuildings include the Laundry Building (c. 1884), Boiler Building and Boiler Smokestack (c.1910), and the Gymnasium (c. 1930). Today, most of the site is used for parking both paved and gravel surfaced.

The Smokestack is appended to the Boiler Building which historically heated the main Academy Building, the 1911 St. Joseph's hospital building formerly located to the north across 12th St., and the Laundry Building. The Smokestack and Boiler Building were designed by Portland architect Robert Tegen.

In January of 2018, the City received an application for redevelopment of the Academy site. Shortly thereafter, the City met with the property owner to discuss safety concerns related to the Smokestack, Laundry and Boiler buildings. Over the course of the next year the Historic Trust enlisted the efforts of four engineering firms to determine the overall condition of the Laundry, Boiler and Smokestack buildings.

Based on the primary reports and visible concerns about the buildings, the City required the property owner to provide an [action plan](#) to address the structural condition of the buildings. The City required the property owner to submit the action plan by March 1, 2020, the date was extended to September 1, 2020, due to the COVID-19 pandemic. On September 1, 2020, the property owner provided the City with a request for an unfit building determination, per [VMC 17.32 Unfit Buildings and Premises Code](#), for the Smokestack. The primary purpose of the "Unfit Building and Premises Code" is to provide a just, equitable and practicable method for determining if buildings, structures and/or premises are unfit for human habitation or other uses and are inimical to health and welfare of the general public and may be required to be repaired, vacated or demolished.

The City's Building and Fire Code Commission (BFCC) held a public hearing on October 27, 2020, to review the Building Official's preliminary determination of the smokestack as an unfit structure. At the conclusion of the hearing, the BFCC passed a unanimous resolution supporting the Building Official's preliminary determination that the smokestack is an unfit structure under VMC 17.32.

On December 15, 2020, the City of Vancouver Building Official declared the Smokestack unfit and ordered it to be repaired or demolished ([Order to Repair or Demolish](#)). The Building Official also required a permit application for structural rehabilitation or demolition be filed with the City of Vancouver by March 31, 2021. As stated previously, the property owner filed the demolition permit application on January 26, 2021.

Per [VMC 20.510.040](#), demolition permits for buildings listed in the Clark County Heritage Register, State Heritage Register or National Register of Historic Places requires the approval of the HPC.

Procedures for Processing Applications for Demolitions

The standards by which the Commission must evaluate the Demolition Application at the Public Hearing are prescribed in [VMC 20.510.050\(A\)\(3\)\(b\)](#) and [VMC 20.510.050\(A\)\(3\)\(d\)](#), as outlined below. The HPC's determination of whether to approve the Demolition Application is limited to whether the applicant can demonstrate that renovation, restoration, or reuse of the structure *will impose an economic hardship on the property owner that makes any outcome other than demolition impractical*. (emphasis added)

On July 7, 2021, the HPC held a public hearing regarding the Applicant's request for approval of a demolition permit ("Demolition Application") for the smokestack associated with the Providence Academy.

Process for Review

[Per VMC 20.510.050.A.3](#) - A structure that is listed on the National Register of Historic Places and such structure is located within a Historic Preservation Overlay District shall not be demolished except in the following manner:

- a. *Demolition of Unsafe Buildings.* If the City Building Official has found the structure to be unsafe under the provisions of Chapter [17.32](#) VMC, *Unfit Buildings and Premises Code*, and has ordered that the structure be demolished.
- b. *Demolition of Other Buildings in a Historic Preservation Overlay District.* If a proposed reuse of the site requires the demolition of a structure listed on the National Register of Historic Places and such structure is located within a Historic Preservation Overlay District. The proponent of the demolition shall submit an Application for Demolition together with a report demonstrating that preservation of the building or structure and important features thereof proposed for demolition *will impose an economic hardship upon the owner*,

rendering it impractical to renovate, restore, or reuse the structure. (emphasis added)

As stated earlier, the Building Official deemed the Smokestack unfit on December 15, 2020, and ordered the repair or demolition of the smokestack. On January 26, 2021, the property owner filed a request for demolition of the smokestack. Because the Building Official did not outright order the smokestack demolished but rather repaired or demolished, the approval process is subject to the requirements of VMC 20.510.050.A.3.b noted above. A report detailing that the preservation of the building will demonstrate an economic hardship is required if the building is to be demolished. The report shall contain the following information:

1. Ownership history during the past ten years including the buyers and sellers, sales prices, dates of sales and the relationships, if any, between the present owner(s) and the most recent previous owner(s).
2. The outstanding balance of the mortgage and other financing secured by the property.
3. The most recent assessed value and present property taxes levied.
4. All appraisals on the property performed during the past three years and an estimate of the property's present fair market value.
5. A summary of listed prices, if any, for the property during the most recent three years.
6. Cultural significance as described in nominations for listing in the Clark County Heritage Register, State Heritage Register or National Register of Historic Places or in any consultant report determining that the building may be an "eligible building" for future listing on the Clark County Heritage Register, State Heritage Register or National Register of Historic Places.
7. Professional quality as-built drawings of the building and renderings of all exterior elevations showing the building's architectural features and black and white photographs on acid free photographic paper of the building interior and exterior, its site and adjacent structures.
8. Current level of economic return including annual gross income, itemized operating and maintenance expenses, capital expenditures, depreciation and debt service for the most recent three full years.
9. An analysis of reasonable economic alternatives to demolition, including:
 - a) redevelopment of the building in its present location independent of other development of the site;
 - b) redevelopment of the building in its present location in conjunction with new development on the balance of the site; and relocation to a different location and whether such redeveloped or relocated alternatives are capable of providing reasonable economic return upon completion of renovation / repair / relocation activities.^[3]

The Applicant addressed each of these items in detail as part of the record from the [July 7, 2021 HPC meeting \(pp. 1-194\)](#).

Criteria for Approval of an Application for Demolition:

[Per VMC 20.510.050.A.3.d.](#), the following criteria for approval or denial shall be considered when reviewing an Application for Demolition:

1. The extent to which the demolition of the building will have a serious adverse impact on the cultural significance of the Historic Preservation Overlay District.
2. The extent to which the building is so deteriorated and so lacking in historical fabric, that it

would not be viable to retain the historic, cultural and architectural significance of the building through rehabilitation or renovation.

3. There is no reasonable alternative to demolition that would provide the owner with a reasonable economic return.
4. The extent to which the denial will deprive the owner of reasonable economic use of the underlying property.

The Applicant addressed each of these items in detail as part of the record from the [July 7, 2021 HPC meeting \(pp. 195-198\)](#).

The Commission acted on the Demolition Application at the public hearing and issued a formal written decision on July 9, 2021 ("[Commission Decision](#)"). The Commission approved issuance of the applicant's demolition permit by the City of Vancouver, subject to the additional condition of approval that the effective date of the permit be delayed for 90 days to allow third parties to propose alternatives to demolition to the owner. Based on the applicant's submitted demolition application and report reviewed by the Commission at the public hearing, the Commission determined that the record created by the applicant satisfied the requirements of VMC 20.510.050(A)(3)(b).

On July 29, 2021, an appeal of the Commission Decision ("[Appeal](#)") was submitted by Connie and Lee Kearney ("Appellant") and is properly before the Vancouver City Council in accordance with VMC 20.510.040.

Appeal of the Commission's decision is processed as a Type III land use action pursuant to [VMC 20.220.030](#) and this appeal was timely submitted by a party with standing under [VMC 20.210.130\(B\)\(3\)](#). The hearing date for the appeal was set upon mutual agreement of the Appellant, the Applicant, and the planning official, in accordance with VMC 20.210.130(C). Under Table 20.210.130-1 of VMC 20.210.130(C)(3), the appeal hearing must be conducted on a closed record. A closed-record appeal hearing is limited to argument from the appellant, the applicant and city staff, and deliberation by the City Council. Argument and deliberation shall be limited to the record established at the original open-record hearing. The record shall consist of testimony and deliberation at the original hearing as recorded by an audio/visual tape or transcript certified as accurate and complete, any other materials submitted into the record, and the final order being appealed.

[1] VMC 20.510.020.

[2] VMC 20.510.020.A.1.

[3] VMC 20.510.050A.3.b.i-ix.

Basis of Appeal #1 – The City Council should remand the Demolition Application to the Clark County Historic Preservation Commission to require analysis of the proper underlying properties and redevelopment project.

Response #1:

In reviewing a demolition permit application under VMC 20.510.040, as the Commission properly did here, the HPC may not consider real property beyond the impacted parcel, except to the extent of evaluating the impact that demolition will have on the cultural significance of the Historic Preservation Overlay District (VMC 20.510.050(A)(3)(d(i))). The Demolition Application considered by the HPC is specific to a particular structure and that structure is located on a particular parcel of real property. Only that parcel and the ownership of that parcel is included in the

report submitted to the HPC (VMC 20.510.050(A)(3)(b) itemizes the information to be included in the report, limited to the subject structure and property on which that structure is located) and the HPC would be acting ultra vires, outside of its legal power and authority, if it were to consider the economic benefit that might be achieved by other owners or other real property not the subject of the demolition application and therefore not before the HPC. The criteria for approval or denial of a demolition application that the Commission may consider is prescribed by VMC 20.510.050(A)(3)(d) and the appeal before City Council does not contest these criteria, which are expressly limited to the owner of the property in question:

Criteria for Approval of an Application for Demolition. The following criteria for approval or denial shall be considered when reviewing an Application for Demolition:

- i. The extent to which the demolition of the building will have a serious adverse impact on the cultural significance of the Historic Preservation Overlay District.
- ii. The extent to which the building is so deteriorated and so lacking in historical fabric, that it would not be viable to retain the historic, cultural and architectural significance of the building through rehabilitation or renovation.
- iii. There is no reasonable alternative to demolition that would provide the owner with a reasonable economic return.
- iv. The extent to which the denial will deprive the owner of reasonable economic use of the underlying property.

Basis of Appeal # 2 – The City Council should remand the application to the HPC to allow it to impose appropriate mitigation, if after evaluating an analysis of the proper underlying properties and redevelopment project, it concludes that demolition is warranted.

Response #2:

The prehearing guidance memo dated June 22, 2021, and provided to the Commission in advance of the public hearing ([“Prehearing Guidance Memo”](#)), includes the full language of VMC 20.510.050(A)(3)(e) regarding conditions that the HPC may impose upon its approval of a demolition permit. During the public hearing, legal counsel also advised the Commission that it could impose other requirements on The Historic Trust, as applicant, to expand or clarify the record before making a determination as to whether demolition was appropriate (at 2:29 in the [Audio](#) of the HPC July 7, 2021 public meeting). Furthermore, the plain language of VMC 20.510.050(A)(3)(e) does in fact limit the conditions the HPC may impose on the applicant because principals of statutory construction provide that illustrative examples are intended to limit the scope of a statute. Specifically, the provision “including but not limited to” is to be interpreted as allowing conditions similar to the designated list, not unfettered authority to apply any sort of

condition at all.^[1] Enumerated conditions are expressly connected with the HPC’s scope of authority and process and do not allow the Commission to reach beyond.

The advice provided by legal counsel, as cited by the appeal, while perhaps abbreviated, was specifically responsive to additional conditions the Commission was inquiring about imposing that are not within the scope of the enumerated conditions of VMC 20.510.050(A)(3)(e) and are outside the Commission’s scope of authority defined in the powers and duties of VMC 20.220.050(D).

In the first instance, the appeal objects to counsel having advised the Chair that the Commission could not impose the condition of requiring the property to be listed on the Clark County Historic Register. This advice is correct. While the Commission is tasked under VMC 17.39.040(D)(2) and (3) with the power and duty to maintain the Clark County Historic Register (“CCHR”) and to review nominations to the CCHR pursuant to the criteria specified in VMC 17.39.070, nomination

of a structure for inclusion on the CCHR cannot be made without consent from the owner and such consent must be granted prior to consideration for CCHR designation by the Commission (VMC 17.39.070(B)(1)). Therefore, the very process of nominating, designating, and listing properties on the CCHR eliminates the possibility for the Commission to impose the CCHR designation on a property through the demolition application process to which the Smokestack was subject.

In terms of the claim that the HPC has authority under this VMC 20.510.050 review to impose additional mitigation measures preserving the historic significance of the Smokestack, the appeal appears to be conflating the authority of the Commission for structures to be demolished that are in fact designated on the Clark County Historic Register, as provided in VMC 17.39.080(C)(5)(g). That code section expressly grants authority to the Commission to impose mitigation measures that “may include, but are not limited to, photo documentation of the building or site, an identification plaque, use of an architectural element in new construction, moving the building, and/or buffering of the historic or cultural resource,” but VMC 20.510.050, under which the HPC was reviewing the Demolition Application, grants no such option. Any historic mitigation measures to be imposed upon the applicant for the Smokestack demolition will be appropriately imposed under the State Environmental Policy Act, RCW Chapter 43.21C (“SEPA”).

SEPA requires that the City consider the environmental impact of a proposal, such as the Demolition Application, before making decisions and expressly treats “historic and cultural preservation” as elements of the built environment to be considered when evaluating the impact of a land use project (WAC 197-11-447(2)(b)(vi)) under SEPA. Consideration must be given to preservation of historic sites and cultural resources in determining the environmental impact of the Demolition Application (WAC 197-11-330(3)(e)(i)) and incorporate, when appropriate, mitigation measures for historic and cultural resources in any Environmental Impact Statement (EIS) issued under SEPA (WAC 197-11-440(6)(d)(iv)).

Basis of Appeal #3 – THE HPC making a decision without having the final MDNS violated the State Environmental Policy Act (SEPA).

Response #3:

The HPC is not making a final decision on the issuance of the demolition permit and does not have the authority to issue the demolition permit. The City Building Official, assuming HPC approval, may only issue the demolition permit for the smokestack pursuant to the Demolition Application upon completion of the SEPA process and subject to mitigation measures imposed by SEPA.

The actual issuance of the demolition permit is made by the City Building Official, not the HPC, pursuant to the building code regulations of VMC Chapter 17.08, where issuance of a building permit for demolition is included in the scope of VMC 17.08.030. Permit issuance is subject to review by other departments and agencies to ensure compliance with applicable laws under VMC 17.08.110(A)(1). In the present case, the Building Official may not act on the Demolition Application and issue an actual demolition permit, subject to any conditions imposed by the HPC or by SEPA, until both approval by the Commission under the historic preservation, restoration, and reuse requirements of the VMC has been granted and until a determination of nonsignificance (DNS) or a mitigated determination of nonsignificance (MDNS) has been issued through the SEPA process.

Under WAC 197-11-704, the City’s issuance of a demolition permit is an action subject to the authority of SEPA and subject to the authority of the HPC under the Heritage Overlay District requirements of VMC 20.510.050. While the Commission could fall within the SEPA definition of an “Agency” for purposes of WAC 197-11-714 as a “state or local governmental body, board, commission” etc., the definition of “Agency” for purposes of an agency that must have the final SEPA determination before taking action depends on the “Agency” taking a qualifying “Action” under WAC 197-11-704. Here the HPC is not an “Agency” because the qualifying “Action” is an agency decision authorizing a project through issuance of a demolition permit and the final

authority for such permit issuance resides with the Building Official under VMC Chapter 17.08.

To determine whether a land use proposal will have a significant adverse impact on the quality of the environment, including the historic and cultural built environment, the City collects information pursuant to the SEPA Environmental Checklist prescribed by WAC 197-11-960. Question 13 of the Environmental Checklist addresses historic and cultural preservation as follows:

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.
- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation. This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.
- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.
- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

To the extent the City, as Lead Agency, determines that additional expertise on archaeological and historic preservation environmental matters is required under a SEPA review, the Washington State Department of Archaeology and Historic Preservation, not the HPC, is the agency expressly designated by WAC 197-11-920(11) as providing this special expertise on which the City can rely.

The City has adopted regulations under [VMC 20.790.620](#) giving the City substantive authority to attach express conditions on a permit or proposal approval pursuant to SEPA. Subject to [43.21C.060 RCW](#) and [43.21C.240 RCW](#), the City (here the Building Official as the final issuer of the demolition permit, not the HPC) may attach conditions to the permit so long as:

1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and
2. Such conditions are in writing; and
3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
4. The City has considered whether other local, State or Federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
5. Such conditions are based on one or more policies in Section [20.790.720](#) VMC and cited in the decision document.

The Commission was advised in a publicly disclosed legal memorandum dated June 14, 2021, ("[SEPA Memo](#)"), of the SEPA review process and the appropriate process available to the Commission to speak into the SEPA review process and recommend any mitigation measures. The appeal does not contest any of the legal guidance provided to the Commission in the SEPA Memo. If the SEPA process and any mitigation provisions provided therein are deemed insufficient by the Appellant, there is a direct avenue to appeal the SEPA determination, but the adequacy and application of the SEPA determination for the demolition permit is not properly

before the Council under this appeal

[1] “[I]llustrative examples were intended to *limit* the scope of the statute. We apply the principle of statutory interpretation that ‘general terms, when used in conjunction with specific terms in a statute, should be deemed only to incorporate those things similar in nature or “comparable to” the specific terms.’ *Simpson Inv. Co. v. Dep’t of Revenue*, 141 Wn.2d 139, 151, 3 P.3d 741 (2000) (quoting *John H. Sellen Constr. Co. v. Dep’t of Revenue*, 87 Wn.2d 878, 883-84, 558 P.2d 1342 (1976)); see also *State v. Gonzales Flores*, 164 Wn.2d 1, 13, 186 P.3d 1038 (2008) (“specific words modify and restrict the meaning of general words when they occur in a sequence” (describing the principle of ejusdem generis) (citing *State v. Roadhs*, 71 Wn.2d 705, 708, 430 P.2d 586 (1967))).” [State v. Larson, 184 Wn.2d 843, 849, 365 P.3d 740, 743, 2015 Wash. LEXIS 1451, *7](#)

Action Requested

Council is being asked to decide if the Historic Preservation Commission's decision to authorize the issuance of a demolition permit for the Academy Smokestack should be upheld or overturned.

Staff's position is that the Historic Preservation Commission appropriately applied the Vancouver Municipal Code to the record and that its decision was properly issued. The HPC followed the criteria laid out in VMC 20.510, it reviewed the documentation that was submitted into the record by the Historic Trust, and through public comment, and it properly applied the VMC criteria to the supporting documentation in reaching its decision to authorize the Building Official to issue a demolition permit.

