

June 28, 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.

5:00-6:00 p.m. Public Works New Operations Center Project Update

Jennifer Belknap Williamson, Public Works Director, 360-487-7131; Jean Singer, Capital Projects Manager, 360-487-7755; Tim Buck, Operations Manager, 360-487-8261

Summary

Staff provided Council with an update on the Public Works Operations Center replacement project, and presented a draft project charter for Council consideration and feedback.

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 CVTV cable channels 23 or HD 323, or on the City's Facebook page, www.facebook.com/VancouverUS. Public access and testimony on Consent Agenda items and under the Community Forum were also facilitated 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 McEnerny-Ogle. This meeting was conducted remotely over video conference.

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

Absent: None

Also present on the call were the following: Brian Carlson, Acting City Manager; Jonathan Young, City Attorney; Amanda Delapena, Assistant to the City Council; Brennan Blue, Vancouver Fire Chief; Lisa Brandl, Deputy Finance Director; Jim Demmon, Video Services Manager; Chad Eiken, Community and Economic Development Director; Carrie Lewellen, City Treasurer; Andy Meade, Marshall Center Director; and members of the public.

Community Communications (Items 1-6)

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

Consent Agenda (Items 1-6)

Mayor McEnerny-Ogle noted staff had requested Item 2 be remanded for further development prior to Council action.

Council requested Item 4 be pulled for separate discussion.

Regarding Item 4, Councilmember Stober requested staff think about transformational ways the City can use the funds freed up by removing the Columbia Bank parking garage, and potentially other parking facilities currently owned by the City, from City operations, and consider how the funding can be reinvested downtown to drive alternative transportation options.

Motion by Councilmember Glover, seconded by Councilmember Stober, and carried unanimously to approve Items 1 and 3-6 of the Consent Agenda, and return Item 2 to staff.

1. Marshall Pool Resurface, construction acceptance and release of retainage

Staff Report 090-21

Summary

The Marshall Pool shell was successfully resurfaced with a durable, long-lasting fiberglass shell.

The original construction contract bid was for \$428,180.00 and the final project and construction costs were \$428,180.00.

Advanced Pool Coating of Loomis, California, has satisfactorily completed the subject improvement in accordance with the plans and specifications.

TOTAL CONTRACT COSTS	
<i>Labor, Equipment and Material</i>	<i>\$395,000.00</i>
<i>Sales Tax (8.5%)</i>	<i>\$33,180.00</i>
<i>Total</i>	<i>\$428,180.00</i>
<i>Retainage</i>	<i>\$21,409.00</i>

Request: Accept the Marshall Pool Resurface project as constructed by Advanced Pool Coatings of Loomis, California and authorize the release of the retainage of \$21,409.00, subject to all documentation required by law.

*Andy Meade, Marshall Center Director, 360-487-7098;
Justin Surface, Public Works Supervisor, 360-487-8386*

Motion approved the request.

2. **Designation of TV ETC and CVTV respectively as the education and government access providers on the Comcast cable system**
Staff Report 091-21

A RESOLUTION relating to cable television and to the designation of the Vancouver Educational Telecommunications Consortium ("TV ETC") as the educational access provider on the Comcast cable system for Vancouver and Clark County.

A RESOLUTION relating to cable television and to the designation of Clark Vancouver Television ("CVTV") as the governmental access provider on the Comcast cable system for Vancouver and Clark County.

Summary

The City and County have a cable television franchise agreement with Comcast of Washington, V LLCC that was effective on July 1, 2013. Under the terms of this agreements, Comcast provides channels for Public, Education and Government (PEG) programming and it is the responsibility

of the City and County to designate authorized entities to provide programming on those channels.

Organizations that are designated as access providers have authorization to broadcast programs over assigned channels on the Comcast cable system. They are also able to apply for annual PEG grants, administered by the City, for equipment and other capital expenses associated with producing and broadcasting programming.

TV ETC is a consortium of K-20 educational institutions operated by Educational Service District 112 and is the current educational access provider for Vancouver and Clark County. CVTV, operated by the City/County Cable Television Office, is the current government access provider for Vancouver and Clark County.

The City/County Telecommunications Commission ("Commission") recommends organizations to serve as access providers to the City Council, per VMC 5.19.320(7). The Commission met on June 2, 2021, to review designation applications and annual reports and to receive presentations from the applicants. Based on their review, the Commission is recommending re-designation of TV ETC and CVTV, respectively, as the education and government access providers for Vancouver and Clark County.

Request: Adopt resolutions approving The Vancouver Educational Telecommunications Consortium (TV ETC) as the designated educational access provider and Clark Vancouver Television (CVTV) as the designated government access provider for Vancouver and Clark County on the Comcast and CenturyLink cable systems.

Aaron Lande, Policy and Program Manager, 360-487-8612

Motion returned item to staff for further development.

3. Regarding Adoption of the Biennial Progress Report on the Comcast Corporation Vancouver/Clark County Franchise Agreement

Staff Report 092-21

A RESOLUTION adopting the City/County Telecommunications Commission ("Commission") Biennial Report regarding cable television franchise compliance by the cable operator Comcast of Washington V, LLC ("Comcast").

Summary

The City/County Telecommunications Commission (“Commission”) has prepared progress reports regarding franchise compliance by the cable television operator beginning with completion of the first year of the franchise term, January 1983. This is the fourth Biennial Report since a 10-year franchise agreement with Comcast was adopted in July 2013. The reports have been forwarded to the legislative bodies of the Vancouver City Council and the Clark County Council.

As noted in the attached Resolution, the Cable Communications Policy Act of 1984 (the “Act”), which was amended in 1992 and currently in effect, requires that franchising authorities provide written notice of any franchise deficiencies and that the cable operators be given the opportunity to correct any violations, if such factors are to be considered during the franchise renewal process.

The Progress Reports prepared by the Commission clearly meet and exceed the requirements of the Act. Legal counsel advises staff, however, that the legislative bodies of the franchising authorities should take affirmative action in adopting the reports for the reviews to be binding on the cable operator at the time of renewal.

As of the date of the Biennial Progress Report, the Commission finds Comcast in full compliance with the terms and conditions of the franchise. The number of customer complaints received by the City/County Cable TV Office regarding Comcast’s service, including but not limited to the company’s high-speed Internet service, increased by 30% when compared to 2017-18. The 2019-20 complaints involved a number of issues, including rates, customer service and technical services.

Request: Adopt a resolution approving, ratifying, and affirming the biennial report of the Telecommunications Commission (January 2019 – December 2020).

Jim Demmon, Video Services Manager, 360-487-8706

Motion adopted Resolution M-4132 approving the request.

4. Columbia Bank Parking Garage Disposition

Staff Report 093-21

Summary

In 1997, City Council adopted the Esther Short Redevelopment Subarea Plan, predecessor to the Vancouver City Center Vision Plan, which marked the beginning point in the successful revitalization of the downtown core, with Esther Short Park as the central focus. One of the first redevelopment

projects in the redevelopment area was the West Coast (now Columbia) Bank Building, built in 2001, which was a six-story, 70,353-square-foot mixed-use building at the southern entrance to the downtown from I-5. The initial development reserved space to the west of the garage for future development, which in 2016 was developed for The Hudson, a three-story, 45,000 square foot office and retail building.

The City purchased the garage as a condominium unit (no land) from Broadway Investors for \$3,441,095 in 2001. This was one of several major investments the City made to stimulate development in the Esther Short Redevelopment Area, including the purchase of the Vancouvercenter Parking Garage and construction of improvements to Esther Short Park and nearby streets, utilities and sidewalks. It is estimated that the City's purchase of the garage directly resulted in \$30 million in private capital investment in construction of the two buildings.

The West Coast Bank Building and adjacent 233-stall parking garage were the subject of a 1999 development agreement between Broadway Investors and the City, approved as Ord. M-3466 on December 29, 1999. The D.A. outlined the City's commitment to purchase the garage for \$3,441,095 and included an exclusive Option to Purchase, whereby the Developer has the express ability to purchase the garage back from the City between December 31, 2016, and December 31, 2021, for the greater of Fair Market Value (FMV) or an established minimum price of \$3,441,095.

In 2000 the City issued \$3,476,000 in bonds for this garage. In 2012 the City issued taxable bonds for the portion related to the parking garages. The City makes annual payments of \$246,000 on the debt from the Parking Fund, and approximately \$1,135,200 remains outstanding. The remaining debt would be paid off in late 2025 if no sale occurs. The City expends about \$45,110 annually on maintenance, security and enforcement in the garage, therefore total expenditures are approximately \$291,110. The City collects revenue on monthly licenses and hourly parking. In 2020, the City received approximately \$258,000. While revenues from parking license fees have increased in recent years, the garage operates at a loss of about \$33,110 per year. The two buildings that were built because of the garage have generated approximately \$6,155,530 in total property taxes since 2006 (earliest available data) of which \$1,384,995 was City property tax.

On May 19, 2021, Broadway Investors LLC (Purchaser) submitted a formal request to exercise their option to purchase the garage for \$3,441,095 and have requested that the sale transaction be completed no later than July 7, 2021, in order to facilitate a related property transaction. An appraisal by BBG commissioned by the Purchaser estimated the Fair Market Value of the garage at \$2.6 million. A second appraisal by Colliers commissioned by the City estimated the Fair Market Value of the garage at \$3.25 million. Both appraisals are substantially less than the agreed-to minimum price in

the development agreement.

For a number of years, 80 percent of the parking spaces have been licensed to tenants of both buildings for monthly permit parking. 47 of the spaces have been retained by the City for hourly parking but are seldom used, according to parking staff and the owner of the two buildings. City staff have requested that the Purchaser maintain 25 parking stalls for short-term customer parking until such time as the City determines they are no longer needed, which the Purchaser has agreed to. The City will not have any ongoing maintenance or enforcement responsibilities for these spaces. Additionally, the City will remove and retain ownership of the Park-n-Go signs and parking meters. The City's Parking Advisory Committee and City Center Redevelopment Authority have been informed of the request to exercise the Option to Purchase.

In summary, the parking garage has fulfilled the original intent of stimulating redevelopment in the downtown, most of the parking has been historically used by tenants of the two buildings, and the request meets the requirements of the previously agreed-to Option to Purchase, including timing and purchase price.

Request: Authorize the City Manager to sign the Purchase and Sale Agreement and all related documents necessary to facilitate the sale of the Columbia Bank Parking Garage to Broadway Investors LLC for the amount of \$3,441,095, subject to terms and conditions of the purchase and sale agreement.

*Chad Eiken, Community and Economic Development
Director, 360-487-7882*

Motion approved the request.

5. Partial Defeasance of 2012C Taxable Limited Tax Refunding Bonds

Staff Report 094-21

A RESOLUTION of the City of Vancouver, Washington, approving the defeasance of a portion of the City's outstanding Limited Tax General Obligation Refunding Bonds, 2012C (taxable) in the amount of not to exceed \$1,200,000 and authorizing the Chief Financial Officer of the City to perform the requirements necessary on behalf of the City to defease such bonds including the submission of any documentation relating thereto.

Summary

Broadway Investors, LLC notified the City they intend to exercise their option to purchase the Columbia Bank building parking garage as defined in the development agreement, pending Council approval. This parking garage currently has \$1,140,000 outstanding bonds associated with the parking garage.

Limited Tax General Obligation bonds were originally issued in 2000 to construct two public parking garages as part of larger developments – VancouverCenter and West Coast Bank parking garages. In 2013 Columbia Bank acquired West Coast Bank, which changed the name of the parking garage to Columbia Bank parking garage. In 2002, the 2000 LTGO bonds were partially refunded, and then in 2012, as part of a larger refunding, the City refunded the parking portion of the outstanding 2002 bonds and issued taxable LTGO Refunding bonds. The 2012C bonds have an average interest rate of 2.6%. The final maturity is 12/1/2025, but the bonds are callable 12/1/2022.

If Council authorizes the sale of the Columbia Bank parking garage, staff recommends Council provide authorization to set aside a portion of the proceeds of the sale of the garage, and pay off \$1,140,000 of outstanding bonds associated with the garage, pay accrued interest associated with the garage debt, plus pay the professional service fees associated with the defeasance. These professional service fees are estimated to be less than \$10,000.

The bond resolution allows the ability to defease up to \$1.2 million to provide flexibility for reinvestment rates associated with purchasing securities to place in escrow. Part of the proceeds from the sale of the garage will be transferred to an escrow agent to pay the outstanding debt service payments through the call date of 12/1/2022. The resolution also delegates authority to the Chief Financial Officer to perform the requirements to defease the bonds.

Request: On Monday June 28, 2021, adopt a resolution authorizing the partial defeasance of the 2012C Taxable LTGO Refunding bonds.

Carrie Lewellen, Treasurer 360-487-8482

Motion adopted Resolution M-4133 approving the request.

6. Approval of Claim Vouchers

Request: Approve claim vouchers for June 28, 2021.

Motion approved claim vouchers in the amount of \$3,967,745.64.

Vancouver Fire Department Update

Mayor McEnerny-Ogle took a point of personal privilege and invited Vancouver Fire Chief Brennan Blue to provide Council and the community an update on fire activity related to the extreme heat conditions.

Chief Blue noted there had been 14 vegetation fires in Clark County, about half of which were within the Vancouver city limits, including one that involved a house. He stated the home was located in the 18,000 block of Evergreen Highway. Chief Blue stated there had also been a massive increase in EMS calls on June 28, which surrounding jurisdictions had also experienced. He stated VFD had proactively staffed up in anticipation of increased calls for service.

Regarding fireworks activity for the upcoming Independence Day holiday, Chief Blue stated the county's fire chiefs had met to discuss potentially banning fireworks throughout the County where they are still legally allowed under normal circumstances, but Clark County was resistant to the idea. He cautioned that fire department staff would not be able to be everywhere and answer every call on the 4th, and urged residents to self police their activities.

Regarding the City's water resources, Acting City Manager Brian Carlson stated the City's water was doing well, in a testament to the City's investment and re-investment in the system over time. He stated demand had been up, but had not met the City's all-time usage record.

Community Forum - see general protocol above

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

- Sibhana McEwan, Advocacy and Equity Director for Council for the Homeless, thanked local churches and organizations for opening cooling centers and providing support for members of the community in need of shelter from the heat.
- Glen Yung, Vancouver, urged the City to put more emphasis on improvements to sidewalks throughout the City.
- Jean Avery, Vancouver, urged the City to take steps to make the Waterfront

more inclusive and affordable for all community members.

- Cathryn Chudy, Vancouver, urged the City to adopt the strongest Climate Action Plan as possible.
- Don Steinke, Vancouver, encouraged building standards and developments be designed to accommodate rooftop solar options.
- Alona Steinke, Vancouver, expressed concerns regarding natural gas companies' public relations campaigns to discourage local residents from supporting cities efforts to phase out fossil fuel energy sources.
- Teresa Hardy, Vancouver, urged the City to take interim steps prior to formally adopting a Climate Action Plan to address climate change and carbon emissions, such as preserving and increasing the tree canopy and open spaces in the city.

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

Adjournment

7:03 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 files are kept on file in the office of the City Clerk for a period of six years.

From: [City of Vancouver - Office of the City Manager](#)
To: [Delapena, Amanda](#)
Subject: FW: Comment for Citizen Forum: 6/28
Date: Thursday, June 24, 2021 9:29:44 AM

From: Jean M. Avery <jeanmavery@gmail.com>
Sent: Thursday, June 24, 2021 8:45 AM
To: City of Vancouver - Office of the City Manager <CMO@cityofvancouver.us>
Subject: Fwd: Comment for Citizen Forum: 6/28

----- Forwarded message -----

From: **Jean M. Avery** <jeanmavery@gmail.com>
Date: Mon, Jun 21, 2021, 6:03 PM
Subject: Comment for Citizen Forum: 6/28
To: Jean M. Avery <jeanMAvery@gmail.com>

Good evening, Madam Mayor and Councilors. Today I would like to share my views about the waterfront.

Recently, I was at a business meeting in one of the new towers on the waterfront. After the meeting, I strolled through the waterfront park. I'm trying to find the words for what I felt that day:

"Civic pride"? Yes, because Vancouver is experiencing a revival. But also "personal accomplishment" -- because I know that citizen activism to defeat the oil terminal made this possible.

I now have some suggestions to make the waterfront accessible and affordable for all citizens of Vancouver:

1. Offer free parking.
2. Think about family-friendly budgets. Why are there not simple eateries -- or food trucks?
3. Provide an electric trolley that offers free rides to the waterfront for those without cars or folks with walking limitations.
4. Going further, consider expanding a downtown trolley service to include other popular destinations -- such as the Fort, the Air Museum, Marshall House, the downtown library, and Esther Short Park.

Downtown and the waterfront belong to all of Vancouver's citizens. Please do more to make the waterfront inclusive and affordable for all.

Thank you.

Jean M. Avery
Vancouver resident

To: Vancouver City Council and Staff
Citizen Forum Comment/Cathryn Chudy/June 28, 2021

I grew up with five sisters, and my mother was fond of a home-grown reminder when there was something quite obvious that she wanted to be sure we recognized. She would say to us, “It’s as plain as the nose on your face”. We could not really argue with that.

The past year has challenged the Pacific Northwest with wildfire smoke that filled our air and affected our lungs and our breathing, and cost some of us our homes, followed by a massive ice storm in the region that brought some areas to a standstill, took some of our tree canopy and brought widespread damage. Now we are in the grip of a massive heat wave bringing extreme record-breaking temperatures that are unprecedented, again affecting our health and well being. We are experiencing an historic and unrelenting drought. And the threat of wildfires now stalks us in June instead of arriving in late summer as it has previously.

It’s as plain as the noses on our faces that something serious is happening to us. “Climate change is loading the weather dice against us” says Katherine Hayhoe, a climate researcher and the chief scientist for the Nature Conservancy. “We always have a chance of extreme heat, particularly in the summer. But as the world warms, we see that summer heatwaves are coming earlier, lasting longer, and are becoming hotter and more intense.”

We can do our best to stay cool and endure the heat as it bears down on us. But the larger picture, catastrophic climate change and what to do about it, to slow or mitigate the worst effects that scientists predict if we only do “business as usual,” is in the hands of our elected representatives. Federal, state and local elected representatives will determine the course we take in addressing climate change seriously, which means reducing greenhouse gas emissions as much and as soon as we can. As our local Columbian recently noted: “Dealing with the current and coming crisis will require more effective guidance from elected officials.”

We are getting a taste of the consequences our children will face in their future if the decisions you make are not strong enough or delayed for too long. The news this weekend has been filled with the devastating catastrophe in Florida, the collapse of an apartment building that we now learn had been assessed and determined to have “major structural damage” back in 2018 and the actual work to begin repairs has just begun. Residents were told in a meeting in November 2018 that the building was “not in bad shape” and were not told the details of the engineer’s report by city officials. They are now most likely paying the price of delay and inaction.

I appreciate the values you discussed at your January retreat that put climate change as one of the top priorities for you to pursue this year, and for the work that is underway to arrive at the strongest emissions reduction policies to serve our community and ensure the health, safety and well being of our children as their future unfolds. It should be as plain as the noses on our faces that the strongest possible climate action plan is not something that can be sacrificed to business as usual” or unnecessary delay. Inaction for whatever reason, will have costs that our children and grandchildren pay dearly for in their lifetimes, and you have the keys to their future in your decision-making hands. Please keep that in mind with each action you take and decision you make going forward.

From: [Don Steinke](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: Don Steinke's draft testimony for June 28, 2021
Date: Monday, June 28, 2021 11:48:50 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 the Vancouver City Council June 28, 2021, Hello everyone, I'm Don Steinke

There are many exciting developments regarding clean energy, and your Climate Action Plans. Today, I'll discuss energy supply.

Last year in California, solar panels produced 30,000 Gwh of energy which is 6 times as much as Bonneville dam produces. Solar in California is only beginning to ramp up. Beginning last year, every new home in California is required to have some solar panels.

What about when the sun doesn't shine? Last year, the 8Minute solar company signed a deal with Los Angeles to provide 400 megawatts of solar power, with 1,200 megawatts of battery storage for about \$30 per megawatt hour.

That's less than the \$37 per megawatt hour that BPA charges.

We have a high voltage direct current line between The Dalles Oregon and Los Angeles. We import energy from Los Angeles or export it to them depending on price.

Although utility scale solar is the cheapest to install, rooftop solar reduces the need for transmission upgrades. The new state building code requires builders to earn 6 energy points to get a permit. They get points for solar, heat pumps, and extra insulation. They start with a negative 1 point if they install gas.

All builders should be encouraged to design roofs and wiring with solar in mind. Why isn't that obvious to everyone? Rooftop solar should be part of our climate action plan. We have the highest demands for power when the sun shines the most.

The cost of electricity from the dams is forecast to go up and the cost of solar is forecast to come down.

Who's going to sign up for long term power from BPA?

If a few key customers head for the exits, the remaining customers will face rate increases to make up the cost of those departing customers.

"In any business, a shrinking customer base is a death spiral. The best way for BPA to survive, says economist Steve Jones, is to get rid of its weakest assets. The worst of the lot, he figures, are the four lower Snake River dams because they don't produce much power.

Idaho Congressman Simpson and the Nez Perce tribe want those dams removed to restore salmon to abundance there.

From: [City of Vancouver - Office of the City Manager](#)
To: [Delapena, Amanda](#)
Cc: [Lande, Aaron](#)
Subject: FW: Reduce CO2 emissions
Date: Monday, June 28, 2021 8:35:43 AM

Hi Amanda,
Can you forward to council?

Kerry

From: Jack Nugent <jackandvirginia9@gmail.com>
Sent: Monday, June 28, 2021 8:32 AM
To: City of Vancouver - Office of the City Manager <CMO@cityofvancouver.us>
Subject: Reduce CO2 emissions

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.

Honorable Vancouver City Council members,

I know you are working hard to address climate change. I commend you for banning future large fossil fuel projects, but you must do more.

Buildings account for 40% of annual fossil fuel carbon dioxide emissions (CO2). If you can reduce those emissions to zero you will make a huge impact on reducing CO2 emissions. Currently developers are using natural gas for all new constructions. I urge you to ban the use of natural gas for all new construction. Natural gas is a dirty fuel. The infrastructure needed to transport natural gas tends to leak methane which is 86 times the global warming effect of CO2 for the first twenty years. We need to transition off of fossil fuels and switch to green energy as soon as possible. Countless cities across this nation are banning the use of natural gas in all new construction and I urge you to do the same. Our children and grandchildren are counting on you to do the right thing. I know developers and the natural gas industry will fight this. But you must do the right thing and protect future generations from extreme climate change. You hold their future in your hands.

Virginia Nugent
2600 NE 142nd St.
Vancouver WA 98686
360-573-1672

From: [Kristin Edmark](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: Public Comment for Citizen Forum at June 28th City of Vancouver City Council meeting
Date: Monday, June 28, 2021 11:14:39 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.

Topic: City of Vancouver Climate Roadmap should be Bold to achieve meaningful change as quickly as possible.

Submitted by: Kristin Edmark, 7611 NE 296th Way, Battle Ground, WA 98604, (360) 666-1285

Please make climate action Bold; act as quickly as possible. As news comes out that the climate is changing more quickly than previously thought and as more people and businesses are being affected, we need your leadership in Clark County to make meaningful steps toward a transition away from fossil fuels. The most Bold plan possible is necessary to make meaningful change quickly enough. We need to reduce emissions now.

Please do everything you can to begin steps which can be started now. Require developers to insulate buildings and provide electricity-ready all electric future and vehicle charging. Work with the PUD to encourage electric vehicle charging and use. Maintain tree canopy especially at development sites.

Please do everything you can to encourage electricity in new buildings. Buildings account for between 29-40% of greenhouse gas production. Permitted heating using methane will either contribute to greenhouse gas production for decades or force costly conversions later. Buildings containing fracked methane gas heating have less healthy air and are more dangerous. Once built, electricity is expected to be increasingly more economical than methane heating. The Roadmap contains the goal reading: "Phase out natural gas use in new and existing construction with solutions tailored to different building, ownership and use types." Please keep this goal a strong priority.

Thank you for your excellent work; thank you for developing the Climate Roadmap.

Complete Streets Program Projects

VANCOUVER
CITY HALL



July 19, 2021
Workshop

Rebecca Kennedy, Deputy Manager, CD
Jennifer Campos, Principal Transportation Planner

Presentation Overview

- 2021-22 Complete Streets Program Overview
- Why We Build Complete Streets
- Project Chartering Process
- 2022 – 2023 Complete Streets Planning Projects
 - Fourth Plain Boulevard
 - NE 112th Avenue
 - SE 34th Street
 - Ft. Vancouver Way
- Next Steps

Presentation Purpose

- Provide an overview of proposed 21-22 complete street planning project chartering process
- Review background information on each project
- Council direction/confirmation on process and approach for proposed Complete Streets projects

The background of the slide features a photograph of Vancouver City Hall, a modern building with a curved facade and large glass windows. In the foreground, there are vibrant pink and purple flowers, possibly morning glories, which are slightly out of focus. A light blue semi-transparent shape in the top right corner contains the number '1'.

1

2021-22 Complete Streets Program

Project Development Process – the “Pipeline”



2021-22 Complete Streets Planning Projects

The following Complete Streets planning processes are funded in the 2021-22 budget:

1. Fourth Plain Boulevard: Main Street to Andresen Rd.
2. SE 34th Street: SE 164th Ave. – SE 192nd Ave./City Limits
3. NE 112th Avenue: SE Mill Plain Blvd. – NE Fourth Plain Blvd./City Limits
4. Fort Vancouver Way: Mill Plain Blvd. – Fourth Plain Blvd.

A photograph of Vancouver City Hall, a modern building with a curved facade and large glass windows. In the foreground, there are green bushes with bright pink flowers. A semi-transparent blue shape in the upper right corner contains the number 2.

2

Why We Build Complete Streets

City's Complete Streets Policy



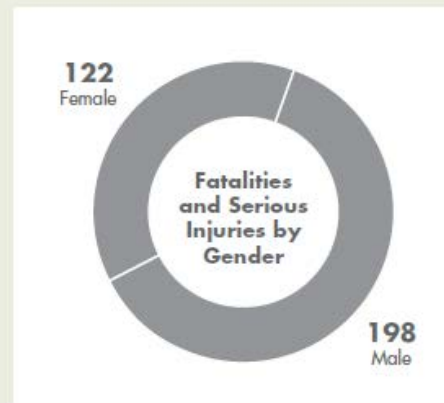
Citywide Collision Analysis Results

Most Frequent Crashes By Road Users

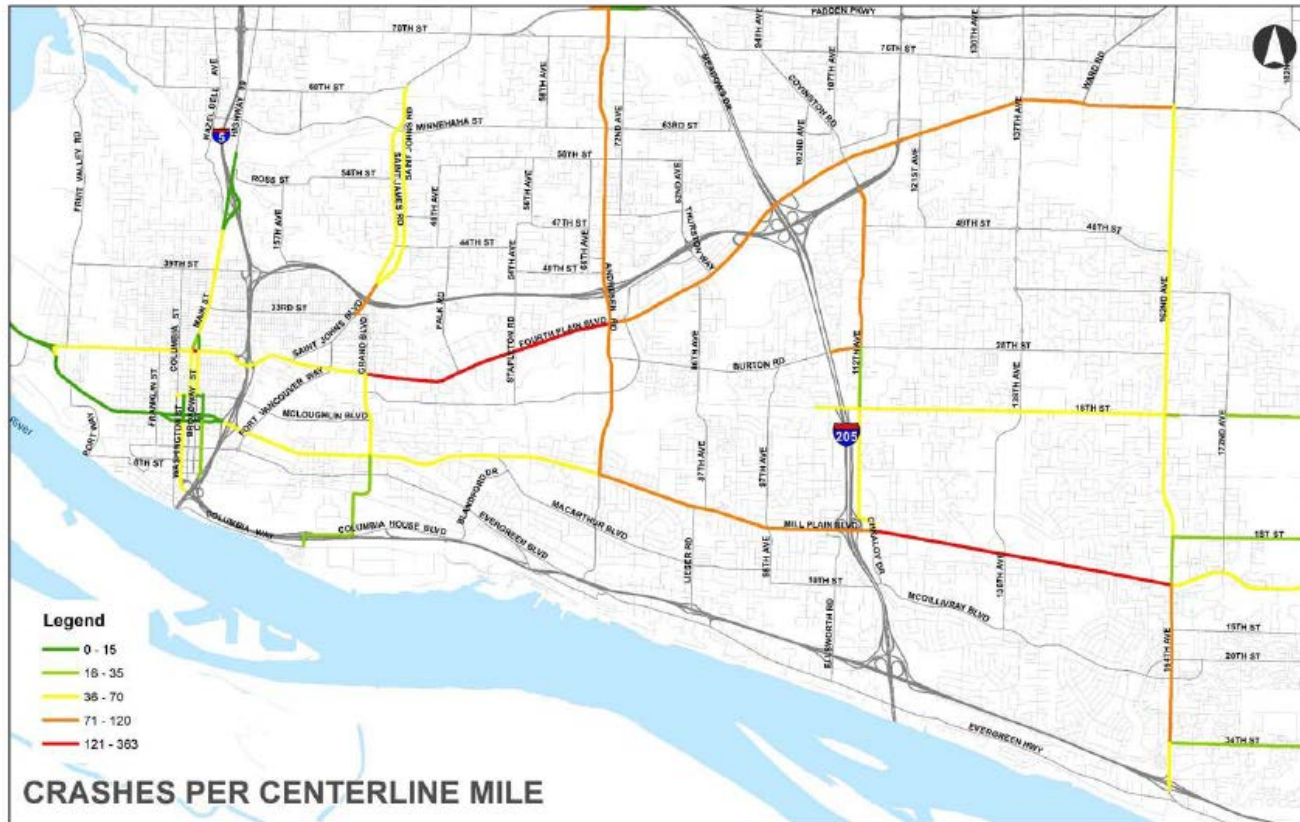
2010-16



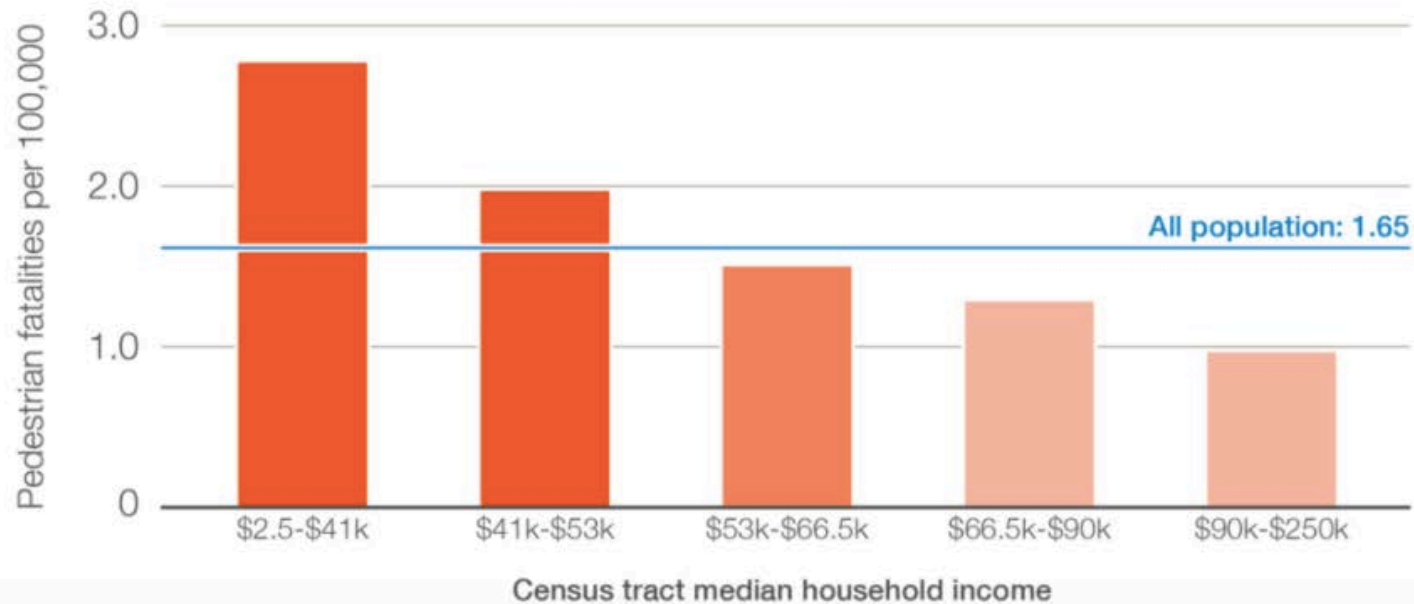
↑ Crashes resulting in fatality or serious injury