Jason Nortz, Development Review Manager, 360-487-7844

ATTACHMENTS:

- ▢ Linked attachments and record from July 7 Historic Preservation Commission meeting
- ▢ Appeal of Historic Preservation Commission decision - July 29, 2021

Vancouver City Council Meeting – October 18, 2021

Attachments for Closed-Record Appeal Hearing: Academy Smokestack Demolition Appeal

Record from 7/7/21 Historic Preservation Commission meeting:

1. Video of meeting: <https://www.youtube.com/watch?v=ImguZ48U1ps>
2. Audio of meeting: [https://clark.wa.gov/sites/default/files/2021-07/Historic Preservation Commission-20210708 0112-1.mp3](https://clark.wa.gov/sites/default/files/2021-07/Historic%20Preservation%20Commission-20210708%20112-1.mp3)
3. June 22, 2021 Pre-Hearing Guidance Memo:
<https://clark.wa.gov/sites/default/files/media/document/2021-06/CCHPC%2007072021%20Prehearing%20Guidance%20Memo%20Issued%2006222021.pdf>
4. July 7 HPC Staff Report: https://clark.wa.gov/sites/default/files/media/document/2021-06/Final%20Staff%20Report_Smokestack%20Demo_7.7.21.pdf
 - a. Exhibit 1 – Letter to The Historic Trust:
https://clark.wa.gov/sites/default/files/media/document/2021-06/Exhibit%201_Letter%20to%20The%20Historic%20Trust.pdf
 - b. Exhibit 2 – Providence Academy Smokestack Unfit Structure Request:
https://clark.wa.gov/sites/default/files/media/document/2021-06/Exhibit%202_Providence%20Academy%20Smokestack%20Unfit%20Structure%20Request%20%28003%29.pdf
 - c. Exhibit 3 – Smokestack Unfit Determination and Order to Repair or Demolish:
https://clark.wa.gov/sites/default/files/media/document/2021-06/Exhibit%203%20_Smokestack%20Unfit%20Determination%20and%20Order%20to%20Repair%20or%20Demolish.pdf
 - d. Exhibit 4 (A-T): Economic Feasibility Report (provided by applicant): HPC
 - i. Part 1: [https://clark.wa.gov/sites/default/files/media/document/2021-07/Exhibit 4 part 1 A-H %2806-30-2021%2C 6 01 PM%29 %281%29.pdf](https://clark.wa.gov/sites/default/files/media/document/2021-07/Exhibit%204%20part%201%20A-H%20%2806-30-2021%202C%206%2001%20PM%29%20%281%29.pdf)
 - ii. Part 2: [https://clark.wa.gov/sites/default/files/media/document/2021-06/Exhibit 4 part 2 I-T %2806-30-2021%2C 6 14 PM%29.pdf](https://clark.wa.gov/sites/default/files/media/document/2021-06/Exhibit%204%20part%202%20I-T%20%2806-30-2021%202C%206%2014%20PM%29.pdf)
5. Staff Presentation: [https://clark.wa.gov/sites/default/files/media/document/2021-07/City Staff-Smokestack_Presentation_7.7.21.pdf](https://clark.wa.gov/sites/default/files/media/document/2021-07/City%20Staff-Smokestack_Presentation_7.7.21.pdf)
6. Historic Trust (applicant) Presentation:
<https://clark.wa.gov/sites/default/files/media/document/2021-07/The%20Historic%20Trust-Applicant%20Presentation.pdf>
7. Public Comments: <https://clark.wa.gov/sites/default/files/media/document/2021-07/Public%20comments%20combined-07-07.pdf>

8. HPC Decision: <https://clark.wa.gov/sites/default/files/media/document/2021-07/CCHPC%20Smokestack%20Demolition%20Permit%20Decision%2007072021.pdf>
9. June 14, 2021 SEPA Memo: <https://clark.wa.gov/sites/default/files/media/document/2021-06/HPC%206142020%20Special%20Meeting%20Memorandum%20-%20Providence%20Academy%20SEPA%20Application%20-%20Issued%2006142021.pdf>
10. Appeal of Commission Decision – July 29, 2021:
<https://vancouvercity.novusagenda.com/AgendaIntranet/AttachmentViewer.ashx?AttachmentID=6123&ItemID=2183> (also attached under separate cover)

Re: Appeal of PRJ-163699/LUP-80658 – The Historic Trust

Dear Mr. Nortz:

By this letter we appeal the July 9, 2021 decision of the Clark County Historic Preservation Commission (HPC) approving The Historic Trust's application to demolish the Smokestack on the Providence Academy. Our appeal is based on errors of fact and errors of law. We file our appeal pursuant to VMC 20.510.040, 20.220.050(I), 17.39.080(C)(6), and 20.210.130(B)(3).

Decision Appealed: Clark County Historic Preservation Commission's July 9, 2021 decision approving The Historic Trust's application to demolish the Smokestack on the Providence Academy within Heritage Overlay District Number One, case number PRJ-163699/LUP-80658.

Petitioners: Connie and Lee Kearney.

Standing of Petitioners: As explained in Becky Rude's June 22, 2021 memorandum to the HPC, the standing requirements for a Type III appeal apply. The standing requirements are specified in VMC 20.210.130(B). We established standing pursuant to VMC 20.210.130(B)(3)(b) and (c) by submitting a letter to the HPC for consideration at its July 7, 2021 public hearing. Our letter to the HPC is attached to this letter as Exhibit A and included in the HPC's record on pages 5-7 of "Public comments combined-07-07."

Specific Aspects of HPC Decision Being Appealed and Errors of Fact and Law: We appeal the failures to (1) require information about and analyze the appropriate properties in applying VMC 20.510.050(A)(3)(d); (2) impose conditions on the demolition permit based on erroneous legal advice; and (3) consider the final MDNS prior to making a decision.

Error of Mixed Fact and Law 1: As explained in our letter to the HPC, the CEO of The Historical Trust has now conceded what we all knew – that if the laundry, boiler, and Smokestack were not demolished, it could not sell the property on which Aegis Phase II is proposed. To be clear - the only reason The Historical Trust has sought a permit for demolition is to allow Aegis Phase II to be developed.

VMC 20.510.050(A)(3)(b) specifies the contents of a demolition permit. When demolition is proposed, as it is here, for reuse of a site, the proponent must submit a report demonstrating that preservation will impose an economic hardship rendering it impractical to renovate, restore or reuse the structure. The Historic Trust seeks demolition to allow reuse of site for Aegis Phase II, but inappropriately limited its analysis to the parcel on which the Smokestack is located, not the assembly of properties on which Aegis Phase II is proposed. In analyzing economic hardship, both The Trust and the HPC should have considered the entire Aegis Phase II project in assessing the cost and feasibility of preserving the Smokestack.

Further, under VMC 20.510.050(A)(3)(d)(3) and (4), the HPC must consider the following criteria for approval or denial shall be considered when reviewing an Application for Demolition:

3. There is no reasonable alternative to demolition that would provide the owner with a reasonable economic return.
4. The extent to which the denial will deprive the owner of reasonable economic use of the underlying property.

Again, the HPC erred by limiting its analysis to the parcel on which the Smokestack is located rather than the larger properties proposed to be redeveloped. We asked that the City Council remand the application to the HPC to require analysis of the proper underlying properties and redevelopment project.

Error of Law 2: VMC 20.510.050(A)(3)(e) provides:

Conditions including with rather but not limited to the following conditions may be attached to a permit for demolition when a permit for the complete or partial demolition of a building in the Historic Preservation Overlay District is issued:

- i. The effective date of the permit may be delayed by up to 90 days to allow third parties to propose alternatives to demolition to the owner. A longer period of time may be set if agreed to by the applicant.
- ii. The submission of information that supplements and completes the information required by Section 20.510.050(3)(b) above. (Emphasis added).

In listening to the audio and video recordings of the HPC's hearing, it is quite clear that several of the Commissioners wished to impose conditions on any decision authorizing demolition of the Smokestack. The HPC's discussion of its authority and Ms. Rude advice begins at 2:28:01, after the record had closed. The Chair specifically enquired about imposing conditions requiring that the property be listed on the Clark County Heritage Register and imposing mitigation measures to preserve the historic significance of the Smokestack. He was advised by Ms. Rude that the HPC could do neither -- that its authority is limited to items (i) and (ii). Her advice is inconsistent with plain language of VMC 20.510.050.A.3.e, which does not limit the HPC's authority to items (i) and (ii). The City Council should remand the application to the HPC to allow it to impose appropriate mitigation, if after evaluating an analysis of the proper underlying properties and redevelopment project, it concludes that demolition is warranted.

Error of law 3: At 2:19:25, after the record had closed, Commissioner Fuz disclosed that the HPC did not have the final mitigation measures (final MDNS) before it and was not able, therefore, to take them into consideration in making its decision. In fact, the final MDNS was not issued until July 28, two weeks after the HPC made its decision. Making a decision without having the final MDNS violated the State Environmental Policy Act (SEPA). The HPC is an agency. WAC 197-11-714. The SEPA rules provide in WAC 197-11-055(2)(c) that "appropriate consideration of environmental information shall be completed before an agency commits to a particular course of action." WAC 197-11-070(1) limits actions of a governmental agencies such as the HPC prior to the issuance of a final determination of nonsignificance. Specifically, it provides that, until the responsible official issues a final determination of non-significance or final environmental impact statement, no action concerning the proposal shall be taken that would: (a) have an adverse environmental impact; or (b) limit the choice of reasonable alternatives. Clearly, complete demolition of the Smokestack will both have an adverse impact on historic and cultural preservation, which WAC 197-11-444(b)(b)(vi) defines as an element of the environment. It would also limit the choice of reasonable alternatives by eliminating any opportunity to preserve some or all of the Smokestack.

In our comment letter, we urged the HPC and the SEPA responsible official to consider options less drastic than demolishing the Smokestack and pointed out that the developer should be tasked with devising a site plan that protects, not destroys these historic buildings. Errors of law 2 and 3 discussed above arose after the record had closed. We could not have commented on them. Nor could we have anticipated either that the HPC would not be provided with the final MDNS or that the HPC would be given improper legal advice.

Appeal Fee: We have paid the \$1,969 appeal fee specified in the HPC decision together with this appeal.

Preservation Opportunities: As explained in our letter to the HPC, in early May of this year, we contacted Stacey Graham, CEO of The Historic Trust to seek permission to have an engineer of our choosing perform an independent analysis of whether some or all of the Smokestack can be saved. Sadly, after many email and text conversations, on June 4, Ms. Graham denied our request.

The HPC's deliberations focused on the cost of preserving the Smokestack. The Historic Trust's refusal to allow us to conduct an independent analysis artificially limited information relevant to the HPC's deliberations and decision. We believe that that it may be possible to preserve the Smokestack at a

considerably lesser cost than the alternatives presented by The Historic Trust to the HPC. The purpose of our request was to determine whether we could present to The Historic Trust and the HPC a viable less costly preservation solution. Had we been provided the opportunity to conduct that independent analysis, we would have been able to present the results to the HPC for its consideration and may well have achieved a different outcome.

The HPC's decision provides another opportunity for this analysis. It delays the effective date of the permit to allow third parties to propose alternatives to demolition to the owner. We have obtained a proposal from a highly qualified firm to conduct a full feasibility study of reinforcement of the Smokestack and provide options for careful demolition, partial demolition and rebuild, full reinforcement and restoration, etc. We are willing to undertake the substantial cost of this study, approximately \$38,000, during this 90 day provided that The Historic Trust authorizes access.

Thank you for your consideration of our appeal.

Connie and Lee Kearney

Attachment: Exhibit A

To: Historical Review Commission

Re: Response to the Proposed demolition of laundry and boiler buildings, and smokestack on the Providence Academy property

And to: Keith Jones, City of Vancouver Senior Planner

Re: Response to the Mitigated Determination of Non-significance for Laundry and Boiler Buildings and (potentially) Smokestack (MDNS)

Commission Members and Mr. Jones:

As background to our position, we have known Ed and Dollie Lynch since the mid 1960's and remember Ed's support and leadership to restore and protect the Academy and surrounding property. Connie served on the initial committee to raise funds to purchase the property, and we have supported the project financially as well.

However, as the plans for development around the Academy property were proposed, we became concerned that the encroachment of the new buildings did not represent the original vision. We became even more concerned when we heard of the Trust's request to demolish the laundry and boiler buildings and smokestack (tower).

Due to our concern, Connie contacted the Historical Trust CEO, Stacey Graham, in early May of this year. Connie asked permission to bring an engineer of our choosing onto the property to obtain an independent analysis of whether the buildings—particularly the tower—could be saved. Connie made it clear that she was not considering returning the buildings to commercial space but rather identifying what could be done to render them safe.

Ms. Graham told her that the Trust had done numerous studies to determine whether the tower could be saved and had concluded that the cost to do so was prohibitive. She would provide these studies to Connie so that she could see that saving the tower was not possible. Several weeks went by and we did not receive the reports. In contacting Ms. Graham again, she said she had been ill but still planned to provide the documents. In an email on May 26th, she said she had the reports together and was circulating them to other Trust officers counsel and then would give them to us. Again, we did not receive any of these reports.

Finally, in a last conversation with Ms. Graham, she said that she had spoken with the Trust's counsel and was advised to not give the reports to us. She said we must have our attorney (if we had one) contact the Trust's attorney. She also told Connie that if the buildings were not demolished, the Trust could not sell the property. Connie followed up with a text on June 4 asking if she was denying us access to the property with our own engineer and she responded, "yes." Needless to say, demolishing buildings of such historical value so that the underlying property may be sold is disturbing.

Frankly, we can't understand the Trust's refusal to allow us to make an analysis at our own cost as to what options might be available short of tearing down the buildings. If the developer wishes to build

near these historic buildings, the developer should be tasked with devising a site plan that protects-- not destroys--them.

It is also our belief that any repair should be limited to making them safe, not necessarily returned to usable commercial space. The Trust's mitigation plan states: "Several engineers, consultants, and historians have universally concluded these Buildings cannot be rehabilitated, stabilized, or reused in an economically viable manner." (emphasis added) While we have not read these analyses and not sure what consultants or historians have such expertise, this statement implies that the buildings must have an economic use, not just preserved for their historical significance. The Trust's environmental checklist contains more conclusions than supporting documentation.

The seismic issue seems to be directed to the tower, not the other buildings. We would point out that many Vancouver buildings do not meet current seismic standards and remind the Commission that the tower has stood unscathed for more than a hundred years. Rendering the tower "safe" should not also mean that it must meet a current seismic standard. We suggest that the boiler and laundry are not of seismic concern—rather they are in the way of a developer.

What's the worst possible scenario? The entire tower—approx. 80' high—could topple should a major earthquake occur. Likely the Academy building would fall, too. We believe that measures could be taken to protect the boiler building and tower but are unable to put forth any specific proposal due to the Trust's refusal to allow access or share studies. For the Trust to place economic gain over preserving a significant example of early Vancouver history is, at best, ironic considering the Trust's mission and purpose.

With regard to the MDNS, we believe this letter provides new information that warrants the City's withdrawing the MDNS and more carefully evaluating how the tower or portion of the tower and boiler can be preserved. If there is any interest in saving these structures, we are suggesting additional information/options.

For example, the boiler building and tower could be reconditioned by repointing mortar joints and reinforcing the tower's exterior midsection with glass fiber or carbon fiber. This option should be re-evaluated, with a firm cost proposal. Another option the Trust did not consider would be to remove the top approximately twenty feet from the tower and preserve and repair the remainder and the boiler. This option removes the most weathered portion of the tower and modifies the tower thus reducing the need for additional reinforcement.

The Vancouver City Center Vision Subarea Plan (FSEIS) reads "... impacts to historic property should be avoided and minimized through project redesign as a form of mitigation [The Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties] promote protection of the historic buildings by, in hierarchical order, preservation, rehabilitation, restoration, or reconstruction." (p. 128 FSEIS)

We suggest that the Trust's mitigation plan does not follow the FSEIS specified mitigation. Rather, it proposes to demolish the tower and buildings because of an anticipated sale of the underlying property.

Thank you for listening to our concerns. We urge the Commission to require any developer of the property to put forth a site plan that preserves, at a minimum, the tower and boiler. It would be reasonable for such cost to be borne by future development. We also request that the City reissue its MDNS and take into account the FSEIS and other possible mitigation measures not included in the Trust's environmental checklist.

Connie and Lee Kearney
June 23, 2021

Smokestack Demolition Request Appeal Hearing

VANCOUVER
CITY HALL

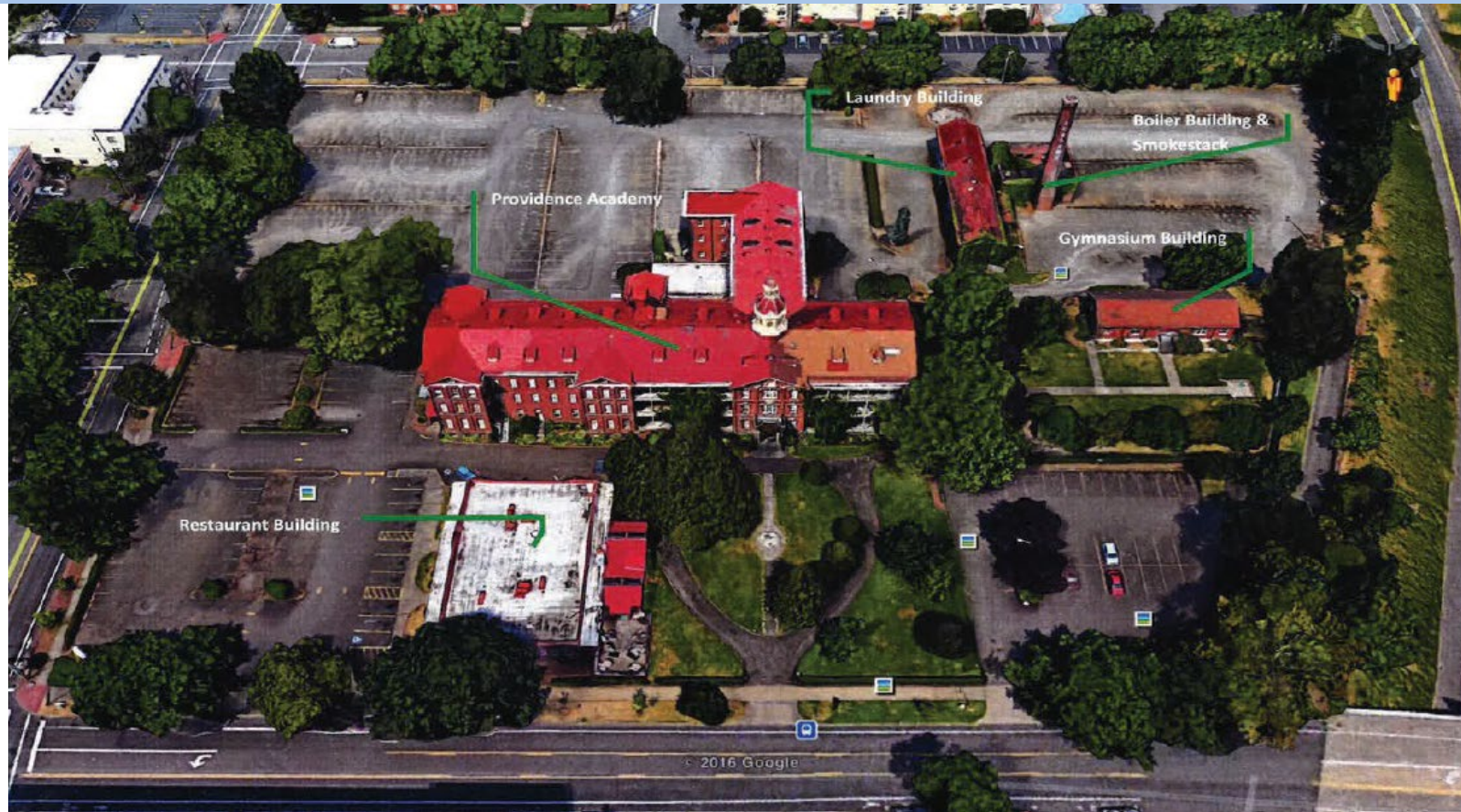
CITY OF
Vancouver
WASHINGTON

October 18, 2021

Vancouver City Council Meeting

Jason Nortz, Development Review Manager
City of Vancouver

The Providence Academy Site



The Providence Academy Site



OVERVIEW OF SUBJECT PROPERTY, FACING
SW FROM NE CORNER OF SUBJECT



FACING SE TOWARD SUBJECT PROPERTY
FROM NW CORNER

Background

- January 2018: City received application for redevelopment of the site.
- May 2018: City met with the Historic Trust (property owner) to discuss safety concerns related to Boiler, Laundry and Smokestack.
- July 2019: Property owner submits engineering reports detailing structural condition of Boiler, Laundry and Smokestack.
- August 2019: City required property owner to provide action plan to address next steps for all three structures.

Background

- September 1, 2020: Property owner files request for unfit building determination for the Smokestack.
- October 27, 2020: BFCC meeting to review Building Official preliminary unfit building determination for the Smokestack building.
- November 4, 2020: Building Official and City staff presented Building Official's preliminary unfit building determination of the Smokestack to the Clark County Historical Preservation Commission and sought the commissions input.
- December 15, 2020: Building Official deems Smokestack unfit per VMC 17.32 Unfit Building and Premise Code and orders repair or demolition of the Smokestack.

Background

- January 27, 2021: The Historic Trust files demolition application.
- July 7, 2021: Historic Preservation Commission public hearing on Smokestack demolition request.
- July 9, 2021: Historic Preservation Commission approved Smokestack demolition request subject
- July 29, 2021: Appeal filed with the City.
- October 18, 2021: City Council hearing on the Appeal.

Process for Review

Per VMC 20.510.050.A.3 – A structure that is listed on the National Register of Historic Places and such structure is located within a Historic Preservation Overlay District shall not be demolished except in the following manner:

- a. *Demolition of Unsafe Buildings:* Follows process outlined in VMC 17.32 and Building Official has ordered the structure to be demolished; or
- b. *Demolition of Other Buildings in a Historic Preservation Overlay District:* The proponent of the demolition shall submit an application for demolition together with a report demonstrating that preservation of the building or structure and important features thereof proposed for demolition will impose an economic hardship upon the owner, rendering it impractical to renovate, restore, or reuse the structure. (emphasis added)

Process for Review

- Building Official did not outright order the Smokestack demolished but rather repaired or demolished.
- The approval process is subject to the requirements of VMC 20.510.050.A.3.b. - *Demolition of Other Buildings in a Historic Preservation Overlay District.*
- A report detailing that the preservation of the building will demonstrate an *economic hardship* is required if the building is to be demolished.

Procedures for Processing Applications for Demolition

- The standards by which the Commission evaluated the Demolition Application at the Public Hearing are prescribed in [VMC 20.510.050\(A\)\(3\)\(b\)](#) and [VMC 20.510.050\(A\)\(3\)\(d\)](#).
- The CCHPC's determination of whether to approve the Demolition Application is limited to whether the applicant can demonstrate that renovation, restoration, or reuse of the structure will impose an economic hardship on the property owner that makes any outcome other than demolition impractical

Criteria for HPC Approval

[Per VMC 20.510.050.A.3.d.](#), the following criteria for approval or denial shall be considered when reviewing an Application for Demolition:

1. The extent to which the demolition of the building will have a serious adverse impact on the cultural significance of the Historic Preservation Overlay District
2. The extent to which the building is so deteriorated and so lacking in historical fabric, that it would not be viable to retain the historic, cultural and architectural significance of the building through rehabilitation or renovation.

Criteria for HPC Approval

[Per VMC 20.510.050.A.3.d.](#), the following criteria for approval or denial shall be considered when reviewing an Application for Demolition:

3. There is no reasonable alternative to demolition that would provide the owner with a reasonable economic return
4. The extent to which the denial will deprive the owner of reasonable economic use of the underlying property

Criteria for HPC Approval

[Per VMC 20.510.050.A.3.d.](#), the following criteria for approval or denial shall be considered when reviewing an Application for Demolition:

3. There is no reasonable alternative to demolition that would provide the owner with a reasonable economic return
4. The extent to which the denial will deprive the owner of reasonable economic use of the underlying property

Historic Preservation Commission Decision

- July 7: The HPC public hearing on the smokestack demolition request.
- July 9 : HPC approved the demolition request and imposed the following condition:

the permit may be delayed by up to 90 days to allow third parties to propose alternatives to demolition to the owner.
- July 29: Appeal of HPC decision submitted by Connie and Lee Kearney

Next Steps

- Appeal of the Commission's decision is processed as a Type III land use action pursuant to VMC 20.220.030
- The appeal hearing is conducted on a closed record and is limited to argument from the appellant, the applicant and city staff, and deliberation by the City Council.
- Argument and deliberation shall be limited to the record established at the original open-record hearing on July 7, 2021.

Action Requested

Council is being asked to decide if the Historic Preservation Commission's decision to authorize the issuance of a demolition permit for the Academy Smokestack should be upheld or overturned.

Staff's position is that the Historic Preservation Commission appropriately applied the Vancouver Municipal Code to the record and that its decision was properly issued. The HPC followed the criteria laid out in VMC 20.510, it reviewed the documentation that was submitted into the record by the Historic Trust, and through public comment, and it properly applied the VMC criteria to the supporting documentation in reaching its decision to authorize the Building Official to issue a demolition permit.

Questions and Discussion

Jason Nortz, Development Review Manager

Jason.nortz@cityofvancouver.us or (360) 487-7844

Philip Gigler, Assistant City Attorney

Philip.gigler@cityofvancouver.us or (360) 487-8539



To: Amanda Delapena
From: Connie and Lee Kearney, Appellants
Date: October 12, 2021

Re: Appeal to Vancouver City Council of the Historic Preservation Commission's July 9, 2021 decision. (PRJ-163699/LUP-80658)

Sent via email this date to Amanda.delapena@cityofvancouver.us

The record before the Council contains Appellants' appeal and attachment A. Attachment A is the written testimony Appellants provided to the Historic Preservation Commission at its July 7, 2021 hearing.

We believe the Commission's errors are clearly set out in these two documents.

We urge the Council to pay particular attention to the action by the Trust in requesting recusal of certain Commission members. (29:50 and following)

We also reference testimony by the Trust stating that \$600,000 had been pledged for smokestack stabilization. (1:49:01 and following)

Prior to the Commission's July 7 hearing we had asked the Trust many times for access to the smokestack and were refused; thus, we had no opportunity to provide testimony contradictory to that offered by the Trust as to the cost of stabilization. (Exhibit A)

We have offered to the Trust that we would fund an independent feasibility study to determine whether the smokestack can be stabilized and what the estimated cost may be. We remain willing to do so. We found a firm which specializes in the rehab of historic structures and would perform, at our expense, such study for \$37,500. We contend that the \$2.5-\$3M estimate cited by the Trust to rehabilitate the smokestack is excessive. (1:42:18 and following)

CC: Stacey Graham, Trust CEO, via email
Maren Calvert, Horenstein Law Group, via email
Jacqui Kamp, Historic Preservation Commission, via email

Maren L. Calvert
maren@horensteinlawgroup.com
(360) 597-0978 Dir. Tel. & Fax

October 12, 2021

VIA EMAIL AT: jason.nortz@cityofvancouver.us
Amanda.delapena@cityofvancouver.us

City Council
415 W. 6th Street
Vancouver, WA 98660

Re: Appeal of PRJ-163699/LUP-80658 – The Historic Trust
– Response Brief to Kearney Notice of Appeal, dated July 29, 2021

Dear City Council,

Our office represents The Historic Trust (the “Trust”) in relation to the letter of appeal filed by Connie and Lee Kearney on July 29, 2021, of the Historic Preservation Commission’s July 9, 2021, decision approving The Historic Trust’s application to demolish the Smokestack at the Providence Academy within Heritage Overlay District Number One, case number PRJ-163699/LUP-80658 (“HPC Decision”).¹

The Kearneys’ Letter of Appeal identified three alleged Errors of Fact and Law. The Kearneys claim the HPC failed to:

- (1) require information about and analyze the appropriate properties when applying VMC 20.510.050(A)(3)(d);
- (2) impose conditions on the demolition permit based on erroneous legal advice; and
- (3) consider the final MDNS prior to making a decision.

The Trust provides the following authorities and arguments in response to the Kearneys’ Letter of Appeal and respectfully requests that the City Council affirm the HPC Decision.

STANDARD OF REVIEW

Vancouver Municipal Code (VMC) chapter 20.510 governing review of demolition applications in the Heritage Overlay District explains that appeals of Clark County

¹ The Record on Appeal (“ROA”) is available on the HPC’s website, <https://clark.wa.gov/community-planning/historic-preservation-commission>, immediately after the 7/07/21 Agenda. All references to the ROA in this brief will embed a hyperlink in the title of the document being referenced, such as “[HPC Decision](#).” Press CTRL Click on a computer or click on the blue text on a touch screen to open the ROA reference.

Historic Preservation Commission (HPC) decisions shall be appealed to the City Council.² The multitude of city code cross-references relating to appeals do not explain the standard of review the City Council is to apply.³

If subsequently appealed, the City Council's decision will be reviewed under the Land Use Petition Act ("LUPA").⁴ The standards for review under LUPA require an appellant to establish the City Council erred in one of six ways:

- (a) The body or officer that made the land use decision engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;
- (b) The land use decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise;
- (c) The land use decision is not supported by evidence that is substantial when viewed in light of the whole record before the court;
- (d) The land use decision is a clearly erroneous application of the law to the facts;
- (e) The land use decision is outside the authority or jurisdiction of the body or officer making the decision; or
- (f) The land use decision violates the constitutional rights of the party seeking relief.

RCW 36.70C.130(1). "Standards (a), (b), (e), and (f) present questions of law we review de novo." *Julian v. City of Vancouver*, 161 Wn. App. 614, 623-24, 255 P.3d 763, 769 (2011) (citation omitted). Standard (c) requires a review for substantial evidence supporting the decision, which means "evidence that would persuade a fair-minded person of the truth of the statement asserted." *Id.* (Citation omitted). Under the clearly erroneous test in standard (d), the Court will determine whether it is "left with a definite and firm conviction that a mistake has been committed." *Id.* (Citations omitted). The Court is required to consider "all of the evidence and reasonable inferences in the light most favorable to the party who prevailed in the highest forum that exercised fact-finding authority." *Id.* (Citation omitted). If appealed, the City Council will be the highest forum that exercised fact-finding authority regarding the Trust's demolition application.

Alleged Error 1 – Consider Other Properties

The Kearneys contend the HPC did not properly interpret VMC 20.510.050(A)(3) and "erred by limiting its analysis to the parcel on which the Smokestack is located rather than the larger properties proposed to be redeveloped."⁵

² See [VMC 20.510.040](#).

³ ROA at [Prehearing Guidance Memo](#), p. 6-7.

⁴ See [VMC 20.210.130\(D\)\(1\)](#).

⁵ Letter of Appeal at p. 1.

Because the City Council is the legislative body that enacted VMC 20.510.050, it will be afforded substantial deference regarding the proper interpretation of VMC 20.510.050(A)(3).⁶

The Reason for the Trust's Demolition Application

The plain language of VMC 20.510.050(A)(3)(a) says it applies to buildings or structures the City Building Official has declared to be unsafe under VMC Chapter 17.32, the Unfit Buildings and Premises Code, and has ordered demolished.

The plain language of VMC 20.510.050(A)(3)(b) says it applies to “other buildings” in an Historic Preservation Overlay district, “[i]f a proposed reuse of the site requires” the demolition of that building. Demolition applications under subsection (A)(3)(b) must be accompanied by a report containing nine pieces of information.

The City Building Official declared the boiler, laundry, and smokestack on the Trust's property to be unsafe under the provisions of VMC Chapter 17.32.⁷ The Building Official ordered the boiler and laundry to be demolished and the smokestack to be demolished or repaired.⁸ Neither order was contingent upon, or otherwise related to, any “proposed reuse of the site.”⁹ That means, whether the Trust's property is redeveloped or not, the buildings have to be demolished – and in the case of the smokestack, demolished or repaired. If the property is not redeveloped – The Trust does not have the option of simply leaving the buildings in their current form. The Trust must act.

The plain language of VMC 20.510.050(A)(3)(b), therefore, does not apply.

As the record reflects, The Trust sought permission to demolish the boiler, laundry, and smokestack because they are unsafe buildings and seismically stabilizing them is not reasonably economically feasible.¹⁰ The Kearneys' unsubstantiated assertion that “the only reason The Historical Trust has sought a permit for demolition is to allow Aegis Phase II to be developed,”¹¹ therefore, is contrary to the substantial evidence in the record and simply not true.

Ultimately, however, the Kearneys' appeal on this point should fail either way. Whether the Trust's application should have been submitted under VMC 20.510.050(A)(3)(a) or VMC 20.510.050(A)(3)(b) is irrelevant. Either way, the

⁶ See *Phoenix Dev., Inc. v. City of Woodinville*, 171 Wn.2d 820, 256 P.3d 1150 (2011) (court deferred to city's determination of what constitutes “demonstrated need” under city code and found the City properly interpreted its own ordinance).

⁷ ROA at [Exhibit 4: A-T Economic Feasibility Report – Part 2](#), p. 24.

⁸ *Id.* at p. 32.

⁹ *Id.*

¹⁰ ROA at [Exhibit 4: A-T Economic Feasibility Report – Part 2](#) p. 24-40 and at Applicant Presentation, p. 12-14.

¹¹ Letter of Appeal at p. 1.

HPC Decision criteria were the same. The HPC Decision for all demolition applications are governed by the four criteria in VMC 20.510.050(A)(3)(d).¹²

HPC Decision Criteria

The Kearneys focus on the third and fourth criteria in VMC 20.510.050(A)(3)(d)(3) and (4).¹³

Criterion 3 requires the HPC to consider whether there is a “reasonable alternative to demolition that would provide the owner with a reasonable economic return.” The Kearneys contend the “reasonable alternative” the HPC should have considered is the redevelopment of all of the Trust’s properties.¹⁴ The Kearneys are wrong.

As explained above, the City Building Official declared the boiler and laundry unsafe and ordered them demolished.¹⁵ The Building Official’s order constitutes a determination that the building cannot be reasonably repaired or remedied. *See* VMC 17.32.060.C (“If, in the judgment of the building official, the dwelling, building, structure or premises cannot be reasonably repaired or remedied, the building official may order its demolition...”).¹⁶

Similarly, the City Building Official declared the smokestack unsafe, and ordered it to be demolished or repaired by October 31, 2021.¹⁷ HPC was required to consider whether repairing and seismically stabilizing the Smokestack – in

¹² Because the City Building Official ordered the smokestack to be demolished or repaired, the City asked the Trust to provide the report and nine data points outlined in [VMC 20.510.050\(A\)\(3\)\(b\)](#) with its application, to allow the HPC to assess whether seismically stabilizing the smokestack was reasonably feasible. ROA, [Staff Report](#), at pp. 3-4. The Trust did not agree that subsection (3)(b) applied but recognized the decision criteria were the same either way. So, the Trust reserved its rights regarding this issue and provided the requested report and information. ROA, [Exhibit 4: A-T Economic Feasibility Report-Part 1](#), at p. 2. The HPC found that the Trust’s application “satisfied the requirements of VMC 20.510.050(A)(3)(b). ROA at [HPC Decision](#), p. 1. (“Findings” section).

¹³ Letter of Appeal at p. 1.

¹⁴ *Id.*

¹⁵ ROA at [Exhibit 4: A-T Economic Feasibility Report-Part 2](#), p. 24.

¹⁶ The full text of subsection C is provided below:

If, in the judgment of the building official, the dwelling, building, structure or premises cannot be reasonably repaired or remedied, the building official may order its demolition, provided that the building official shall withdraw the order to demolish if the building owner repairs or remediates the condition within a reasonable time. The following standards shall be followed in substance in ordering repair, remediation, vacation or demolition of buildings, structures or premises:

1. If the unfit dwelling, building, structure or premises is 40 percent or more damaged or decayed or deteriorated in value, it may be ordered demolished. “Value” as used herein shall be the valuation placed upon the building or structure for purposes of general taxation.
2. If the cost of repair or remediation would exceed the value of the dwelling, building, structure or premises, it may be ordered demolished.
3. If the dangerous or unfit building, structure or premises cannot be repaired or remedied so that it will no longer exist in violation of the terms of this chapter, it may be ordered demolished.
4. If the unfit building, structure or premises is a fire hazard, it may be ordered demolished or abated.

VMC 17.32.060.C (emphasis added).

¹⁷ ROA at [Exhibit 4: A-T Economic Feasibility Report – Part 2](#), p. 32.

accordance with the City Building Official's Order – was a “reasonable alternative” to demolition that would provide the Trust with “a reasonable economic return.”¹⁸

The record is replete with evidence that it would not.¹⁹ Because the smokestack contains only 90 square feet, which would likely be filled with structural stabilizing materials – and because signs, billboards, and cell towers are prohibited uses in the Heritage Overlay District One – the repaired/stabilized Smokestack could not be used for any economic purpose.²⁰ It would only serve as a monument.²¹ Based on these facts, the HPC found it was impractical for the Trust to renovate, restore, or reuse the structure, pursuant to the decision criteria of Subsection (A)(3)(d).²²

Applying the fourth decision criterion to the facts of this case is straightforward. Subsection (A)(3)(d)(4) requires the HPC to consider “[t]he extent to which the denial will deprive the owner of reasonable economic use of the underlying property.” The Kearneys’ assertion that the HPC should consider *all* of the Trust’s real property, wherever located is directly contrary to this express code provision. City Code expressly instructs the HPC to consider the reasonable economic use of the property that is underlying – or *beneath* – the boiler, laundry, and smokestack.²³ Other outlying properties are not relevant to the analysis.

Because the HPC properly analyzed and applied the four decision criteria of VMC 20.510.050(A)(3)(d) to the facts of this case, the HPC Decision should be affirmed.