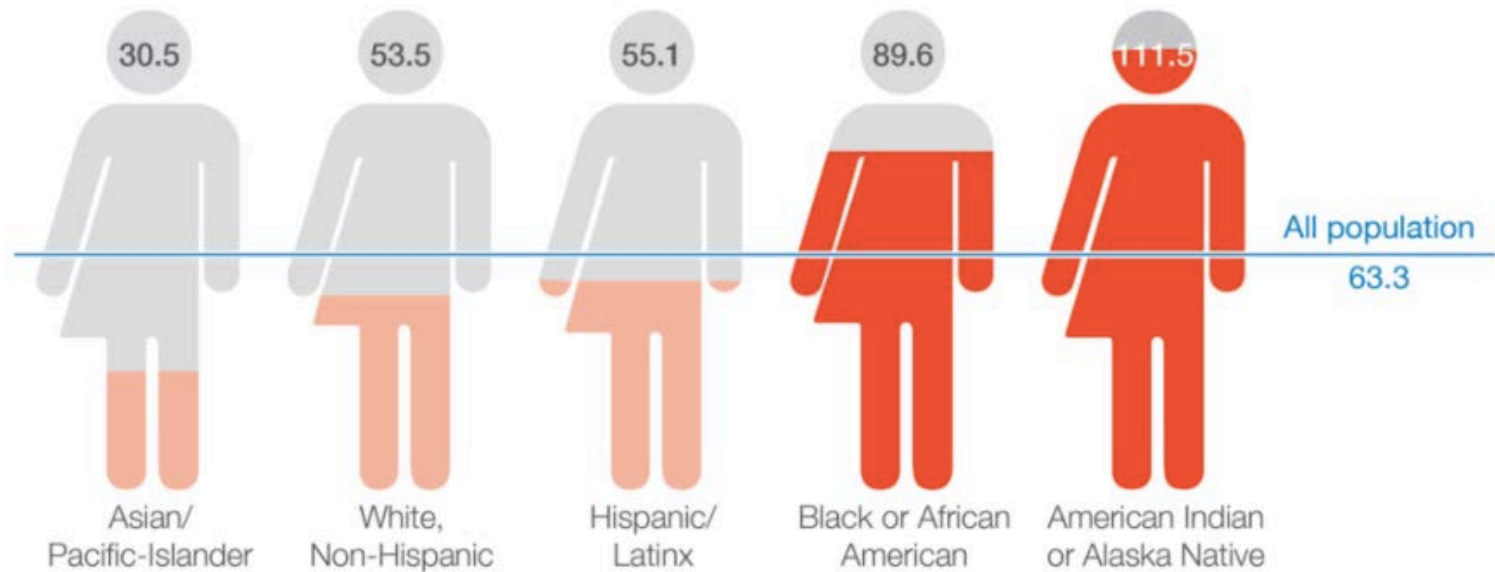
Citywide Collision Analysis Results



Nationwide Collision Outcomes Based on Income



Nationwide Collision Outcomes Based on Race and Ethnicity



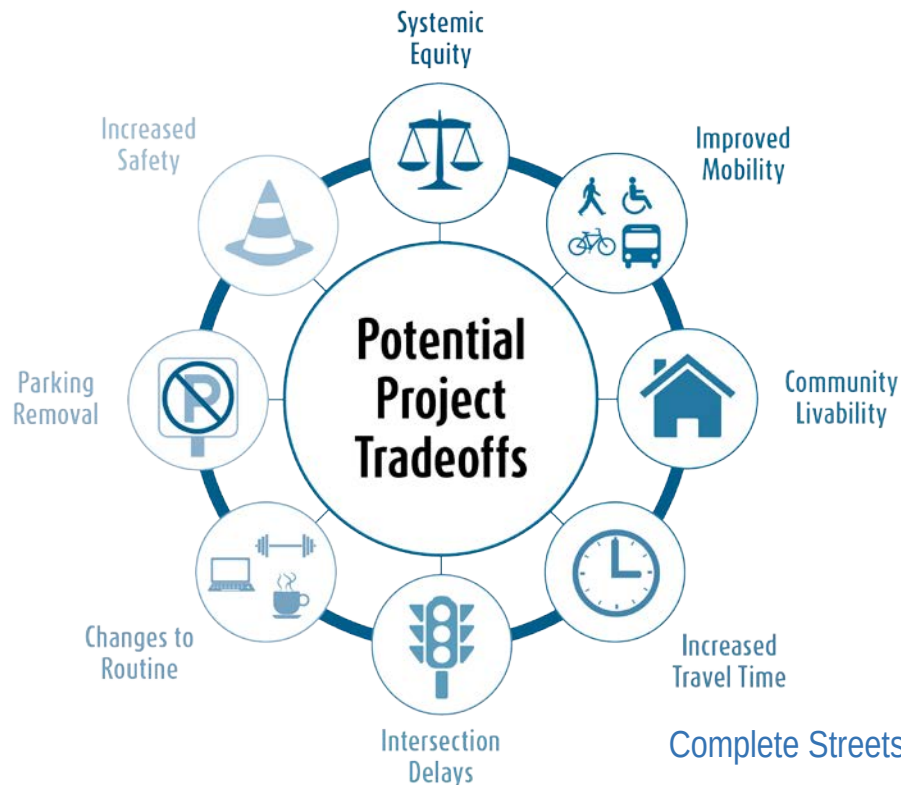
Equity in Transportation Systems



Mobility Elements of Complete Streets



Complete Streets Project Considerations



The background of the slide features a photograph of Vancouver City Hall, a modern building with a curved facade and large glass windows. In the foreground, there are vibrant pink and purple flowers, possibly morning glories, which are slightly out of focus. A light blue semi-transparent shape in the upper right corner contains the number 3.

3

Project Chartering Process

Complete Streets Chartering Process

Project Phase	Description	Elements	Considerations	Representative Council Action (to be tailored by project)
Goals and Objectives	Identify the desired outcomes of the project that will be used to guide the public engagement and analysis process	• Council priorities & Strategic Plan • Complete Streets Policy • Safety history • Other policies or considerations • Consider potential designs	Project outcomes – what are we trying to address?	Council Resolution
Project Baseline	Provide locations specific context on what we know about the project within the broader community and network	• Traffic Analysis • Equity zone(s) • Collision history • Infrastructure gaps • Other data sources	Existing conditions—do we agree on the problem?	Council Review
Design Alternatives	Review planning process and developed design alternatives	• Consider tradeoffs with different alternatives • Provide guidance on designs that could move forward	Alternatives analysis—knowing the tradeoffs, are any of the options off the table?	Council Resolution

Complete Street Chartering Process

Project Phase	Description	Elements	Considerations	Representative Council Action (to be tailored by project)
Community Outreach	Review project development integrated community outreach process and results	• Community outreach plan and initial results • Transportation and Mobility Commission • Opportunities working with Community Based Organizations	Community feedback – has the process properly met the needed level of input?	Council Review
Final Design	Provide final design alternative for implementation	• Clear understanding of project tradeoffs • Outline of needed project costs • Implementation timeline • Other project challenges	Process results – is this an appropriate solution to address the project goals and objectives?	Council Resolution

A photograph of Vancouver City Hall, a modern building with a curved facade and large glass windows. In the foreground, there are vibrant pink and purple flowers with green leaves. A light blue semi-transparent shape in the top right corner contains the number 4.

4

2022-2023 Projects

VANCOUVER
CITY HALL



Fourth Plain Boulevard

Project Overview



Fourth Plain Boulevard will have an asphalt rubber chip seal placed down in 2023 from Main Street to Andresen Road. The pavement project will provide an opportunity to evaluate potential changes to the street to improve safety, mobility, and accessibility.



Project Scope

1. Complete a traffic analysis along the corridor
2. Develop and implement a comprehensive public outreach process
3. Develop potential design alternatives and potential improvements



Project Goal

1. Complete a public outreach process and design alternative process that improves safety, mobility, and equity on the Fourth Plain corridor in preparation for the 2023 pavement project

Project Context



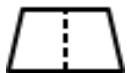
What We Know



Average Daily Traffic (ADT): 15,000 – 28,000



Posted Speed Limit: 25 MPH



Travel Lanes: 4 lanes and 4 lanes with a center turn lane



Collisions: 615 total crashes; 35 people who were walking; 21 were people who were biking; 3 fatalities (May 2015 – May 2021)



Facilities: Numerous mid-block pedestrian crossings; intermittent substandard bicycle facilities; attached sidewalks

Public Outreach



Guiding Principle

Implement an inclusive outreach process that focuses on involving traditionally excluded community members



Key Stakeholders

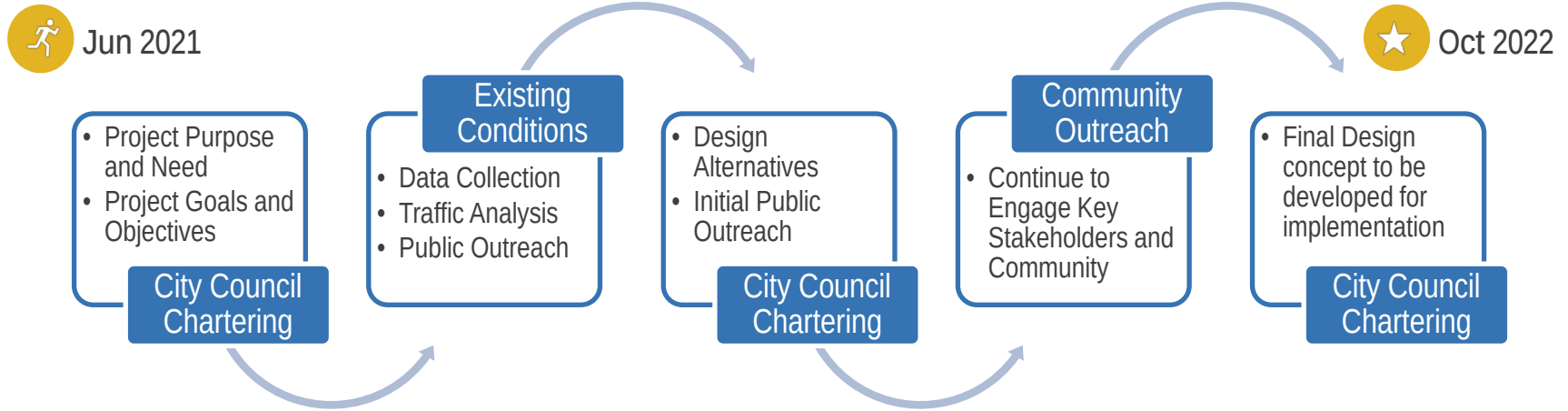
Fourth Plain Forward
C-TRAN
Clark College
Veteran's Affair Hospital
Community Based Organizations
Businesses
Clark County Public Health
System Users
Interstate Bridge Replacement Program



Primary Tools

Material Translation
Stipends
Small Groups
In-person Opportunities
On-line and Social Media
Clear Messaging

Project Process



Design Considerations



Travel Lane Repurposing: Traffic analysis and design alternatives could consider the potential of repurposing a travel lane to add other facilities such as BRT only lanes, bicycle facilities, shared bicycle/walking facility, parking, etc.



Safety Improvements: Traffic analysis and design alternatives could consider safety improvements for all users including signal modifications, access management, pedestrian crossing improvements, etc.

VANCOUVER
CITY HALL



NE 112th Avenue

Project Overview



NE 112th Avenue will have an asphalt overlay in 2022 from NE 28th Street to NE Fourth Plain Boulevard/City limits. The pavement project will provide an opportunity to evaluate potential changes to the street to improve safety, mobility, and accessibility, with a focus on pedestrian safety.



Project Scope

1. Complete a traffic analysis along the corridor
2. Develop and implement a comprehensive public outreach process
3. Develop potential design alternatives and potential improvements



Project Goal

1. Complete a public outreach process and design alternative process that could improve safety, mobility, and equity on the NE 112th Avenue corridor in preparation for the 2022 and 2024 pavement projects

Project Context

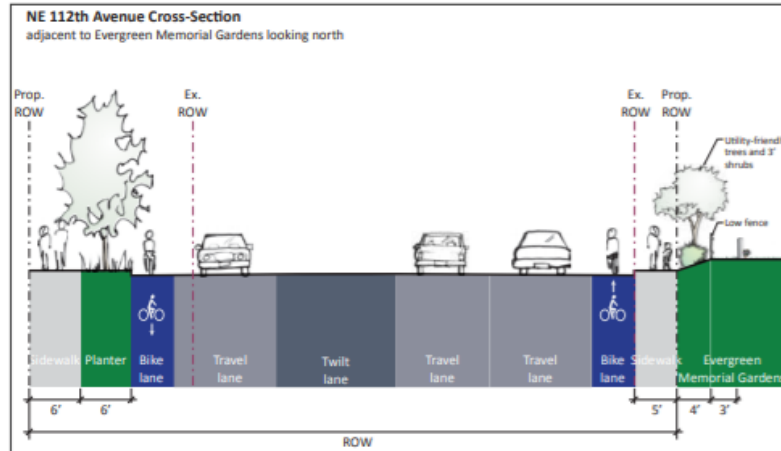
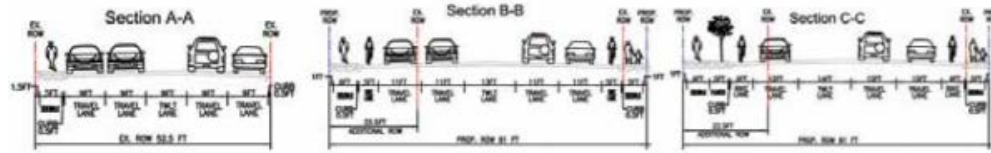
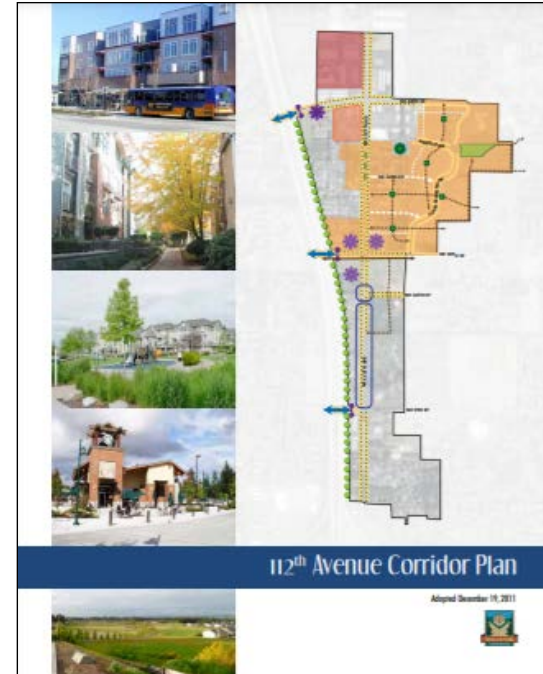


Figure 6. A potential cross-section of future 112th Avenue improvements — measurements to be verified



Project Context



112th Traffic Safety Corridor (NE 112th Ave, including Chkalov Dr and Gher Rd)

On Wednesday, September 16, 2009, Northeast 112th Avenue became the City of Vancouver's third officially state-recognized safety corridor. The 112th Traffic Safety Corridor extends 3.6 miles on NE 112th Avenue and includes Chkalov Drive and Gher Road.

The project was a partnership of community members, businesses and public agencies working together to develop low-cost, near-term solutions for improving traffic safety through enforcement, engineering and education.

Preliminary findings after the first year show:

- 26 percent reduction in total collisions
- 88 collisions per year (down from 119 collisions the previous year)
- 8 percent decrease in injury crashes
- 18 percent reduction in fatal and serious injuries
- 53 percent reduction in alcohol-related collisions

The final safety corridor results are expected to be available this summer and will be posted onto the project web site at: www.corridorsafetyprogram.org

Community Co-ordinators:

- Alpert Green Neighborhood Association
- City of Vancouver City Council
- City of Vancouver Fire Department
- City of Vancouver Office of Neighborhoods
- City of Vancouver Operations
- City of Vancouver Police Department
- City of Vancouver Transportation Services
- CRRA
- Elmhurst Springs Neighborhood Association
- Evergreen Public Schools
- Evergreen School District Student Body
- Glennview City Council
- Forest Hill Neighborhood Association

Image Neighborhood Association

- Landover-Glenmead Neighborhood Association
- Neighborhood Traffic Safety Alliance
- North Image Neighborhood Association
- Northridge Neighborhood Association
- Sumner Neighborhood Association
- SW Washington Medical Center
- Sunrise Plaza

The Salvation Army

- Village at Fisher's Landing Neighborhood
- Washington State Department of Transportation
- WSDOT Southwest Region
- Washington State Liquor Control Board
- Washington State Patrol
- Washington Traffic Safety Commission
- 7th Floor Communications

City of Vancouver
Department of Public Works
facebook.com/VancouverPublicWorks

What We Know



Average Daily Traffic (ADT): 12,000 – 33,000



Posted Speed Limit: 35 MPH



Travel Lanes: 4 lanes and 4 lanes with a center turn lane

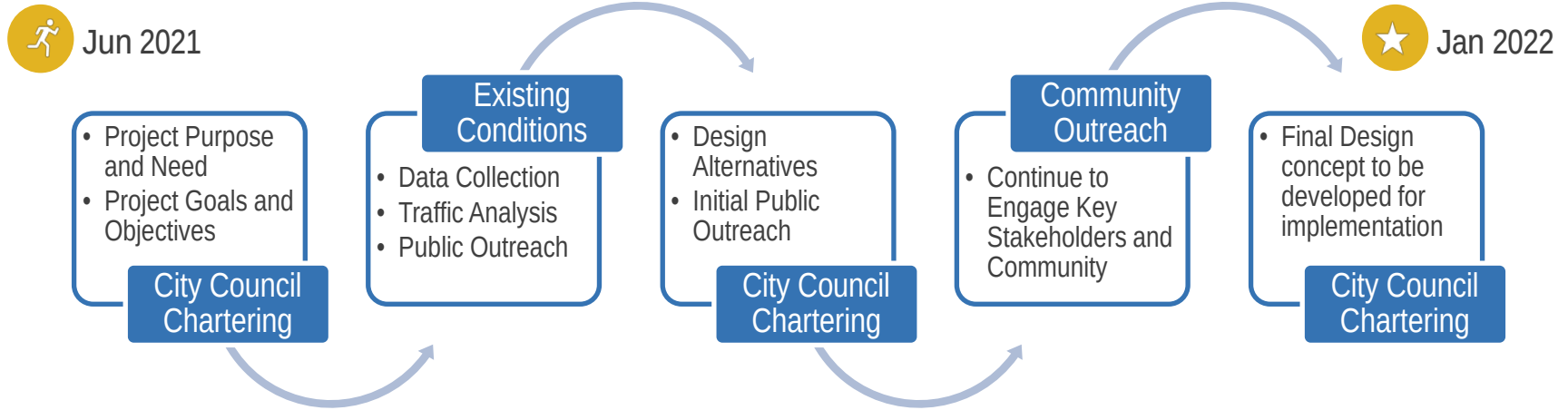


Collisions: 355 total crashes; 7 people who were walking; 6 were people who were biking; 5 fatalities (May 2015 – May 2021)



Facilities: No mid-block pedestrian crossings; no dedicated bicycle facilities; attached sidewalks; some missing segments of sidewalks

Project Process



Public Outreach



Guiding Principle

Implement an inclusive outreach process that focuses on involving traditionally excluded community members



Key Stakeholders

Businesses

Neighborhoods

C-TRAN

Evergreen School District

System Users



Primary Tools

Virtual open houses

Material Translation

Key stakeholder focus groups

Stipends

In-person Opportunities

On-line and Social Media

Clear Messaging

Design Considerations



Travel Lane Repurposing: Traffic analysis and design alternatives could consider the potential of repurposing a travel lane to add other facilities such as bicycle facilities, shared bicycle/walking facility, parking, etc.



Safety Improvements: Traffic analysis and design alternatives could consider safety improvements for all users including signal modifications, access management, pedestrian crossing improvements, etc.

VANCOUVER
CITY HALL



SE 34th Street

Project Overview



SE 34th Street will have a microsurfacing treatment in 2022 from SE 164th Avenue to SE 192nd Avenue. The pavement project will provide an opportunity to evaluate potential changes to the street to improve safety, mobility, and accessibility.



Project Scope

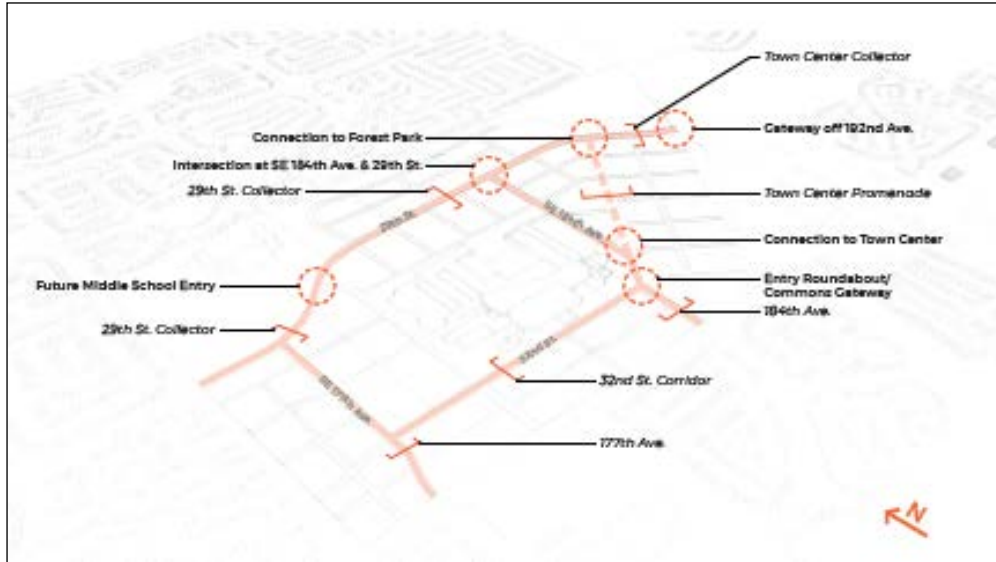
1. Complete a traffic analysis along the corridor
2. Develop and implement a comprehensive public outreach process
3. Develop potential design alternatives and potential improvements



Project Goal

1. Complete a public outreach and design alternative process will improve safety, mobility, and equity on the SE 34th Street corridor in preparation for the 2022 pavement project
2. Plan for a potential increase in future transit service as former HP site redevelops

Project Context



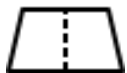
What We Know



Average Daily Traffic (ADT): 7,000 – 13,000



Posted Speed Limit: 40 MPH



Travel Lanes: 4 lanes and 4 lanes with a center turn lane

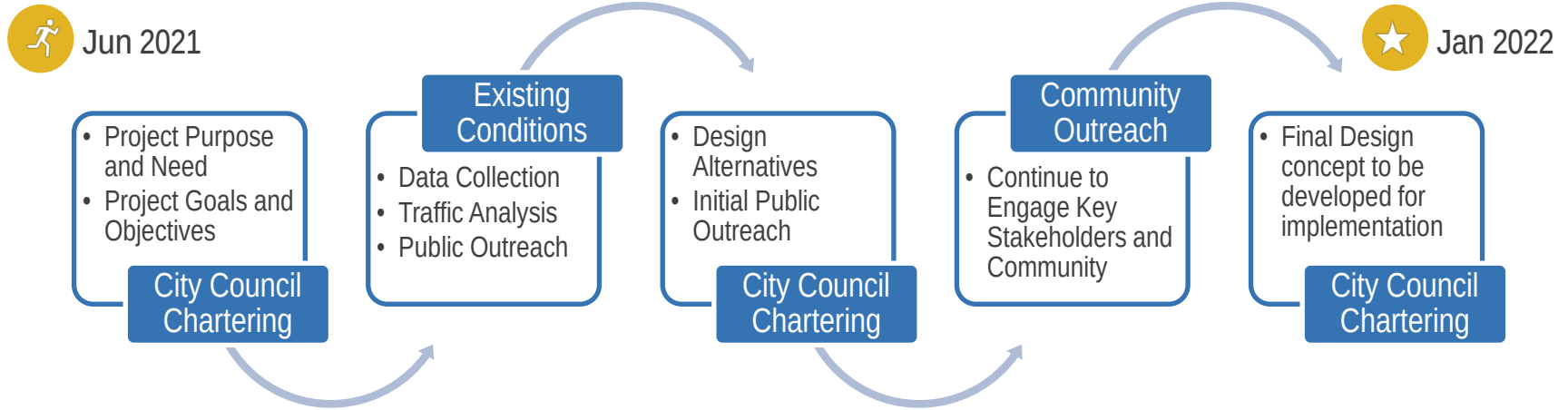


Collisions: 67 total crashes; 1 was someone walking (May 2015 – May 2021)



Facilities: Several mid-block pedestrian crossings; no dedicated bicycle facilities; attached sidewalks; center median

Project Process



Public Outreach



Guiding Principle

Implement an inclusive outreach process that focuses on involving traditionally excluded community members



Key Stakeholders

VIC Developers
C-TRAN
Evergreen School District
Businesses
Neighborhoods
System Users



Primary Tools

Material Translation
Stipends
Small Groups
In-person Opportunities
On-line and Social Media
Clear Messaging

Design Considerations



Travel Lane Repurposing: Traffic analysis and design alternatives could consider the potential of repurposing a travel lane to add other facilities such as bicycle facilities, shared bicycle/walking facility, parking, etc.



Safety Improvements: Traffic analysis and design alternatives could consider safety improvements for all users including signal modifications, access management, pedestrian crossing improvements, etc.

VANCOUVER
CITY HALL



Ft. Vancouver Way

Project Overview



Ft. Vancouver Way will have a cap seal with microsurfacing treatment in 2023 from Mill Plain Boulevard to Fourth Plain Boulevard. The pavement project will provide an opportunity to evaluate potential changes to the street to improve safety, mobility, and accessibility.



Project Scope

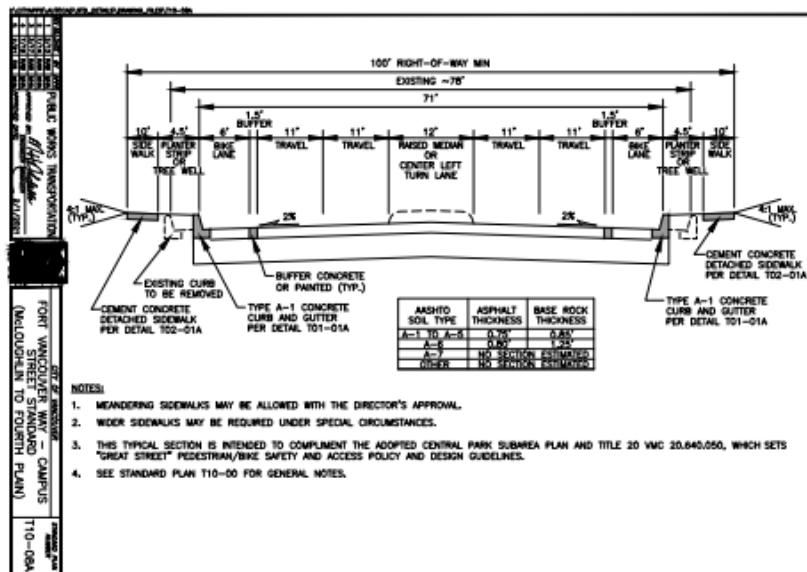
1. Complete a traffic analysis along the corridor
2. Develop and implement a comprehensive public outreach process
3. Develop potential design alternatives and potential improvements



Project Goal

1. Complete a public outreach process and design alternative process that could improve safety, mobility, and equity on the Ft. Vancouver Way corridor in preparation for the 2023 pavement project

100



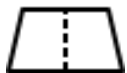
What We Know



Average Daily Traffic (ADT): 12,000 – 13,000



Posted Speed Limit: 25 MPH



Travel Lanes: 4 lanes and 4 lanes with a center turn lane/median

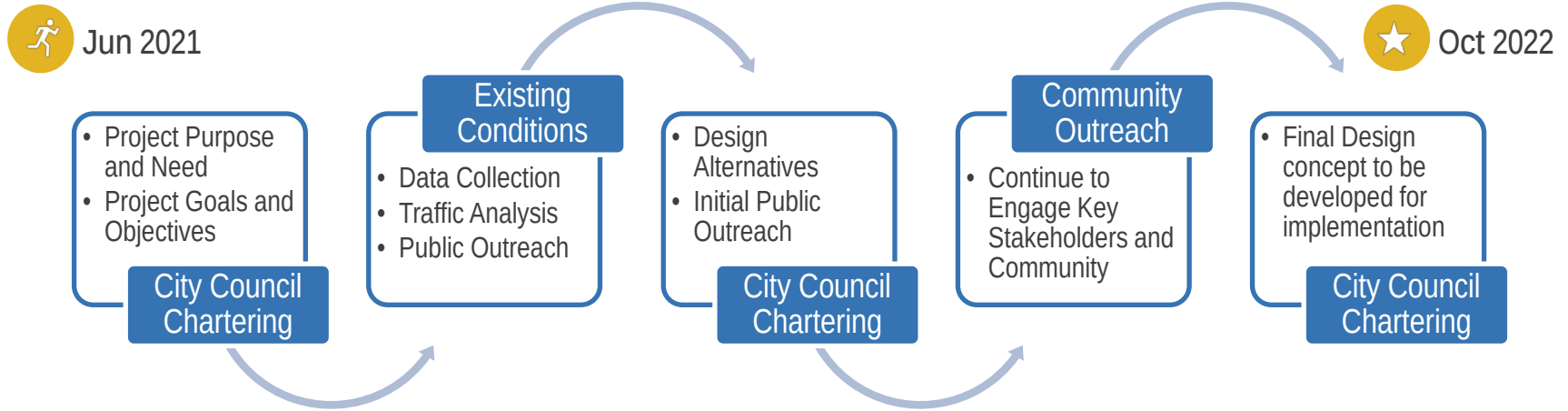


Collisions: 73 total crashes; 8 people who were walking; 1 were people who were biking; 1 fatality (May 2015 – May 2021)



Facilities: Several mid-block pedestrian crossings; substandard bicycle facilities; attached and detached sidewalks; intermittent on-street parking, center median

Project Process



Public Outreach



Guiding Principle

Implement an inclusive outreach process that focuses on involving traditionally excluded community members



Key Stakeholders

Clark College
Fourth Plain Forward
C-TRAN
Clark County Public Health
Veteran's Affair Hospital
Interstate Bridge Replacement Program
System Users



Primary Tools

Material Translation
Focus Groups/Stipends
Open House/In-person Opportunities
On-line and Social Media
Clear Messaging

Design Considerations



Travel Lane Repurposing: Traffic analysis and design alternatives could consider the potential of repurposing a travel lane to add other facilities such as BRT only lanes, bicycle facilities, shared bicycle/walking facility, parking, etc.



Safety Improvements: Traffic analysis and design alternatives could consider safety improvements for all users including signal modifications, access management, pedestrian crossing improvements, etc.

A photograph of Vancouver City Hall, a modern building with a curved facade and large glass windows. In the foreground, there are vibrant pink and purple flowers with green foliage. A semi-transparent blue shape in the top right corner contains the number 5.

5

Next Steps

Complete Streets Planning Projects Next Steps

- Bring back a resolution to Council re-confirming project need and goals, as well as potential analysis considerations
- Complete Transportation Planning on-call contract process
- Begin traffic and safety analysis of corridors and public outreach
- Return to Council for next step in project chartering process with results of system analysis, public outreach to date, and potential design alternatives

Questions and Discussion

VANCOUVER
CITY HALL

Rebecca Kennedy, Deputy Director
rebecca.kennedy@cityofvancouver.us or 360-487-7896

Jennifer Campos, Principal Transportation Planner
jennifer.campos@cityofvancouver.us or 360-487-7728





Staff Report 102-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 7/19/2021

SUBJECT Mill Plain & 104th Ave Transportation Project, construction acceptance and release of retainage

Key Points

- The project enhances safety and reduces congestion and delays on the Mill Plain corridor, and improves access to the Mill Plain/I-205 Interchange.
- Rotschy, Inc., of Vancouver, Washington, was awarded the contract for the Mill Plain Boulevard – 104th to NE Chkalov Drive Project in January 2020, began work in March 2020, and construction was physically complete in January 2021.
- Final construction costs for the project are \$3,553,911.27.
- This project was funded through federal grants and local matching dollars.
- This project did not have an apprenticeship goal because federal guidelines for grant projects do not allow for the inclusion of local agency apprenticeship programs.
- The grant funding requirements included an on-the-job training goal of 400 hours, which the contractor exceeded by delivering 824.50 training hours.

Strategic Plan Alignment

Goal 1: Ensure our built urban environment is one of the safest, most environmentally responsible and well maintained in the Pacific Northwest.

Goal 1, Objective 1.1: Develop and maintain a safe, balanced and innovative transportation system that will meet the needs of future generations.

Goal 1, Objective 1.2: Ensure our infrastructure, including buildings and utilities, is safe, environmentally responsible and well maintained.

Goal 9: Build the strongest, most resilient economy in the region.

Goal 9, Objective 9.1: Create infrastructure and policies that support job creation.

Present Situation

Rotschy, Inc., of Vancouver, Washington, has satisfactorily completed the subject improvements in accordance with the plans and specifications. The original construction contract bid amount was \$3,648,294.06. Final construction costs were \$3,553,911.27, a reduction of approximately 2.5% from original bid amount. The cost savings was attributed to minor underruns in multiple bid quantities.

This project did not have an apprenticeship goal because federal guidelines for grant projects do not allow for the inclusion of local agency apprenticeship programs. As a requirement of the federal grant funding for this project, the contractor was required to provide on-the-job training to elevate workers from trainee to journeyman status in the trades involved. The training goal was set by the granting agency at 400 hours. The contractor exceeded this goal by delivering a total of 824.50 hours for the project.

Advantage(s)

1. Completes the City's contractual and statutory process for accepting the project.
2. Formal project acceptance allows for closure on third-party bond claims and facilitates release of retainage.

Disadvantage(s)

None

Budget Impact

This project was funded through federal grants and local matching dollars.

Prior Council Review

- Approval of the 2019-2020 budget which included the referenced project.
- Approval of the 2020-2025 Transportation Improvement Program (TIP) – Resolution No. M-4009 (Staff Report 075-19), although earlier iterations of the project have been included in the TIP since 2001.
- Council workshops and actions concerning the project over the past several years.
- Award of construction contract for the Mill Plain Boulevard – 104th to NE Chkalov Drive Project on January 13, 2020.

Action Requested

On July 19, 2021, accept the Mill Plain Boulevard – 104th to NE Chkalov Drive Project as constructed by Rotschy, Inc., of Vancouver, Washington, subject to receipt of all documentation required by law.

Nicolette Roth, Civil Engineer, 360-487-7763



Staff Report 103-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 7/19/2021

SUBJECT Hudson West (a.k.a. Broadway Apts) MFTE DA Amendment

Key Points

Developer is:

- Adding two additional housing units to a previously approved MFTE project.
- Requesting minor wording changes in development agreement to ensure the agreement will apply to "successors in interest".

Strategic Plan Alignment

Goal 8, Objective 8.1: Make downtown Vancouver a vibrant destination for the community and the region.

Present Situation

On September 21, 2020 the Vancouver City Council adopted a resolution and development agreement for the Broadway Apartments multifamily tax exemption (now known as Hudson West). The original development agreement for the project was an 8-year exemption under which the applicant would construct 48 housing units as well as public benefits including enhanced street frontage improvements downtown between 15th and 16th Streets on Washington. The applicant has added two housing units to the project. The revised development will now have 50 housing units. The public improvements have not changed in scope.

The increase in units will change the amount of the tax exemption slightly. The City Finance Department estimates that the forgone property taxes for the City of Vancouver will increase from \$126,000 to \$133,000 over the 8-year exemption. The applicant's lending partner has also requested adding language to the agreement acknowledging that any future successive owner is bound by the agreement. The City Attorney's office has reviewed and approved the requested text changes.

Advantage(s)

1. Adds additional housing units near the downtown core.
2. Amended agreement language specifies that future owners are bound by the Development Agreement.
3. Developer will complete the public improvements as described in the original development agreement.
4. The development will return to the tax rolls following the expiration of the 8-year tax exemption.

Disadvantage(s)

The City will forgo an estimated \$133,000 in taxes during the 8-yr exemption.

Budget Impact

The City will receive additional revenues with the development itself, including sales tax, permit fees and system development charges. There will be a small incremental increase in demand for public services during the initial 8-year exemption period without appurtenant tax revenues. Following the 8-year exemption period, the property will return to the tax base as new construction and the City and other taxing districts will begin receiving property taxes.

Prior Council Review

- City Council memorandum dated September 8, 2020
- City Council public hearing dated September 21, 2020

Action Requested

On Monday, July 19, 2021, approve the amended agreement and authorizing the City Manager or designee to execute the amended agreement and take any and all action necessary to enforce the terms thereof.

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

ATTACHMENTS:

- ▢ Amended Development Agreement
- ▢ Amended Development Agreement Ex B Public Improvements
- ▢ Amended Tax Exemption Comparison

FIRST AMENDMENT TO THE DEVELOPMENT
AGREEMENT
for
MULTI-FAMILY HOUSING LIMITED PROPERTY TAX
EXEMPTION

THIS FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT is entered into this ____ day of _____, 2021, by and between 25th and Broadway Investors LLC (hereinafter referred to as “Applicant”), and the CITY OF VANCOUVER, a Washington Charter City of the First Class (hereinafter referred to as “City”).

WITNESSETH:

WHEREAS, the City desires to stimulate new construction of multi-family housing in certain designated urban areas in order to reduce development pressure on single-family residential neighborhoods, to increase and improve housing opportunities, and to encourage development densities supportive of transit use, and

WHEREAS, the City is interested in promoting new housing in the downtown area of the City of Vancouver, and

WHEREAS, the City has, pursuant to authority granted to it under the Revised Code of Washington (RCW), designated various Residential Target Areas for the provision of limited property tax exemptions for new multi-family residential housing, and

WHEREAS, the City has, as set forth at Chapter 3.22 of the Vancouver Municipal Code (“VMC”), enacted a program whereby property owners may qualify for a Final Certificate of Tax Exemption which certifies to the Clark County Assessor and Treasurer that the Applicant is eligible to receive a limited property tax exemption, and

WHEREAS, the Applicant is interested in receiving a limited property tax exemption for constructing units of new multi-family residential housing within the Vancouver City Center Vision Subarea, which is a Designated Residential Target Area identified in Chapter 3.22 VMC, and

WHEREAS, the Applicant has submitted to the City a complete application for the City’s limited tax exemption program outlining the proposed development of new multi-family residential housing to be constructed on property described in the legal description in Exhibit A (Property) for an 8 year market rate tax abatement.

WHEREAS, the City has determined that the improvements to the Property will, if completed as proposed, satisfy the requirements for a Final Certificate of Tax Exemption.

**MULTI-FAMILY HOUSING LIMITED PROPERTY
TAX EXEMPTION AGREEMENT
HUDSON WEST APTS- 8 YEAR EXEMPTION – 1**

WHEREAS the Parties wish to amend the September 21, 2020 Development Agreement to add two (2) additional units and add clarifying language.

NOW THEREFORE, the City and Applicant mutually agree as follows:

1. The City agrees to issue the Applicant a Conditional Certificate of Acceptance of Tax Exemption.
2. The City has determined that the Development provides public benefits in lieu of affordable housing units on the Property and within the Vancouver City Center Vision Subarea generally and agrees to issue the Applicant a Conditional Certificate of Acceptance of Tax Exemption for a period of eight (8) years in accordance with VMC 3.22.040 (the "Conditional Certificate"). The public benefits provided by the applicant for this project include but are not limited to those set forth on Exhibit B attached hereto (the "Public Benefits").
3. All work for the Public Benefits performed by the Applicant shall comply with requirements of Washington State law pertaining to public bidding (Chapter 39.04 RCW) and prevailing wage (Chapter 39.12 RCW). The parties agree to develop a protocol for compliance with both Chapters and to follow such protocol.
4. The Applicant, or its successors in interest, agree to construct on the Property multi-family residential housing as described in the most recent site plans, floor plans, and elevations on file with the City as of the date of City Council approval of this agreement. In no event shall such construction provide fewer than 50 new permanent multi-family residential units.
5. The Applicant, or its successors in interest, agree to complete construction of the agreed upon Property improvements and public benefit improvements (Exhibit B) within three years from the date the City issues the Conditional Certificate of Acceptance of Tax Exemption, or within any extension thereof granted by the City.
6. The Applicant, or its successors in interest, agree, upon completion of the improvements and upon issuance by the City of a temporary or permanent certificate of occupancy, to file with the City's Director of Community Development ("Director") the following:
 - (a) A statement of expenditures made with respect to each multi-family housing unit and the total expenditures made with respect to the entire property;
 - (b) A description of the completed work and a statement of qualifications for the exemption; and

- (c) A statement that the work was completed within the required three-year period or any authorized extension.
- 7. The City agrees, conditioned on the Applicant's, or its successors in interest, successful completion of the improvements on the Property and off-site, Public Benefits in accordance with the terms of this Agreement and on the Applicant's, or its successors in interest, filing of the materials described in Paragraph 6 above, to file a Final Certificate of Tax Exemption with the Clark County Treasurer and Assessor within ten days.
- 8. The Applicant, or its successors in interest, agree, within 30 days following the first anniversary of the City's filing of the Final Certificate of Tax Exemption, and each year thereafter for a period of eight years, to file a notarized declaration with the Director indicating the following:
 - (a) A statement identifying the total number of occupied and vacant multi-family units receiving a property tax exemption;
 - (b) A certification that the property continues to be in compliance with this Agreement, Chapter 3.22 VMC, and Chapter 84.14 RCW;
 - (c) A description of any improvements or changes to the property constructed after the issuance of the certificate of tax exemption; and
 - (d) The total monthly rent for each unit.
- 9. The Applicant, or its successors in interest, agree to maintain the property including all improvements in compliance with all applicable City codes and requirements.
- 10. The Applicant, or its successors in interest, agree to maintain records supporting all information provided to the City and to make those records and the multi-family units available for inspection by the City. Failure to submit the annual declaration identified in Paragraph 8 or to maintain adequate records may result in the tax exemption being canceled.
- 11. If the Applicant, or its successors in interest, convert the multi-family residential housing units constructed under this Agreement to another use, the Applicant shall notify the Clark County Assessor and Treasurer and the Director within 60 days of such change in use.
- 12. The Applicant, or its successors in interest, agree to notify the Director promptly of any transfer of the Applicant's ownership interest in the site or in the improvements made to the site under this Agreement.
- 13. The City reserves the right to cancel the Final Certificate of Tax Exemption should the Applicant, its successors and assigns, fail to comply with any of the terms and conditions of this Agreement. Cancellation of

the Final Certificate of Tax Exemption may subject the Applicant to potential tax liability as further described in RCW 84.14;

14. No modifications of this Agreement shall be made unless mutually agreed upon by the parties in writing.
15. In the event that any term or clause of this Agreement conflicts with applicable law, such conflict shall not affect other terms of this Agreement which can be given effect without the conflicting term or clause, and to this end, the terms of this Agreement are declared to be severable.
16. Applicant agrees that this Agreement is subject to the Vancouver Multi-Family Housing Tax Exemption set forth at Vancouver Municipal Code, Chapter 3.22.

CITY OF VANCOUVER

25TH AND BROADWAY INVESTORS LLC

Eric Holmes, City Manager

Name-Title

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

**EXHIBIT A
LEGAL DESCRIPTION**

LOTS 1- 6, BLK 18, OF THE ARNADA PARK BLK 18 REPLAT, RECORDED IN BOOK B,
PAGE 26, RECORDS OF CLARK COUNTY, WA.

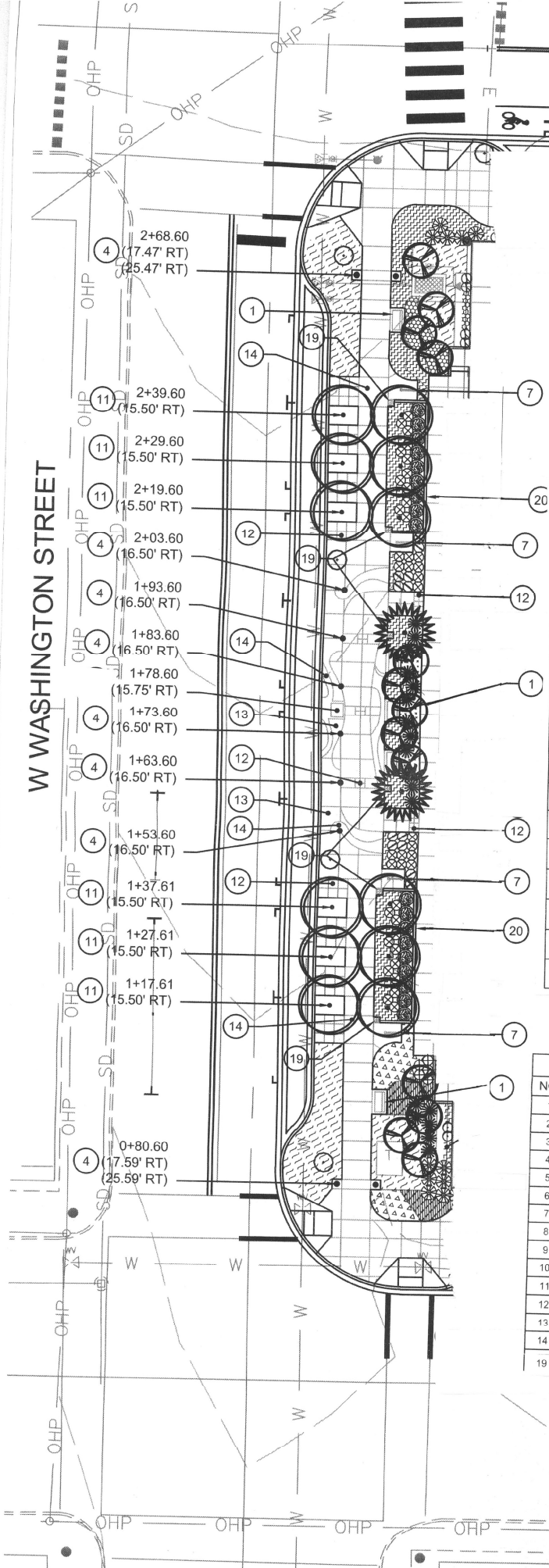
EXHIBIT B
DEVELOPMENT AGREEMENT
PUBLIC BENEFIT

1 of 2

Enhanced street frontage improvements to be installed on the east street frontage of Washington Street between 15th and 16th Streets. Improvements will be subject to review and approval by the City public works department. The enhanced improvement details are depicted in the Applicant provided drawing below.

16th Street

W WASHINGTON STREET



STREET LEVEL PLANT LEGEND

SYM	NAME	SIZE
TREES		
	<i>Liquidambar styraciflua</i> 'Slender Silhouette' Slender Silhouette Sweetgum	2" cal / B&B
	<i>Metasequoia glyptostroboides</i> 'Sheriden Spire' Columnar Dawn Redwood	6" - 7" / B&B
	<i>Nyssa sylvatica</i> Black Tupelo	2" cal / B&B
SHRUBS		
	<i>Abelia x grandiflora</i> Glossy Abelia	5 gal
	<i>Arctostaphylos uva-ursi</i> Kinnikinnick	1 gal
	<i>Calluna vulgaris</i> 'Aurea' Scotch Heather	1 gal
	<i>Carex morrowii</i> 'Evergold' Evergold Sedge	1 gal
	<i>Carex testacea</i> Orange New Zealand Sedge	1 gal
	<i>Ceanothus</i> 'Victoria' Victoria Lilac	5 gal
	<i>Daphne odora</i> 'Marginata' Winter Daphne	3 gal
	<i>Erica cinerea</i> 'Atropurpurea' Purple Bell Heath	1 gal
	<i>Fuchsia magellanica</i> Magellan Fuchsia	1 gal
	<i>Hemerocallis</i> 'Stella de Oro' Stella de Oro Daylily	1 gal
	<i>Heuchera</i> 'Keylim' Keylime Heuchera	1 gal
	<i>Ilex glabra</i> 'Shamrock' Shamrock Holly	5 gal
	<i>Lavandula stoechas</i> 'Otto Quast' Otto Quast Spanish Lanendar	1 gal
	<i>Mahonia aquifolium</i> Oregon Grape	5 gal
	<i>Mahonia repens</i> Creeping Mahonia	3 gal
	<i>Nandina domestica</i> 'Fire Power' Fire Power Nandina	3 gal
	<i>Osmanthus delavayi</i> Delavay Osmanthus	5 gal
	<i>Pennisetum alopecuroides</i> 'Hameln' Hameln Dwarf Fountain Grass	1 gal
	<i>Pennisetum alopecuroides</i> 'Little Bunny' Little Bunny Dwarf Fountain Grass	1 gal
	<i>Phormium tenax</i> 'Sundowner' Sundowner New Zealand Flax	3 gal
	<i>Pieris japonica</i> 'Cavitate' Cavitate Lily of the Valley	3 gal
	<i>Polystichum setiferum</i> Soft Shield Fern	1 Gal
	<i>Taxus baccata</i> English Yew	5 Gal
	<i>Vaccinium ovatum</i> Evergreen Huckleberry	5 gal

SITE FEATURES

NO.	ITEM	COMMENTS
1	Bench Type 1	Powder coated, Sch 40 Steel Pipe, 4" Wide
2	Bench Type 2	Powder coated, Sch 40 Steel Pipe, 6" Wide
3	Bench Type 3	Black Steel Slats
4	Bollard Type 1	Non-lighted, Flat Black
5	Not Used	
6	Trash Can type 1	Recycle and Garbage Container
7	Bicycle Rack Type 1	Standard by City of Vancouver
8	Planter Pot Type 1	
9	Planter Pot Type 2	
10	Tree Guard	72" Ht. by 18" Width, Recycled Aluminum
11	Tree Grate	4' x 6' Dimension, Recycled Gray Iron
12	Concrete Paver	Recycled Glass in Concrete Units, 12"x12"
13	Concrete Type 1	
14	Concrete Type 2	Colored Concrete Integral in Mix
19	Pedestrian Light	

15th Street

1"=20'

Initial 48 Units	All taxing districts	City of Vancouver
Net Present value of future tax revenue	\$1,428,000	\$518,000
Cost value of Public Benefit Enhanced improvements		\$121,090
Subtotal	\$1,428,000	\$639,090
Net present value of “foregone” tax revenue (8 years)	(\$408,000)	(\$126,000)
NET PRESENT 20 YEAR BENEFIT	\$1,020,000	\$513,090

Amended 50 Units	All taxing districts	City of Vancouver
Net Present value of future tax revenue	\$1,476,000	\$527,000
Cost value of Public Benefit Enhanced improvements		\$121,090
Subtotal	\$1,476,000	\$648,090
Net present value of “foregone” tax revenue (8 years)	(\$432,000)	(\$133,000)
NET PRESENT 20 YEAR BENEFIT	\$1,044,000	\$515,090

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:

\$ 5,970,146.15 this 19th day of July 2021.

MAYOR



AUDITING OFFICER

COUNCILMEMBER

COUNCILMEMBER

DATE	INCLUSIVE CHECK NUMBERS	CHECK TOTAL
July 6, 2021 - July 12, 2021	Accounts Payable Checks (see attached)	\$ 2,698,144.46
July 6, 2021 - July 12, 2021	Hansen City Payments (see attached)	\$ 8,219.10
July 6, 2021 - July 12, 2021	Visa Refunds (see attached)	\$ 4,658.25
July 6, 2021 - July 12, 2021	Payroll Checks (see attached)	\$ 3,259,124.34
TOTAL		\$ 5,970,146.15

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable				
Supplier Payment	Manual Wire	No Reference	7/9/2021	75.00	HRA VEBA Plan					
Supplier Payment	Manual Wire	No Reference	7/9/2021	216.00	State of Washington Department of Licensing - Remit-To: DOL - Seattle Remit					
Supplier Payment	Manual Wire	No Reference	7/9/2021	560.50	Oregon SDU					
Supplier Payment	Manual Wire	No Reference	7/9/2021	987.01	Vancouver Fire Command Officers					
Supplier Payment	Manual Wire	No Reference	7/9/2021	6,695.91	Washington SDU					
Supplier Payment	Manual Wire	No Reference	7/9/2021	8,837.64	ICMA 401A					
Supplier Payment	Manual Wire	No Reference	7/6/2021	9,972.90	VSP Vision Care Inc					
Supplier Payment	Manual Wire	No Reference	7/9/2021	18,586.79	Western States Health & Welfare Trust					
Supplier Payment	Manual Wire	No Reference	7/9/2021	19,165.71	Bank Of America N.A.					
Supplier Payment	Manual Wire	No Reference	7/9/2021	23,808.91	Vancouver Firefighters Union Health & Welfare Trust					
Supplier Payment	Manual Wire	No Reference	7/9/2021	25,572.36	Washington State Firefighters					
Supplier Payment	Manual Wire	No Reference	7/6/2021	27,715.31	Gallagher Bassett Services Inc					
Supplier Payment	Manual Wire	No Reference	7/9/2021	50,987.57	State of Washington Department of Retirement System (PERS)					
Supplier Payment	Manual Wire	No Reference	7/6/2021	181,525.00	Western States Health & Welfare Trust					
Supplier Payment	Manual Wire	No Reference	7/9/2021	234,457.61	ICMA Corp					
Supplier Payment	Manual Wire	No Reference	7/6/2021	411,570.47	Vancouver Firefighters Union Health & Welfare Trust					
Expense Payment	Direct Deposit	EFT-00107031	7/8/2021	30.00	Tammi Neblock	Employee Reimbursement				
Cash Advance Payment	Direct Deposit	EFT-00107032	7/8/2021	86.25	Kyle Beguelin Flores	Travel Advance				
Cash Advance Payment	Direct Deposit	EFT-00107033	7/8/2021	114.00	James Burgara	Travel Advance				
Cash Advance Payment	Direct Deposit	EFT-00107034	7/8/2021	302.50	Jamie Haske	Travel Advance				
Cash Advance Payment	Direct Deposit	EFT-00107035	7/8/2021	86.25	Ashley Williams	Travel Advance				
Expense Payment	Direct Deposit	EFT-00107036	7/8/2021	110.00	Chris Concannon	Employee Reimbursement				
Cash Advance Payment	Direct Deposit	EFT-00107037	7/8/2021	86.25	Cole Rodriguez	Travel Advance				
Supplier Payment	EFT	EFT-00107038	7/8/2021	165,765.53	Share Inc					
Supplier Payment	EFT	EFT-00107039	7/8/2021	14,950.00	Sea Mar Community Health Center					
Supplier Payment	EFT	EFT-00107040	7/8/2021	4,502.75	George Elevator Service LLC					
Supplier Payment	EFT	EFT-00107041	7/8/2021	2,200.00	JCI Jones Chemicals Inc					
Supplier Payment	EFT	EFT-00107042	7/8/2021	1,661.88	Lifeline Connections					
Supplier Payment	EFT	EFT-00107043	7/8/2021	6,000.00	Arbutus Consulting LLC					
Supplier Payment	EFT	EFT-00107044	7/8/2021	95.00	T2 Systems Inc - Remit-To: T2- Atlanta					
Supplier Payment	EFT	EFT-00107045	7/8/2021	613,617.40	Clark County - Remit-To: Clark County - Treasurer Vancouver					
Supplier Payment	EFT	EFT-00107046	7/8/2021	19,063.49	Fire Systems West					
Supplier Payment	EFT	EFT-00107047	7/8/2021	418.00	Praxair Distribution Inc					
Supplier Payment	EFT	EFT-00107048	7/8/2021	21,098.91	Peterson Power Systems Inc					
Supplier Payment	EFT	EFT-00107049	7/8/2021	20,880.25	Meterreaders LLC					
Supplier Payment	EFT	EFT-00107050	7/8/2021	110.82	Miller Mendel Inc					
Supplier Payment	EFT	EFT-00107051	7/7/2021	987.00	Allegiance Benefit Plan Management Inc					
Supplier Payment	EFT	EFT-00107052	7/8/2021	1,678.51	Council for the Homeless					

*Please contact Procurement Services if you would like to review the justification for EMERGENCY procurement.