Alleged Error 2 – Conditions of Approval

The Kearneys’ second allegation of error contends that after the record was closed, the HPC received improper legal advice and, therefore, erred in failing to impose various conditions of approval.²⁴ Specifically, the Kearneys contend the HPC should have (a) required the Trust property to be “listed on the Clark County Heritage Register” and (b) imposed various unspecified “mitigation measures to

¹⁸ ROA at [Exhibit 1: Letter to the Historic Trust](#), p. 2 and [HPC Hearing Video](#) of July 7, 2021, at 1:37:52 (Building Official, Sree Thirunagari, testified that even though the smokestack is not a building, it still must meet all structural safety and stabilization requirements of the code), at 1:43:30 (Assistant City Attorney, Becky Rude, advised: “The premise before the Commission is that this structure has been deemed, um, unsafe and it either has to be demolished or repaired and so the alternative to demolition is repair and that is the economic analysis, is it economically feasible to repair the structure in such a way that will make it safe and satisfy the other city code requirements of having a stable structure...”), and at 1:44:10 (Ms. Rude: “you’re getting a structure that, um, the reason that (unintelligible) stabilization be economical is because the building can’t be left the way it is, it either has to be made safe or it has to be torn down”).

¹⁹ ROA at [Exhibit 4: A-T Economic Feasibility Report-Part 1](#), pp. 7-8, 12-13; at [Exhibit 4: A-T Economic Feasibility Report-Part 2](#), p. 186, 192, 198, 199; at [Staff Presentation](#), p. 10.

²⁰ ROA at [Exhibit 4: A-T Economic Feasibility Report-Part 1](#), p. 7.

²¹ *Id.* at p. 11.

²² ROA at [HPC Decision](#) at 2 (“Findings”).

²³ See “underlying,” Dictionary.com Unabridged (“lying or situated beneath, as a substratum”) available at <https://www.dictionary.com/browse/underlying>, accessed on 9/28/2021.

²⁴ Letter of Appeal at p. 2.

preserve the historic significance of the Smokestack.”²⁵ As discussed during the July 7 hearing, these conditions lie outside the HPC’s jurisdiction and it would have been inappropriate for the HPC to impose them.

The HPC did not receive inaccurate legal advice after the record closed at 2:28:10 in the video of the hearing, as the Kearneys contend. First, at 2:13:03 of the hearing, the *public comment period* closed, thus initiating the Commissioner Deliberations portion of the hearing.²⁶ The closing of the public comment period did not close the record of the proceedings.

Second, the advice the HPC received at 2:28:10 was not wrong. At 2:27:30, Commissioner Chair Gregg asked Assistant City Attorney Becky Rude if the Commission needed to make a general motion to demolish or if they could “build some recommendations into it.” At 2:28:10, Ms. Rude replied: “The guidance for the Commission’s decision, as you know, is in the Vancouver Municipal Code so the Commission’s decision is restricted to the um, the criteria that are in the code and the record before it.”²⁷ Ms. Rude then explained the first question is whether the...applicant’s report is complete. If it is, then the Commission shall consider the four criteria in VMC 20.510.050(A)(3)(d). There is nothing inaccurate about that advice.

At 2:30:00, a Commissioner asked whether the Commission could require the Trust property to be listed on the Clark County Historic Register (CCHR). Ms. Rude generally discussed the conditions of approval outlined in VMC 20.510.050(A)(3)(e), and then, at 2:32:00, replied “no.”²⁸ Ms. Rude did not explain why she said “no” – but she also did not say or suggest the Commission could only impose the conditions outlined in VMC 20.510.050(A)(3)(e). Indeed, if she had done so, Ms. Rude would have directly contradicted her previous legal advice.

Two weeks before the July 7 HPC hearing, Ms. Rude advised the HPC, in writing, that its ability to impose conditions of approval was not limited to the two conditions listed in VMC 20.510.050(A)(3)(e). Specifically, Ms. Rude advised: the conditions the HPC “may impose on issuance of a complete or partial demolition permit it has approved for a structure in the Historic Preservation (Heritage) Overlay District *include, but are not limited to*” delaying the effective date by up to 90 days and requiring additional information from the applicant.²⁹ The Kearneys’ assertion that the HPC received improper legal advice is contrary to and not supported by the substantial evidence in the record.

²⁵ *Id.*

²⁶ The video of the HPC hearing on July 7, 2021, is available on YouTube at [HPC Hearing Video](#) at 2:13:03.

²⁷ *Id.* at 2:28:10.

²⁸ [HPC Hearing Video](#) at 2:28:10.

²⁹ ROA at [Prehearing Guidance](#) Memo, p.5

Furthermore, as explained during the July 7 hearing, the conditions the Kearneys wish the HPC had imposed lie outside the HPC's jurisdiction and authority.

When asked of the Commission could require the Trust to place the smokestack on the CCHR, Ms. Rude responded that type of condition was not authorized by city code.³⁰ She was right. VMC 17.39.040.B.1 expressly provides: "[t]he owner must consent to placement of the nominated resource prior to consideration for designation" on the CCHR. Thus, the HPC is constitutionally prohibited from requiring the Trust to place the smokestack on the CCHR against its will. *See Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 605-606, 133 S.Ct. 2586 (2013) (the unconstitutional conditions doctrine prevents the government from leveraging its legitimate interests by imposing "[e]xtortionate demands" as conditions of approval to "pressure a[] [land]owner into voluntarily giving up property" rights).³¹

The Kearneys' desired second condition of approval requiring the Trust to take "mitigation measures to preserve the historic significance of the Smokestack," is also outside the scope of HPC's authority.³²

State law directs municipal governments to consider mitigation measures for the loss of historic and cultural resources, through project and nonproject actions, under the State Environmental Protection Act (SEPA).³³ As explained below, HPC's decision criteria do not include SEPA analyses or historic loss mitigation measures.³⁴ Instead, City Council exercised its legislative authority when drafting city code to place these environmental considerations on the planning official.³⁵ City Council then expressly authorized HPC to weigh in and provide its opinion for

³⁰ [HPC Hearing Video](#) at 2:59:55 and 2:32:00.

³¹ *See also id. citing Frost & Frost Trucking Co. v. Railroad Comm'n of Cal.*, 271 U. S. 583, 592-593, 46 S. Ct. 605, (1926) (invalidating regulation that required the petitioner to give up a constitutional right "as a condition precedent to the enjoyment of a privilege"); *Southern Pacific Co. v. Denton*, 146 U. S. 202, 207, 13 S. Ct. 44 (1892) (invalidating statute "requiring the corporation, as a condition precedent to obtaining a permit to do business within the State, to surrender a right and privilege secured to it by the Constitution"); *Town of Flower Mound v. Stafford Estates, L.P.*, 135 S. W. 3d 620, 639 (Tex. 2004) ("The government cannot sidestep constitutional protections merely by rephrasing its decision from 'only if' to 'not unless'").

³² [HPC Hearing Video](#) at 2:28:10.

³³ "Actions fall within one of two categories:" a project action and a nonproject action. WAC § 197-11-704(2). A project action "involves a decision on a specific project, such as a construction or management activity located in a defined geographic area." *Id.*

³⁴ ROA at [Prehearing Guidance](#) Memo, p. 4 & pp. 8-9 (regarding HPC's public comment on the Trust's SEPA application)

³⁵ Under WAC 197-11-050, the City of Vancouver is the "lead agency" with responsibility for complying with SEPA and its procedural requirements. [VMC 20.790.130](#) explains the City planning official is responsible for supervising compliance with any SEPA threshold determination.

the planning official's consideration.³⁶ HPC may also comment on a SEPA proposal pursuant to VMC 20.790.410, VMC 20.790.430, and VMC 20.790.440.³⁷

Given these provisions of State law and city code, it would be inappropriate and outside HPC's jurisdiction and authority to impose SEPA-historic loss mitigation conditions of approval on the Trust – thereby forcing the hand and restricting the City's decision-making authority under VMC 20.790.130.³⁸

The conditions of approval proposed by the Kearneys, therefore, lie outside the HPC's jurisdiction and authority. The HPC did not receive improper legal advice and did not err in deciding not to impose conditions of approval that lay outside its jurisdiction and authority. The HPC Decision should be upheld.

Alleged Error 3 – Failed to Consider the Final MDNS

Finally, the Kearneys contend that because the City's mitigated determination of non-significance was not final and was not available to the HPC prior to issuing the HPC Decision, the HPC Decision violates SEPA. The Kearneys, again, misunderstand the law.

The Kearneys correctly cite WAC 197-11-055(2)(c), which requires "appropriate consideration of environmental information [to] be completed before an agency commits to a particular course of action." The Kearneys incorrectly conclude, however, that this (and other) regulations require the HPC to wait for and consider the MDNS before entering its decision. This is not true – for three reasons.

First, the HPC's decision criteria for all demolition applications are listed in VMC 20.510.050(A)(3)(b). None of the four decision criteria require HPC to analyze environmental concerns or SEPA regulations.

Second, under city code and the Interlocal Agreement between the City and Clark County, the City is the "lead agency" with responsibility for complying with SEPA and its procedural requirements, and City Council appointed the City's planning official – not the HPC – to supervise compliance with any SEPA threshold determination. *See* WAC 197-11-050; WAC 1197-11-930; VMC 20.790.130.³⁹

³⁶ *See* [VMC 17.39.040.D.8](#) (HPC may comment on "all applications for approvals, permits environmental assessments or impact statements, and other similar documents pertaining to identified historic or cultural resources or adjacent property(ies) upon staff request").

³⁷ *See also* [VMC 20.790.440.C & D](#) (addressing timeliness of consulted agency responses to City request for comments and inability to object or challenge City decisions if consulted agency does not timely respond).

³⁸ [VMC 20.790.130.C](#) ("No City department shall prepare or require preparation of a DNS or EIS in addition to that prepared or required by the lead agency, unless required under 197-11-600 WAC.")

³⁹ *See* Interlocal Agreement by and between Clark County and the City of Vancouver, WA concerning Cultural and Historic Resources, dated July 21, 2020 (the parties agreed to continue managing historic preservation objectives as codified in County and City Code), available at: https://clark.wa.gov/sites/default/files/dept/files/council-meetings/2020/2020_3Q/SR096-20.pdf.

Third, the HPC Decision is not a final action or final decision on the Trust's demolition permit application. The Trust's demolition permit applications are, arguably, a "project action" under SEPA.⁴⁰ State law requires lead agencies to consider environmental information "before an agency commits to a particular course of action" on project actions.⁴¹

Under city code, HPC does not make the final decision on or "commit to a particular course of action" on demolition permits. The City Building Official does.⁴²

The HPC is authorized to review and render its decision on a demolition permit application related to structures in Heritage Overlay District One. VMC 17.08.110.A.1 (demolition permit applications "may be reviewed by other departments and agencies to verify compliance [with] any applicable laws in this jurisdiction"); VMC 20.510.050 (requiring HPC review and decision on demolition permit applications within a Historic Preservation Overlay District).⁴³ The HPC's decision is then forwarded to the City Building Official – along with other required materials – for his review and decision.⁴⁴

The HPC Decision, therefore, is not a final agency action on a specific project under WAC 197-11-055(2)(c). It is merely one datapoint the City Building Official will consider when deciding to approve or deny the Trust's the demolition application.⁴⁵

The Kearneys may contend there is a "snowballing effect" from the HPC Decision that renders the ultimate approval of the demolition a fait-accompli. But this argument overstates reality.

Because SEPA is substantially similar to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321-4347, courts routinely look to federal case law for guidance on interpreting SEPA requirements. *See Int'l Longshore & Warehouse Union, Local 19 v. City of Seattle*, 176 Wn. App. 512, 525-26, 309 P.3d 654, 661 (2013). "Under NEPA, agencies must complete environmental review prior to the

⁴⁰ See footnote 33, above.

⁴¹ WAC 197-11-055(2)(c)

⁴² See [VMC 17.08.030](#) (the provisions of this chapter regulate construction and demolition of every building or structure in the City); VMC 17.08.170.A ("It shall be unlawful for any person, firm, or corporation to ...demolish or occupy any building, structure or equipment regulated by this code ...in conflict with or in violation of any provision of this code"); VMC 17.08.080 ("The building official shall issue permits pursuant to this code."); VMC 17.08.105.C (building official or his/her designee approves application); VMC 17.08.110.A.2 & C (building official issues permits); VMC 17.08.170.B ("Violations of this code are subject to enforcement by the Building Official").

⁴³ See also [VMC 20.510.030.C](#) and [20.510.040](#) (requiring approval of the HPC to demolish buildings on the "State Heritage Register or National Register of Historic Register [sic]," subject to appeal to the City Council)' VMC 17.39.040.D.5 (empowering HPC to "[p]rovide advisory review of structures located in the city's heritage overlay districts per Chapter 20.510 VMC").

⁴⁴ See e.g., [VMC 17.08.100.C & G](#) (listing requirements for "projects involving plan review by the Fire Department").

⁴⁵ See [VMC 17.08.100](#) (listing required items for building construction and demolition permit applications); VMC 17.08.100A.4 (requiring plans and "other data as required elsewhere in this code or technical codes") & A.11 (other data and information required by the building official).

‘go-no go’ stage of the project, which is to say before any “irreversible and irretrievable commitment of resources.’” *Id.* (Citations omitted).

“Preliminary steps that retain an agency's authority to “change course or to alter the plan it was considering implementing” are not “actions” requiring NEPA environmental review.” *Id.* Where an agency retains “absolute authority to decide” how to proceed, the project has not reached the ‘go-no-go’ stage. *See id.*

Here, the HPC Decision does not represent an irreversible and irretrievable commitment of resources. The City Building Official retains absolute authority to decide whether to approve the Trust’s demolition applications, or not. The HPC Decision is merely one municipal agency’s input the Building Official must consider.

Moreover, State SEPA regulations expressly provide that where – as here, one agency reviews or comments on the actions of another agency – the commenting agency (here HPC) is exempt from conducting a SEPA review. *See* WAC 197-11-800(22) (“Any activity where one agency reviews or comments upon the actions of another agency or another department within an agency shall be exempt.”)⁴⁶

In short, because the HPC Decision is not a “final” government decision and the City Building Official still retains absolute authority to approve or deny the Trust’s demolition permit applications, HPC was exempt from and was not required to conduct an environmental analysis or to consider City staff’s MDNS before entering the HPC Decision.

The Kearneys’ appeal based on alleged error 3 should be denied.

Preservation Opportunities

Although not identified as an error on appeal, the Kearneys attempt to raise new arguments in the Letter of Appeal, under the heading “preservation opportunities.” Specifically, the Kearneys assert the Trust’s seismic stabilization repair estimates were inflated and urge the City Council to require the Trust to allow the Kearneys on Trust property to conduct an independent cost analysis.⁴⁷ The Kearneys supplement this argument with their letter submitted to City Council on October 12, 2021. The Trust objects to these arguments because they were not raised during the proceedings below and these appeal proceedings are required to be conducted upon a closed record.

⁴⁶ *See also* [HPC Hearing Video](#) at 2:29:31 – 2:29:50 Assistant City Attorney, Becky Rude, expressly advised which four criteria were before the Commission for decision or consideration and that the ‘outcome of the demolition in terms of the environmental mitigation or other mitigating factors are not part of the equation for that consideration.’”

⁴⁷ Letter of Appeal at pp. 2-3.

Closed Record Appeal

Prior to the HPC hearing on July 7, 2021, Assistant City Attorney Becky Rude explained the appeals process for the HPC Decision. In that analysis, Ms. Rude explained: “City Council hears land use appeals pursuant to VMC 20.220.030(A)(5), which prescribes the form and manner of such appeals as being in accordance with those set forth in VMC 20.210 regarding land use decision making procedures.”⁴⁸ “The form of appeal submittal is provided in VMC 20.210.130(A),” and the appeal fee is \$1,969 for “all other” appeals.⁴⁹ Ms. Rude’s opinion continued, explaining:

Although the appeals process described here requires classification as a Type I, II, III, or IV land use decision for purposes of determining who has standing to appeal (VMC 20.210.130(B)), **only the form of Type III appeal (VMC 20.210.130(B)(3)) fits with the appeal process for this situation** (VMC Table 20.210.130-1, to City Council with further appeal to Superior Court...⁵⁰

The Kearneys’ appeal acknowledges that it was filed pursuant to VMC 20.210.130.B.3.⁵¹ Table 20.210.130-1 provides that Type III applications are appealed to City Council as closed record hearings.⁵²

A closed-record appeal hearing before the City Council shall be limited to argument from the appellant, the applicant and city staff, and deliberation by the City Council. **Argument and deliberation shall be limited to the record established at the original open-record hearing.** The record shall consist of testimony and deliberation at the original hearing as recorded by an audio/visual tape or transcript certified as accurate and complete, any other materials submitted into the record, and the final order being appealed.

VMC 20.210.130.C.3.b (emphasis added).

The Kearneys appeal of the HPC to the City Council, therefore, is a closed record appeal, confined to the facts and record presented to the HPC.

The Kearneys had the opportunity to submit written and oral comments to the HPC for its consideration during the July 7 hearing, and they did so.⁵³ The Kearneys, however, did not argue during the proceedings below that the Trust’s repair and

⁴⁸ ROA at [Prehearing Guidance](#) Memo, p. 7

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Letter of Appeal at p. 1.

⁵² [VMC 20.210.130](#),

⁵³ Letter of Appeal at p. 1, referring to ROA at [Public Comments](#), pp. 5-7.

seismic stabilization costs estimates were inflated. Nor did they ask the HPC to require the Trust to allow the Kearneys to conduct their own independent feasibility and cost study.⁵⁴

City Council should reject the Kearneys' attempt to raise new issues on appeal because doing so violates city code. *See* VMC 20.210.120(a)(4) (appellants must provide a "statement demonstrating that the specific issues raised on appeal were raised during the period in which the record was open"). *Accord Wells v. Whatcom Cnty. Water Dist.*, 105 Wn. App. 143, 154, 19 P.3d 453, 458 (2001) (striking evidence offered during the land use appeal that was not presented to the hearing examiner and thus, was not in record on appeal; granting sanctions and costs associated with motion to strike to objecting party).

In the event the City Council is inclined to consider the Kearneys' new arguments, the Trust requests leave to supplement this brief and its oral argument to refute the Kearneys' late-proffered information and arguments.

For all of the reasons stated above and to be discussed during a hearing on this appeal, The Historic Trust respectfully requests that the HPC Decision be affirmed in all respects. Thank you.

Sincerely,



MAREN L. CALVERT

⁵⁴ *See id.* *See also* Kearneys' October 12, 2021, letter to City Council attempting to raise these arguments.



MEMORANDUM

DATE: October 18, 2021

TO: Mayor and Council

FROM: Mayor Anne McEnerny-Ogle

RE: Interstate Bridge Replacement Program (IBRP) – Executive Steering Group Meeting

The Executive Steering Group (ESG) for the Interstate Bridge Replacement Program (IBRP) will meet next on Thursday, October 21. Meeting materials are attached. There are four agenda items scheduled:

1. Seek concurrence on: a) IBRP desired outcomes; b) a screening criteria process; and c) a preliminary set of design options;
2. Share updates on equity, climate, and community engagement work;
3. Provide opportunity for public comment; and
4. Confirm upcoming meeting topics and next steps.

Materials for these actions have been developed in coordination with staff of all partner agencies and reflect technical, policy, and community engagement work done since the September 15 ESG meeting.

Achieving concurrence on a list of desired outcomes, a screening process, and preliminary design options at this time will allow the program to continue progressing toward defining an IBR Solution by Spring 2022. The materials for ESG's consideration related to these items have been developed in collaboration with all program partner agency staff and are intended to meet regional joint interests. To that end, the City of Vancouver's desired outcomes as defined per Resolution M-4140 adopted on July 26, 2021 are not verbatim copied in the ESG desired outcomes list but are all reflected at a high level.

Preliminary design options developed to-date are options proposed to be screened through criteria that is still in development. ESG members will be asked to consider agreement on the process to complete defining the criteria and to agree to that criteria at their next meeting. The design options are high-level alignment concepts for active transportation, interchange, roadway, and transit facilities that aim to meet the Program's Purpose and Need. If ESG concurs, the alignments will be discussed in detail with the community through December 2021 to gauge whether they can support community needs and desires, can operate within the existing and future transportation network, or present fatal flaws. Ultimately, one alignment will be selected by Spring 2022 as the IBR Solution to be further engineered and designed.

Due to the short timeframe for getting to an IBR Solution by Spring 2022, staff will continue to brief and seek input from Council approximately every two weeks through February 2022. Communications prior to and following ESG meetings along with preliminary workshops are scheduled on the current Council calendar. At the November 1 Council session, staff will provide a summary of the October 21 ESG meeting and provide a schedule with topics for subsequent Council discussions. Additionally, staff are available to brief individual council members anytime.

The October 21 ESG meeting can be viewed via Zoom webinar [here](#) (ID: 967 9188 4247, Password: IBR) or the Program's You Tube channel, [Interstate Bridge Replacement Program - YouTube](https://www.youtube.com/channel/UCRxkgklcZpLpVX5or7GzOVg) (<https://www.youtube.com/channel/UCRxkgklcZpLpVX5or7GzOVg>).

Attachments: October 21 ESG materials:

- A. Proposed Meeting Agenda
- B. Desired Outcomes
- C. Screening Criteria Process Diagram
- D. Preliminary Design Options

EXECUTIVE STEERING GROUP (ESG) MEETING AGENDA

October 21, 2021, 10:00 am – 12:00 pm

Outcomes

- Context and updates from around the region
- Review, discuss, and strive for concurrence on IBR program components, including Desired Outcomes, the Screening Criteria Process, and the Preliminary List of Design Options
- Share updates on other program work including equity, climate, and community engagement
- Opportunity for public comment
- Confirm upcoming meeting topics, next steps and summary

Agenda Items

Time	Item	Lead
9:30 – 10:00 am	Webinar Sign-In Review webinar instructions	All
10:00 – 10:15 am	Welcome, Introduction, Proposed Agenda, and Updates • Welcome, context, and program updates • Review proposed agenda and materials • Any updates from around the region?	Greg Johnson Deb Nudelman ESG members
10:15 – 11:15 am	Seeking Concurrence: IBR Desired Outcomes, the Screening Criteria Process, and Preliminary List of Design Options • Review, discuss, and seek alignment on IBR program components, including: ○ IBR Desired Outcomes including how they link to the program's Purpose and Need ○ The Screening Criteria Process including how screening criteria will be used to evaluate design options ○ Preliminary List of Design Options and the approach for sharing with stakeholders and gathering input to help develop a recommendation on the IBR Solution • Outcome: Seeking concurrence at a conceptual level that Desired Outcomes, the Screening Criteria Process, and Preliminary List of Design Options meet regional joint interests sufficient to move toward an IBR Solution	Greg Johnson Chris Regan John Willis Deb Nudelman

Time	Item	Lead
11:15 – 11:40 pm	Information: Updates on Other Important Program Work - Equity and Climate Updates - Community Engagement Updates: - Community Advisory Group (CAG) - Community Working Groups - Community Engagement Activities - Question/Answer and group discussion	Greg Johnson Johnell Bell Sarah Ogier Deb Nudelman
11:40 – 11:50 am	Opportunity for Public Input Brief opportunity for public to provide input on agenda topics	Deb Nudelman
11:50 – 12:00 pm	Confirm Upcoming Meeting Topics, Next Steps, and Summary - Confirm November 18, 10 am-12 pm meeting topics - Consider extending January through March ESG meetings to provide for sufficient dialogue on the IBR Solution (9-12pm or 10-1pm) - Confirm agreed-upon next steps - Summary and acknowledgments	Greg Johnson Deb Nudelman

DESIRED OUTCOMES

PURPOSE AND NEED	DESIRED OUTCOMES
1. Growing travel demand and congestion	More people can move through the program area.
	Travel times through the program area are faster and more predictable.
	People of all ages, abilities, and incomes have access to move through the program area, regardless of mode.
	Regional trips stay on I-5.
2. Impaired freight movement	Freight travel through the program area is more reliable.
	Freight travel times through the program area are faster.
	Accommodates high, wide, and heavy cargo in existing and future routes.
3. Limited public transportation operations, connectivity and reliability	More people use transit.
	Travel by transit is competitive with other modes.
	Transit connects people to their origins and destinations.
	Travel by transit is predictable, reliable, and consistent.
	More people have access to high-quality, affordable, and reliable transit.

PURPOSE AND NEED	DESIRED OUTCOMES
4. Safety and vulnerability to incidents	Reduce overall crashes on I-5, including severe injury and fatal crashes.
	Reduce overall crashes, including severe injury and fatal crashes, on I-5 ramps, local streets, and active transportation networks in the program area.
	Fewer diverted trips from I-5 to local streets.
	Safety is reflected in designs for all modes.
5. Substandard bicycle and pedestrian facilities	Active transportation is an attractive mode, and more people walk and cycle, both to access transit and instead of travelling by autos.
	Traveling by walking, biking, and rolling feels safe because facilities are separated from moving vehicles and the shared use path environment is visible and connected.
	The high-quality networks for walking/biking/rolling are convenient and connect destinations that are important for most trips.
	More people have access to high-quality active transportation facilities.
6. Seismic	Bridges will be designed and constructed so that they will not collapse and will remain operable in a Cascadia subduction zone earthquake.

PURPOSE AND NEED	DESIRED OUTCOMES
	CLIMATE CHANGE & RESILIENCY
	Reduce GHG emissions in support of state climate goals.
	Minimize operational and embodied carbon during construction.
	All structures are resilient to and operable following anticipated climate disruptions (e.g., heat events, flooding, sea level rise).
	Program limits other environmental impacts that exacerbate effects of climate change (e.g., heat island, runoff).
	EQUITY (as excerpted from the Equity Framework and to be refined by EAG)
	Improved mobility, accessibility, and connectivity especially for lower income travelers, people with disabilities, and communities who experience transportation barriers.
	Fewer identity-based disparities in travel time, access, transportation costs, and exposure to air pollution, road noise, and traffic crashes.
	Local community improvements are implemented in addition to required mitigations.
	Economic opportunities generated by the program benefit minority and women owned firms, BIPOC workers, workers with disabilities, and young people.
	Equity priority communities have access, influence, and decision-making power throughout the program in establishing objectives, design, implementation, and evaluation of success.
	Disproportionate impacts on equity priority communities are avoided rather than simply mitigated.

PURPOSE AND NEED	DESIRED OUTCOMES
	COST EFFECTIVENESS AND FINANCIAL RESOURCES
	Pursue and leverage any and all federal, state, and other funding sources that support all modes and address long-term needs.
	Identify equitable tolling and pricing strategies supporting multimodal construction costs and improved operations and access, in coordination with statewide tolling programs and in support of each state's climate goals.
	Consider fiscal responsibility across the program and into the future, including new technology to solve future problems.

Program-Level Desired Outcomes

PROGRAM PRIORITIES

- ▶ Purpose and Need
- ▶ Climate
- ▶ Equity
- ▶ Cost/Financing

DESIRED OUTCOMES AND MEASURES

- ▶ What the program is seeking to achieve and how to measure success
- ▶ Vision and Values
- ▶ Community Priorities and Values

Design Options

PRIOR PLANNING EFFORTS

- ▶ Major program components from 2013

CHANGES SINCE 2013

- ▶ Physical, regulatory, and community priority changes

DESIGN OPTIONS

- ▶ Identify design options in response to the changes and in consideration of climate and equity

Screening

1. IDENTIFY SCREENING CRITERIA

- ▶ Identify specific screening criteria and metrics that will identify tradeoffs/differences between design options

2. EVALUATE

- ▶ Evaluate design options based on screening criteria
- ▶ Delineate the differences across design options

3. RECOMMEND

- ▶ Technical recommendation to inform consideration by advisory and steering group recommendations

Draft IBR Solution

CONDUCT DETAILED EVALUATION IN THE SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT

October 2021

IBR Preliminary List of Design Options

In 2011, a Final EIS and Record of Decision for the prior work on the program was published. In the years subsequent to that decision, the baseline conditions, regulatory and policy context, and community priorities have changed, including:

- Regional, state, and local equity policies and priorities
- Regional, state, and local climate goals and priorities
- Oregon tolling/congestion pricing programs being studied
- Demographics along the I-5 corridor and nearby neighborhoods
- COVID-19 impacts on transportation
- Environmental regulations
- Expanded transit service in the corridor (i.e., VINE BRT and bus-on-shoulder on I-5 in Vancouver)
- Current Regional Transportation Plans and City Comprehensive Plans
- Updates to USACE, USCG and FAA requirements
- Land use policies, planned development, and zoning changes
- Federal transit funding requirements
- Freight/industrial activity

To address these changes, the IBR program collaborated with lead Federal agencies (FHWA and FTA) and partner agencies to identify how these changes affected prior assumptions, data analysis, designs, anticipated impacts and benefits, as well as mitigation for adverse impacts. Building on past work, the program in collaboration with agency partners developed high-level design options to respond to changes while incorporating current regional values and priorities into the IBR Solution. Input on these design options will be gathered through a variety of community engagement strategies. The design options pertain to the following program areas:

- Hayden Island and Marine Drive interchanges including the North Portland Harbor bridge
- Bridge Crossing over the Columbia and Alignment
- Downtown Vancouver
- Vancouver Interchanges
- Transit
- Active transportation improvements

The design options will continue to be developed during the fall of 2021 to show more detail including local street connections and access to multi-use paths, ramps, and transit options. This fall, the program is sharing the design options with the community and is gathering feedback to inform the decision-making process. Following engagement with advisory groups, steering groups and the community, additional refinements, details, or options may be developed as needed to address feedback. Screening criteria are being developed

and aligned with the IBR Desired Outcomes. The criteria will help narrow the design options, which are being informed by multiple sources including:

- Original Purpose & Need and Vision & Values
- Feedback from the community and agencies around transportation problems and values
- Program climate framework
- Program equity framework developed by the Equity Advisory Group
- Community Values and Priorities informed by the Community Advisory Group
- Partner agency engagement and input
- Technical expertise
- Broad community engagement efforts

During November and December 2021, the design options will be evaluated using the screening criteria. Recommendations and decisions will be made through discussions with the program, partner agencies, lead Federal agencies, and the Bi-State Legislative Committee. Ultimately, these options will be woven together into the multimodal draft IBR Solution. Once the draft IBR solution is identified, the program will advance that solution into the detailed environmental review process in spring 2022.

NORTH PORTLAND HARBOR BRIDGE

Since previous studies, the North Portland Harbor bridge has aged another 10 years and it is no longer cost-effective to rehabilitate it. Replacing it will improve seismic resiliency throughout the entire program area and on I-5. Additional work will be done to identify impacts and considerations of replacing this bridge.

Equity considerations: Unclear at this stage.

Climate considerations: Replacement bridge will be designed with current and future river conditions in mind, and it will integrate as appropriate with the overall plan for transit and active transportation.

BRIDGE CROSSING OVER THE COLUMBIA RIVER AND ALIGNMENT OPTIONS

Summary: Initial options for the river crossing will look at the horizontal alignment and configuration of the bridge. The program will work through additional considerations like bridge height and bridge type in the future. Combinations of options being considered include configurations with two separate bridges, a single stacked bridge and alignments that include a curved alignment and a straight alignment. These configurations separate vehicles, high-capacity transit, and the multi-use path in various ways. Some of these options are easier to construct than others, and some result in a smaller footprint over the river. The modeling and screening process will help identify additional tradeoffs to consider when analyzing the options.

Equity considerations: All options provide dedicated transit guideway and dedicated wide multiuse path to create appealing and effective transit and active transportation opportunities. Exposure to noise – of particular importance to pedestrians who are blind or visually impaired and rely heavily on sound to navigate – could differ between the options. Options may also carry different implications in terms of displacement or other impacts to houseless populations living in the area.

Climate considerations: All options provide dedicated transit guideway and dedicated multi-use path space to create appealing and effective transit and active transportation opportunities. Current and future river conditions are taken into consideration.

Figure 1: The 2013 LPA alignment option has two bridges and a curved alignment, with highway lanes on the top level and transit and a multi-use path on the bottom level.

- **Technical considerations:** This option provides a narrowed footprint, with the transit and multi-use path under the highway (in comparison with all modes on one level). The curved alignment connects the new bridge to the existing North Portland Harbor bridge and the existing highway corridor in Vancouver.

Figure 1. 2013 LPA option

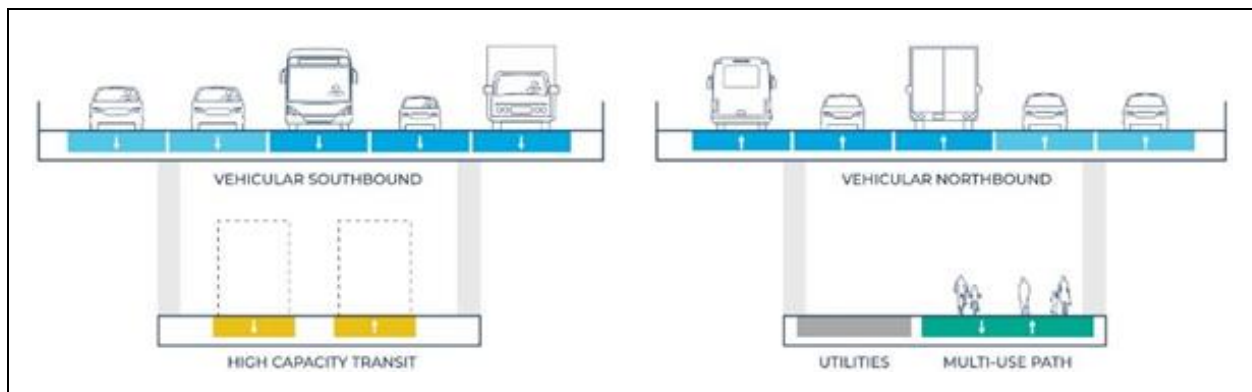


Figure 2. 2013 LPA option, continued



Figure 2: The straight alignment option removes the curve as much as possible while maintaining the two bridge/two-level highway over the transit/multi-use path configuration shown in Figure 2.

- **Technical considerations:** The straight alignment is west of the Interstate 5 (I-5) corridor on Hayden Island. This alignment makes the likely North Portland Harbor bridge replacement less complex. A straight alignment is less complex to construct than a curving structure.

Figure 3. Straight alignment option

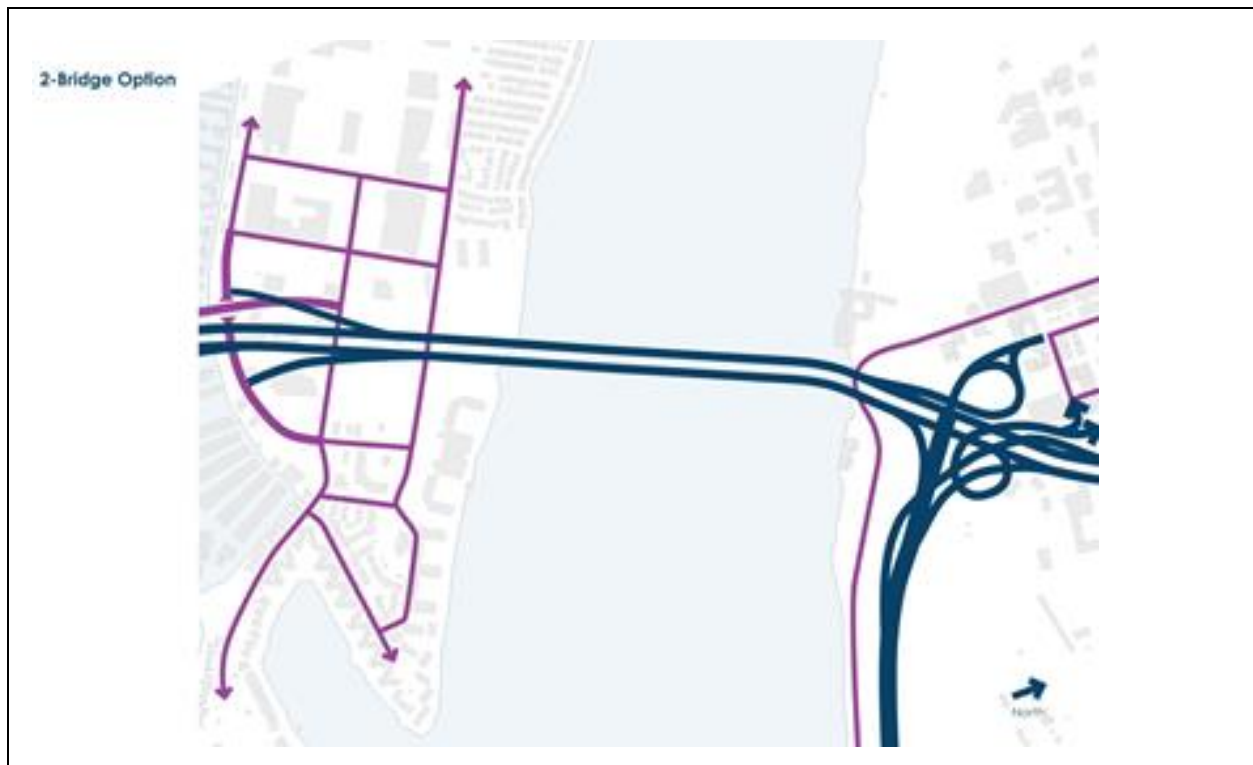
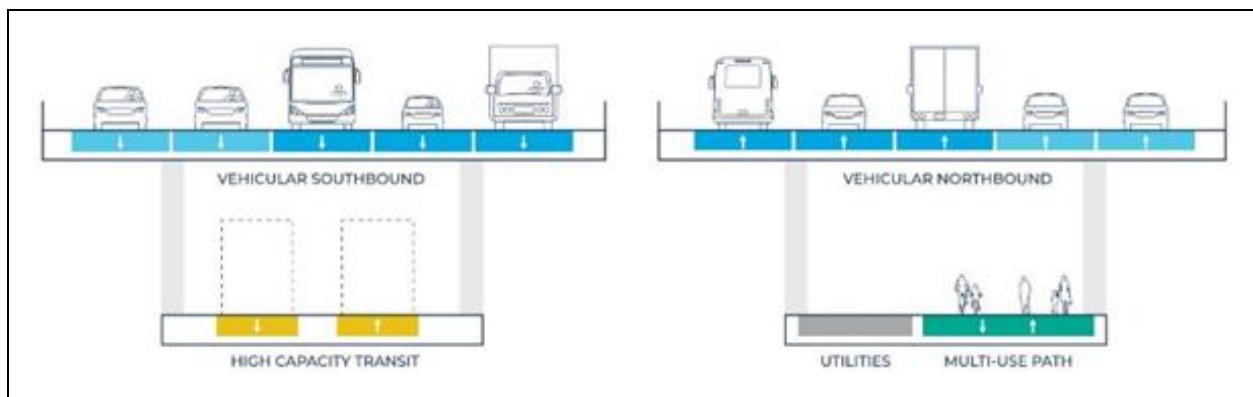
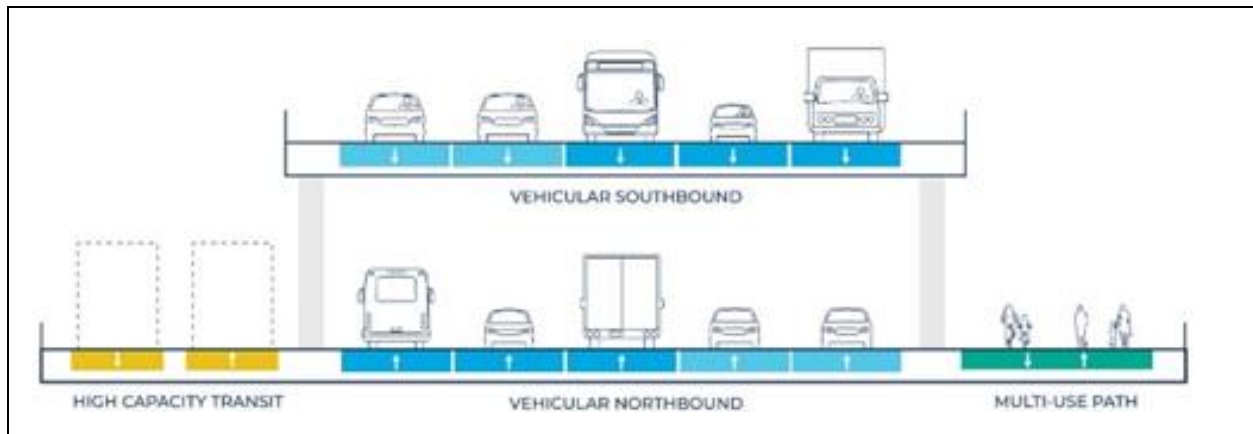


Figure 3: The stacked alignment option consolidates all elements into one bridge, with southbound highway lanes on top of northbound highway lanes. Transit and the multi-use path would be on the lower level on each side of the bridge.