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable				
Supplier Payment	EFT	EFT-00107053	7/8/2021	109,057.95	Steve Mitchell					
Supplier Payment	EFT	EFT-00108794	7/9/2021	13,924.49	Allegiance Benefit Plan Management Inc					
Supplier Payment	EFT	EFT-00108795	7/9/2021	10,912.70	Vancouver Police Officer Guild					
Supplier Payment	EFT	EFT-00108796	7/9/2021	917.40	Vancouver Command Guild					
Supplier Payment	EFT	EFT-00108797	7/9/2021	68.12	Legal Shield					
Ad Hoc Payment	Check	23439	7/7/2021	38.71	4908 NW 1st Ave Property LLC	Utility Refunds: 0040072080-06				
Ad Hoc Payment	Check	23440	7/7/2021	45.56	Adams,Jon and Susan	Utility Refunds: 0079089500-04				
Ad Hoc Payment	Check	23441	7/7/2021	59.51	ADT Commercial LLC	MPE-302938				
Ad Hoc Payment	Check	23442	7/7/2021	75.14	Alvarez,Ruben and Maria	Utility Refunds: 0005021200-01				
Ad Hoc Payment	Check	23443	7/7/2021	137.60	Amspacher,Michael and Sherry	Utility Refunds: 0006047100-00				
Ad Hoc Payment	Check	23444	7/7/2021	567.20	Amy Palmer: MERRYMAN BARNES ARCHITECTS	LUP-81582				
Ad Hoc Payment	Check	23445	7/7/2021	90.90	Anar Askerov	Utility Refunds: 0058027908-07				
Ad Hoc Payment	Check	23446	7/7/2021	46.60	Anderson,Cori D	Utility Refunds: 0036027400-16				
Ad Hoc Payment	Check	23447	7/7/2021	46.27	Andres Reyes Barboza and Agustina Cruz	Utility Refunds: 0049083602-21				
Ad Hoc Payment	Check	23448	7/7/2021	74.56	Annette Ezetta	Utility Refunds: 0073002818-01				
Ad Hoc Payment	Check	23449	7/7/2021	165.00	Baker Trustee,Judy	Utility Refunds: 0004030400-02				
Ad Hoc Payment	Check	23450	7/7/2021	17.12	Biklen,Eric and Shannon	Utility Refunds: 0018083100-13				
Ad Hoc Payment	Check	23451	7/7/2021	79.88	Biklen,Shannon	Utility Refunds: 0018083100-13				
Ad Hoc Payment	Check	23452	7/7/2021	38.15	Bluerock Investments LLC	Utility Refunds: 0052054026-02				
Ad Hoc Payment	Check	23453	7/7/2021	26.55	Bryden,Christina and Donald	Utility Refunds: 0107009206-04				
Ad Hoc Payment	Check	23454	7/7/2021	248.06	Burns,William	Utility Refunds: 0047000760-03				
Ad Hoc Payment	Check	23455	7/7/2021	82.94	Burns,William and Katherine	Utility Refunds: 0047000760-03				
Ad Hoc Payment	Check	23456	7/7/2021	107.65	Carvajal,Fernando	Utility Refunds: 0019065700-34				
Ad Hoc Payment	Check	23457	7/7/2021	79.09	Christopher Moore, Trustee	Utility Refunds: 0088080200-01 Consolidated refund created from multiple refunds				
Ad Hoc Payment	Check	23458	7/7/2021	20.00	Clark County Washington	Utility Refunds: 0071074200-01				
Ad Hoc Payment	Check	23459	7/7/2021	59.51	Crown Electric	MPE-303493				
Ad Hoc Payment	Check	23460	7/7/2021	63.00	Dale Patten	Utility Refunds: 0071077000-00				
Ad Hoc Payment	Check	23461	7/7/2021	20.00	Darlene Nielson	Refund Alarm Billing Acct 16163 Inv 99403560				
Ad Hoc Payment	Check	23462	7/7/2021	45.26	Demyanyuk,Olga and Andiey	Utility Refunds: 0067007310-03				
Ad Hoc Payment	Check	23463	7/7/2021	4,882.50	Earthworks Excavating Services	Inv WA51-21				

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable				
Ad Hoc Payment	Check	23464	7/7/2021	154.00	Ellen Westom	Utility Refunds: 0063097204-02 Consolidated refund created from multiple refunds				
Ad Hoc Payment	Check	23465	7/7/2021	38.80	ELPIDIO JETER	VOUCHER 2008368.030				
Ad Hoc Payment	Check	23466	7/7/2021	116.02	Emily Smith, Personal REP	Utility Refunds: 0070029400-10				
Ad Hoc Payment	Check	23467	7/7/2021	77.54	Environmental Works NW LLC	DMO-302835				
Ad Hoc Payment	Check	23468	7/7/2021	113.00	Fish, Susan	Utility Refunds: 0030057200-00				
Ad Hoc Payment	Check	23469	7/7/2021	120.00	Fourth Plain Village Neighborhood Association	Refund RecycleU Grant 2021				
Ad Hoc Payment	Check	23470	7/7/2021	91.79	Frank Bruccoleri and David Indest	Utility Refunds: 0086013825-06 Consolidated refund created from multiple refunds				
Ad Hoc Payment	Check	23471	7/7/2021	150.00	Fritz, Adam	Utility Refunds: 0052054004-01				
Ad Hoc Payment	Check	23472	7/7/2021	10.02	Froatz, Frederick and Maurine	Utility Refunds: 0000006843-03				
Ad Hoc Payment	Check	23473	7/7/2021	203.00	Geoff Spahr	FRI-298605				
Ad Hoc Payment	Check	23474	7/7/2021	382.40	Gooding, Karrie	Utility Refunds: 0055013500-20				
Ad Hoc Payment	Check	23475	7/7/2021	51.66	Greg Swanson, Personal Rep	Utility Refunds: 0022026700-03				
Ad Hoc Payment	Check	23476	7/7/2021	70.00	Hancock Forest Management	Refund Alarm Billing Acct 11848 Inv 99440213				
Ad Hoc Payment	Check	23477	7/7/2021	79.00	Harmon, Mark and Kay	Utility Refunds: 0078098900-08				
Ad Hoc Payment	Check	23478	7/7/2021	173.24	Heiser, William and Marlane	Utility Refunds: 0047095905-03				
Ad Hoc Payment	Check	23479	7/7/2021	118.17	Hermeling, Eric and Stephany	Utility Refunds: 0032063900-03				
Ad Hoc Payment	Check	23480	7/7/2021	123.68	Herrera, Jesus and Margarita	Utility Refunds: 0079067500-02				
Ad Hoc Payment	Check	23481	7/7/2021	251.80	HPA Borrower 2020-2 ML LLC	Utility Refunds: 0056040986-03				
Ad Hoc Payment	Check	23482	7/7/2021	52.09	Hyzon Frac Santiago, Roselle Esteban Santiago	Utility Refunds: 0070054322-02				
Ad Hoc Payment	Check	23483	7/7/2021	207.42	Jacobs, Darlene	Utility Refunds: 0045027202-05				
Ad Hoc Payment	Check	23484	7/7/2021	53.58	Jacobs Trustees, Carl and Darlene	Utility Refunds: 0045027202-05				
Ad Hoc Payment	Check	23485	7/7/2021	244.78	James D Carter	Utility Refunds: 0093008600-08				
Ad Hoc Payment	Check	23486	7/7/2021	20.00	John / Dorothy Parkin	Refund Alarm Billing Acct 7078 Inv 99438015				
Ad Hoc Payment	Check	23487	7/7/2021	92.81	John R Dickerson III	Utility Refunds: 0070091102-04				
Ad Hoc Payment	Check	23488	7/7/2021	250.10	Jorge and Marketa Simal, Trustees	Utility Refunds: 0101021107-04				
Ad Hoc Payment	Check	23489	7/7/2021	25.44	Joseph Ezetta	Utility Refunds: 0073002818-01				
Ad Hoc Payment	Check	23490	7/7/2021	115.87	Joyce, Laura	Utility Refunds: 0079078978-01				
Ad Hoc Payment	Check	23491	7/7/2021	77.60	JUAN J MORA	VOUCHER 2008368.030				
Ad Hoc Payment	Check	23492	7/7/2021	540.00	Juliano's Inc	Refund Business Lic Covid- 19 Surcharge Program				

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable				
Ad Hoc Payment	Check	23493	7/7/2021	144.00	Kabel Trumbower	Utility Refunds: 0083000613-08				
Ad Hoc Payment	Check	23494	7/7/2021	72.23	Kayla Phuong Nguyen	Permit refund COV10535				
Ad Hoc Payment	Check	23495	7/7/2021	259.39	Khamitov,Anna and Dmitriy	Utility Refunds: 0043048600-06				
Ad Hoc Payment	Check	23496	7/7/2021	139.72	Laura and Curtis Bedortha	Utility Refunds: 0096001600-09				
Ad Hoc Payment	Check	23497	7/7/2021	191.84	Laura Dodge-Loney	Utility Refunds: 0070002430-05				
Ad Hoc Payment	Check	23498	7/7/2021	20.00	Lynn Fisher	Refund Alarm Billing Acct 51371 / Inv 99441051				
Ad Hoc Payment	Check	23499	7/7/2021	261.00	Malpass,Sabrina and Sam	Utility Refunds: 0085098000-05				
Ad Hoc Payment	Check	23500	7/7/2021	70.00	Mark / Sandra Klockars	Refund Alarm Billing Acct T- 5038 Inv 99420668 and 26588				
Ad Hoc Payment	Check	23501	7/7/2021	32.94	Maureen Petty and Pamela West	Utility Refunds: 0045652000-02				
Ad Hoc Payment	Check	23502	7/7/2021	144.24	Meredith,Scott and Mariah	Utility Refunds: 0107004960-03				
Ad Hoc Payment	Check	23503	7/7/2021	157.41	Michael Aaseth	Utility Refunds: 0106030190-04				
Ad Hoc Payment	Check	23504	7/7/2021	248.37	Michael Beaty	Utility Refunds: 0002000112-01				
Ad Hoc Payment	Check	23505	7/7/2021	219.36	Michael Braithwait Trustee	Utility Refunds: 0006073270-01				
Ad Hoc Payment	Check	23506	7/7/2021	151.21	Michael Cunningham and Secured Holdings LLC	Utility Refunds: 0080078300-17				
Ad Hoc Payment	Check	23507	7/7/2021	28.93	Michael D Anderson	Utility Refunds: 0070014600-00				
Ad Hoc Payment	Check	23508	7/7/2021	110.35	Miller Exteriors LLC	RES-303702				
Ad Hoc Payment	Check	23509	7/7/2021	84.83	Monteneri,Salvatore and Amber	Utility Refunds: 0108010408-06				
Ad Hoc Payment	Check	23510	7/7/2021	46.88	Moore,Derek and Anndrea	Utility Refunds: 0071096300-01				
Ad Hoc Payment	Check	23511	7/7/2021	196.00	Nikolay Limonchenko	Utility Refunds: 0061085030-01				
Ad Hoc Payment	Check	23512	7/7/2021	81.76	Nye Trotter and Shonee Alexander-Trotter	Utility Refunds: 0038051200-01				
Ad Hoc Payment	Check	23513	7/7/2021	187.00	Patricia Tamayao	Utility Refunds: 0080066400-12 Consolidated refund created from multiple refunds				
Ad Hoc Payment	Check	23514	7/7/2021	328.72	Patterson,Jonathan and Christine	Utility Refunds: 0074000133-02				
Ad Hoc Payment	Check	23515	7/7/2021	75.00	PCS	Refund CIVICGOV - Acct 557768 - Inv 77010681 - Bahau Marwan				
Ad Hoc Payment	Check	23516	7/7/2021	20.00	PCS	Refund Alarm Billing Acct 9065 Inv 99430077 Wy East Pointe				
Ad Hoc Payment	Check	23517	7/7/2021	40.00	PCS	Refund Alarm Billing Acct 13953 Inv 99425187 Chowdhury and Decker				
Ad Hoc Payment	Check	23518	7/7/2021	85.15	Phillips,Zachary	Utility Refunds: 0047084169-13				
Ad Hoc Payment	Check	23519	7/7/2021	1,461.63	Port of Vancouver	CMI-303652				
Ad Hoc Payment	Check	23520	7/7/2021	84.21	Ralph Timothy Pedersen and Margaret Ann Wagner	Utility Refunds: 0074034400-11				
Ad Hoc Payment	Check	23521	7/7/2021	126.01	Rapp,Marvin	Utility Refunds: 0079078978-01				

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable				
Ad Hoc Payment	Check	23522	7/7/2021	50.00	River City Church	Refund Alarm Billing Acct 1065 Inv 99440143				
Ad Hoc Payment	Check	23523	7/7/2021	90.00	Rootabega LLC	Refund Business Lic Covid-19 Surcharge program				
Ad Hoc Payment	Check	23524	7/7/2021	43.24	Rosemary Prescott	Utility Refunds: 0066013900-01				
Ad Hoc Payment	Check	23525	7/7/2021	106.79	Sanborn, Wayne	Utility Refunds: 0021085602-05				
Ad Hoc Payment	Check	23526	7/7/2021	93.74	Sargeant, Steven and Shirley	Utility Refunds: 0056002800-01				
Ad Hoc Payment	Check	23527	7/7/2021	24.40	Schnitzer, Elizabeth and Arthur	Utility Refunds: 0067049013-02				
Ad Hoc Payment	Check	23528	7/7/2021	761.24	Scott McAlpine and Danielle Leveridge	Utility Refunds: 0080091800-13				
Ad Hoc Payment	Check	23529	7/7/2021	96.59	Shelly Peters	Utility Refunds: 0082000502-02				
Ad Hoc Payment	Check	23530	7/7/2021	62.61	Shoji Higashi	Utility Refunds: 0092005200-05				
Ad Hoc Payment	Check	23531	7/7/2021	34.39	Shoji Higashi and Eva Bourke-Higashi	Utility Refunds: 0092005200-05				
Ad Hoc Payment	Check	23532	7/7/2021	238.41	Snyder Martial Support Trust	Utility Refunds: 0109011280-00				
Ad Hoc Payment	Check	23533	7/7/2021	25.00	Sunlight Construction INC	Utility Refunds: 0066068900-02				
Ad Hoc Payment	Check	23534	7/7/2021	123.34	The Estate of Bernadette M Hurley	Utility Refunds: 0024004900-00				
Ad Hoc Payment	Check	23535	7/7/2021	140.05	The Estate of Stanley J Cieslewicz	Utility Refunds: 0101002192-08				
Ad Hoc Payment	Check	23536	7/7/2021	118.00	Thornton, Wendy	Utility Refunds: 0033040500-09 Consolidated refund created from multiple refunds				
Ad Hoc Payment	Check	23537	7/7/2021	136.28	Tim Barrett	Utility Refunds: 0038025900-11				
Ad Hoc Payment	Check	23538	7/7/2021	34.21	Vera Yefimova	Utility Refunds: 0074002280-03				
Ad Hoc Payment	Check	23539	7/7/2021	68.34	Warren Grimes	Utility Refunds: 0079045000-09				
Ad Hoc Payment	Check	23540	7/7/2021	105.00	Will, Virginia	Utility Refunds: 0032042000-06 Consolidated refund created from multiple refunds				
Ad Hoc Payment	Check	23541	7/7/2021	127.72	Wolf, Sheree and Terry	Utility Refunds: 0054080023-03				
Supplier Payment	Check	23542	7/7/2021	362.00	Accurate Corporate Services Inc					
Supplier Payment	Check	23543	7/7/2021	131.60	Airgas, Inc					
Supplier Payment	Check	23544	7/7/2021	11,500.00	Alabama Canine Law Enforcement Officer's Training Center Inc					
Supplier Payment	Check	23545	7/7/2021	524.80	A-Line Asphalt Maintenance Inc					
Supplier Payment	Check	23546	7/7/2021	798.00	Allegheny Answering Services					
Supplier Payment	Check	23547	7/7/2021	615.17	Annas Consultants Inc					
Supplier Payment	Check	23548	7/7/2021	12,010.55	Applied Business Software Inc					
Supplier Payment	Check	23549	7/7/2021	99.78	Aramark Uniform & Career Apparel LLC - Remit-To: Aramark - Pasadena					

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable				
Supplier Payment	Check	23550	7/7/2021	14,752.88	Arborscape Ltd Inc					
Supplier Payment	Check	23551	7/7/2021	9,553.12	AT & T Mobility II LLC					
Supplier Payment	Check	23552	7/7/2021	3,355.00	Barran Liebman LLP					
Supplier Payment	Check	23553	7/7/2021	471.75	Bound Tree Medical LLC					
Supplier Payment	Check	23554	7/7/2021	2,984.00	BSK Associates - Remit-To: Supplier BSK Associates					
Supplier Payment	Check	23555	7/7/2021	9,119.62	Cadman Materials - Remit-To: Cadman - Chicago					
Supplier Payment	Check	23556	7/7/2021	733.58	CECO Inc					
Supplier Payment	Check	23557	7/7/2021	400.24	Cellco Partnership					
Supplier Payment	Check	23558	7/7/2021	350.10	Cellco Partnership - Remit-To: Cellco - Dallas					
Supplier Payment	Check	23559	7/7/2021	5,000.00	CFM Strategic Communications Inc					
Supplier Payment	Check	23560	7/7/2021	55,286.17	Clary Longview LLC					
Supplier Payment	Check	23561	7/7/2021	138,223.05	Columbia Non-Profit Housing					
Supplier Payment	Check	23562	7/7/2021	17,598.47	Columbia Resource Company					
Supplier Payment	Check	23563	7/7/2021	108.29	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry					
Supplier Payment	Check	23564	7/7/2021	193.29	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry					
Supplier Payment	Check	23565	7/7/2021	24.79	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry					
Supplier Payment	Check	23566	7/7/2021	17,580.15	Comcast Holdings Corporation - Remit-To: Comcast Holdings Corporation - Philadelphia					
Supplier Payment	Check	23567	7/7/2021	390.40	Corwin Beverage					
Supplier Payment	Check	23568	7/7/2021	461.10	Cummins Inc					
Supplier Payment	Check	23569	7/7/2021	6,300.00	Davidson Benefits Planning					
Supplier Payment	Check	23570	7/7/2021	703.77	Distinctive Landscape LLC					
Supplier Payment	Check	23571	7/7/2021	378.00	El Latino De Hoy Newspaper					
Supplier Payment	Check	23572	7/7/2021	56.40	Experian Marketing Solutions - Remit-To: Experian - Los Angeles					
Supplier Payment	Check	23573	7/7/2021	2,102.13	Ferguson Enterprises - Remit-To: Ferguson - Dallas					
Supplier Payment	Check	23574	7/7/2021	1,071.55	H D Fowler Company Inc					
Supplier Payment	Check	23575	7/7/2021	6,249.99	Hispanic Metropolitan Chamber					
Supplier Payment	Check	23576	7/7/2021	2,247.87	HMI Oregon					
Supplier Payment	Check	23577	7/7/2021	3,385.57	Inventus Media LLC					
Supplier Payment	Check	23578	7/7/2021	743.11	Iron Mountain Inc - Remit-To: Iron Mountain - New York					
Supplier Payment	Check	23579	7/7/2021	224.28	J-2 Blueprint Supply Co.					
Supplier Payment	Check	23580	7/7/2021	65.00	Kaiser Permanente					
Supplier Payment	Check	23581	7/7/2021	65,701.57	Key Code Media, Inc					

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable				
Supplier Payment	Check	23582	7/7/2021	79.16	Langley's Ace Inc					
Supplier Payment	Check	23583	7/7/2021	16,364.51	Locution Sytems Inc					
Supplier Payment	Check	23584	7/7/2021	151.90	Mark IV Enterprises Inc					
Supplier Payment	Check	23585	7/7/2021	1,000.00	Message Gears LLC					
Supplier Payment	Check	23586	7/7/2021	1,100.00	Michael McCulloch Architecture LLC					
Supplier Payment	Check	23587	7/7/2021	2,516.81	Municipal Emergency Services Inc - Remit-To: Municipal Emergency Services - Chicago					
Supplier Payment	Check	23588	7/7/2021	17,240.65	North Pacific Construction and Remodeling Inc					
Supplier Payment	Check	23589	7/7/2021	18,202.51	Northwest Staffing Resources Inc - Remit-To: NW Staffing - Portland					
Supplier Payment	Check	23590	7/7/2021	1,667.06	One Call Concepts Inc					
Supplier Payment	Check	23591	7/7/2021	375.00	Oregon Transportation Forum					
Supplier Payment	Check	23592	7/7/2021	8,795.00	Parkeon					
Supplier Payment	Check	23593	7/7/2021	4,000.00	Plan-it GEO LLC					
Supplier Payment	Check	23594	7/7/2021	3,384.12	PMI Truck Bodies Inc					
Supplier Payment	Check	23595	7/7/2021	8,580.96	PPC Solutions Inc					
Supplier Payment	Check	23596	7/7/2021	423.16	Precor Commercial Fitness					
Supplier Payment	Check	23597	7/7/2021	2,294.78	Proforce Marketing Inc					
Supplier Payment	Check	23598	7/7/2021	6,618.97	Qwest Corp - Remit-To: Qwest Corp- Seattle					
Supplier Payment	Check	23599	7/7/2021	5,917.11	Retail Lockbox Inc					
Supplier Payment	Check	23600	7/7/2021	11,169.00	San Diego Police Equipment Co Inc					
Supplier Payment	Check	23601	7/7/2021	52.50	Sharon Rice					
Supplier Payment	Check	23602	7/7/2021	10,919.41	SP Plus Corporation					
Supplier Payment	Check	23603	7/7/2021	5.14	State of Oregon Department of Transportation - Remit-To: OR DMV - Salem					
Supplier Payment	Check	23604	7/7/2021	7,097.50	Summit Law Group					
Supplier Payment	Check	23605	7/7/2021	1,000.00	Talx UCM Services Inc					
Supplier Payment	Check	23606	7/7/2021	569.63	Towing & Recovering Services Inc					
Supplier Payment	Check	23607	7/7/2021	928.22	Transunion Risk & Alternative Data Solutions Inc					
Supplier Payment	Check	23608	7/7/2021	474.70	Triple J Enterprises					
Supplier Payment	Check	23609	7/7/2021	580.63	Tyree Oil Inc					
Supplier Payment	Check	23610	7/7/2021	4,609.57	Univar Solutions USA Inc - Remit-To: Supplier Univar Solutions USA Inc					
Supplier Payment	Check	23611	7/7/2021	244.13	Vancouver Granite Works Inc					
Supplier Payment	Check	23612	7/7/2021	26,251.58	Veritas Technologies LLC - Remit-To: Veritas Technologies LLC					
Supplier Payment	Check	23613	7/7/2021	3,885.99	Walter E Nelson Company					
Supplier Payment	Check	23614	7/7/2021	403.25	Washington State Fire Fighters Apprenticeship Trust					

INVOICE PAYMENTS REPORT

[illegible]

City of Vancouver
Payroll Council Report
July 6, 2021 - July 12, 2021

Check No.	Date	Explanation	Amount
3098-3141	07/09/21	13 2021 Payroll	\$ 23,646.46
107054-108793	07/09/21	13 2021 Direct Deposits	\$ 3,235,477.88

\$ 3,259,124.34

City of Vancouver and J.P. Morgan
**Building an enduring
partnership.**

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Why J.P. Morgan?

Experienced relationship team

- Local presence with national reach
- Almost 2,000 clients across the US
- Sponsorship and commitment from Senior Leaders

Comprehensive banking services

Consolidated Receivables, Payables Automation, Liquidity Solutions, Card and Single-use Accounts, and Merchant Services

Dedicated client service and product specialists

Specialists who understand your specific products and services to deliver the service you need

Innovation leader

- \$12 billion annual technology budget
- Our innovation will help you streamline your services and create efficiencies

Commitment to Community, Diversity and Inclusion

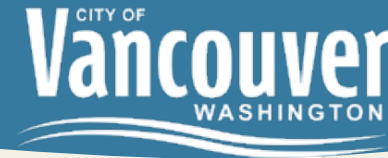
- \$30 Billion 5-year Path Forward commitment to advance racial equity
- Community Impact Banking to impact underserved communities
- Global Head of Diversity and Inclusion tasked with elevating our D&I initiatives

Competitive pricing and transition allowance

- 9 months of fees waived up to \$40,000 for banking services only
- 12 months of fees waived up to \$55,000 for banking services and card
- ECR of 28bps less 13bps BBC

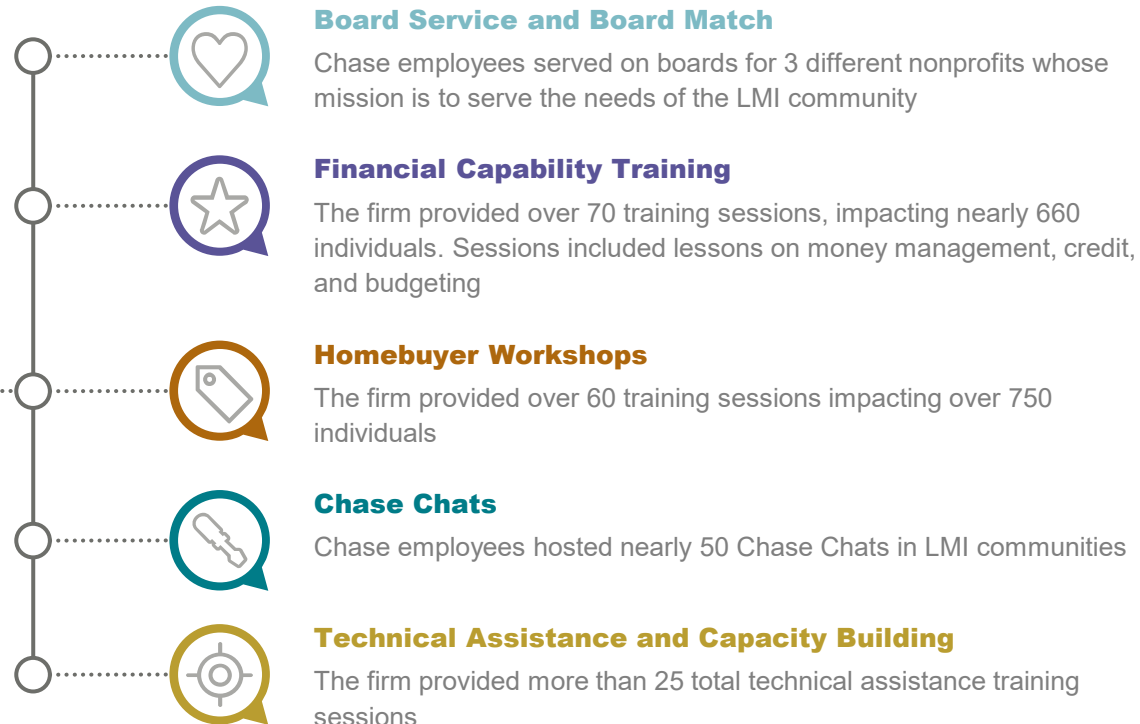


Our Involvement in the Community



Nonprofit and community partners in the Vancouver area have identified the following needs:

- Capacity building for nonprofits and community organizations
- Economic and workforce development
- Financial capacity training for underserved and overlooked populations
- Homebuyer education and counseling programs



Our Dedication to Social Responsibility

At JP Morgan Chase, we invest in our customers, employees and communities to break down barriers to opportunity and create an inclusive economy for all

We do this by using our expertise and resources to support small businesses, increase financial health, expand career opportunities, and strengthen neighborhoods through affordable housing

In the past 5 years, JPMorgan Chase Foundation's work resulted in over **\$400,000** touching down in the Clark County/Vancouver area

Starting in 2020, JPMorgan Chase has contributed two grants totaling **\$100,000** to Workforce Southwest Washington to support SummerWorks, a youth workforce development initiative helping underserved youth build skills

Through an investment in Washington STEM, JPMorgan Chase invested over **\$100,000** in Career Connect Southwest to expand high-demand, career-pathway opportunities for young people, connecting thousands of students to learning & employment opportunities

Other Local Initiatives

With a focus on the City of Vancouver, we are also committed to helping increase affordable housing across the region

- Through our Community Development Bank, we continue to finance projects to strengthen our communities
- For example, Chase purchased tax-exempt bonds to provide Vancouver Housing Authority a \$6.57MM construction loan, converting to a \$4.65MM permanent loan
- The Orchard Glen Apartments contains 80 apartments units in 11 buildings in Vancouver
 - This project will preserve and improve an existing building with one-, two-, three-, and four-bedroom units
 - The site also includes children's play area, open space, and a community facility



Staff Report 099-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 7/19/2021

SUBJECT Banking Services Agreements with JP Morgan Chase, N.A.

Key Points

- An RFP for banking services, Pcard services, and merchant services was issued on December 1, 2020.
- A City evaluation team made up of multiple departments scored the response from JP Morgan Chase the highest for their banking services and commercial card (Pcard) proposal.
- City Charter Section 11.05 requires City Council approve the execution of contracts with a duration of more than five (5) years by ordinance.
- Banking services does not include processing credit/debit card deposits.
- The general banking services contract will begin July 26, 2021, and is anticipated to end by July 25, 2026. The Pcard agreement provides for the same terms but allows for annual extensions after the fifth year.

Strategic Plan Alignment

N/A

Present Situation

The City's current banking services contract with Bank of America expires on December 31, 2021. On December 1, 2020, the City issued a Banking Services and Merchant Services Request for Proposals (RFP). In addition, financial institutions were able to provide responses for optional services they provide such as Pcard and Health Savings Accounts, as well as other services.

Proposals were due January 27, 2021. Six financial institutions responded to the RFP: Bank of America; US Bank; Wells Fargo; Key Bank; JP Morgan Chase Bank, NA; and Columbia Bank. In addition, the City received two responses to provide merchant services (credit card processing) from Paymentus and Forte. Most of the banks also included merchant services as part of their response. The RFP was issued to identify the banking institution that could offer the highest quality service, create efficiencies, and take advantage of new applicable technologies at the best

overall value. The proposers had the option to only propose on banking services, or merchant services, or both.

The City Procurement Department was responsible for publishing the RFP, receiving responses, and the general responsibilities associated with monitoring compliance with the solicitation process. The RFP was sent to most of the local banks and/or merchant processing companies and published on the City's Procurement website at Procureware.com, and in the Columbian newspaper.

In order to respond to the RFP, the banking institution had to be a "full service" bank, which meets the statutory requirement of a qualified Washington State public depository throughout the term of the contract (as required by RCW 39.58). This Washington State law requires that banks that hold public funds fully collateralize an equal amount of funds with their depository's trustee. Because of this requirement, many smaller institutions have made a business decision to use their collateral for other business purposes and to not respond to RFPs of this type.

The responding Financial Institution had to meet the following mandatory requirements during the contract period: 1) Branch banking facilities located within the State of Washington; 2) Approval by the Washington State Public Deposit Protection Commission as a qualified public depository; and 3) Branch banking facilities located within the City and the County.

The evaluation committee scored the response from JP Morgan Chase the highest for general banking services, and Paymentus for merchant services. Award of the merchant services agreement with Paymentus is proposed under a separate action.

Staff recommends that Council approve award of these banking services agreements to JP Morgan Chase Bank from July 1, 2021, through December 31, 2026. The contract is slightly longer than five-years because the bank wanted to provide the greatest flexibility for Pcard services if the City transitioned to another provider at the end of the five-year period. The estimated cost over the life of the five-year contract is \$500,000. This does not include fees associated with processing credit/debit card transactions.

Advantage(s)

Provides banking services for the City at competitive prices. Based on 2019 volumes, by awarding the contract to JP Morgan Chase, the City will realize approximately \$20,000 in savings per year, or \$100,000 over the five-year period.

Disadvantage(s)

There will be internal staff time needed for setup, testing, and conversion from Bank of America to JP Morgan Chase Bank.

Budget Impact

Funding for contract costs are included in the 2021-2022 budget.

Prior Council Review

- Contract approval December 7, 2015 City Council meeting.
- Banking Services Ordinance and Contract Amendment December 7, 2020.

Action Requested

On Monday, July 19, 2021, subject to second reading and public hearing, approve the ordinance.

Carrie Lewellen, City Treasurer, 360-487-8482

ATTACHMENTS:

- ▢ JP Morgan Chase Contract
- ▢ Ordinance
- ▢ Commercial Credit Card Agreement
- ▢ Global Account Terms

CITY OF VANCOUVER
PROFESSIONAL SERVICES AGREEMENT No. _____
GENERAL BANKING 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 JPMorgan Chase Bank, N.A. hereinafter referred to as "Contractor", whose address is 1301 2nd Avenue, 24th Floor, Seattle, WA 98101-3800.

WHEREAS, the City desires to engage the Contractor to provide general banking services 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. 18-20, Contractor's proposal to said RFP; this Agreement and City Council's approval on **Date** of Staff Report No. **##=##**; and

WHEREAS, the Contractor has represented by entering into this Agreement that it is fully qualified to perform the work described in this Agreement in a competent and professional manner, and to the standards required by City that are set forth in this Agreement or otherwise agreed to in writing by the parties.