- **Technical considerations:** This one-bridge solution would have a smaller footprint over the river and reduce the number of foundations in the water compared to the other options, thus minimizing impacts to the natural environment and surrounding areas.

Figure 4. Stacked alignment option



DOWNTOWN VANCOUVER OPTIONS

Summary: Preliminary design options in this location consider the alignment and configuration for the downtown and State Route 14 interchange. These options consider ways to connect downtown into a higher I-5 corridor (necessary for bridge replacement options), connect local roadways under I-5, extend Main Street connections under I-5, and connect pedestrian paths from local streets to the river crossing. Additional analysis is needed to identify how to connect from downtown into the river crossing options being considered. The modeling and screening process will help identify additional tradeoffs to consider when analyzing the options.

Equity considerations: Downtown Vancouver has a high proportion of low-income households, people with disabilities, and zero-vehicle households, underscoring the importance of convenient access to transit and active transportation options. East-west connectivity, as emphasized by the EAG, is improved. Options may carry different implications in terms of displacement or other impacts to houseless populations living in the area.

Climate considerations: All design options land the transit and multi-use path in downtown Vancouver creating walkable access to these transportation options.

Figure 4: The interchange option based on the 2013 LPA reconstructs all ramp connections that are currently available and connects the ramps to the higher I-5 corridor. Local roads are extended under the I-5 corridor to extend Main Street and extend the east-west connections under the bridge. The path connects the river crossing to Columbia Street. This configuration is possible with either the curved or the straight alignment river crossing option.

Figure 5. 2013 LPA option

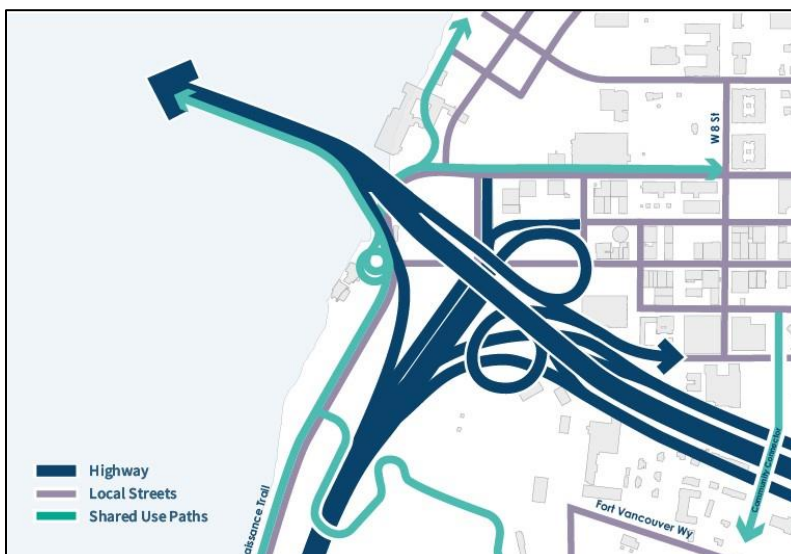
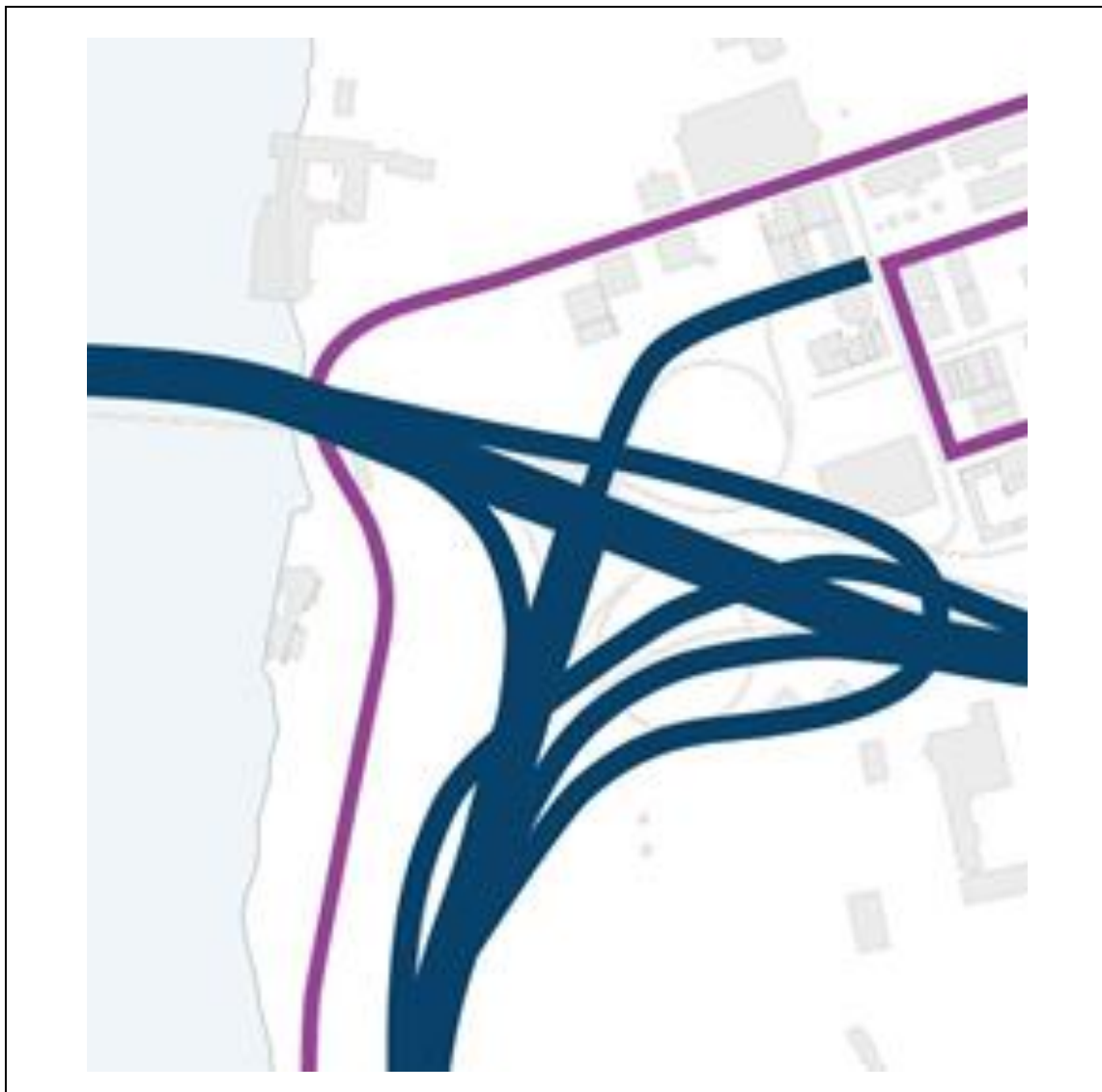


Figure 5: The stacked river crossing alignment over the river results in modified geometry for several ramps. Additional studies are needed to determine if C Street ramps to I-5 can be incorporated into the design.

- **Technical considerations:** The one-bridge solution requires a consistent bridge width across the water. Near land, the interchange can influence the structure width to accommodate ramps, but this location is farther north than it would be with the two-bridge configuration. Removing some ramps and reconfiguring others is required to fit within the bridge constraints.

Figure 6. Option with stacked river crossing alignment



VANCOUVER INTERCHANGE OPTION

Summary: The preliminary design option at the Mill Plain and Fourth Plain exits reconstructs the interchanges with braided ramps and auxiliary lanes at Mill Plain and Fourth Plain and replaces overpasses at other locations along I-5 leading up to the river. The option being considered will incorporate other improvements that require additional engagement, such as improvements to connect bike and pedestrian access across I-5. Additional work is needed after screening and into the design phase to look more closely at intersection improvements at Mill Plain and Fourth Plain.

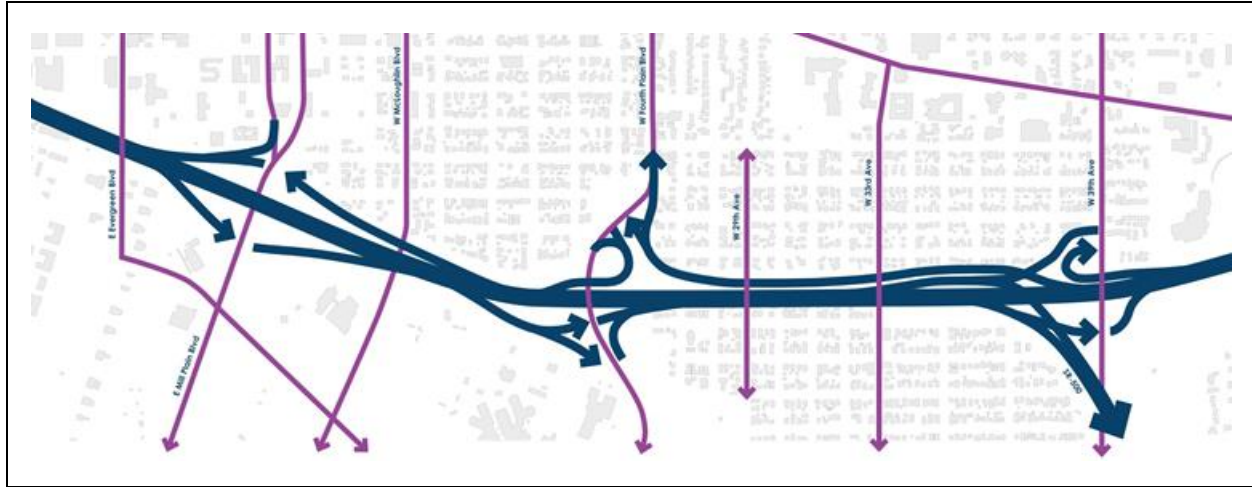
Equity considerations: All designs will improve pedestrian and bike pathways to support east to west travel (as emphasized by the EAG) and access to transit. Important destinations for equity priority communities include the Vancouver Community Library, the VA, Clark College, Hudson's Bay High School (a Title I school), and the Washington State School for the Blind. The Rose Village neighborhood (directly east of I-5 and south of SR-500) has a high proportion of multiple equity priority communities, including over half of households living below 200% of the federal poverty level.¹ Options may carry different implications in terms of displacement or other impacts to houseless populations living in the area.

Climate considerations: All designs will improve pedestrian and bike pathways to support east to west travel and access to transit.

Figure 6: The IBR program will reconstruct the interchanges at Mill Plain and Fourth Plain and will replace the crossing structures at Evergreen, 29th, and 33rd. Highway improvements include braided ramps and auxiliary lanes between closely spaced interchanges. Pedestrian and bike improvements will be incorporated into each bridge crossing I-5, streets under I-5, and a lid near Evergreen Road. As the project progresses into design phases, alternative intersection treatments will be considered at Mill Plain and Fourth Plain. These elements will be refined during the screening process and design.

¹ This is the threshold for the IBR program's definition of a low-income household.

Figure 7. Vancouver interchange option



HAYDEN ISLAND AND MARINE DRIVE INTERCHANGES OPTIONS

Summary: Design options being considered for roadway and interchange configurations include improvements to Marine Drive and a partial interchange, no interchange, or a full interchange on Hayden Island. The below drawings show high-level graphic representations of a variety of concepts being considered with small variations to local roadway connections. These options identify ways to access Hayden Island through Marine Drive if access from I-5 is not on the island and identify ways to connect local streets under I-5. Additional engagement is needed to determine details for connecting multi-use paths, with the intention to connect to the 40-mile loop trail.

Equity considerations: A significant number of retail and service industry jobs are located in this area. In terms of residents, Hayden Island has a high proportion of older adults and people with disabilities. All design options improve east-west connectivity, as emphasized by the Equity Advisory Group. A smaller footprint may result in more opportunities for ancillary development. Options may carry different implications in terms of displacement or other impacts to houseless populations living in the area that have not yet been determined.

Climate considerations: All design options strive to 1) improve access, safety and comfort for people walking and biking; 2) increase access and connection to transit options; and 3) foster walkable neighborhoods.

Figure 7: Full interchange configurations were included in the 2013 LPA. This configuration includes complete interchanges on both Hayden Island and Marine Drive. The multi-use path connects the river-crossing bridge to the 40-mile loop trail, with connections on Hayden Island. Local streets are reconnected under I-5 with some variations, including a third crossing under I-5 for Tomahawk Island Drive and an arterial bridge connecting Hayden Island to Expo Road. Roadway infrastructure is farther west in comparison with the LPA to replace the North Portland Harbor bridge. Note the graphic in Figure 7 is a sample and other options are also under consideration.

Figure 8. Full-interchange option

This shows a high-level graphic representation of a variety of concepts being considered with small variations to local roadway connections.

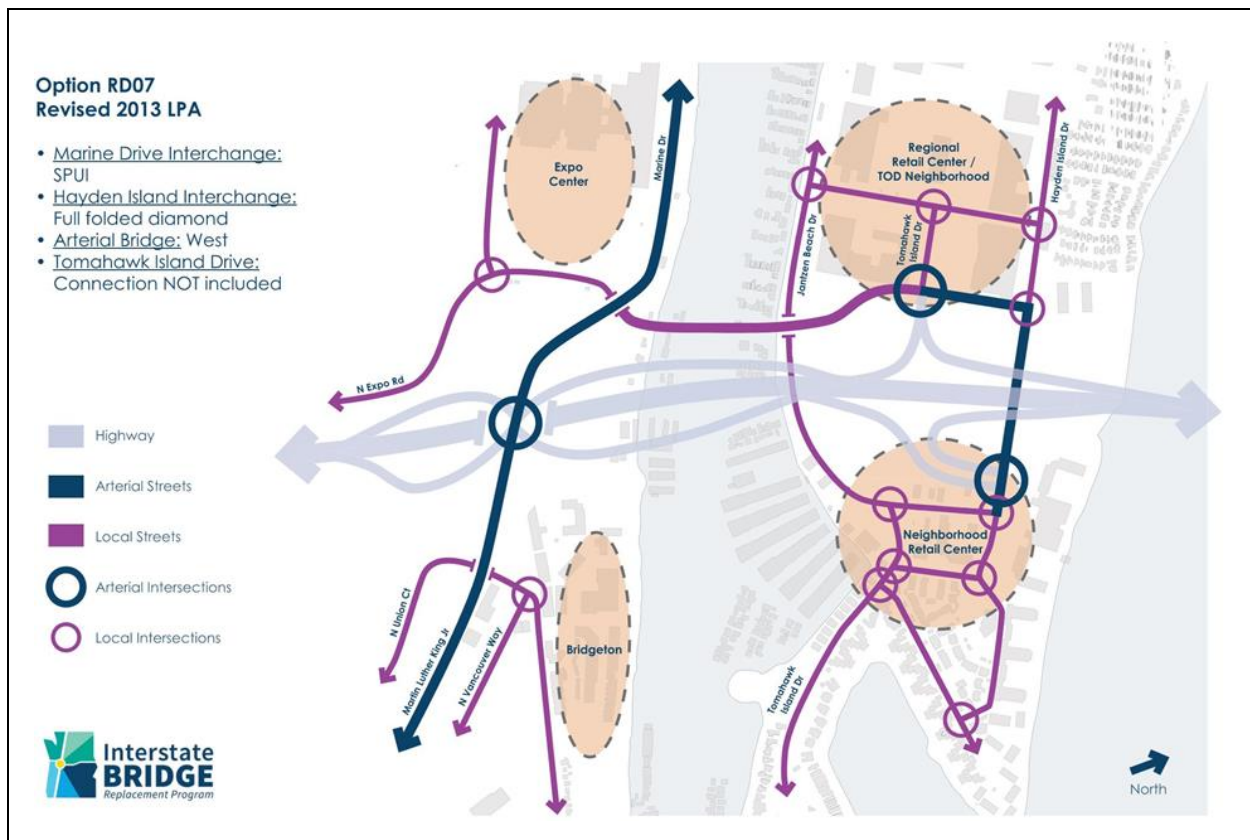


Figure 8: The partial interchange configurations provide ramps to/from the north to Hayden Island. A complete interchange at Marine Drive with access to/from the south is provided through the Marine Drive interchange and an arterial bridge connection between Marine Drive and Hayden Island. The multi-use path connects the river-crossing bridge to the 40-mile loop trail with connections on Hayden Island. Local streets are reconnected under I-5, including a third crossing under I-5 for Tomahawk Island Drive.

- **Technical considerations:** This configuration reduces the overall width, footprint, and associated impacts of the infrastructure improvements across North Portland Harbor and Hayden Island.