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 reasonably determined by the City, the services hereafter set forth in connection with this Agreement:

1. Statement of Work.

Contractor agrees to provide general banking services (the "Services") per RFP No. 18-20 and Contractor's response to said RFP on file in City of Vancouver Procurement Services by reference hereto made a part of this Agreement. For the avoidance of doubt, the term 'Services' (as used in this Agreement) and the scope of work to be performed under this Agreement does not include: any services for which Contractor did not submit a bid, merchant services, or procurement card services, the provision of any such services (if applicable) are subject to separate agreements between City and Contractor or its affiliate. References in this Agreement to the RFP and the Contractor's response refer only to the provisions in such documents that are applicable to the Services.

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 shall be calculated based on the amount or volume of Services used by the City at the per-unit prices set forth on Exhibit A attached hereto and incorporated by reference. Compensation may be amended, by mutual agreement of the parties, 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 that are mutually agreed to by the parties. All deliverables must be acceptable to the City, at the reasonable discretion of the City.

This agreement is a purchase of professional services at the rates set-forth in Exhibit A attached hereto. Payment of fees and compensation for these services shall not exceed \$500,000 USD (the "Service Fee Cap") unless authorized in writing by the City, and the parties have signed an amendment according to Section 14 of this Agreement to increase the Service Fee Cap. The City shall not request any service for which expected fees would exceed the Service Fee Cap nor shall the City provide any instruction or direction to the Contractor that would cause the Contractor to incur costs or expenses that would exceed amounts the City is authorized to pay. If the City requests any service, functionality or feature that is not listed in Exhibit A, the implementation of such service, functionality or feature may be subject to additional terms and fees to be mutually agreed upon at the time of the City's request and execution of an amendment to increase the Service Fee Cap. If additional time is needed, please refer to Section 6 of this agreement. A written amendment must be attached.

In addition to the fees and compensation described above and elsewhere in this Agreement, the City shall pay and be liable to the Contractor for all costs and expenses (including, without limitation, fees, fines, taxes, interest and penalties) related to (a) the Contractor's acceptance or execution of any request, instruction or direction from the City, or any of the City's transactions; (b) any credit extended to the City in connection with the Services; or (c) the City's breach or failure to comply with this Agreement, the Services Terms or any laws, statutes, codes, rules, regulations or policies applicable to any of the City's transactions (including, without limitation, clearing house rules, funds transfer rules, Federal Reserve Operating Circulars, and the Uniform Commercial Code as in effect from time to time in the State of Washington). The foregoing costs and expenses are not subject to the Service Fee Cap.

2. Order of Precedence.

This Agreement is comprised of the following documents and 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; the Service Terms; Contractor's submitted proposal to RFP No. 18-20 and RFP No. 18-20.

"Service Terms" means the Contractor's account terms, services terms, and other document required for the administration, implementation or operation of the Services together with any addenda, schedules, supplements, and other attachments attached hereto as Exhibit B and incorporated herein by this reference.

3. Relation of Parties.

The Contractor, its subconsultants, 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, subconsultants, agents and employees shall not have the authority to bind City in any way except in connection with transactions that the City requests, instructs, or directs the Contractor to process or execute or 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 July 26, 2021. It is agreed services hereunder shall be completed by July 25, 2026.

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 per-unit rates indicated in Exhibit A for the amount or volume of work performed under the terms of this Agreement. Such per-unit rates shall not be increased without City's prior written authorization in the form of a negotiated and executed amendment. Payment of all fees and compensation reflected in an account analysis statement shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment and incidentals provided during the billing period covered by the statement. The Contractor shall submit monthly invoices, which shall be on the Contractor's form of account analysis, to City covering both professional fees and project expenses, if any, for fees and expenses from the previous month or billing period. 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.

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. 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.

The Contractor reserves the right to close an account and/or terminate a Service pursuant to the Service Terms and may terminate this agreement if it terminates all Services.

In the event this Agreement is terminated the City will pay the Contractor for Services performed or in the process of being performed that cannot reasonably be cancelled prior to such termination, and will reimburse the Contractor for any credit extended to the City in connection with the Services.

9. 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 ("Legal Requirements") to the extent that such Legal Requirements are binding on the Contractor in its performance of the Services. To the extent that Legal Requirements of the City currently, or in the future, impose obligations upon its Contractors or consultants that provide services contemplated in this Agreement, which are not expressly set forth in this Agreement, the Contractor will, if notified of such requirements, endeavor to comply with the same, except to the extent that it reasonably concludes that compliance with such requirement subject it to additional obligations, liability or expense or impose upon it reporting requirements of confidential or non-public information or information that it does not currently monitor. If the Contractor makes such determination, and the parties are unable to resolve these issues through mutually agreeable amendments to this Agreement, either party may terminate this Agreement for convenience upon notice to the other. Nothing in this Agreement shall be construed to require any party to (a) violate any Legal Requirement binding upon such party, (b) comply with any Legal Requirement from which it is exempt or (c) take, or refrain from taking, any action that would conflict with any request or demand of a regulatory authority, governing body or law enforcement agency.

10. 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.

11. Liability and Hold Harmless.

In addition to maintaining the insurance coverage required under Section 12 of this Agreement, 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 the same are directly caused by , the negligent performance or willful misconduct of Contractor, its employees, subcontractors, or agents in the

performance of the Services 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. Contractor is an independent contractor and responsible for the safety of its employees. Notwithstanding anything to the contrary in this Agreement: (a) the Contractor shall not be liable for any indirect, incidental, consequential, exemplary, punitive or special damages, including lost profits, regardless of the form of action or theory of recovery, even if it has been advised of the possibility of those damages or the same are reasonably foreseeable; and (b) the Contractor's obligation to indemnify, defend, save and hold harmless the City, its officials, employees and agents shall not exceed, in the aggregate, an amount equal to two (2) times the average annual fees paid or payable to the Contractor under this Agreement (exclusive of any earnings credits used to offset such fees). For the avoidance of doubt, the limitation described in clause (b) of the foregoing sentence shall not limit the insurance coverage required under Section 12 of this Agreement.

12. 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 and not less than one million dollars (\$1,000,000) combined single limit business 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, representatives, officers, directors, and employees must be included as an additional insured on the Commercial General Liability policy and shown on the certificate as an additional insured as their interest pertain to this contract. 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 employers 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.

g. Bankers Blanket Bond. The Contractor shall obtain and keep in force during the entire term of this Agreement, a Fidelity/Employee Dishonesty Bond against any and all claims 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. The amount of coverage provided by such insurance shall be not less than ten thousand dollars (\$10,000).

h. 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.

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

j. Coverage Trigger: The insurance must be written on a "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.

13. Notices.

All notices which are given or required to be given pursuant to this Agreement shall be hand delivered or mailed postage paid (with a duplicate copy sent by email) as follows:

City:

Anna Vogel
City of Vancouver
415 W 6th Street
P O Box 1995
Vancouver WA 98668-1995
Anna.vogel@cityofvancouver.us

Contractor:

Lindsay Sovde
JPMorgan Chase Bank, N.A.
1301 2nd Avenue, 24th Floor
Mail Code: WA2-3533
Seattle, WA 98101-3800
Lindsay.A.Sovde@jpmorgan.com

14. 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.

15. Scope of Agreement.

This Agreement, together with the documents referenced in section 2 of this agreement, incorporates all the agreements, covenants and understanding between the parties hereto with respect to

the Services and are merged into this written Agreement. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents with respect to the Services shall be valid or enforceable unless set forth in this Agreement.

16. Ratification.

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

17. Governing Law/Venue.

This Agreement shall be deemed to have been executed and delivered within the State of Washington, and, except to the extent pre-empted by federal law, in which case federal law shall govern, 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 or if federal jurisdiction is present, the U.S. Court for the Western District of Washington (Tacoma Division).

18. 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.

Notwithstanding the foregoing, cooperative purchase under this Agreement is also subject to Contractor's approval on a case by case basis, which approval will be based on criteria determined by Contractor in its sole discretion. If Contractor approves cooperative purchase by another agency, such approval will also be conditioned upon adjustments in pricing and other terms and conditions as are mutually agreed to between Contractor and such other agency, and execution of mutually acceptable documentation. Contractor is authorized to disclose the terms of this Agreement in connection with a cooperative purchase. Any agency requesting cooperative purchase is solely responsible for ensuring that such purchase is in accordance with legal requirements binding on such agency.

19. 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.

20. Debarment.

The Contractor certifies, based upon a search of the System for Award Management website, www.sam.gov, that it is not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.

21. Nondiscrimination.

The City of Vancouver, WA is an equal opportunity employer. In the performance of this Agreement, the Government Banking division of the Contractor's Commercial Banking line of business 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.

CITY OF VANCOUVER

A municipal corporation

CONTRACTOR:

JPMorgan Chase Bank, N.A.

Eric Holmes, City Manager

Signature

Date

Printed Name /Title

Attest:

Date

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

07/12/21
07/19/21

ORDINANCE M - _____

AN ORDINANCE authorizing the City Manager or designee to execute Agreements with JPMorgan Chase Bank, N.A., (hereinafter “JPMorgan”), for the provision of banking and related services; providing required Terms that such Agreements be for an initial term of not more than five (5) years; providing authorization to enter into a separate Pcard agreement which may be extended in annual increments after the fifth year of the City’s Agreement with JPMorgan; providing for severability; and setting an effective date.

WHEREAS, the City of Vancouver’s current banking contract expires on December 31, 2021, and the City has completed a Request for Proposals (RFP) for replacement banking services; and

WHEREAS, JPMorgan is a “full service bank” capable of meeting the statutory requirements of a qualified Washington State public depository throughout the term of the proposed Agreement (as required by RCW 39.58); and

WHEREAS, JPMorgan provides banking and related services with multiple branches located in the City of Vancouver and was selected from multiple responding financial institutions as being best suited to serve the needs of the City of Vancouver through the term of the proposed Agreements; and

WHEREAS, City staff and JPMorgan have negotiated tentative Agreements containing mutually agreeable terms including payments for as-needed banking and related services at an

ORDINANCE - 1

Does not require codification

estimated cost of \$500,000 over an initial term of five (5) years, plus the benefit of annual renewal terms for Pcard services; and

WHEREAS, upon execution of an Ordinance, the City Council has the authority to approve contracts involving the payment of money with a duration of more than five (5) years pursuant to City Charter Section 11.05; and

WHEREAS, the City wishes to obtain banking and related services from JPMorgan pursuant to appropriate terms.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Approval. The City Manager or designee is hereby authorized to execute Agreements with JPMorgan for provision of banking and related services as described more fully within Staff Report No. _____, which is hereby incorporated by this reference as if set forth fully herein in factual support of this Ordinance.

Section 2. Terms. The initial term of such Agreements shall be for not more than five (5) years, except that the City Manager or designee may execute an agreement for Pcard services with annual renewal terms authorized beyond five (5) years.

Section 3. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any parts thereof to any other person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

ORDINANCE - 2

Does not require codification

Section 4. Effective Date. This ordinance shall go into effect five (5) days after its passage.

Read First Time:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Read Second Time:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

SIGNED this _____ day of _____, 2021.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

ORDINANCE - 3

Does not require codification

SUMMARY

ORDINANCE M-_____

AN ORDINANCE authorizing the City Manager or designee to execute Agreements with JPMorgan Chase Bank, N.A., for the provision of banking and related services; providing required Terms that such Agreements be for an initial term of not more than five (5) years; providing authorization to enter into a separate Pcard agreement which may be extended in annual increments after the fifth year of the City's Agreement with JPMorgan; providing for severability; and setting an effective date. The full text of this ordinance will be mailed upon request.

Contact Raelyn McJilton, Records Officer at (360) 487-8799, or via www.cityofvancouver.us (Go to City Government and Public Records).

ORDINANCE - 4

Does not require codification

Commercial Card Application & Agreement | JPMORGAN CHASE BANK, N.A.

V1.6

Client	CITY OF VANCOUVER, WASHINGTON		
Address Line 1	PROCUREMENT SERVICES		
Address Line 2	415 W 6TH ST.		
City	VANCOUVER		
State	WA		
Zip Code	98660		
Phone			

REBATES Please identify a Business Account to which rebates associated with Client's Commercial Card rebate program should be deposited. Deposits will be made via Wire Transfer only.			
Business Account at:	(Enter the name of Client's financial institution)		
ABA:	(Enter ABA for Client's financial institution)		
Business Account Number:	(Enter Client's business account number)		
Business Account Name:	(Enter the name of Client's business account)		
Please enter the Financial Institution and Business Account Name exactly as it appears on Client's account.* <u>Black ink only.</u>			
*Requests to modify the account information set forth above must be provided to J.P. Morgan in writing and sent to the following address: CCS.Rebate@jpmchase.com . A form will be provided to Client upon receipt of Client's request to modify the business account information. Client will be instructed to complete the form and return it to J.P. Morgan at the address specified. Changes to the business account information will be effective when J.P. Morgan has a reasonable opportunity to act upon such request.			

SIGNATURE This Application must be signed by an acting officer, partner, or owner of the Client with the authority to bind the Client to the terms and conditions of the following Commercial Card Agreement. I hereby certify that I am a duly authorized and acting officer, partner or owner of this Client with the authority to bind the Client to enter into and perform the obligations of the Commercial Card Agreement. I have read and agree to the terms and conditions of the Commercial Card Agreement. <u>Black ink only.</u>	
Signature of Authorized Officer	Date
Name	
Title	

CLIENT ATTESTATION The undersigned, a duly authorized officer or representative of this Client, does hereby certify that the person signing above on behalf of the Client has been duly authorized to bind the Client and to enter into and perform the obligations of the Commercial Card Agreement and that the person signing above on behalf of this Client, whose execution of this Commercial Card Agreement was witnessed by the undersigned, is an officer, partner, owner, or other representative of Client possessing authority to execute this Commercial Card Agreement.* <u>Black ink only.</u>	
Signature	Date
Name	
Title	
*Note: The person signing the attestation shall be someone different from the person signing above on behalf of Client.	

Commercial Card Application & Agreement | JPMORGAN CHASE BANK, N.A.

V1.6

This Commercial Card Agreement (the “**Agreement**”) sets forth the terms and conditions under which JPMorgan Chase Bank, N.A. (the “**Bank**”) shall provide commercial card services to Client who executes this Agreement and/or one or more of such Client's Affiliates. This Agreement is effective as of the date of the first signature above (the “**Effective Date**”). By signing this Agreement, Client hereby agrees to be bound by the terms and conditions referenced herein.

- 1. Definitions.** Each capitalized term used in this Agreement shall have the following defined meanings set forth below or as otherwise set forth herein.

Account means each account established in the name of Client pursuant to the Agreement.

Affiliate means an entity controlling, controlled by, or under common control with, directly or indirectly, a party to this Agreement. For this purpose, one entity “controls” another entity if it has the power to direct the management and policies of the other entity (for example, through the ownership of voting securities or other equity interest, representation on its board of directors or other governing body, or by contract).

Agreement means the Commercial Card Agreement in each case as amended, supplemented or replaced from time to time.

Applicable Law means for any country, all federal, state, provincial and local laws, statutes, regulations, rules, executive orders, supervisory requirements, licensing requirements, export requirements, directives, circulars, decrees, interpretive letters, guidance or other official releases of or by any government, any authority, department or agency thereof, or any regulatory or self-regulatory organization, that apply to a party's obligations under the Agreement.

Business Day means a day on which Bank is open for business.

Card means a Network-branded card that is issued to Cardholders by the Bank upon the request of the Client and approval by the Bank, and includes any plastic card bearing a card number and Accounts with no associated plastic card, which includes Single-Use Accounts.

Cardholder means: (A) an individual in whose name a Card is issued, and (B) any person or entity authorized by Client or named Cardholder to use a Card.

Cardholder Agreement means documentation provided by Bank to Client or Cardholder governing use of a Card by such Cardholder.

Cardholder Credit Limit means the maximum spending limit established in relation to a Cardholder.

Corporate Liability means Client is solely liable for the Transactions, subject to the Agreement and any Cardholder Agreement.

Credit Limit means the maximum spending limit established for Client in connection with the Program.

Cycle means the monthly period ending on the same day each month or, if that day is not a Business Day, then the following Business Day or preceding Business Day, as systems may require, or such other period as Bank may specify.

Fraudulent Transactions means transactions made on a Card by a person, other than Client or Cardholder, who does not have actual, implied, or apparent authority for such use, and for which neither Cardholder nor Client receives direct or indirect benefit.

Joint and Several Liability means Client and Cardholder are jointly and severally liable for the Transactions, subject to the Agreement, and the Cardholder Agreement.

MCC means merchant category code.

Network means MasterCard International, Inc.

Program means the commercial card system composed of Accounts, Card-use controls, reports to facilitate purchases of and payments for business goods and services, and related services, all as established in connection with the Agreement.

Single-Use Account means a one-time virtual card number generated for a single transaction.

System means the system through which Client can access Account and Transaction data and reports.

Transaction means a purchase, a cash advance, fees, charges or any other activity charged to an Account with respect to a Card.

2. Conditions Precedent

Prior to the commencement of the Program rendered by Bank pursuant to this Agreement, Client will provide the information listed on the Application, included with this Agreement, and additional documents as required by the Bank, and will certify to the accuracy of such information.

3. Certain Bank Services

- A. Subject to prior financial, risk management and compliance approvals by Bank, Bank shall: (i) establish Accounts in the name of Client; (ii) issue Cards to Cardholders designated by a person authorized to bind the Client to these terms and conditions (an **"Authorized Person"**); (iii) implement the Credit Limits specified by an Authorized Person from time to time and accepted by Bank; and (iv) deliver Cards and billing statements only to a U.S. address. Notwithstanding anything contained in this Agreement to the contrary, Bank shall not be obligated to extend credit to Client in violation of any limitation or prohibition imposed by Applicable Law or Bank policies and procedures.
- B. Extension of Program. Upon Client's submission of a request from time to time in the form required by Bank and following Bank's agreement to do so, Bank will extend Program to Client's Affiliates. Client is responsible as principal obligor for all obligations under the Agreement (including, without limitation, as principal obligor with respect to all payment and other obligations as the same relate to its Affiliates and their respective Cardholders and waives any defenses or offsets available to such Affiliates). Client shall cause each of its Affiliates and their respective Cardholders to comply with the Agreement.
- C. Notwithstanding the foregoing, Bank shall not be obligated to provide any Account to Client or any Client Affiliate or any Card to an employee or authorized representative of Client or any Client Affiliate or to process any transactions in violation of any limitation or prohibition imposed by Applicable Law, including, but not limited to, the regulations issued by the U.S. Department of Treasury's Office of Foreign Assets Control (**"OFAC"**).
- D. Receipt Image Services. For purposes of this section, **"Receipt Image Services"** means the optional services provided through Bank to allow Client the ability to attach and maintain image(s) of receipt(s) on the System, and **"Receipt Image(s)"** means an image of a receipt produced by a Transaction through use of Accounts and maintained on the System. Receipt Images will be stored and made available to Client through use of the System. In order for Bank to make Receipt Images available through the System, Client shall first fax and/or upload to the System images of Client's receipts through use of its own devices. Client is responsible for verifying the accuracy of the image of its receipts and any other information uploaded and entered into the System. Client shall ensure that the information contained in the image of the receipt accurately reflects the applicable Transaction. Receipt Image will be made available online through the System for a maximum of thirty-six (36) months (**"System Image Accessibility Period"**). The System Image Accessibility Period includes the month of the Transaction Date. Bank may, in its sole and absolute discretion, reject Receipt Images provided by Client to be posted on the System. In addition, Bank may suspend Client's use of the Receipt Image Service at any time without prior notice to Client.

4. Obligations of Client

In connection with the Program, Client shall:

- A. Notify each Cardholder at the earliest opportunity: (i) that Cards are to be used only for business purposes; (ii) of the Cardholder Credit Limit and any other applicable limit; (iii) of the extent, if any, to which Bank will provide Transaction and Account information to third parties at Client's request; and (iv) to collect and destroy any Cards which are no longer required.
- B. Client represents that the Cards to be issued under this Agreement are substitutes for an accepted credit card or will be issued in response only to a written request or application for such Card, by a prospective Cardholder, which Client has obtained in accordance with the requirements of Section 226.12(a) of Regulation Z of the Federal Truth in Lending Act. Client further represents that Client will retain the applications (paper or electronic) for any Card, when such application is not provided to Bank, for a period of two (2) years after the application has been received and acted upon.
- C. Client will immediately notify Bank by telephone of any lost, stolen, misappropriated, improperly used, or compromised Cards.
 - i. **Liability for Fraudulent Transactions Following Notification.** Notwithstanding anything to the contrary contained herein, Client shall not be liable for any Fraudulent Transactions occurring on a Card after the effective time of such notification to Bank of such Fraudulent Transaction.
 - ii. **Liability for Fraudulent Transactions Prior to Notification.** Subject to the terms and conditions contained in subsection (iii) below, Client shall not be liable for Fraudulent Transactions occurring on a Card prior to the effective time of such notification to Bank of such Fraudulent Transactions.
 - iii. Bank reserves the right, in its sole and absolute discretion, to hold Client liable for Fraudulent Transactions should Bank determine that subsequent to implementation of Client's Program and at the time that the Fraudulent Transaction occurred, Client failed to operate Client's Program in accordance with Bank's fraud reduction requirements as set forth below:
 - a. Client must block high risk MCC's identified by Bank and presented to Client;
 - b. Client must maintain reasonable security precautions and controls regarding the dissemination, use and storage of Card and Transaction data; and
 - c. Client must comply with all other requirements as Bank may reasonably require from time to time.

If Client fails to comply with Client's obligations described in this subsection (iii), and Bank determines Client to be liable for Fraudulent Transactions, Bank will either: (i) invoice Client for the amount of such Fraudulent Transaction minus any amounts collected, or (ii) deduct the amount of such Fraudulent Transaction from Client's rebate.

- D. Notify Bank of any Transaction that Client disputes as soon as practicable after the last day of the Cycle during which such Transaction is charged to Client and, in any event, within sixty (60) days of such day. Client shall use commercially reasonable efforts to assist in obtaining reimbursement from a merchant. Client or, subject to any Cardholder Agreement and in the case of Cards under any Joint and Several Liability Accounts, the Cardholder, shall not be relieved of liability for any disputed Transaction if the charge-back is rejected in accordance with the applicable Network's charge-back policy. Bank shall not be liable to Client where notice is received after such sixty (60) day period. Client shall not make a claim against Bank or refuse to pay any amount because Client or the person using the Card may have a dispute with any merchant.
- E. Unless previously provided to Bank, obtain and provide to Bank such information as Bank may reasonably request for the purposes of investigating the identity of an actual or prospective Cardholder or Client, evidencing authority for Card issuance requests, and assisting in any review of Bank by a regulator with relevant jurisdiction. Any information provided by Client to Bank shall be, to the best of Client's knowledge, information and belief, accurate and complete in all material respects.
- F. Make payments for all Transactions posted to Accounts no later than the payment date (the "**Payment Date**"), as specified in the periodic statement. In the event that Client makes payments other than as contemplated by the periodic statement, Bank may require, and Client shall provide, such documentation as reasonably required by Bank to reconcile such payments to the amounts stated as due in the periodic statement by the Payment Date. Any amount due which is not received by the Payment Date shall be subject to the late fees and delinquency fees as set forth in the fees schedule of Exhibit A attached hereto. If collection is initiated by Bank, Client shall be liable for payment of Bank's reasonable attorneys' fees and other costs and expenses of collection.
- G. In the case of any Joint and Several Liability Account, Client shall pay Bank within ten (10) days of written notice, for any Transactions not paid by a Cardholder within one hundred and twenty (120) days of the first billing with respect to the relevant Transaction.
- H. Unless otherwise provided to Bank, provide Bank with such financial statements and other related information requested by Bank in form and in such detail as Bank may reasonably request, from time to time.
- I. Client represents and warrants that it will use commercially reasonable efforts to ensure that such applicants to whom it requests Bank issue Cards and whom Client authorizes to use the Cards/Accounts are not identified on a prohibited government sanctions list, are not located or resident in a sanctioned country, or otherwise subject to a sanctions program applicable to Client.

5. Credit Limits and Certain Bank Rights

- A. Bank may establish a Credit Limit and Cardholder Credit Limit and may establish other limits from time-to-time. Client will not exceed the Credit Limit; provided however, that if Client exceeds the Credit Limit, Client shall pay all amounts exceeding the Credit Limits.
- B. Bank may at any time: (i) increase or decrease any Credit Limit or the Cardholder Credit Limit or any other limit in connection with any Card or any Account or the Program; (ii) refuse to authorize Transactions; (iii) vary the payment terms, or require the provision of security or additional security; (iv) suspend or terminate any Card or any Account; (v) decline to open any Account or issue any Card; or (vi) require MCC authorization restrictions in connection with a Program.

6. System Access

- A. Client shall adhere to all applicable license agreements, security procedures, and terms and conditions regarding the System.
- B. Client agrees that any access, Transaction, or business conducted on the System is presumed by Bank to have been in Client's name for Client's benefit.
- C. Except for unauthorized use by a Bank employee, Client is solely responsible for the genuineness and accuracy of all instructions, messages and other communications received by Bank via the System. Bank may rely and act upon all Client instructions and messages issued with valid credentials.
- D. From time to time, Bank may suspend the System when Bank considers it necessary to do so (including, without limitation, for maintenance or security purposes). Bank will use reasonable efforts to provide Client with notice prior to the suspension.

7. **Notices.** All notices and other communications required or permitted to be given under this Agreement shall be in writing except as otherwise provided herein, and shall be effective on the date on which such notice is actually received by the party to which it is addressed. All notices may be sent to the Client by ordinary mail, electronic transmission, through internet sites, or by such other means as the Client and the Bank may agree upon from time to time, at the address of the Client provided to the Bank. Unless otherwise arranged, all notices to the Bank must be sent to the Client's relationship manager or program coordinator team managing the relationship or to any other address notified by the Bank to the Client in writing from time to time, and may be sent by ordinary mail, by electronic transmission or by such other means as the Client and the Bank agree upon from time to time.

8. **Representations and Warranties.** Client represents and warrants that this Agreement constitutes a legal, valid, and binding obligation, enforceable against Client, in accordance with its terms, and that execution and performance of this Agreement: (i) does not breach any agreement with any third party; (ii) does not violate any law, rule, or regulation, or any duty arising in law or equity applicable to it; (iii) is within Client's organizational powers; and (iv) has been authorized by all necessary organizational action.

9. **Fees.** Client agrees to pay the fees and charges incurred by Client as specified by Bank, from time to time, on a periodic invoice. The fees initially applicable are specified in Exhibit A attached hereto. Bank may change the fees and charges payable by Client at any time, provided Bank notifies Client at least thirty (30) days prior to the effective date of the change.

10. Term and Termination. This Agreement shall have an initial term of five (5) years from the Effective Date unless otherwise terminated pursuant to the provisions of this paragraph. Thereafter, this Agreement shall be successively renewed for one-year terms upon the anniversary of the Effective Date. This Agreement may be terminated by either party at any time for any reason. In the event this Agreement is terminated, Client shall immediately pay all amounts owing under this Agreement, without set-off or deduction, and destroy all physical Cards furnished to Cardholders. After this Agreement is terminated or expires, the terms of this Agreement that expressly or by their nature contemplate performance after termination or expiration will survive and continue in full force and effect.

11. Limitation of Liability

- A. Subject to Section 11.B below, Bank shall be liable only for Client's actual damages which Client suffers or incurs as a direct result of Bank's negligence or willful misconduct and shall not be liable for any other loss or damage of any nature.
- B. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY EXEMPLARY, PUNITIVE, SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR THE LIKE, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, EACH OF WHICH ARE EXPRESSLY EXCLUDED BY AGREEMENT OF THE PARTIES HEREIN REGARDLESS OF WHETHER SUCH DAMAGES WERE REASONABLY FORESEEABLE AND WHETHER EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. Confidentiality. Except as expressly provided in the Agreement, all information furnished by either party in connection with the Agreement shall be kept confidential. The foregoing obligation shall not apply to information that: (A) is already lawfully known when received without an obligation of confidentiality other than under this Agreement; (B) is or becomes lawfully obtainable from other sources; (C) is in the public domain when received or thereafter enters the public domain through no breach of this Section; (D) is required to be disclosed to, or in any document filed with, the U.S. Securities and Exchange Commission (or any analogous body or any registrar of companies or other organizations in any relevant jurisdiction), banking regulator, or any other governmental agencies; (E) is required by law to be disclosed and notice of such disclosure is given (when legally permissible) by the disclosing party; or (F) may be disclosed as provided in the Cardholder Agreement or other Cardholder-related documentation. Notice under (E), when practicable, shall be given sufficiently in advance of the disclosure to permit the other party to take legal action to prevent disclosure. Bank may exchange (and the Client insofar as necessary hereby consents to such exchange) Client and (to the extent authorized) Cardholder confidential information with Affiliates. Bank may also disclose confidential information to service providers, the Networks, and any other authorized third parties in connection with Bank's provision of Program services; provided that these authorized third parties are under obligations of confidentiality at least as restrictive as those set forth in this **Section 12**. Bank may exchange information concerning the Client or Cardholders with merchants and, in the case of Cardholder information, with the Client.

13. Miscellaneous

- A. If any provision of this Agreement is found by a court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the parties set forth in this Agreement. The failure of either party hereto to enforce any right or pursue any remedy hereunder shall not be construed to be a waiver thereof.
- B. In the regular course of business, Bank may monitor, record, and retain telephone conversations made or initiated to or by Bank from or to Client or Cardholders.
- C. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of Client and Bank and their respective successors and assigns. This Agreement, or any of the rights or obligations hereunder, may not be assigned by Client without the prior written consent of Bank.
- D. This Agreement embodies the entire agreement and understanding between Client and Bank and supersedes all prior agreements and understandings between Client and Bank relating to the subject matter thereof.
- E. This Agreement may be signed in one or more counterparts, each of which shall be an original, with the same effect as if the signatures were upon the same document. Facsimile signatures shall have the same force and effect as the original.
- F. If applicable, to the extent that Client would have been able to claim sovereign immunity in any action, claim, suit, or proceeding brought by Bank, Client irrevocably waives and agrees not to claim such immunity.
- G. Neither Bank nor Client shall be liable for any loss or damage to the other for its failure to perform or delay in the performance of its obligations under this Agreement, if such non-performance or delay is caused directly or indirectly by an act of God, act of governmental authority, de jure or de facto, legal constraint, war, terrorism, catastrophe, fire, flood or electrical, computer, mechanical or telecommunications failure, or failure of any agent or correspondent, or unavailability of a payment system, or other natural disaster or any cause beyond its reasonable control.
- H. CHOICE OF LAW. THIS AGREEMENT AND ANY CLAIM, CONTROVERSY, OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT, THE RELATIONSHIP OF THE PARTIES, AND/OR THE INTERPRETATION AND ENFORCEMENT OF THE RIGHTS AND DUTIES OF THE PARTIES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (AND NOT THE LAW OF CONFLICTS) OF THE STATE OF WASHINGTON, BUT GIVING EFFECT TO FEDERAL LAWS APPLICABLE TO NATIONAL BANKS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY HEREBY WAIVES ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING OF ANY KIND ARISING OUT OF, BY REASON OF, OR RELATING TO THIS AGREEMENT, THE INTERPRETATION THEREOF OR TO ANY TRANSACTIONS HEREUNDER. THIS WAIVER IS KNOWINGLY, WILLINGLY, AND VOLUNTARILY MADE BY THE PARTIES.
- I. Client acknowledges that Bank prohibits the use of Cards under any Accounts to conduct transactions (including, without limitation, the acceptance or receipt of credit or other receipt of funds through an electronic funds transfer, or by check, draft or similar instrument, or

the proceeds of any of the foregoing) that are related, directly or indirectly, to unlawful internet gambling. The term “**unlawful internet gambling**,” as used here, shall have the meaning as set forth in 12 C.F.R. Section 233.2(bb).

- J. Certain services may be performed by Bank or any affiliate, including affiliates, branches or units located in any country in which Bank conducts business or has a service provider. Client authorizes Bank to transfer Client information to such affiliates, branches or units at such locations as Bank deems appropriate. Bank reserves the right to store, access, or view data in locations it deems appropriate for the services provided.
- K. International Transactions include any transaction made in a foreign currency or that is made outside the United States of America even if it is made in U.S. Dollars. If an international transaction is made in a currency other than U.S. Dollars, the Network will convert the transaction into U.S. Dollars using its respective currency conversion procedures. The exchange rate the Network uses to convert currency is a rate that it selects either from the range of rates available in the wholesale currency markets for the applicable processing date (which rate may vary from the rate the respective entity itself receives), or the government-mandated rate in effect on the applicable processing date. The rate in effect on the applicable processing date may differ from the rate on the date when the international transaction occurred or when the Account was used. Bank reserves the right to charge an international transaction fee, as specified in Exhibit A. Bank may charge a commission on the relevant currency amount at the rate provided to it by the Network as set forth in the fee schedules attached hereto. The international transaction fee will be calculated on the U.S. Dollar amount provided to Bank by the Network. The same process and charges may apply if any international transaction is reversed.
- L. Bank may at any time offset any obligation of Client to Bank under this Agreement or otherwise against any obligation Bank owes to Client.
- M. This Agreement and Cards are non-transferable, non-assignable, and shall remain the property of Bank.
- N. USA PATRIOT Act Disclosure. Section 326 of the USA PATRIOT Act mandates that Bank obtain, verify and record information that identifies each business or person that opens a new account. By signing this Agreement Client agrees to provide and consent to us obtaining, if necessary from third parties, any and all information reasonably necessary to verify Client's identity.
- O. This Agreement may be amended or waived only by notice to Client, in writing from Bank.

EXHIBIT A to the Commercial Card Application & Agreement INCENTIVES & FEES

1. **DEFINITIONS.** Capitalized terms herein that are not otherwise specifically defined herein shall have the same meanings as set forth in the Agreement.

"Average File Turn" has the meaning given to it in Section 3.A.i.

"Contract Year" means a 12-month period beginning on the Effective Date of the Agreement or any anniversary of such date.

"Credit Losses" means all amounts due to Bank in connection with any Card that Bank has written off as uncollectible excluding amounts due with respect to Fraudulent Transactions.

"Discount Interchange Rate Transactions" means Transactions made on any and all Cards or Accounts, with an interchange rate below 2.00% under applicable Credit Card Network rules. Those Transactions include but are not limited to Large Ticket Transactions, level 3 Transactions, Network Partnership programs, and any other interchange programs entered into by the Networks, Client, merchants, or others whereby the parties to those interchange programs have agreed to interchange rates below 2.00% for certain transactions. This does not include Transactions that do not qualify for interchange under applicable Credit Card Network rules.

"Discount Interchange Rate Transaction Volume" means total Discount Interchange Rate Transactions made on any and all Cards or Accounts. **Discount Interchange Rate Transaction Volume** is comprised of two categories based on the interchange rate of each transaction:

- **"Discount Interchange Transaction Volume Category 1"** covers all **Discount Interchange Rate Transaction Volume** with interchange rate at or above 1.00% (interchange rates from 1.00% - 1.99%).
- **"Discount Interchange Transaction Volume Category 2"** covers all **Discount Interchange Rate Transaction Volume** with interchange rate below 1.00% (interchange rates from 0.00% - 0.99%).

"Settlement Terms" means the combination of the number of calendar days in a billing cycle and the number of calendar days following the end of a billing cycle to the date the payment is due. Settlement Terms are expressed as X & Y, where X is the number of calendar days in the billing cycle and Y is the number of calendar days following the end of a billing cycle to the date the payment is due.

"U.S. Net Charge Volume" means total charges made on any and all U.S. Dollar issued Cards or Accounts, net of returns, cash advances, convenience checks, Fraudulent Transactions and any transactions that do not qualify for interchange under applicable Network rules. U.S. Net Charge Volume does not include Discount Interchange Rate Transaction Volume.

"U.S. Total Charge Volume" means the sum of U.S. Net Charge Volume and Discount Interchange Rate Transaction Volume.

2. REBATES

A. Volume Rebate

Bank will pay Client a rebate based on the annual U.S. Total Charge Volume achieved according to the following schedule. The rebate will be calculated as the Volume Rebate Rate (as determined according to the following schedule) multiplied by the annual U.S. Net Charge Volume, subject to the rebate adjustments below.

Combined U.S. Purchasing Card and U.S. Single-Use Account Programs	
Annual U.S. Total Charge Volume	Rebate Rate (%) @ 30 & 25 Settlement Terms
\$1,000,000	1.30%
\$4,000,000	1.65%
\$7,000,000	1.85%
\$10,000,000	1.90%
\$20,000,000	1.92%
\$30,000,000	1.93%
\$40,000,000+	1.95%

B. Discount Interchange Rate Transaction Rebate

Should Client achieve the minimum annual U.S. Total Charge Volume required to earn a Volume Rebate as stated above, Bank will pay Client a rebate based on annual Discount Interchange Rate Transaction Volume. The rebate will be calculated as the Discount Interchange Transaction Rebate Rate (with categories as determined according to the following schedule) multiplied by the annual Discount Interchange Rate Transaction Volume for each respective category, subject to the rebate adjustments below.

Discount Interchange Rebate Rate for the Combined U.S. Purchasing Card and U.S. Single-Use Account Programs Volume by Program Settlement Terms	
Discount Interchange Rate Transaction Volume Category	@ 30 & 25 Settlement Terms
Category 1	0.70%
Category 2	0.15%

3. REBATE ADJUSTMENTS

A. Average File Turn Adjustment

i. Programs Contracted on Settlement Terms of 30 & 25

- For purposes of Section 3.A.i, "**Average File Turn**" means the annual average outstanding balance for Programs contracted on Settlement Terms of 30 & 25 (i.e. sum of the average outstanding balances for each calendar month divided by 12) divided by the annual U.S. Total Charge Volume associated with Programs contracted on Settlement Terms of 30 & 25, multiplied by 365.

The Volume Rebate Rate and Discount Interchange Transaction Rebate Rate will be adjusted (either increased or decreased as applicable) based on the Average File Turn of Client's Program(s) over a Contract Year (the "**Average File Turn Adjustment**").

- Programs with Settlement Terms of 30 & 25 will have an Average File Turn of 40 if Client spends ratably throughout each cycle. The Average File Turn Adjustment for Client's Program(s) with Settlement Terms of 30 & 25 is calculated by determining the difference between Client's Average File Turn for such Program(s) and 40. If the Client's actual Average File Turn for such Program(s) is less than 40, the Volume Rebate Rate and Discount Interchange Transaction Rebate Rate will each be increased by 0.0050% for each whole number less than 40. If the actual Average File Turn for such Program(s) is greater than 40, the Volume Rebate Rate and Discount Interchange Transaction Rebate Rate will each be decreased by 0.0100% for each whole number greater than 40 but less than 71.
- If the Client's actual Average File Turn under Section 3.A.i is greater than 70 days, Client will not qualify for any rebate payment (as described below in the General Rebate Terms Section).

For illustrative purposes, if Client spends ratably throughout each cycle and makes payment 55 days following the end of each cycle, the Average File Turn will be 70, thus resulting in the following Volume Rebate Rates:

Combined U.S. Purchasing Card and U.S. Single-Use Account Programs	
Annual U.S. Total Charge Volume	Rebate Rate (%) @ Average File Turn of 70
\$1,000,000	1.00%
\$4,000,000	1.35%
\$7,000,000	1.55%
\$10,000,000	1.60%
\$20,000,000	1.62%
\$30,000,000	1.63%
\$40,000,000+	1.65%

For illustrative purposes, if Client spends ratably throughout each cycle and makes payment 55 days following the end of each cycle, the Average File Turn will be 70, thus resulting in the following Discount Interchange Rebate Rates:

Discount Interchange Rebate Rate for the Combined U.S. Purchasing Card and U.S. Single-Use Account Programs Volume by Program Settlement Terms	
Discount Interchange Rate Transaction Volume Category	@ Average File Turn of 70
Category 1	0.40%
Category 2	0.15%

B. Interchange Rate Adjustment

In the event of a reduction in interchange rates by the Network, Bank reserves the right to adjust the rebate rates and fees accordingly.

4. GENERAL REBATE TERMS

A. Annual Rebates

- i. Rebates will be calculated annually in arrears. Rebate payments will be made in USD within the 90 day period after the end of the Contract Year (the "**Rebate Calculation Period**") via wire transfer to a business account designated by Client and authenticated by Bank. Payment is contingent upon Bank receiving Client's wire instructions, and Bank's authentication of such instructions, prior to the end of the Rebate Calculation Period.
- ii. Rebate amounts are subject to reduction by all Credit Losses. If Credit Losses exceed the rebate earned for any Contract Year, Client shall pay to Bank the amount in excess of the rebate, which invoice shall be due and payable in accordance with the terms of such invoice. If Client is participating in more than one program, Bank reserves the right to offset any Credit Losses from one program against any rebate earned under any other program. In no event will Bank pay Client a rebate for the year in which the Agreement is terminated.

B. To qualify for any rebate payment, all of the following conditions must be met.

- i. Client is not in default under the Agreement at the time of rebate calculation and payment.
- ii. Account(s) must be current at the time of rebate calculation and payment.
- iii. Settlement of any centrally billed Account(s) must be by automatic debit or by Client initiated ACH or wire or by check.
- iv. Average File Turn must be less than 71 days (as stated in the Average File Turn Adjustment section).

5. SETTLEMENT TERMS

Payment must be received by Bank in accordance with the Settlement Terms. Late payments shall be subject to fees as specified in the Fees Section of this Exhibit. Settlement Terms for the U.S. Purchasing Card and U.S. Single-Use Account Programs are 30 & 25.

6. FEES

A. United States

The following are the fees associated with the U.S. Purchasing Card and U.S. Single-Use Account Programs:

STANDARD SERVICES AND FEES	
Late payment charge	Central bill: 1% of full amount past due assessed at end of the Cycle in which payment first became due and each Cycle thereafter (WAIVED for the U.S. Purchasing Card and U.S. Single-Use Account Programs)
International transaction	1.5% of the U.S. Dollar amount charged
Rush card	\$25 per card if processed through Bank.
Standard card	\$0.00
ADDITIONAL SERVICES AND FEES	
Cash advances	2.5% of amount advanced (\$2.50 minimum with no maximum)
Convenience check	2% of check amount (\$1.50 minimum with no maximum)

If Client requests services not listed in this schedule, Client agrees to pay the fees associated with such services.

EXHIBIT B to the Commercial Card Application & Agreement

SUPPLIER RECRUITMENT AUTHORIZATION EXHIBIT

1. **DEFINITIONS.** For the purposes of this Exhibit, the following terms will have the meaning given below. Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

“**Claim(s)**” means any and all past, present and future claim(s), loss(es), liability(ies), obligation(s), expense(s), attorney or other fee(s), suit(s), debt(s), lien(s), contract(s), agreement(s), promise(s), demand(s) or damage(s), of any nature whatsoever, known or unknown, suspected or unsuspected, fixed or contingent, including legal fees to the full extent permitted by law.

“**Client Information**” means information provided by Client to Bank for purposes of Supplier Recruitment (as defined below), including, but not limited to: (i) contact information for Client and/or Supplier(s); (ii) accounts payables details (e.g., payment summaries, amounts/counts, invoice numbers, billing account numbers and current and future payment terms); and (iii) payment preferences for Client and/or Supplier(s).

“**Supplier Data Enrichment**” means a recruitment service utilizing internal and external data sources to obtain supplier contact information for the purpose of Supplier Recruitment (as defined below). Bank will: (i) use commercially reasonable efforts to enrich supplier data provided by Client via the Supplier Data Enrichment process, and (ii) provide on a weekly basis a report of supplier data that is captured during the acceptance process for further verification from Client.

“**Supplier(s)**” means Clients’ supplier(s) and/or vendor(s) identified in accounts payable documentation, or other documentation provided to Bank by Client.

“**Third Party**” or “**Third Parties**” means a payment solution partner of Bank.

2. SUPPLIER RECRUITMENT

Client asks and authorizes Bank and/or Third Party to communicate with Suppliers through various methods on behalf of and in the voice of Client for the purpose of requesting that Suppliers accept payment using wholesale payments products offered by Bank, including but limited to commercial card and automated clearing house (the “**Supplier Recruitment**”). For the sole purposes of Supplier Recruitment, Client consents to Bank’s disclosure of such Client Information to Third Parties and Suppliers. Bank reserves the right to refuse or discontinue Supplier Recruitment and/or Supplier Data Enrichment services at any time.

3. CLIENT ENGAGEMENT

Client shall be deemed to have accepted and agreed to the following:

- i. Client will complete the Supplier Campaign Questionnaire and/or Form provided by Bank;
- ii. Client will commit to having internal resources available to address weekly recruitment needs;
- iii. Client will provide, to the extent commercially reasonable, complete and accurate Client Information including, but not limited to, Supplier name, remittance address, contact name, phone number, and email addresses in a format consistent with Bank instruction;
- iv. Should Client not have complete and accurate Supplier contact information, the Bank will offer Supplier Data Enrichment;
- v. Client is solely responsible for validating Bank obtained Client Information, including but not limited to Supplier contact information during Supplier Data Enrichment and prior to issuing payment to that Supplier. Client acknowledges that Supplier contact information is deemed to be accurate once payment has been requested.

4. TERMS AND CONDITIONS

A. Obligations and Liabilities

- i. Despite anything to the contrary in the Agreement, Client, on its behalf and on behalf of each of its Affiliates:
 - (a) will indemnify and hold Bank and each of its Affiliates harmless against Claims, except in the event of Bank’s gross negligence, that may arise related to: (1) Supplier Recruitment; (2) Supplier Data Enrichment; or (3) a third-party Claim related to the disclosure of Client Information for the purpose of Supplier Recruitment.
 - (b) agrees to reimburse Bank and each of its Affiliates for any direct damages Bank incurs related to Claims arising from third parties under clause 4.A.i.(3).
 - (c) releases and forever discharges Bank and each of its Affiliates from any and all liability for indirect, special, punitive, or consequential damages in any form or under any circumstances, even if Bank has been advised of the possibility of such damages, except to the extent that such Claims arise from the gross negligence of the Bank or its Affiliates.

- B. **Use of Client Logo.** Client grants Bank a non-exclusive, limited, non-transferable, and revocable license to use Client’s marks (whether registered or not) for the sole purpose of Supplier Recruitment.

- C. **Authorizing Transfers.** Client represents and warrants that Client has obtained the consent required to authorize Bank to disclose Client Information, including information about and Supplier(s), for purposes of Supplier Recruitment.

- D. **Giving Bank Notice.** Despite anything to the contrary in the Agreement, Client agrees that it will provide Bank with notice to revoke this Exhibit, which shall have the effect of terminating Supplier Recruitment. Bank will have a reasonable period of time to act on Client’s notice after Bank receives it. The Agreement shall remain in full force and effect unless otherwise terminated as set forth in Agreement.

ACCOUNT TERMS

V1.7_02_03_21

INTRODUCTION

This document, as amended or supplemented by account addenda for each country in which the Accounts are held, (collectively, the “Account Terms”) contains the general terms, conditions and disclosures for the Accounts and Services selected by the Customer and constitutes an agreement between the Bank and the Customer and supersedes all previous drafts, discussions and negotiations, whether oral or written, between them in connection with the opening of Accounts and receipt of Services.

References to the “Bank” shall mean **JPMorgan Chase Bank, N.A.**, and any of its affiliates. References to the “Customer” shall mean the entity to which the Bank, as an independent contractor, provides Accounts and Services. All accounts subject to the Account Terms are, regardless of their location, referred to as “Accounts”. References to “Services” shall mean services offered by the Bank and subject to the Account Terms and any applicable Service Terms. References to “Service Terms” shall mean any terms and conditions regarding specific types of Accounts or Services that are subject to the Account Terms. Use of a Service constitutes acceptance of the relevant Service Terms. In addition to the Account Terms and Service Terms, the Accounts are subject to other Account-related documentation, including signature cards and application forms (the “Account Documentation”).

The Customer shall not transfer any of its rights and obligations in an Account or with respect to a Service, or create any form of security interest over such rights and obligations in an Account, without the prior written consent of the Bank. Failure to obtain the Bank’s prior written consent constitutes a breach of these Account Terms by the Customer and may result in immediate closure of Accounts or termination of Services.

The Account Terms, Account Documentation and Service Terms may vary applicable law to the maximum extent permitted under any such law. Any provision of applicable law that cannot be varied shall supersede any conflicting term of the Account Terms, Account Documentation or Service Terms.

The Account Terms may be supplemented or amended as set forth in Section 17.6 (Amendments; Supplement; Waivers) herein.

1. Authorized Persons.

1.1 Authorized Persons. The Bank is authorized to rely on any document or designation that identifies a person authorized to act on behalf of the Customer (“Authorized Person”) with respect to the Accounts and Services, until the authority for such Authorized Person is withdrawn by the Customer upon written notice to the Bank, and the Bank has had a reasonable opportunity to act on such notice. The Customer will provide a specimen signature for Authorized Persons in the manner requested by the Bank.

1.2 Authorizations. Each Authorized Person is independent of the Bank and, subject to any written limitation provided by the Customer and received and accepted by the Bank, is authorized on behalf of the Customer to: open, operate and close Accounts; overdraw Accounts as permitted by the Bank; appoint and remove Authorized Persons; execute or otherwise agree to any form of agreement relating to the Accounts or Services, including Account Documentation; execute guarantees, indemnities or other undertakings to the Bank in relation to guarantees, letters of credit or other financial transactions, or in relation to missing documents; draw, accept, endorse or discount checks, drafts, bills of exchange, notes and other financial instruments (“Items”); receive materials related to security procedures; and give instructions (“Instructions”), including requests and payment orders, by means other than the signing of an Item, with respect to any Account transaction. Without limitation, such Instructions may direct: (i) the payment, transfer or withdrawal of funds; (ii) the disposition of money, credits, items or property at any time held by the Bank for account of the Customer; (iii) the provision of access as described in Section 1.4 (Third Party Access) and Section 2.1 (Third Party Instructions) below; (iv) the provision of information regarding the Accounts; (v) any other transaction of the Customer with the Bank; or (vi) the amendment or cancellation of any prior Instruction.

1.3 Facsimile Signatures. If the Customer provides the Bank with facsimile signature specimens, or if the Customer issues Items with a facsimile signature on one or more occasions, the Bank is authorized to pay Items signed by facsimile signature (including computer generated signatures) if the actual or purported facsimile signature, regardless of how or by whom affixed, resembles the specimens filed with the Bank by the Customer, or resembles a specimen facsimile signature otherwise employed for the Customer’s benefit.

1.4 Third Party Access. The Customer may request that the Bank permit a third party to have access to an Account by submitting an access request in a form acceptable to the Bank (an “Access Request”, and the third party designated in such form will be referred to as a “Third Party”). Each Third Party is authorized by the Customer to issue Instructions to the Bank in relation to an Account, including to initiate payments and transfers against an Account, and to access and receive balance and transaction information (including account statements, information reporting and transaction advices) by any method of communication, including the Bank’s electronic channels, facsimile transmission, in writing, by telephone and SWIFT message, and the Bank is authorized to act on such Instructions and provide such access as described in this Section and Section 2.1 (Third Party Instructions) below. Subject to the Third Party’s completion of documentation required by the Bank, the Bank is authorized to act upon any Instructions issued in the name of any authorized person of the Third Party who has been nominated by the Third Party in a form acceptable to the Bank, and such authorized person shall be deemed an Authorized Person with respect to the provisions of these Account Terms relating to the use of the Accounts and the giving of Instructions with respect to the Accounts. The Customer may revoke an Access Request at any time by giving the Bank written notice of such revocation; such revocation shall be effective when the Bank has received such notice and has had a reasonable opportunity to act upon it.

2. Security Procedures; Confirmations.

2.1 Security Procedures Generally. When issuing Instructions, the Customer is required to follow the Bank’s security procedures as communicated to the Customer by the Bank from time to time, including the procedures set forth herein, and shall be bound by such security procedures for use

of the Service. Upon receipt of an Instruction, the Bank will use the security procedures to verify that the Instruction is effective as that of the Customer. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, call back procedures or similar security devices. It is understood that the purpose of the security procedure is to verify the authenticity of, and not to detect errors in, Instructions. The Customer shall safeguard the security procedure and make it available only to persons that it has authorized. Any Instruction, the authenticity of which has been verified through such security procedure, shall be effective as that of the Customer, whether or not authorized.

Security Procedure for Verbal or Written Instructions. Unless the Customer and the Bank have agreed in writing to an alternate security procedure, the Bank may verify the authenticity of verbal or written (including those transmitted by facsimile) funds transfer Instructions by telephonic call-back to an Authorized Person. The Customer agrees that this security procedure is commercially reasonable for such Instructions.

Security Procedure for Instructions Received through Electronic Channels. If the Bank receives an Instruction in the name of the Customer by means of any of Bank's electronic channels, the Customer's SWIFT BIC codes, or other electronic channels through which the Bank has notified Customer that it will accept Instructions, then Bank may rely on authentication procedures established by such electronic channels as the security procedure. Any such Instruction shall be deemed to have been given by an Authorized Person and shall be effective as that of the Customer, whether or not authorized. By using an electronic channel to provide Instructions to the Bank, the Customer agrees that this security procedure is commercially reasonable for such Instructions.

Security Procedure for Third Party Instructions. The security procedures applicable to Instructions from any Third Party shall be those security procedures established by the Bank with the Third Party. Any Instruction that the Bank receives from the Third Party, the authenticity of which has been verified through such security procedure, shall be effective as that of the Customer, whether or not authorized, and shall be deemed an Instruction given on behalf of the Customer for all purposes of these Account Terms. The Bank is authorized to act upon any Instructions received via any of the SWIFT BIC codes specified in an Access Request whether or not such SWIFT BIC codes are associated with the Customer or the Third Party.

2.2 Confirmations. If the Customer, other than with respect to security procedures, chooses to confirm an Instruction, any confirmation must be clearly marked as a confirmation, and, if there is any discrepancy between an Instruction and a confirmation, the terms of the Instruction shall prevail. Subject to Section 2.1 (Security Procedure for Verbal or Written Instructions), the Bank may, at its option, confirm or clarify any request or Instruction using any means, even if a security procedure appears to have been followed. If the Bank is not satisfied with any confirmation or clarification, it may decline to honor the Instruction.

3. Deposits.

3.1 Processing Incoming Items. All Items deposited or cashed are received for collection only and are subject to receipt of final payment. The Bank may agree with other banks and clearing houses to vary procedures regarding the collection or return of Items, and deadlines to the extent permitted by applicable law or market practice. The Bank chooses the method of collecting Items and may use other banks in the process. The Bank will present Items in accordance with the custom and market practice of the jurisdictions in which the Items are handled for collection. The Bank is not responsible for actions or omissions of other banks, nor for the loss or destruction of any Item in the possession of other banks or in transit. The Customer shall use reasonable efforts to assist the Bank in locating or obtaining replacements of Items lost while in the Bank's possession. For purposes of determining when an Item is sent to the Customer, the provision of an image of the Item or information identifying the Item (e.g., Item number, amount, date of Item) is a sufficient substitute for the actual Item.

3.2 Availability of Funds; Credits Not Received. Credits and deposits to an Account will be available in accordance with the Bank's availability policy and applicable law. If the Bank credits an Account: (i) in contemplation of receiving funds for the Customer's credit and those funds are not actually received by the Bank; or (ii) in reliance on a transaction which is subsequently returned, reversed, set aside or revoked, or if the Bank does not receive funds for the Customer's credit for value on the date advised by or on behalf of the Customer, or if final settlement is not received by the Bank for any reason, then the Bank shall be entitled to debit any Account of the Customer with the amount previously credited and/or with any other charges incurred, even if doing so creates or increases an overdraft.

3.3 Collection Basis Processing. If an Item is processed by the Bank on a collection basis, the Bank may defer credit to the relevant Account until it has received final, non-reversible, payment in accordance with applicable law and market practice.

4. Payment of Items.

4.1 Processing Outgoing Items. The Bank is authorized to pay any Item drawn on the Account, in accordance with the Bank's usual procedures, including any Item that purports to be a substitute check. The Bank is authorized to debit the Account on which the Item is drawn on the day the Item is presented, certified or accepted, or at such earlier time when the Bank receives notice by electronic or other means that an Item drawn on an Account has been deposited for collection. The Bank may determine Account balances in order to decide whether to dishonor an Item for insufficient funds at any time between receiving such presentment or notice and the time of the return of the Item, and need make no more than one such determination.

4.2 No Inquiry. The Bank is authorized to pay all Items presented to it or cashed at the Bank, regardless of amount and without inquiry as to the circumstances of issue, negotiation or endorsement or as to the disposition of proceeds, even if drawn, endorsed or payable to cash, bearer or the order of the signer or any Authorized Person or to a lender in payment of the signer's or Authorized Person's obligations.

4.3 Limitations. The Customer shall immediately notify the Bank if it becomes aware that any Items (whether completed or blank) are lost or stolen. The Customer shall not allow any third party to issue Items against or otherwise use the Accounts unless specifically agreed to in writing by the

Bank. The Customer shall not issue Items that are post-dated, and the Bank shall not be liable for any damages caused by premature payment or certification of a post-dated Item. Further, the Customer shall not put any condition, restriction, or legend on any Item; and the Bank is not required to comply with any such condition, restriction or legend.

4.4 Electronic Processing; Specifications. The Bank may process any Item by electronic means. All Items issued by the Customer against any Account must comply with industry standards and the Bank's check specifications and image standards, published from time to time. The Bank shall not be liable for damages or losses due to any delay or failure in procuring, collecting, or paying Items not conforming to such specifications or standards, except to the extent such losses or damages are the direct result of the Bank's gross negligence or willful misconduct.

5. Funds Transfer Instructions.

5.1 Processing Funds Transfer Instructions. The Customer may issue funds transfer Instructions against Accounts, subject to the Bank's acceptance. Funds transfer Instructions will be received, processed and transmitted only on the Bank's funds transfer business days, and within the Bank's established cut-off hours on such days. Instructions requesting cancellation or amendment of funds transfer Instructions must be clearly marked as such and received at a time and in a manner affording the Bank a reasonable opportunity to act on the cancellation or amendment Instruction. The Customer may reverse, amend, cancel or revoke any Instructions only with the consent of the Bank and, if applicable, the beneficiary's bank. The Bank will debit the Account for the amount of each funds transfer Instruction accepted by the Bank, and the Customer authorizes the Bank to debit the Account for, or deduct from the amount of the funds transfer, all associated fees, including debit and credit processing charges. In processing a funds transfer, other banks may deduct fees from the funds transfer. No restrictions upon the acceptance of funds transfer Instructions by the Bank or upon the Accounts that the Bank may debit shall be binding unless agreed to by the Bank in writing. The Bank shall not be required to inquire into the circumstances of any transaction.

5.2 Acting on Instructions. Notwithstanding any Instructions by the Customer to the contrary, the Bank reserves the right to use any funds transfer system and any intermediary bank in the execution of any funds transfer Instruction and may otherwise use any means of executing the funds transfer Instruction that the Bank deems reasonable in the circumstances.

5.3 Inconsistent Name and Number. The Bank and other financial institutions, including the beneficiary's bank, may rely upon the identifying number of the beneficiary, the beneficiary's bank or any intermediary bank included in a funds transfer Instruction, even if it identifies a person different from the beneficiary, the beneficiary's bank or intermediary bank identified by name.

5.4 Foreign Exchange.

- (a) If the Bank accepts a funds transfer Instruction issued in the Customer's name for payment in a currency (the "Non-Account Currency") other than the currency of the Account (the "Account Currency"), the Bank is authorized to enter into a foreign exchange transaction to sell to the Customer the amount of Non-Account Currency required to complete the funds transfer and debit the Account for the purchase price of the Non-Account Currency. If the Bank receives a payment to the Account in a Non-Account Currency, the Bank is authorized to purchase the Non-Account Currency from the Customer and to credit the purchase price to the Customer's Account in lieu of the Non-Account Currency.
- (b) The applicable foreign exchange rate and spread for any of the foregoing transactions shall be determined by the Bank in its sole discretion and may differ from foreign exchange rates and spreads at which the Bank otherwise enters into foreign exchange transactions on the relevant date. The Bank may generate additional profit or loss in connection with the Bank's execution of a foreign exchange transaction or management of its risk related thereto in addition to the applicable spread. Further, (i) the Bank may execute such foreign exchange transactions in such manner as the Bank determines in its sole discretion; and (ii) the Bank may manage the associated risks of the Bank's own position in the market in a manner it deems appropriate without regard to the impact of such activities on the Customer. Any such foreign exchange transaction will be between the Bank and the Customer as principals, and the Bank will not be acting as agent or fiduciary for the Customer.
- (c) Notwithstanding any prior action or course of dealing, subject to applicable law, the Bank has no obligation to cancel, reverse or otherwise buy back foreign currencies purchased by the Customer under a Service and the Bank makes no commitment to buy back currencies. The Customer acknowledges that it may not be able to sell back certain foreign currencies once purchased.

5.5 Cancellation of Foreign Exchange Drafts. Subject to applicable law, the Bank may cancel any draft issued by the Bank on behalf of the Customer in a Non-Account Currency if the draft is not presented for payment within one hundred eighty (180) calendar days after the date of issuance, and the Customer authorizes the Bank to recredit the Customer's Account with an equivalent amount of Account Currency at a foreign exchange rate and spread, and at such date and time, as the Bank determines in its sole discretion. Following such cancellation, the Customer shall be responsible for all claims that may be asserted against the Bank in respect of the draft.