Figure 9. Partial-interchange option

This shows a high-level graphic representation of a variety of concepts being considered with small variations to local roadway connections.

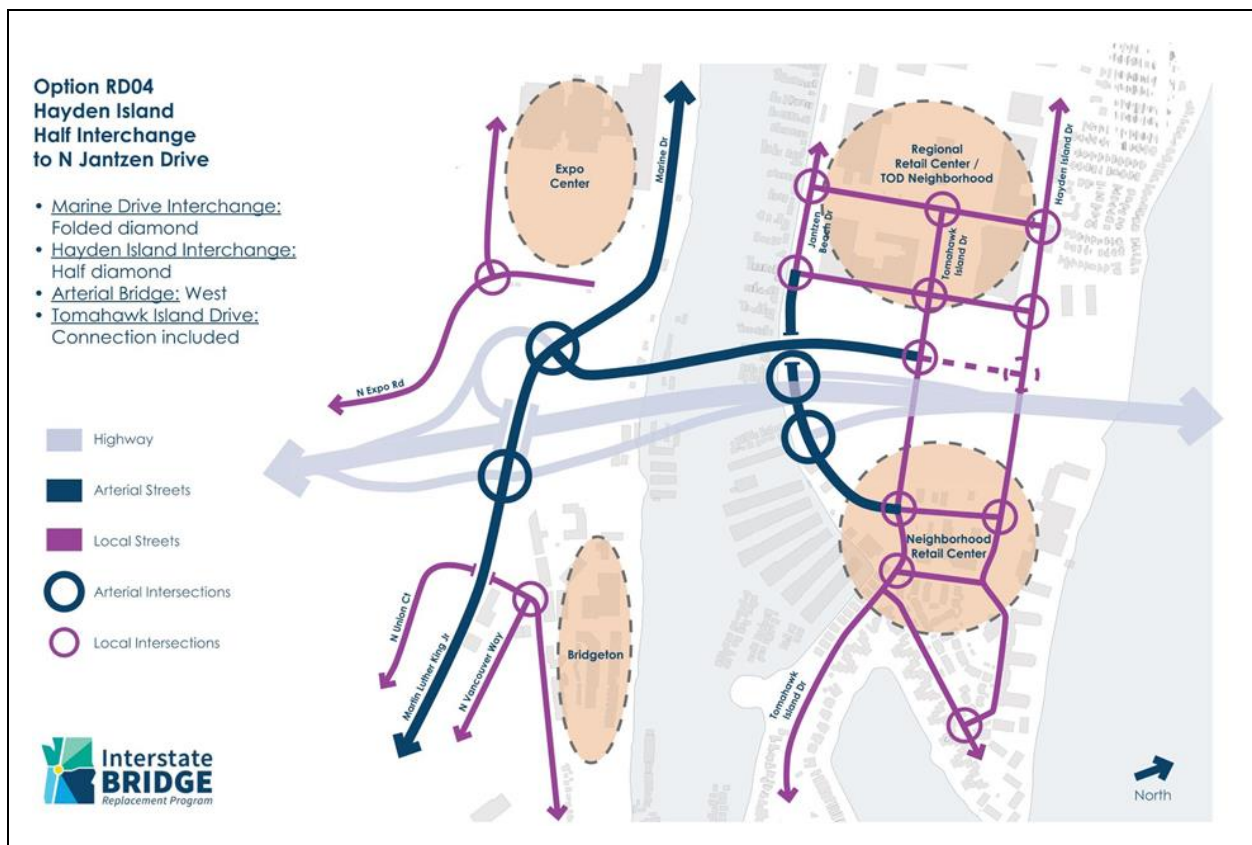
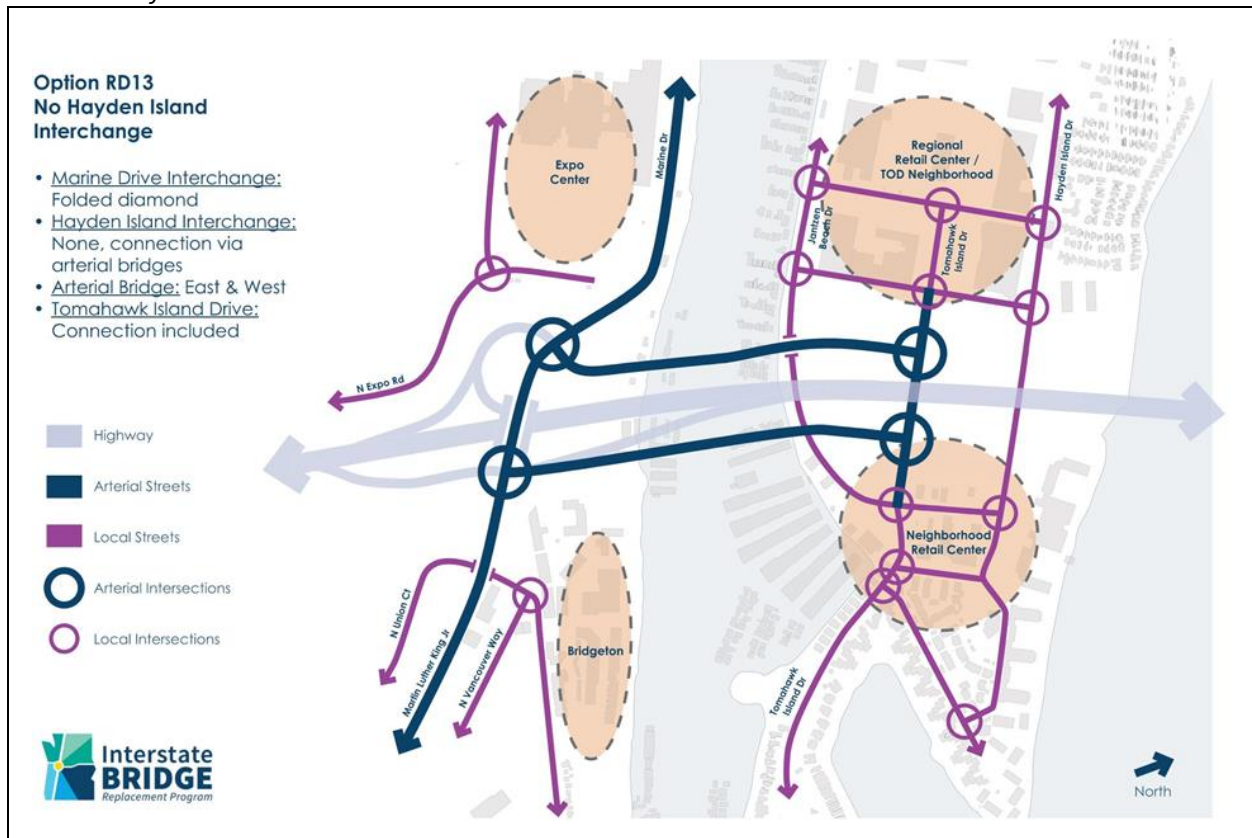


Figure 9: The no-interchange configurations provide a complete interchange on Marine Drive and access to Hayden Island through the Marine Drive interchange and arterial bridges.

- **Technical considerations:** This configuration minimizes the overall width, footprint, and associated impacts of the infrastructure improvements across North Portland Harbor and Hayden Island.

Figure 10. No-interchange option

This shows a high-level graphic representation of a variety of concepts being considered with small variations to local roadway connections.



TRANSIT OPTIONS

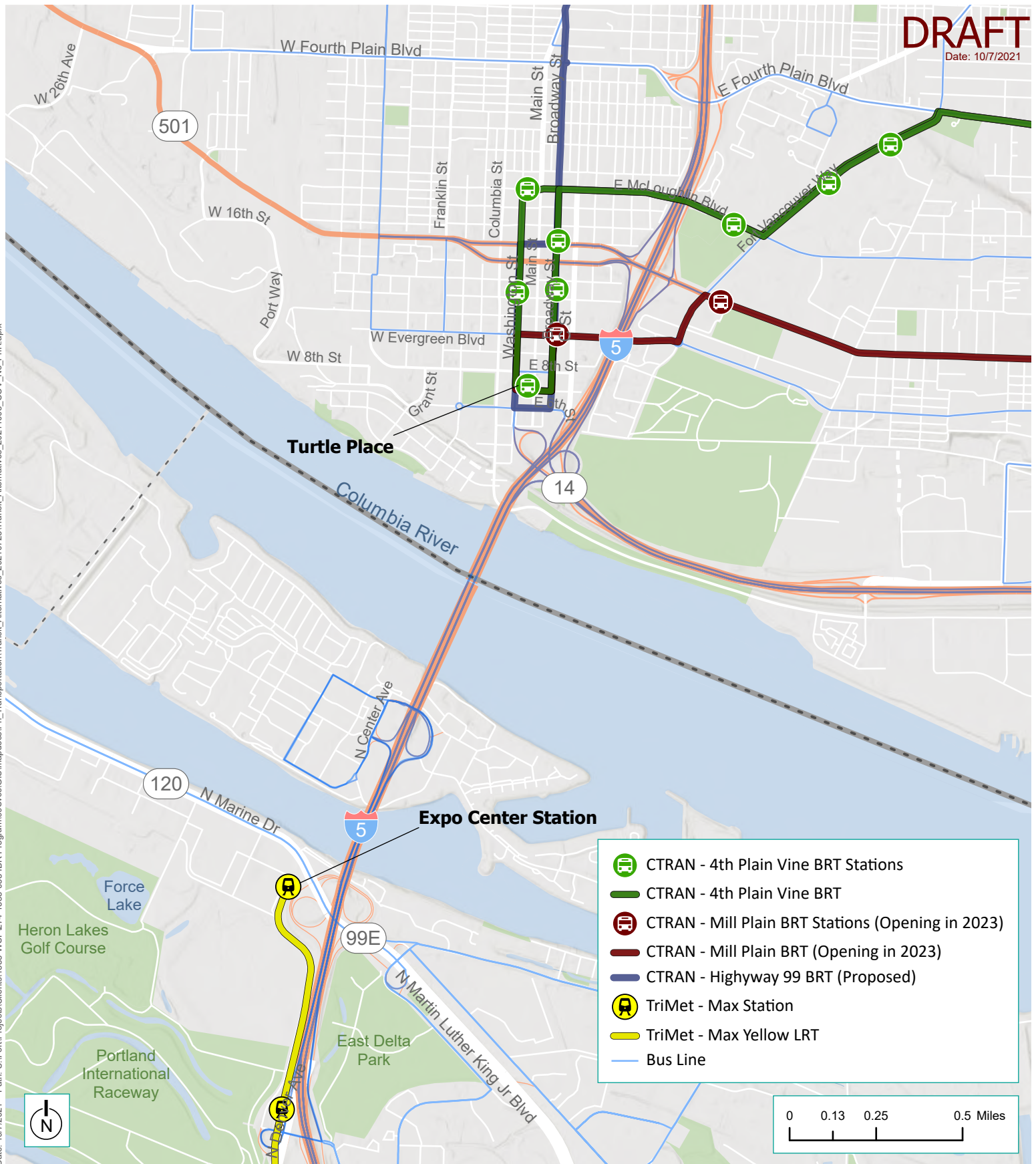
Transit options will have a unique set of data and analysis to inform decision making and support the data-driven process to identify how each transit option performs. The below measures will evaluate transit performance of the representative transit alignment options.

EVALUATION MEASURE	ALTERNATIVE SNAPSHOT
 Ridership	
 Transit Boardings	
 Corridor Transit Trips	
 I-5 Columbia River crossings	
 Station Mode of Access	
 Park and Ride Demand	
 Market Analysis	
 Transit Travel Time	
 Capital Costs	
 Operating and Maintenance Costs	
 Climate Resiliency	
 Proximity to HCT for Equity Priority Communities	
 Mobility for Equity Priority Communities	
 Potential Property Impacts	

Summary: Current preliminary transit options include various representative HCT alignments that expand transit service. These options extend both bus rapid transit and/or light rail from their current area of service to stations on Hayden Island and Vancouver. This list also includes an option with Express Bus.

Equity considerations: Station locations, mobility improvements, and property impacts are all key considerations in the development of transit options.

Climate considerations: All options increase transit choices for interstate travel in the program area.

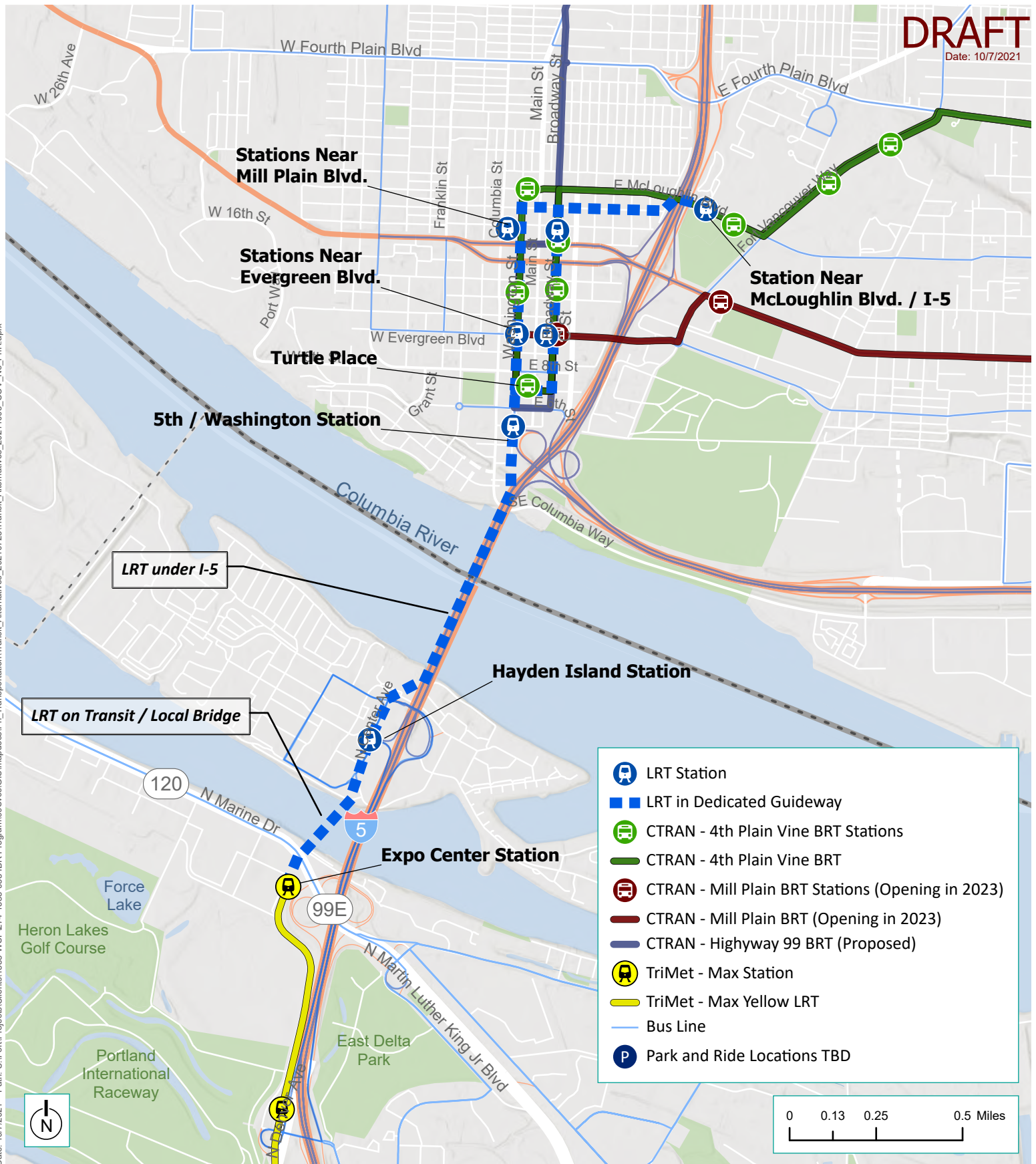


Source: ODOT, WSDOT, ESRI, Mapbox, OpenStreetMap

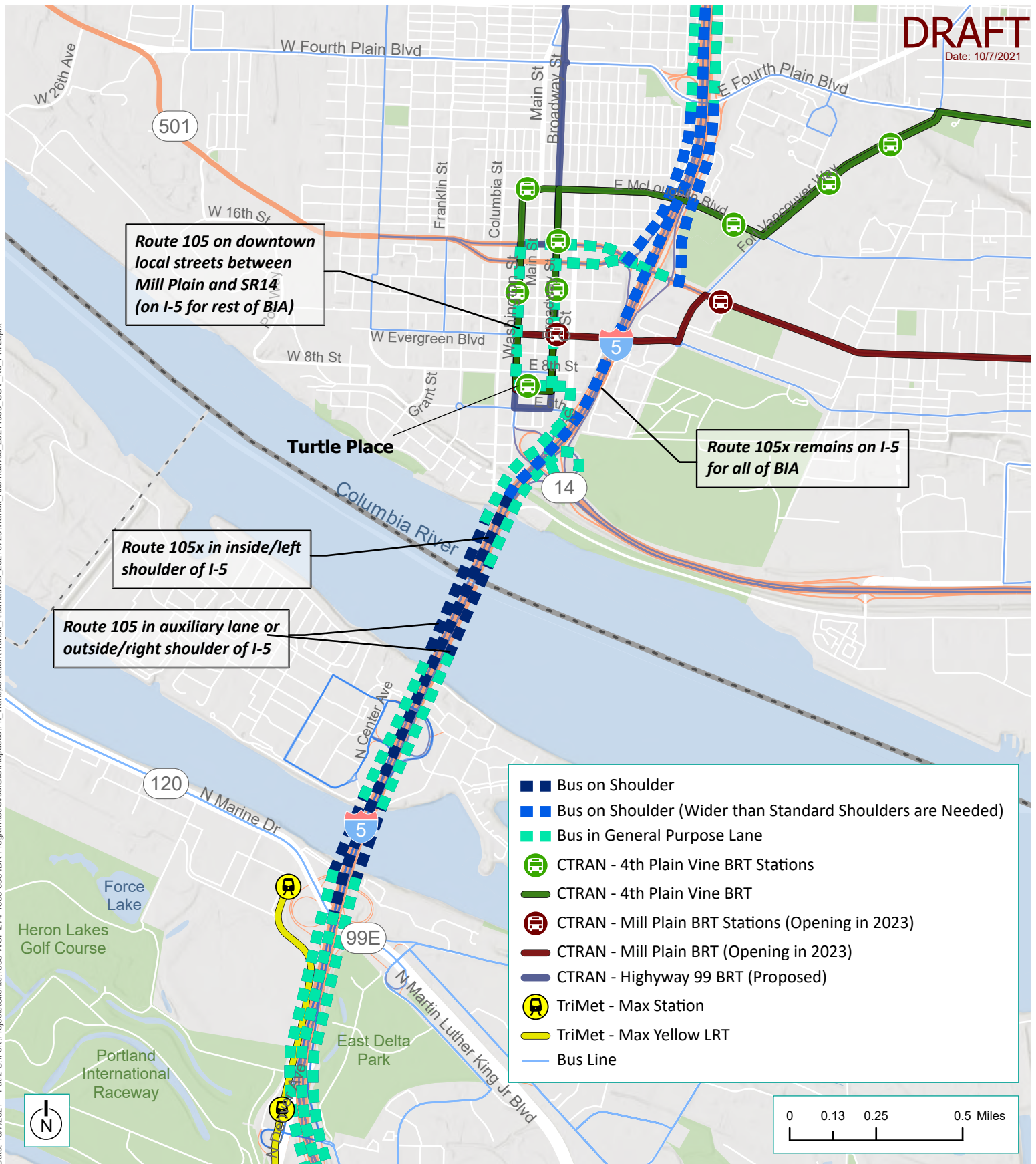
B 2045 Transit Project in the ROD

2045 IBR Model with RTP / MTP that includes CRC LPA

DRAFT
Date: 10/7/2021



Source: ODOT, WSDOT, ESRI, Mapbox, OpenStreetMap



Source: ODOT, WSDOT, ESRI, Mapbox, OpenStreetMap

D Dedicated BRT Turtle to Expo

Dedicated BRT Connection - Extend Vine(s) from Turtle Place to Expo Center

DRAFT
Date: 10/7/2021



Source: ODOT, WSDOT, ESRI, Mapbox, OpenStreetMap

E Dedicated BRT Hugging I-5

Dedicated BRT Connection - Kiggins Bowl to Expo Center on an I-5 Adjacent Dedicated Guideway (West Side of I-5)