6. Interest; Fees; Taxes.

6.1 Interest. The Bank may apply interest on balances in Accounts at rates determined by the Bank in its sole discretion, subject to any withholding or deduction for tax as required by applicable law (including the Foreign Account Tax Compliance Act ("FATCA")). The Bank may deduct from the Accounts charges for early withdrawals, which may include a deduction from principal (if permitted or required by law). If the rate applied by the Bank is negative, the Customer may be required to make a negative rate payment, including on non-interest bearing Accounts, which the Bank shall be entitled to collect by debiting the Account.

6.2 Fees and Taxes.

- (a) The Bank may impose and the Customer will pay fees for Accounts and Services provided by the Bank, including transaction, maintenance, balance-deficiency, and service fees and other charges (collectively "Fees"). The Bank may debit any Account for Fees and/or Taxes, even if such debit creates or increases an overdraft of the Account. References to "Taxes" shall mean any taxes (including value added taxes, sales taxes and similar taxes), levies, imposts, deductions, charges, stamp, transaction and other duties and withholdings (together with any related interest, penalties, fines, and expenses) in connection with the Fees, Accounts or Services (including payments or receipts to an Account) except if such Taxes are imposed on the overall net income of the Bank.
- (b) All payments (including Fees and interest on overdrafts) from the Customer to the Bank pursuant to the Account Terms, the Service Terms and any Account Documentation shall be in full, without set-off or counterclaim, and free of any withholding or deduction (collectively, a "Deduction") related to any tax or other claim, unless a Deduction is required by applicable law. If any Deduction is required by applicable law in respect of any payment due to the Bank, the Customer shall:
 - (i) ensure that the Deduction is made;
 - (ii) pay the amount of the Deduction as required by applicable law;
 - (iii) increase the payment in respect of which the Deduction is required so that the net amount received by the Bank after the Deduction shall be equal to the amount which the Bank would have been entitled to receive in the absence of any requirement to make any Deduction; and
 - (iv) deliver to the Bank, within thirty (30) days after it has made payment to the applicable authority, a certified copy of the original receipt issued by the authority, evidencing the payment to the authority of all amounts required to be deducted.
- (c) All Fees are exclusive of Taxes. In addition to any Fees or other amounts due and except to the extent the Bank is otherwise compensated for such Taxes under this Section 6, the Customer will pay or reimburse the Bank for any Taxes which the Bank is required to account for to any tax authority under any applicable law and, where required by applicable law, the Customer shall account for any Taxes directly to the applicable tax authority.

6.3 Tax Documentation and Information. The Customer will provide the Bank with such documentation and information as the Bank may require in connection with taxation, and warrants that such information is true and correct in every respect and shall immediately notify the Bank if any information requires updating or correction.

7. Account Statements.

The Bank will issue Account statements, confirmations, or advices ("Account Statements") at the frequency and in the manner advised to the Customer from time to time. The Customer is responsible for ensuring that an Authorized Person promptly examines each Account Statement and any accompanying Items that are made available to it by the Bank, and reporting any irregularities to the Bank in writing, including any claim of unauthorized funds transfer activity. The Bank shall not be responsible for the Customer's reliance on balance, transaction or related information that is subsequently updated or corrected or for the accuracy or timeliness of information supplied by any third party to the Bank. Electronic Account Statements, if applicable, shall be deemed to be received by the Customer when the Bank sends notice to the Customer that the Account Statement has been posted by electronic means (including by posting such Account Statement on a Bank website).

8. Overdrafts.

8.1 Overdrafts. The Bank may debit an Account even if the debit may cause or increase an overdraft. Unless otherwise agreed in writing, the Bank is under no obligation to permit any overdraft or to continue to permit overdrafts after having permitted an overdraft or to provide notice of any refusal to permit an overdraft, in each case notwithstanding any prior action or course of dealing. Any overdraft shall be immediately due and payable by the Customer to the Bank, unless otherwise agreed in writing. If the Bank permits an overdraft, the Bank is authorized to charge interest on the amount of the overdraft as long as the overdraft is outstanding, at a rate determined by the Bank, up to the maximum rate permitted by law at the time of the overdraft or at the specific rate agreed in writing between the Customer and the Bank. Subject to applicable law, interest shall accrue on any negative balance in an Account notwithstanding closure of the Account and/or termination of these Account Terms. If the Bank pays an Item that causes or increases an overdraft, the Bank may deduct applicable Fees and expenses from the Account without notice.

8.2 Order of Payment. When Items and other debits to the Account are presented to the Bank for payment on the same day and there are insufficient available funds in the Account to pay all of these transactions, the Bank may choose the order in which it pays transactions, including the largest transaction first or any other order determined by the Bank, in its sole discretion.

9. Set Off; Security Interest.

9.1 Set-Off. The Bank may at any time, without prejudice to any other rights which it may have, and without prior notice or demand for payment, combine, consolidate or merge all or any of the Accounts of the Customer or may retain, apply or set off any money, deposits or balances held in, or standing to the credit of, any Account in any currency towards payment of any amount owing by the Customer to the Bank or any of its affiliates. The Bank shall be entitled to accelerate the maturity of any time deposit or fixed term deposit. For the purposes of this Section the Bank may effect currency conversions at such times or rates as it may think reasonable and may effect such transfers between any Accounts as it considers necessary.

9.2 Security Interest. The Customer grants to the Bank a lien and security interest in any Accounts of the Customer at the Bank, in order to secure any and all obligations and liabilities of the Customer to the Bank or any of its affiliates.

10. Confidential Information; Consents.

10.1 Confidential Information. “Confidential Information” means and includes all non-public information regarding the Customer, its Accounts or the Services. The term Confidential Information does not include information which is or becomes publicly available by means other than the Bank’s breach of this section, information the Bank develops independently without the use of Confidential Information, or information the Bank obtains from a third-party that is not reasonably known to have confidentiality obligations for such information.

- (a) The Bank will maintain Confidential Information in the same manner it maintains its own confidential information.
- (b) The Customer authorizes the Bank and its agents, employees, officers and directors and affiliates to use Confidential Information (i) to provide services to and administer the relationship with Customer, (ii) for any operational, credit or risk management purposes, (iii) for due diligence, verification or sanctions or transaction screening purposes, (iv) for the prevention or investigation of crime, fraud or any malpractice, including the prevention of terrorism, money laundering and corruption, (v) to improve and develop products or services, including, but not limited to using data analytics, (vi) for compliance with any legal, regulatory or tax requirements or tax reporting or any industry standard, code of practice, or internal policies or (vii) with prior consent of the Customer.
- (c) In connection with the permitted uses set forth in subsection (b), the Customer authorizes the Bank and its agents, employees, officers and directors and affiliates to disclose Confidential Information to (i) any subcontractor, consultant, agent, or any other unaffiliated third party or service provider, including the transmission of information to other banks and clearing houses and through channels and networks operated by third parties that the Bank reasonably believes is required in connection with the Services and provided that such parties are subject to equivalent confidentiality obligations; (ii) to the Bank’s professional advisors, auditors or public accountants; (iii) the Bank’s subsidiaries, affiliates and branches and their relevant parties as set forth in subsection (i) and (ii) herein; (iv) to a proposed assignee of the Bank’s rights under the Account Documentation; and (v) with the consent of the Customer.
- (d) In addition to the foregoing, the Bank may use and disclose Confidential Information as required by (i) applicable law or courts of competent jurisdiction; (ii) governmental or regulatory or supervisory authorities, or law enforcement agencies with jurisdiction over the Bank’s or Customer’s businesses; or (iii) to establish, exercise or defend claims, enforce legal rights, or satisfy the legal obligations of the Bank.
- (e) The Customer acknowledges that: (i) permitted disclosures of Confidential Information may be transmitted across national boundaries in the context of outsourcing arrangements and through networks, including networks owned and operated by third parties; and (ii) the Bank may process or store, or engage service providers to process or store Confidential Information on its behalf, both in its own premises and those of its services providers, located in, amongst others, the European Economic Area, the United States of America, India, the Philippines, Singapore, Hong Kong, Australia, China, Japan, Brazil, Mexico, Argentina, Colombia, Chile, South Africa, Russia and any other country where the Bank or such service providers conduct business.

10.2 Consents. The Customer represents and warrants that prior to submitting to the Bank information about natural persons related to the Customer (including Authorized Persons, users of the Bank’s electronic access systems, officers and directors, employees, beneficial owners, and customers and persons on whose behalf the Customer is receiving or transmitting funds, issuing items or maintaining an Account), the Customer shall have obtained such consents as may be required by applicable law or agreement, for the Bank to process and use the information for purposes of providing the Accounts or Services.

11. Liability Limitation; Force Majeure.

11.1 Liability. The Bank, its agents, employees, officers and directors, shall not be liable for any damage, loss, expense or liability of any nature which the Customer may suffer or incur, except to the extent of losses or expenses directly resulting from the gross negligence or willful misconduct of the Bank, its agents, employees, officers or directors. The Bank, its agents, employees, officers and directors shall not, in any event, be liable for indirect, special, consequential or punitive loss or damage of any kind (including lost profits, loss of business or loss of goodwill), in each case, whether or not foreseeable, even if the Bank, its agents, employees, officers or directors have been advised of the likelihood of such loss or damage, and regardless of whether the claim for loss or damage is made in negligence, gross negligence, for breach of contract or otherwise; provided, however, that the foregoing shall not apply to the extent such loss or damage is caused by fraud on the part of the Bank, its agents, employees, officers or directors. Customer shall promptly provide the Bank with a notice of any claims it receives regarding a Service.

11.2 Force Majeure. Neither the Bank nor the Customer shall be liable for any loss or damage, expense or liability of any nature to the other for its failure to perform or delay in the performance of its obligations resulting from an act of God, act of governmental or other authority, de jure or de facto, legal constraint, civil or labor disturbance, fraud or forgery (other than on the part of the other party or its employees), war, terrorism, catastrophe, fire, flood or electrical, computer, mechanical or telecommunications failure or malfunction, including inability to obtain or interruption of communications facilities, or failure of any agent or correspondent, or unavailability or failure of or the effect of rules or operations of a payment or funds transfer system, including non-availability of appropriate foreign exchange or foreign currency, or any cause beyond its reasonable control.

12. Indemnity.

The Customer indemnifies and holds the Bank, and its agents, employees, officers and directors, harmless from and against any and all claims, damages, demands, judgments, liabilities, losses, costs and expenses (including attorneys' fees) (collectively, "Losses") arising out of or resulting from: (i) the Bank's acceptance or execution of any request, direction or transaction in connection with any Account or any Service provided to the Customer, including Items and Instructions; or (ii) the Bank's payment of any taxes, interest or penalty otherwise due from the Customer paid on the Customer's behalf, or for which the Bank has no responsibility under the Account Terms, the Service Terms or any Account Documentation. Notwithstanding the foregoing, the Bank, its agents, employees, officers and directors shall not be indemnified for any Losses to the extent resulting directly from its own gross negligence, willful misconduct or fraud.

13. Notices.

13.1 Notice to the Customer. All Account Terms, Service Terms, Account Documentation, notices and other documents may be delivered, made available and/or made accessible to the Customer by ordinary mail or courier at the address of the Customer provided to the Bank, or by facsimile transmission, electronic means and channels (including SWIFT message, emails and by posting on a Bank website) or by such other means as the Customer and the Bank may agree upon from time to time.

13.2 Notice to the Bank. Unless otherwise arranged, all notices to the Bank must be sent to the Bank officer or service representative managing the Account or to any other address notified by the Bank to the Customer in writing from time to time, and must be sent by ordinary mail, by courier, by facsimile transmission, by electronic transmission or by such other means as the Customer and the Bank agree upon from time to time. The Bank shall have a reasonable time to act on any notices received.

14. Termination.

Either the Bank or the Customer may close an Account and/or terminate a Service:

- (a) by giving the other party not less than thirty (30) calendar days' prior written notice of intent to close or terminate, or
- (b) immediately upon written notice to the other party in the event of: (i) a breach of the Account Terms, Account Documentation or Service Terms by the other party; (ii) the other party's inability to meet its debts as they become due, receivership, administration, liquidation, or voluntary or involuntary bankruptcy; or the institution of any proceeding therefor, any assignment for the benefit of the other party's creditors, or anything analogous to the foregoing in any applicable jurisdiction, or a determination in good faith by the terminating party that the financial or business condition of the other party has become impaired; (iii) a determination by the terminating party, in its sole opinion, that termination is necessary or required by applicable legal, tax or regulatory requirements, or as a result of a court or regulatory agency order or proceeding; or (iv) a good faith belief by the terminating party that the other party is engaged in activities that are inconsistent with the terminating party's policies, provided however, that any closure and/or termination will be effective only after the Bank has had reasonable time to act on such notice.

The Bank shall only be required to process requests or Instructions for transactions that the Bank reasonably estimates will be completed prior to the date of closure of the Account or termination of the relevant Service, but shall not be precluded from completing a request or Instruction received by it prior to the date of the closure or termination. Any such closing or termination shall not affect the Customer's liabilities to the Bank arising prior to, or on, such closing or termination, all of which shall continue in full force and effect. Notwithstanding anything to the contrary in any Service Terms, upon the closing of an Account, all Services linked to such Account are simultaneously terminated (unless otherwise specifically agreed to by the parties). In the absence of Instructions from the Customer on transfer of monies standing to the credit of an Account that is being terminated, the Bank may issue a cashier's check and send it to the address of the Customer on the Bank's record.

15. Account Disclosures.

15.1 Rejection of Funds; Reversal of Erroneous Postings.

- (a) The Bank may return or refuse to accept all or any part of a deposit or credit to an Account, at any time, and will not be liable to the Customer for doing so, even if such action causes outstanding Items to be dishonored and returned, or payment orders to be rejected.
- (b) The Bank may reverse any transactions posted to the Account if it determines such posting was made in error and that Customer was not entitled to the funds posted.

15.2 Withdrawal. The Bank may refuse to allow withdrawals from Accounts, may block or suspend an Account, or perform any other function in certain circumstances, including where: (i) there appears to be a dispute relating to an Account, including disputes regarding the persons authorized to issue Instructions; (ii) as required by applicable law, legal process affecting the Account, or order of any relevant government regulatory, judicial or tax authority, including a levy or restraining notice; (iii) the Account is being used as collateral to secure indebtedness to the Bank or its affiliates; (iv) documentation requested by the Bank has not been presented; or (v) the Customer fails to pay its indebtedness to the Bank or its affiliates when due.

15.3 Payable Branch; Deposits Outside of the U.S. Any amount standing to the credit of any Account with the Bank is payable exclusively at a branch in the country at which the Account is held; however, payment may be suspended from time to time in order to comply with any applicable law, governmental decree or similar order, in any jurisdiction, for the time period affecting the Bank, its officers, employees, affiliates, subsidiaries,

agents or correspondents. The Customer acknowledges that deposits held in a branch of the Bank located outside the United States are not payable in the United States and: (i) are not insured by the Federal Deposit Insurance Corporation or any other United States governmental agency; (ii) are subject to cross-border risks; and (iii) have a lesser preference as compared to deposits held in the United States in the event of a liquidation of the Bank.

- 15.4 Commissions and Rebates.** In connection with the provision of any Service by the Bank to the Customer, the Bank may from time to time receive commission, rebate or similar payments from other banks or third parties.

16. Governing Law and Procedure.

- 16.1 Governing Law.** The Account Terms, the relevant Account Documentation and the rights and obligations of the Customer and the Bank in respect of each Account shall be governed by and construed in accordance with the laws of the jurisdiction in which the branch holding the relevant Account is located.

- 16.2 Waiver of Jury Trial; Limitation of Claims.** The Customer and the Bank hereby knowingly, voluntarily and intentionally irrevocably waive, to the fullest extent permitted by applicable law, all right to, and will not seek, prejudgment interest and a trial by jury in any action, proceeding or counterclaim, of whatever type or nature, arising out of these Account Terms, the Account Documentation or the relationship established hereby. Any claim in connection with any Account or Service, unless a shorter period of time is expressly provided, must be brought against the Bank within two (2) years of the occurrence of the event giving rise to the claim.

- 16.3 Venue.** In relation to each Account, the courts of the country, state or province in which the branch or affiliate of the Bank at which the Account is held shall have exclusive jurisdiction to settle any disputes that arise out of or are connected with the Account Terms, the Account Documentation and/or the Account and the Customer agrees to submit to the jurisdiction of such courts and waive any objection to venue or their convenience as a forum. This section is for the benefit of the Bank only and does not prevent the Bank from taking proceedings in the courts of any other country, state or province with jurisdiction including, to the extent allowed by law, concurrently in any number of countries, states or provinces.

17. Miscellaneous.

- 17.1 Languages.** If the Account Terms, Account Documentation or Service Terms are translated into, or appear in a language other than English, the English language version shall control.

- 17.2 Successors and Assigns.** The Account Terms, Service Terms and Account Documentation will be binding on each of the parties' successors, assigns and transferees. The parties agree that neither party may assign or transfer any of its rights or obligations under the Account Terms, Service Terms or Account Documentation without the prior written consent of the other party, which consent will not be unreasonably withheld or delayed; except that the Bank may assign or transfer the Account Terms, Service Terms and Account Documentation (a) to any affiliate or subsidiary of the Bank, or (b) in connection with a merger, reorganization or other restructuring involving the Bank or its business; upon notice to the Customer, and the Customer hereby consents to the same.

- 17.3 Order of Precedence.** Any terms of any supplement, amendment, agreement, Service Terms or notice that are inconsistent with a provision of the Account Terms or the Account Documentation shall supersede such provision of the Account Terms or the Account Documentation for purposes of the particular Account or Service that is the subject thereof. The Account Terms and Account Documentation supersede and replace any other account conditions previously sent to the Customer.

- 17.4 Interpretation.** Section and subsection headings are for convenience only and shall not affect the meaning of the Account Terms, the Service Terms and any Account Documentation. References to Schedules, Sections, Subsections and Clauses are to Schedules, Sections, Subsections and Clauses of the Account Terms, the Service Terms and any Account Documentation. Words in the singular import the plural and vice versa. If any provision of the Account Terms, the Service Terms and any Account Documentation shall be held to be illegal, invalid, or unenforceable the validity of the remaining portions of the Account Terms the Service Terms and any Account Documentation shall not be affected. The term "including" shall in all cases mean "including without limitation" unless otherwise indicated. The term "affiliates" shall mean with respect to any entity, an entity, whether directly or indirectly, that controls, is controlled by, or is under common control with that entity. The term "applicable laws" or similar terms shall mean any law, statute, order, decree, rule, injunction, license, consent, approval, agreement, guideline, circular or regulation of a government authority.

- 17.5 Compliance; Transaction Screening.** The Customer shall comply with all applicable laws and with the Bank's policies notified to the Customer. The Bank is required to act in accordance with Bank policies, the laws of various jurisdictions relating to the prevention of money laundering and the implementation of sanctions, including economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State. The Bank is not obligated to execute payment orders or effect any other transaction where a party to the transaction is a person or entity with whom the Bank is prohibited from doing business by any law applicable to the Bank, or in any case where compliance would, in the Bank's opinion, conflict with applicable law or market practice or its own policies and procedures. Where the Bank does not execute a payment order or effect a transaction for such reasons, the Bank may take any action required by any law applicable to the Bank including freezing or blocking funds. Transaction screening may result in delays in the posting of transactions and/or funds availability. The Bank may direct the Customer (a) to make changes to the activity in the Customer's Accounts, including to cease and desist from using the Accounts for particular types of transactions or for transactions involving particular parties from time to time, and (b) not to use the Accounts to send payments with certain characteristics. The Customer agrees to comply with such directions.

17.6 Amendments; Supplements; Waivers. All amendments must be in writing. The Account Terms may be amended or supplemented on notice to the Customer, including by terms contained in any Service Terms or Account Documentation. The Service Terms may be amended or supplemented on notice to the Customer. These amendments or supplements may impose restrictions on the Accounts and Services, as the Bank deems necessary in the course of its business, and will be effective on notice to the Customer or at such other time to be specified in the notice; provided that amendments or supplements that are required by law may be implemented immediately or as required by law. By signing an Account signature card, Account application or similar document or by using or continuing to use any of the Accounts or Services, the Customer agrees to the Account Terms, the Account Documentation, Service Terms and any amendments or supplements, as applicable.

The Bank may waive any of provision of these Account Terms, the Account Documentation or the Service Terms, but such waiver shall apply only on that occasion. Such waiver shall not constitute a waiver of any other provision of the Account Terms, the Account Documentation or the Service Terms. Any such waiver shall not affect the Bank's right to enforce any of its rights with respect to other customers or to enforce any of its rights with respect to later transactions with Customer and is not sufficient to modify the terms and conditions of the Account Terms, the Account Documentation or the Service Terms. The rights and remedies in the Account Terms, the Service Terms and any Account Documentation are cumulative and are not exclusive of any other rights or remedies provided by applicable law.

17.7 Waiver of Immunity. To the extent that the Customer has or hereafter may acquire any immunity (including sovereign, crown or similar immunity) for itself or its assets from jurisdiction of any court, suit or legal process (whether from service of notice, injunction, attachment, execution or enforcement of any judgment or otherwise), the Customer irrevocably waives and agrees not to claim such immunity against the Bank or its affiliates.

17.8 Internet Services; Notice of Claims. The Customer agrees at its sole expense: (i) to advise each of its employees, officers, agents or other persons accessing any Service by or on behalf of Customer ("Users") of their obligations under the Account Terms, Account Documentation or under any Service Terms or ancillary Service material, including the obligation to refrain from using the Service via the Internet in the countries identified by the Bank; and (ii) to provide the Bank with all information reasonably necessary to setup and provide Services for the Customer, including advising the Bank of the countries from which Users will access any Service via the Internet.

17.9 Recordings. To the extent permitted by applicable law, the Customer acknowledges that the Bank may record and monitor all electronic communications (e.g., telephone and email communication) for the purposes of ensuring compliance with the Bank's legal and regulatory obligations and the Bank's internal policies. The Customer shall notify and obtain their employee's consent to such recording and monitoring where required by applicable law.

17.10 Instructions. Instructions may be sent to the Bank using such means as the Bank may permit from time to time. All Instructions, whether Items, payment orders or otherwise, are subject to applicable laws, and rules, policies, operations and market practices of the applicable clearing or settlement systems or payment networks.

17.11 Electronic Copies. The Bank may retain copies (paper, electronic or otherwise) of any documents or Items relating to the Accounts and Services in a form preserving an image of any such documents or Items, including signatures, or a regular business record and discard the original documents or Items. The Customer hereby waives any objection to the use of such records in lieu of their paper equivalents for any purpose and in any forum, venue or jurisdiction, including objections arising from the Bank's role or acquiescence in the destruction of the originals.

17.12 Intellectual Property. All intellectual property rights in or relating to a Service, including any trademarks, service marks, logos, and trade names used in conjunction with a Service are the property of the Bank or its licensors and are protected by applicable copyright, patent, trademark and other intellectual property law. Except as provided herein, the Customer shall not reproduce, transmit, sell, display, distribute, establish any hyperlink to, provide access to, modify, or commercially exploit in whole or in part any part of a Service, without the prior written consent of the Bank. Further, Customer shall not make any public announcements (including interviews) or publish any promotional or marketing materials, publicity or press releases, customer listings, testimonials or advertising in relation to the Accounts or Services or the subject matter of these terms and conditions without obtaining the prior written approval of Bank.

17.13 Know Your Customer. To assist in the prevention of the funding of terrorism and money laundering activities, applicable law may require financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for the Customer: when the Customer opens an Account, the Bank may ask for the Customer's name, address, date of birth (for natural persons), and/or other information and documents that will allow the Bank to identify the Customer. The Bank may also request and obtain certain information from third parties regarding the Customer. For purposes of this provision, the Customer, to the extent required by applicable law, shall include any Authorized Person or signatory on an Account.

Information. To fulfill the Bank's "know your customer" responsibilities, the Bank will request information from the Customer from time to time, inter alia, regarding the Customer's organization, business, Third Parties and, to the extent applicable, Authorized Persons and beneficial owner(s) of the Customer, the Customer's customers, and their beneficial owners, including relevant natural or legal persons, and the Customer shall procure and furnish the same to the Bank in a timely manner. The Bank may also request further information and/or documentation in connection with the provision of the Accounts or Services. Any information and/or documentation furnished by the Customer is the sole responsibility of the Customer and the Bank is entitled to rely on the information and/or documentation without making any verification whatsoever (except for the authentication under the security procedures, as applicable). The Customer represents and warrants that all such information and/or documentation is true, correct and not misleading and shall advise the Bank promptly of any changes and, except as prohibited by applicable law, the Customer agrees to provide complete responses to the Bank's requests within the timeframes specified. The Customer will notify the Bank in writing if any Accounts or monies it holds or places with the Bank are subject to restrictions or otherwise held or received by the Customer in a capacity other than previously disclosed to the Bank, including monies being held for the benefit of third parties, whether as

fiduciary or otherwise, monies subject to encumbrances, monies received as intermediary, processor or payment service provider, or arising from undisclosed business or similar sources. The Bank may, at its sole discretion and subject to such further conditions as it may impose, including execution of further documentation in form and manner acceptable to the Bank, permit the holding of such Accounts or deposits or receipt of funds. Unless prohibited by applicable law, the Customer agrees to promptly disclose to the Bank activity in the Customer's Accounts that is suspicious or violates applicable laws or sanctions.

If the Customer fails to provide or consent to the provision of any information required by this Section, the Bank may close any Account or suspend or discontinue providing any Service without further notice.

17.14 Click-Thru and Electronic Signatures. The Bank may make Service Terms and Account Documentation available to the Customer via electronic means (including by posting on a Bank website or electronic signature platform). The Bank may request that an Authorized Person "click" or electronically sign to indicate the Customer's approval of such terms. The Customer agrees that the act of "clicking" its acceptance or applying its electronic signature (or any similar act which has the same effect) with respect to any such Service Terms or Account Documentation will be evidence of Customer's acceptance of such Service Terms and Account Documentation, to the same extent, and with the same force and effect, as if Customer had manually executed a written version of such Service Terms and Account Documentation.

18. Interpleader; Reimbursement.

18.1 Interpleader. The Bank may apply to an appropriate court for resolution of any dispute relating to the Customer's Accounts, including any dispute: (i) regarding the ownership of or entitlement to the funds; (ii) regarding the persons authorized to issue Instructions or act on behalf of the Customer; or (iii) by or amongst persons authorized to act or purportedly authorized to act on behalf of the Customer. If permitted by the court, the Bank may pay funds held by the Bank for the account of the Customer into the court pending resolution of such dispute.

18.2 Reimbursement. The Customer agrees to reimburse the Bank for any expenses, including its attorneys' fees and costs incurred in connection with the resolution of disputes (including interpleader proceedings) or in connection with the Bank's response to, any legal or regulatory process relating to an Account or the Services.

19. Provisional Recredit.

In connection with any dispute regarding an Account, the Bank may choose to credit the Account pending completion of the Bank's investigation of the dispute. If the Bank determines that the Customer is not entitled to such credit, then, the Bank may reverse the provisional recredit to the Account, even if that reversal results in an overdraft.

ADDENDUM TO ACCOUNT TERMS UNITED STATES OF AMERICA

V1.11_07_22_20

Accounts maintained by the Customer with the Bank are subject to the Bank's Account Terms. This addendum ("Addendum") amends or supplements the Account Terms with respect to Accounts maintained in the United States of America ("U.S.") and to Services provided in connection with such U.S. Accounts, regardless of the location where Services are provided. Capitalized terms used in this Addendum, and not otherwise defined, have the meanings set forth in the Account Terms. By using any Account maintained in the U.S., the Customer acknowledges receipt of, and agrees to be bound by, the Account Terms which includes this Addendum, each as may be amended or supplemented from time to time.

Section 2 of the Account Terms (Instructions; Security Procedures) is amended by adding the following provision:

- 2.3 The Customer represents and warrants to the Bank that the Customer has not requested funds transfer security procedures other than those expressly agreed by the Customer and the Bank.

Section 3 of the Account Terms (Deposits) is amended by adding the following provisions:

- 3.4 Verification; Adjustments. Receipts issued by the Bank for deposits are based solely on the amounts stated in the deposit ticket. Credits for Items received for deposit or collection (whether or not accompanied by a deposit ticket) are subject to verification and the Bank's receipt of final payment of deposited Items. The Bank may make adjustments to the Account for any errors appearing on deposit tickets or occurring during processing or otherwise, but the Bank has no obligation to do so for *de minimis* discrepancies.
- 3.5 Foreign Currency Items. The Bank may handle Items drawn on a non-U.S. bank or Items payable in a foreign currency on a collection basis, not for deposit, even if the Bank has received the Items in a deposit. The Customer may not receive provisional credit for such Items or, if provisional credit has been given, the Bank may revoke it. Credit for Items payable in a foreign currency will be converted into U.S. dollars at a foreign exchange rate and spread, and at such date and time, as the Bank determines in its discretion.
- 3.6 Endorsements. Endorsement must be placed on the back of Items only in the area within 1.5 inches from the trailing edge of the Item. The trailing edge of the Item is defined as the left-hand edge of the check looking at it from the front. If the Customer is authorized in writing to endorse Items on the Bank's behalf, the Customer agrees to comply with the endorsement standards of the Bank.
- 3.7 Encoding. If the Customer encodes information on an Item, the Customer warrants to the Bank and to all other collecting and paying banks of that Item that it is properly encoded and the Customer will be liable for losses related to encoding errors, including any loss due to delay in processing caused by an encoding error.
- 3.8 Return or Charge Back. The Customer should not use carrier documents (Items placed inside envelopes) in either high-speed forward or return cash letters. The Bank may charge the Account for Items returned unpaid to the Bank or for claims based on asserted unauthorized signatures, endorsements or alterations.
- 3.9 Collections. The Customer agrees that the Bank may collect any Item deposited to Customer's Account by electronic means. The Bank has no duty to inspect such Item during the deposit and collection process.
- 3.10 Variance. The Bank may agree with other banks and clearing houses to vary procedures regarding the collection or return of Items, and to vary applicable deadlines, to the maximum extent permitted by applicable laws, and rules, policies, operations and practices of the applicable clearing or settlement systems or payment networks (collectively "Rules & Regulations").
- 3.11 Substitute Checks. The Customer will not deposit any substitute checks (that are not returned Items) unless the Bank expressly agrees to accept such Items for deposit. In the absence of the Bank's express agreement, the Customer will be solely responsible for any loss or claim in connection with its use of substitute checks.
- 3.12 Night Depository Deposits. The Bank is not liable for any deposit made through the use of the Bank's night depositories until the Bank issues a written acknowledgement of the deposit. The Bank's count of the amount deposited in a night depository will be conclusive. The Customer is solely responsible for any loss that may be incurred before the Bank verifies the contents of the deposit.
- 3.13 Remotely Created Checks. If the Customer deposits a remotely created check ("RCC"), as such term is defined in Federal Reserve Regulation CC, the Customer warrants to the Bank, with respect to each RCC, that the person on whose account the RCC is drawn, authorized the issuance of such RCC in the amount and to the payee stated on the RCC. The Customer authorizes the Bank to debit the Customer's account for any claim or return based upon an unauthorized RCC and the Customer agrees to indemnify and hold the Bank harmless from and against any claims, liabilities, costs and expenses (including attorneys' fees) resulting directly or indirectly from any breach of the foregoing warranty.
- 3.14 Electronically-Created Items. The Customer should not deposit electronically-created items ("ECIs") to its account, as such term is defined in Federal Reserve Regulation CC. ECIs are included in the definition of an Item. If the Customer does deposit an ECI, the Customer authorizes the Bank to debit the Customer's account for any claim, return or adjustment related to the ECI, and the Customer agrees to indemnify and

hold the Bank harmless from and against any claims, liabilities, costs and expenses (including attorneys' fees) resulting directly or indirectly from the Customer's deposit of the ECI.