DRAFT
Date: 10/13/2021

Date: 10/13/2021 Path: U:\PortProjects\Clients\1585-WSP\274-1585-058 IBR Program\99SvosGIS\mapdocs\Ph_Transportation\Transit_Alternatives_2021003_COV_No_PnR.aprx

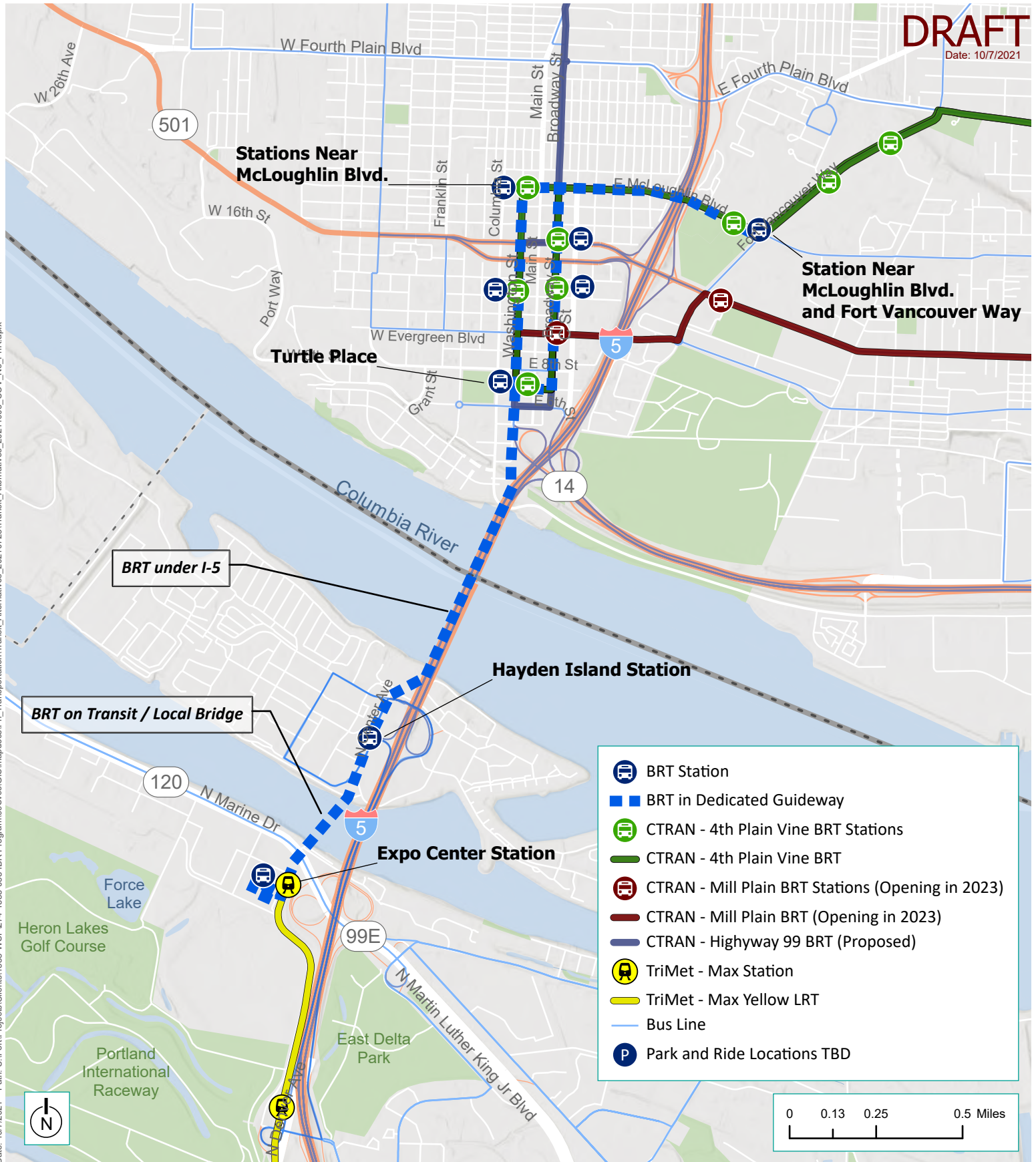


Source: ODOT, WSDOT, ESRI, Mapbox, OpenStreetMap

F Dedicated BRT through the CBD

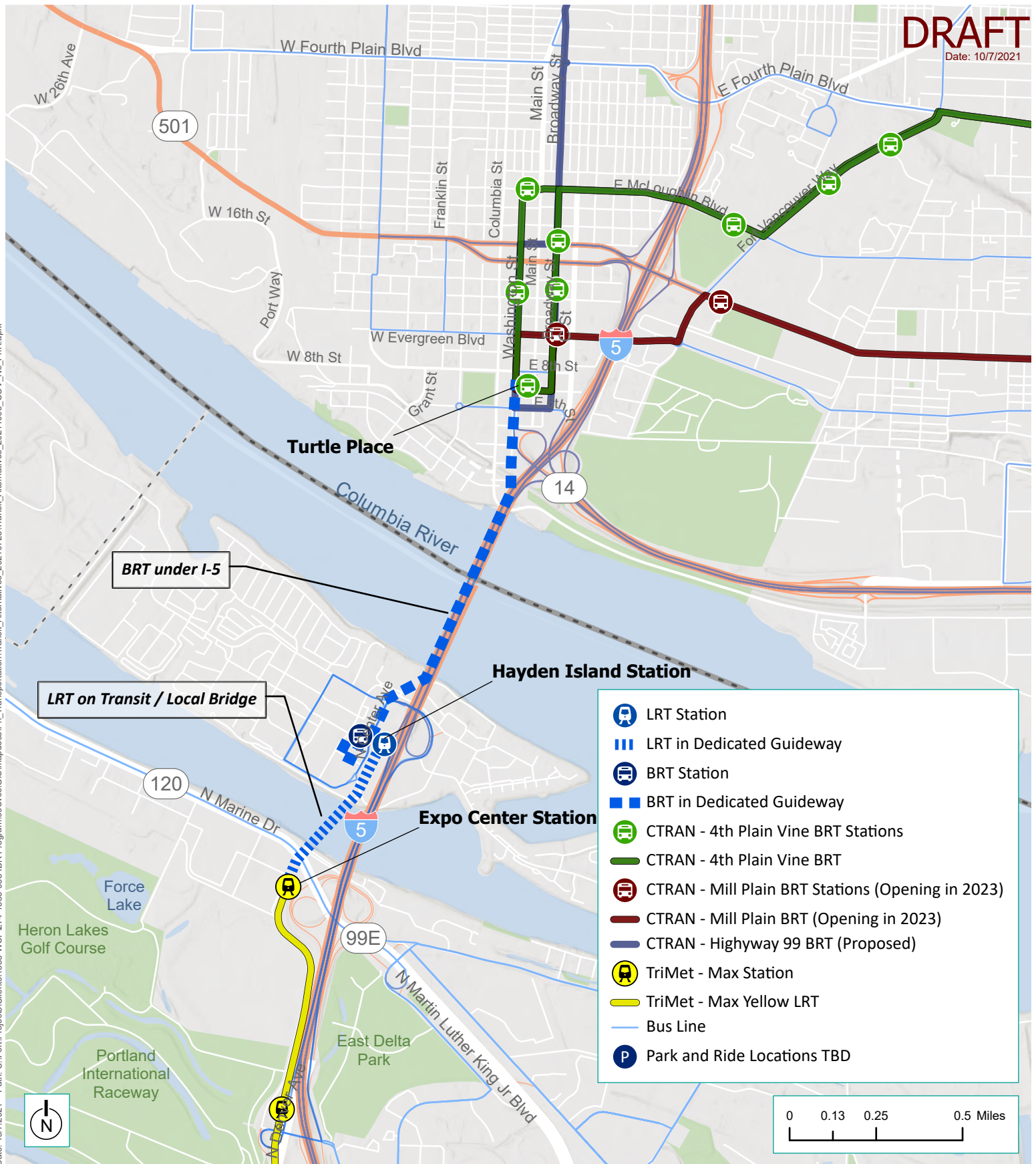
Dedicated BRT Connection - McLoughlin/I-5 to Expo Center in a
Dedicated Guideway on the 2013 Transit Alignment

DRAFT
Date: 10/7/2021



Source: ODOT, WSDOT, ESRI, Mapbox, OpenStreetMap

DRAFT
Date: 10/7/2021

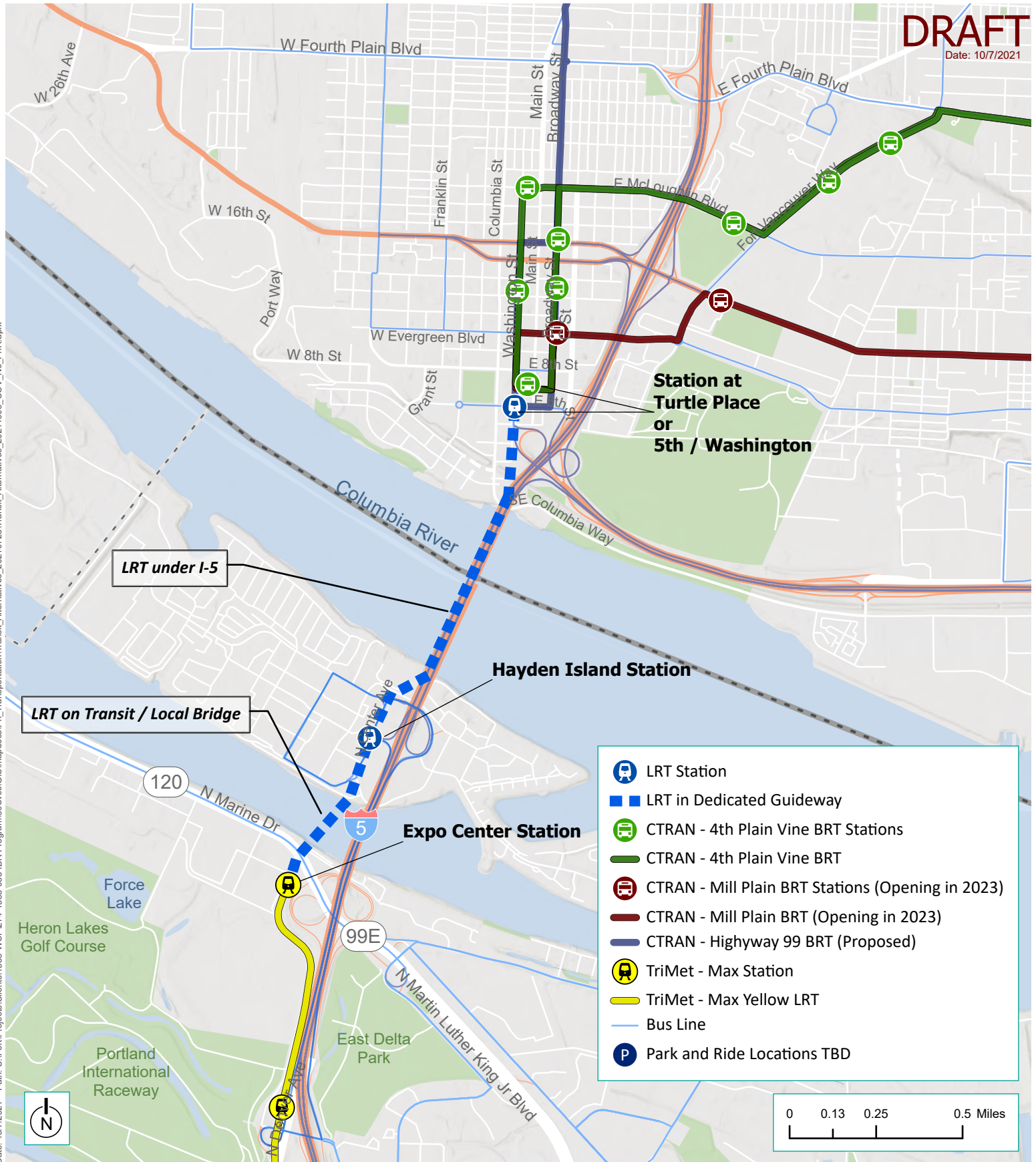


Source: ODOT, WSDOT, ESRI, Mapbox, OpenStreetMap

LRT One Station in Vancouver

LRT Extension from Expo Center to Hayden Island to a Single Station with Terminus in Vancouver

DRAFT
Date: 10/7/2021



- LRT Station
- LRT in Dedicated Guideway
- CTRAN - 4th Plain Vine BRT Stations
- CTRAN - 4th Plain Vine BRT
- CTRAN - Mill Plain BRT Stations (Opening in 2023)
- CTRAN - Mill Plain BRT (Opening in 2023)
- CTRAN - Highway 99 BRT (Proposed)
- TriMet - Max Station
- TriMet - Max Yellow LRT
- Bus Line
- Park and Ride Locations TBD

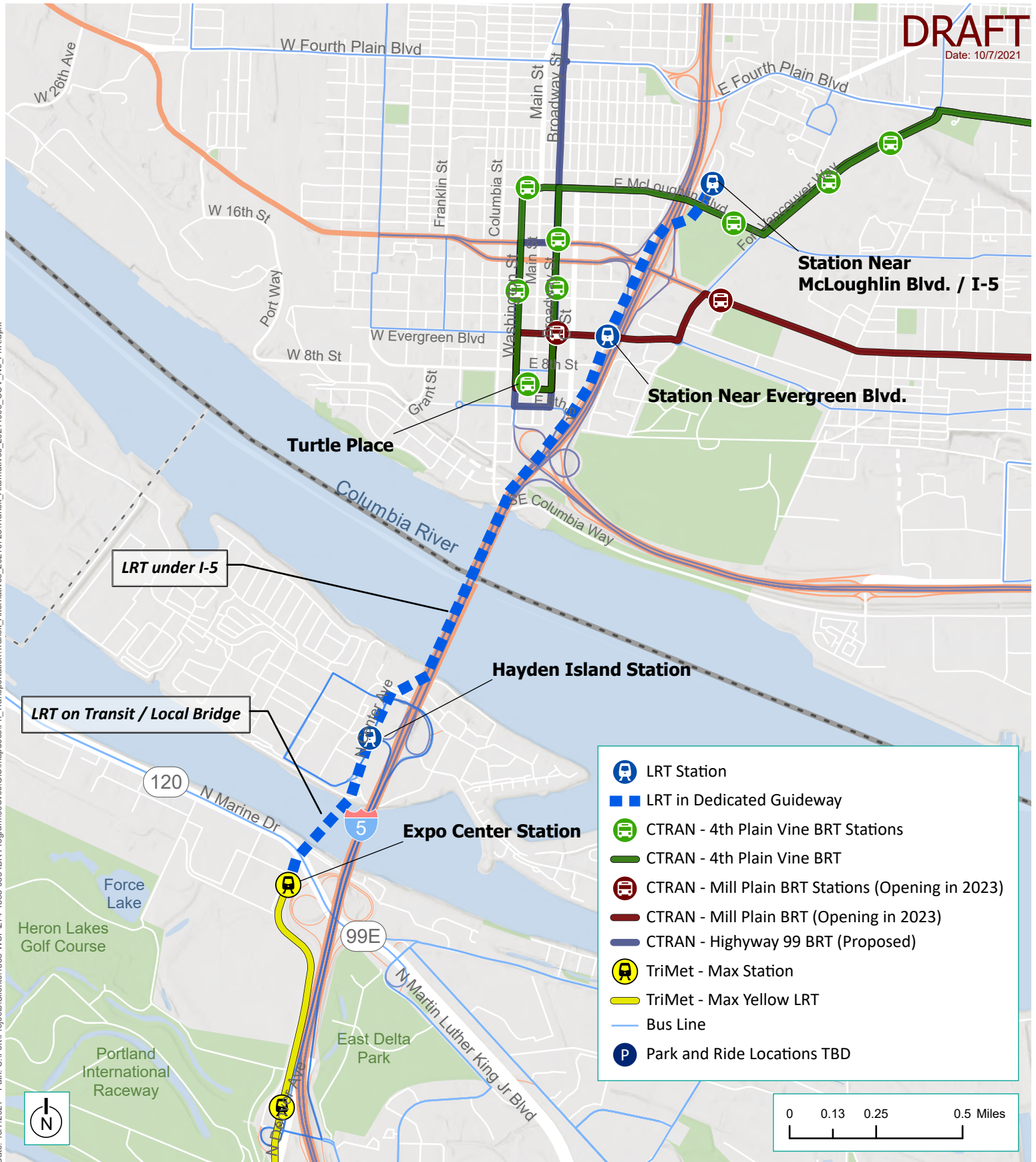
0 0.13 0.25 0.5 Miles

Source: ODOT, WSDOT, ESRI, Mapbox, OpenStreetMap

I LRT Hugging I-5 to near McLoughlin

LRT Extension from Expo Center to a Terminus near McLoughlin/I-5 on an I-5 Adjacent Alignment (Center/West Side of I-5)

DRAFT
Date: 10/7/2021



Source: ODOT, WSDOT, ESRI, Mapbox, OpenStreetMap

J LRT Hugging I-5 to Kiggins Bowl

LRT Extension from Expo Center to a Terminus near Kiggins Bowl on an I-5 Adjacent Alignment (Center / West Side of I-5)

DRAFT
Date: 10/7/2021

Date: 10/7/2021 Path: U:\Port\Projects\Clients\1585-WSP\274-1585-058 IBR Program\99\Srcs\GIS\mapdocs\Ph_Transportation\Transit_Alternatives_20211003_COV_No_PnR.aprx



Source: ODOT, WSDOT, ESRI, Mapbox, OpenStreetMap