- 3.15 ATM Cards. The Bank may issue one or more automated teller machine ("ATM") cards ("Cards") and personal identification numbers ("PINs") to Customer's employees or agents for use in initiating certain Account transactions at Bank owned ATMs. Unless otherwise agreed by Bank, Customer agrees that Cards will be used only at ATMs owned by the Bank and Customer shall be liable for any transactions and fees resulting from the use of such Cards. The Customer agrees that the types of transactions offered through the use of any Card may be limited by the Bank, in its sole discretion. The Bank may cancel any Card at any time and for any reason, and will notify Customer of such cancellation. The Customer agrees to obtain possession of and return to the Bank or destroy all cancelled Cards. If the Customer believes a Card or PIN has been lost or stolen, the Customer shall immediately contact the Bank's ATM call center. All ATM transactions are subject to verification. Any deposit transaction through an ATM that is not made on a business day or made after the Bank's designated cut-off time will be processed on the Bank's next business day.
- 3.16 Internet Gambling. The Customer agrees not to conduct any transactions through the Account that are directly or indirectly related to unlawful Internet gambling, including the acceptance or receipt of any funds or deposits in connection therewith. The term "unlawful Internet gambling," as used in this section, shall have its meaning set forth in 12 C.F.R. Section 233.2(bb).

Section 4 of the Account Terms (Payment of Items) is hereby amended by adding the following provisions:

- 4.5 Cashing Items. The Bank may, in its discretion, cash Items drawn on an Account when presented by the holder. If a holder who is not a deposit customer of the Bank presents an Item drawn on the Account for cash, the Bank may refuse to cash the Item, or may charge the holder a fee for cashing the Item.
- 4.6 Signatures. If the Customer establishes an Account which purports to: (i) require two or more signatures on Items drawn on the Account, or (ii) limits the amount for which an Item can be issued, the Customer acknowledges that any such requirements are solely for the Customer's own internal control purposes. The Customer agrees that, provided that the Bank follows its usual and customary procedures for processing and paying Items, the Bank will not be liable for paying any Item (a) lacking the required number of signatures, or (b) in an amount exceeding the applicable limit.
- 4.7 Fraudulent Items. The Bank provides Services to which the Customer may subscribe, such as Positive Pay and Reverse Positive Pay, which are reasonably designed to prevent payment of unauthorized or altered Items. Customer agrees that failure to use such Services will constitute Customer negligence contributing to the making of an unauthorized signature or the alteration of an Item, and the Customer will assume the risk that Items paid against its Account may be unauthorized or altered. In that event, the Customer will be precluded from asserting any claims against the Bank for paying any unauthorized, altered, counterfeit or other fraudulent Items. The Bank shall not be required to re-credit Customer's Account or otherwise have any liability for paying such Items to the extent such Services would likely have prevented such loss.
- 4.8 Obscured Endorsements. The Customer assumes responsibility for losses that the Customer or the Bank may incur as the result of processing delays caused by the Customer's: (i) issuance of an Item in such a manner that information, marks or bands on the back of the Item obscure endorsements; or (ii) placement of an endorsement on the back of the Item which obscures other endorsements.
- 4.9 Negotiation Outside of U.S. If an Item is transferred or negotiated outside of the U.S. and is subsequently sent to the Bank for deposit, collection or payment in the U.S., the Customer shall be deemed to make, to the Bank, the transfer and presentment warranties under the Rules & Regulations, as if such Item were negotiated or otherwise transferred in the U.S.
- 4.10 Stop Payments. A stop payment Instruction from the Customer will be effective with respect to an Item if: (i) the Bank has a reasonable opportunity to act on such Instruction prior to its payment or encashment, which shall be at least one (1) full Business Day following the Business Day on which the Bank received the Instruction; and (ii) the Instruction is in the form required by the Bank, the information is complete and is delivered to the location designated by the Bank. For purposes of this Section, "Business Day" means a day on which the Bank is generally open for business in the jurisdiction where the Account is maintained. Stop payment Instructions, unless otherwise provided, will be valid for one (1) year and will automatically renew up to six (6) additional years unless the Bank receives Customer's revocation of a stop payment Instruction. The Customer may request, through the Bank's call center or other authorized representative, a non-renewable stop payment, which will be effective for a 180-day period. The Bank shall not be liable for any Item properly paid or cashed prior to the effective time of a stop payment request. The Customer acknowledges that a stop payment instruction does not limit or vary its obligation to pay the subject Item and, notwithstanding a stop payment instruction, the Bank may properly pay such an item to a person entitled to enforce it.

- 4.11 Standard of Care. Any Item issued by the Customer drawn on its Account shall be deemed to be endorsed in the name of the payee if: the Item is endorsed or deposited into an account in a name that is substantially similar to that of the payee; the payee is a fictitious person; the Customer was wrongfully or erroneously induced to issue the Item payable to the stated payee; the deposit of the item was accomplished by an employee entrusted with responsibility for the Item or person working in concert with such an employee; or the Customer or payee failed to act with ordinary care with respect to the Item. The Bank shall not be liable for any loss caused by the alteration or unauthorized signature or endorsement on any Item issued by the Customer, unless the Customer establishes that the Bank failed to handle the Item with ordinary care, and that such failure substantially contributed to the loss. If the Bank's failure to act with ordinary care substantially contributed to the loss on the item, the loss shall be allocated between the Customer and the Bank based upon the extent to which their respective failures to exercise ordinary care contributed to the loss. The Bank may process any Item by electronic means and is not required to inspect the Item paid by automated payment processing.

Section 5 of the Account Terms (Funds Transfer Instructions) is amended by adding the following provisions:

5.4 Foreign Exchange.

...

(d) If the Bank accepts a funds transfer Instruction issued in the Customer's name for payment from its Account in the Account Currency to a beneficiary account the Bank determines is a Non Account Currency account, the Bank is authorized in its discretion to enter into a foreign exchange transaction to convert the Account Currency funds into an amount of the relevant Non-Account Currency of such beneficiary account and complete the funds transfer as provided in Section 5.4(a) above.

- 5.6 Funds Transfer by Check. If the Customer, through the Bank's funds transfer services, requests that payment be made by check, the Customer authorizes the Bank to debit the Customer's Account on receipt of the Instruction and to issue a check as agent for the Customer in accordance with the Instruction. If the Customer requests the Bank to place a stop payment on the check before the check has been presented for payment, such request must be clearly identified as a stop payment request, including the reference number given for the transaction, and it must be received by the Bank at a time and in a manner designated by the Bank from time to time. If the check is not presented for payment within one hundred eighty (180) days after issuance, the Bank may place a stop payment on the check and transfer the funds back to the Account.

- 5.7 Credit Entries Received Through Automated Clearing House (ACH) System. Credit given by the Bank to the Customer for an ACH credit entry shall be provisional, until the Bank receives final payment. If the Bank does not receive final payment, the Bank may revoke the provisional credit and charge back the amount of the entry to the Account, or obtain a refund from the Customer, in which case the originator of the credit entry shall not be deemed to have paid the Customer the amount of such entry. The Bank shall not be obligated to notify the Customer of the receipt of a payment order or ACH entry for credit or debit to an Account.

- 5.8 Same Day Amend and Cancel. The Customer may subscribe to a service to enable same day amendment and cancellation of payment orders. All cancellation or amendment messages sent to the Bank shall be in the format specified by the Bank and must be received by the Bank no later than such time as may be established by the Bank upon notice to the Customer.

- 5.9 Priority/Timed. The Bank will determine the order in which it processes payment orders. If the Customer's payment order bears the codeword "PRIORITY" in such field as the Bank specifies, the Bank will use reasonable efforts to execute such payment order in advance of the Customer's standard payment orders. If the Customer's payment order bears the codeword "TIMED" in such field as the Bank specifies, the Bank will endeavor, but will have no obligation, to process the payment order by the time requested by the Customer within the payment order. For "TIMED" payment orders, funds in the Customer's Account are reserved by the Bank on the payment value date until processed. For the avoidance of doubt, all payment orders are subject to the Bank's acceptance, and the Bank will have no liability for failure to process payments by the time requested by the Customer.

- 5.10 Real Time Payments. Payments received through the Real Time Payment System operated by The Clearing House Payments Company LLC ("RTP System") will be processed pursuant to the RTP Operating Rules and any other applicable Rules & Regulations, to which the Customer agrees to be bound. If the Customer receives a payment through the RTP System on behalf of another person or entity, such other person or entity must be a resident of, or otherwise domiciled in the United States. In the further transmission of any such payments, the Customer agrees to comply with all applicable US laws and regulations, including, without limitation, those administered by the US Office of Foreign Assets Control.

- 5.11 Messaging Standards. To the extent there is any inconsistency between a fund transfer financial messaging standard and the governing law set forth in Section 16.1, the governing law set forth in Section 16.1 will govern.

Section 6 of the Account Terms (Interest; Fees; Taxes) is amended by adding the following provisions:

- 6.4 Earnings Credit Account Analysis. The Customer may instruct the Bank to calculate and apply a credit (the "Earnings Credit") on eligible Accounts by calculating an earnings credit rate (the "ECR") to balances held in an Account (the "ECR Balance"). The ECR and ECR Balance are set out in the Account Statements. The Bank, in its sole discretion, may establish a threshold on the ECR Balance (the "Threshold") and apply (a) ECR to the portion of the ECR Balance that is below the Threshold and (b) interest to the portion of the ECR Balance that is above the Threshold. The Earnings Credit calculated for each billing period will be applied by the Bank as an offset (the "ECR Application") against Fees actually incurred by the Customer during the same billing period for the use of certain of the Bank's products or services. Fees eligible

for the ECR Application shall be determined by the Bank in its sole discretion. Any excess Earnings Credit remaining after the ECR Application expires immediately and will not be carried forward or backward in relation to the billing period in which the Fees are charged. If the Earnings Credit is insufficient to offset all Fees, the Customer remains responsible for paying all remaining Fees.

Section 7 of the Account Terms (Account Statements) is amended by adding the following provisions:

- 7.2 Images Sufficient. The Customer acknowledges that Account Statements and images of paid Items are available to it and are sufficient to allow it to make all examinations and reports of Account activity including errors, as required in this Section. The Bank is not required to return paid or cancelled Items with the Account Statement.
- 7.3 Obligation to Inspect. The Customer must notify the Bank in writing, within a reasonable period of time not to exceed 60 calendar days of the date of an Account Statement, of (i) the failure to receive the Account Statement, or (ii) any errors, unauthorized payments, charges, alterations, discrepancies or irregularities reported on the Account Statement ("Errors"). The Customer must notify the Bank in writing of any unauthorized, improper, or missing endorsements within six (6) months after the date of the Account Statement on which the Item was reported to have been paid. The Customer must provide the Bank with all information necessary for the Bank to investigate any claim based upon an endorsement or Error, and must provide all supporting evidence that the Bank requests. Failure to comply with the time frames set forth above shall be deemed conclusive proof that the Customer failed to exercise reasonable care and promptness in examining Account Statements and paid Items or identifying Errors and that such failure may cause subsequent loss to the Bank. If the Customer fails to comply with the notice requirements set forth above, the Bank is not required to reimburse the Customer for the Customer's claimed loss and the Customer shall be barred from bringing any action against the Bank.
- 7.4 Inactive Accounts. If an Account has no activity other than charges assessed or interest credited by the Bank for a period of six (6) or more months, the Bank is not required to provide an Account statement until additional activity occurs in the Account. If an Account has no activity other than charges assessed or interest credited by the Bank for a period of twelve (12) or more months, the Customer may be unable to access the Account until the Customer contacts the Bank.
- 7.5 Advice Services. The Customer may subscribe to Bank services for the delivery of account-related information ("Advices") to a party designated by the Customer, including information relating to credits and debits to a Customer account, and the return or rejection of certain payments. Advices may be sent via SWIFT, electronic mail, facsimile transmission, ordinary mail, telephone, through internet sites, or as otherwise agreed by the parties. The Customer is responsible for maintaining the accuracy of the information that is required for delivery of Advices, including the address, telephone and/or facsimile number of the recipient and, if applicable, the messaging components and conditions that will trigger the transmission of the Advices.

Section 10 of the Account Terms (Agents; Information) is amended by replacing Section 10.3 with the following provision:

- 10.3 Offshoring. Certain services may be performed by Bank or any affiliate, including affiliates, branches or units located in any country in which Bank conducts business or has a service provider. The Customer authorizes Bank to transfer Customer information to such affiliates, branches or units at such locations as the Bank deems appropriate. Bank reserves the right to store, access, or view data in locations it deems appropriate for the services provided.

Section 15 of the Account Terms (Account Disclosures) is amended by adding the following provisions:

- 15.5 Withdrawal Limitations on Certain Account Types. U.S. federal regulations limit the number of pre-authorized or automatic transfers or withdrawals or telephonic/electronic instructions (including check, draft, debit card or similar order payable to third parties) that can be made from a savings account (including a savings sub-account (as described below) and a money market deposit account) to a total of six (6) per calendar month or statement cycle or similar period. The Customer agrees to comply at all times with such restrictions. Exceeding these withdrawal limits may result in the Bank converting the savings account into a non-interest bearing demand deposit account, with any attendant changes in pricing and account terms and conditions. Further, the Bank is required by U.S. law to reserve the right to require at least seven (7) days' notice prior to a withdrawal from a savings account (including a savings sub-account) or an interest-bearing negotiable order of withdrawal account ("NOW Account").
- 15.6 NOW Accounts. The Customer, if eligible, may open a NOW Account. There is no limit on the number of withdrawals that the Customer may make from the demand deposit or NOW sub-account.
- 15.7 Administrative Subaccounts. The Bank is authorized, for regulatory reporting and internal accounting purposes, to divide an Account: (i) in the case of a demand deposit checking Account, into a non-interest bearing demand deposit sub-account and a non-interest bearing savings sub-account; (ii) in the case of a NOW Account, into an interest bearing NOW sub-account and an interest bearing savings sub-account, and, in both cases, to transfer funds on a daily basis between these sub-accounts in accordance with U.S. law at no cost to the Customer. The Bank will record the sub-accounts and any transfers between them on the Bank's books and records only. The sub-accounts and any transfers between them will not affect the Account number, balance requirement or use of the Account, except as described herein.
- 15.8 Savings Subaccounts. The Bank will establish a target balance for the Customer's demand deposit or NOW sub-account, which it may change at any time. To the extent funds in the demand deposit or NOW sub-account exceed the target balance, the excess will be transferred to the Customer's savings sub-account, unless the maximum number of transfers from the savings sub-account for that calendar month or statement cycle have already occurred. If withdrawals from the demand deposit or NOW sub-account exceed the available balance in the demand deposit or NOW sub-account, funds from the Customer's savings sub-account will be transferred to the demand deposit or NOW sub-account up to the entire balance of available funds in the savings sub-account to cover the shortfall and to replenish any target balance

that the Bank has established for the demand deposit or NOW sub-account. If a sixth transfer is needed during a calendar month or statement cycle, it will be for the entire balance in the Customer's savings sub-account, and such funds will remain in the demand deposit or NOW sub-account for the remainder of the calendar month or statement cycle.

- 15.9 Branch Designation. The Bank, for its administrative purposes may designate a branch of the Bank as the branch of record of an Account which may be different from the branch at which the Account is opened. This designation requires no action on the part of the Customer and will not change the Bank's operations, Services or customer support.
- 15.10 No Fiduciary Relationship. Bank's relationship with Customer concerning the Accounts is that of a debtor and creditor. No fiduciary, quasi-fiduciary or other special relationship exists between Bank and Customer or any third parties regarding the Accounts.

Section 16 of the Account Terms (Governing Law) is amended by replacing Section 16.1 with the following provision:

- 16.1 Except as otherwise agreed in writing by the Bank and the Customer, the rights and obligations of the Customer and the Bank in respect of each Account maintained in the U.S. shall be governed by and construed in accordance with the laws of the State of New York (without regard to its conflict of laws rules). Each of the Customer and the Bank irrevocably and unconditionally submits to the exclusive jurisdiction and venue of any State or Federal court sitting in the City of New York, New York over any action, suit, proceeding, claim or controversy arising out of or relating to the Account Terms which includes this Addendum. The rights and remedies of the Bank under this Addendum, the Account Terms, the Account Documentation, the Service Terms, and any other agreement by the Customer in favor of the Bank are in addition to the rights and remedies of the Bank under applicable law (as provided above in this Section), are cumulative and may be exercised successively or concurrently, and are retained by the Bank.

Section 16 of the Account Terms (Governing Law) is amended by adding the following provision:

- 16.4 In the event the Bank is required to remit funds to any state as abandoned property, the Account may be charged for fees in remitting funds to that state. In addition, the Bank may charge fees in connection with its handling of dormant funds and accounts.

Section 17 of the Account Terms (Miscellaneous) is amended by adding the following provisions:

- 17.15 When the Customer provides the Bank any information requested by the Bank under its "Know Your Customer" or Anti-Money Laundering or other compliance policies pertaining to any natural or other persons, the Customer represents and warrants to the Bank that the Customer has obtained that person's consent that the Bank may make continued use of that person's information in order for the Bank to discharge any of its responsibilities in connection with "Know Your Customer" or Anti-Money Laundering, or other compliance purposes.
- 17.16 Beneficial Ownership. Customer agrees to adhere to the FinCEN Customer Due Diligence final rule which requires certain entities to provide and certify beneficial ownership information to the Bank at 10% and provide information on a controller when opening a new USD account. The Bank is required to collect and validate certain information (e.g. Name, Address, DOB, SSN or Passport # for non US individuals) for new accounts impacted by the rule. If an entity is exempt from rule, the Bank may require documentation to support the exemption.
- 17.17 Payable Through Accounts. If the Customer is a bank or financial institution and is not organized under the laws of the U.S., it shall not permit its customers to conduct banking transactions in the U.S. through the Customer's Account, and shall not provide its customers with check stock, drafts, wire transfer capabilities or any other means which would enable its customers to draw on the Customer's Account. These types of arrangements are typically called "payable through accounts" and are prohibited under these Account Terms. The Customer acknowledges that the sale of U.S. dollar checks or drafts to third parties is prohibited without the express written approval of the Bank.
- 17.18 No Advice. The Customer acknowledges and agrees that the Bank has not provided and will not provide any investment, tax or accounting advice or recommendation in relation to the Accounts or any investments made under any Service.
- 17.19 ERISA Status. The Customer will notify the Bank in writing, reasonably in advance of the Account opening, if any Accounts or monies it holds or places with the Bank are subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), together with all the rules promulgated thereunder, or Section 4975 of the Internal Revenue Code, together with all the rules promulgated thereunder. The Bank may, in its sole discretion and subject to such further conditions as it may impose, including, without limitation, execution of further documentation in form and manner acceptable to the Bank, permit the holding of such Accounts or deposits or receipt of funds.
- 17.20 Additional Representation for ERISA Benefit Plans.
(i) If the Customer is or represents a "benefit plan," as defined in Section 3(42) of ERISA, and U.S. Department of Labor Regulations Section 2510.3-101, as modified by Section 3(42) of ERISA (together, the "Plan Asset Rules" and each such benefit plan investor, a "Benefit Plan"), or is acting on behalf of one or more Benefit Plans, the Customer represents and warrants that:
- (1) the Bank has not or will not provide advice with respect to the services obtained by the Benefit Plan.
 - (2) the Benefit Plan fiduciary (the "Plan Fiduciary") is independent of the Bank, and is not an individual acting for his or her own Individual Retirement Account, and such Plan Fiduciary is either (a) a bank as defined in Section 202 of the Investment Advisers Act of 1940 (the "Advisers Act"), or similar institution that is regulated and supervised and subject to periodic examination by a State or Federal agency; (b) an insurance carrier which is qualified under the laws of more than one state to perform the services of managing, acquiring or disposing of assets of a Benefit Plan; (c) an investment adviser registered under the Advisers Act or, if not registered as

an investment adviser under the Advisers Act by reason of paragraph (a)(1) of Section 203A of the Advisers Act, is registered as an investment adviser under the laws of the state in which it maintains its principal office and place of business; (d) a broker-dealer registered under the Securities Exchange Act of 1934, as amended; or (e) has, and will at all times have, total assets of at least U.S. \$50,000,000 under its management or control;

- (3) the Plan Fiduciary is capable of evaluating investment risks independently, both in general and with respect to the Accounts and Services;
- (4) the Plan Fiduciary is a "fiduciary" with respect to the Benefit Plan within the meaning of Section 3(21) of ERISA, Section 4975 of the Code, or both, and is responsible for exercising independent judgment in evaluating the receipt of Services by the Benefit Plan;
- (5) the Bank has not exercised any authority to cause the Benefit Plan to agree to these Account Terms; and
- (6) the Plan Fiduciary has been informed (a) that the Bank is not undertaking to provide impartial investment advice or to give advice in a fiduciary capacity in connection with the Services; and (b) of the existence and nature of the financial interests of the Bank, as disclosed in the Account Terms and Service Terms.

(ii) The representations and covenants in the above clauses are intended to comply with the U.S. Department of Labor's Reg. Sections 29 C.F.R. 2510.3-21(a) and (c)(1) as promulgated on April 8, 2016 (81 Fed. Reg. 20,997). If these regulations are revoked or repealed, these representations shall be deemed no longer in effect.

17.21 FDIC Part 370 Disclosure. If the Customer's Account is eligible for "pass through" deposit insurance from the Federal Deposit Insurance Corporation (the "FDIC") as set forth in the Federal Deposit Insurance Act and 12 CFR § 330, then the Customer acknowledges and agrees that if the Bank becomes insolvent or enters into receivership (hereinafter a "Bank Receivership"), the Customer will: (a) cooperate fully with the Bank and the FDIC in connection with determining the insured status of funds in each Account, and (b) provide the FDIC with the information that identifies each beneficial owner and its interest in the funds in each such Account within 24 hours of the Bank Receivership, unless it falls within one of the enumerated exceptions in 12 CFR 370.5(b). The information described in (b) must be sent to the Bank in the format specified by the FDIC (see: www.fdic.gov/regulations/resources/recordkeeping/index.html). The Bank shall provide the Customer an opportunity to validate its capability to deliver the information described in (b) in the format specified by the FDIC so that a timely calculation of deposit insurance coverage for the Account can be completed.

The Customer further acknowledges and agrees that following a Bank Receivership: (i) a hold will be placed on each Account once a receiver of the Bank is appointed so that the FDIC can conduct the deposit insurance determination and such hold will not be released until the FDIC obtains the necessary data to enable the FDIC to calculate the deposit insurance coverage for each Account; (ii) its failure to provide the necessary data to the FDIC may result in a delay in receipt of insured funds and legal claims against the Customer from the beneficial owners of the funds in the applicable Account; and (iii) failure to provide the data the FDIC requires may result in the applicable Account being frozen until the information is received, delaying receipt of FDIC insurance proceeds.

Notwithstanding other provisions in this Agreement, this section survives after the FDIC is appointed as the Bank's receiver, and the FDIC is considered a third party beneficiary of this section.

AVAILABILITY POLICY - FOR ACCOUNTS MAINTAINED IN THE U.S.

The Bank's policy is to make funds available to the Customer on the same, next or second business day after the day of deposit depending on the type of deposit and when the deposit is made as described below. If the Customer will need the funds from a deposit immediately, the Customer should ask the Bank when the funds will be available.

A. Determining the Day of a Deposit. If a deposit is made to an account on a business day before the Bank's cutoff time established for that location (which will be no earlier than 2 p.m. local time), then the Bank will consider that day to be the day of deposit. However, if a deposit is made after the cutoff time or on a day that is not a business day, then the Bank will consider the deposit to have been made no later than the next business day. For determining the availability of deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. Availability with respect to any deposit will be determined by the location of the banking center or other facility where the deposit was received. For deposits made at the Bank's automated teller machines (ATMs) the cutoff time is 11 p.m. Eastern Time unless otherwise noted on the ATM screen.

B. Same Day Availability. Funds from the following deposits made at a banking center or at an ATM that do not require deposit envelopes will be available on the business day the Bank determines the deposit is made:

- Cash;
- Wire transfers; and
- Electronic direct deposits to an account.

C. Next Day Availability. Funds from the following deposits are available on the first business day after the business day the Bank determines the deposit is made:

- U.S. Treasury checks that are payable to the Customer;
- Checks drawn on a Bank affiliate that holds the applicable account (excluding a Controlled Disbursement site); and
- At least, the first \$225 from a day's total deposits.

If the deposit is made in person to a Bank employee, funds from the following deposits are also available on the first business day after the business day the Bank determines the deposit is made:

- State and local government checks that are payable to the Customer, if a special deposit slip, available upon request at any Bank banking center is used;
- Cashier's, certified, and teller's checks that are payable to the Customer, if a special deposit slip, available upon request at any Bank banking center, is used; and
- Federal Reserve Bank checks, Federal Home Loan Bank checks, and postal money orders, if these items are payable to the Customer.

If a special deposit slip is not used, availability of funds from these deposits will follow the schedule identified in the Availability of Other Check Deposits section below.

D. Availability of Other Check Deposits. Generally, funds from all other deposits of checks drawn on banks (as defined in Federal Reserve Regulation CC) will be available no later than the second business day after the day of deposit. Checks that require special handling may receive delayed availability. The amount of funds available to the Customer will be reduced by the amount of any deposited check that is returned unpaid. If the Bank reprocesses the check, the funds will become available no later than the second business day after the business day in which the check is reprocessed.

E. Longer Delays May Apply. In some cases the Bank may not make all of the funds that are deposited by check available. Depending on the type of check deposited, funds may not be available as set forth above. However, the first \$225 of the aggregate deposit will be available on the first business day after the day of deposit.

If the Bank is not going to make all of the funds from a deposit available at the times shown above, it will notify the Customer and specify when the funds will be available. If a deposit is not made directly to a Bank employee, or if the Bank decides to take this action after the Customer has left the premises, the Bank will mail or otherwise send the notice to the Customer by the business day after the day of deposit.

Funds deposited by check may be delayed for a longer period under the following circumstances:

- The Bank believes a deposited check will not be paid;
- Deposited checks for all of the Customer's accounts total more than \$5,525 in any one day;
- The Customer redeposited a check that has been returned unpaid;
- The Customer has overdrawn one or more of its accounts repeatedly in the last six months; or
- There is an emergency, such as failure of communications or computer equipment.

In such circumstances, funds will generally be available no later than the seventh business day after the day of deposit. Inclement weather or transportation problems may lead to additional delays under certain availability schedules. Customer may have specific availability schedules related to a banking service.

F. Special Rules for New Accounts. If the account is a new account, the following special rules may apply during the first thirty days the account is open:

- Funds from deposits of the first \$5,525 of that day's total deposits of cashier's, certified, teller's, traveler's and federal, state and local government checks payable to the Customer will be available on the first business day after the day of deposit. The excess over \$5,525 will be available no later than the ninth business day after the day of deposit. If the deposit of checks (other than U.S. Treasury checks) is not made in person to one of the Bank's employees, the first \$5,525 may not be made available until the second business day after the day of deposit; and
- Funds from all other check deposits will be made available no later than the fifteenth business day after the day of deposit.

G. Large Dollar Deposits. The U.S. Federal Reserve Banks will not forward process any Item over \$99,999,999.99 and considers such Items as "non-cash items." Such Items should not be deposited in the Account. If Customer does deposit such an Item, the Bank may refuse to process such Item or handle it as a collection Item. If handled as a collection Item, Customer credit and availability will be deferred accordingly.

This Availability Policy and availability schedules may be changed without notice.

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JPMorgan Chase Bank, N.A. Member FDIC.



Staff Report 100-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 7/19/2021

SUBJECT Contract with Selectron Technologies to Upgrade Utility Billing Payment and Building Permit Inspection Portals to Cloud-Hosted Platform

Key Points

- The City currently uses an older version of Selectron's software by which customers review and pay their utility bills online and via phone. The software is also used by Community and Economic Development permit customers to schedule building inspections and view results online and by phone through Interactive Voice Response (IVR).
- Upgrading to Selectron's cloud-hosted portal includes several improvements and new features, including: Improved credit card payment security; Customer managed profile for managing payment information; Bill and Payment history; and customers being able to manage multiple utility accounts under a single profile for easier payments across multiple properties.
- Selectron's cloud-hosted portal provides full Interactive Voice Response (IVR) capabilities so customers can check their utility balance or permit inspection information, view bill and payment history, or make payments via phone.
- In addition, upgrading to Selectron's Outbound Calling feature will allow Utility Customer Service to make automated phone calls to residents regarding boil water notices, impending service shut off, or past due accounts.

Strategic Plan Alignment

Goal 1, Objective 1.2: Ensure our infrastructure, including buildings and utilities, is safe, environmentally responsible and well maintained.

Present Situation

The City originally implemented the Selectron system in 2007. This older, on-premise version of the system is outdated and not efficient for our customers or staff. Although the system works, it lacks many of the modern features and the user experience that you would find in today's e-commerce sites. For our customers to initiate or change credit card recurring payments, they must

contact City staff for manual setup. There is no modern username/password capability, so customers must rely on outdated techniques to login to the system.

The Selectron upgrade will allow our customers to establish and maintain their own user accounts for accessing City Utility and building permit inspection information. This will allow our customers to setup and maintain how they pay for City services – a capability that customers have repeatedly requested. Not only will the upgrade provide many efficiencies, it will also enhance security for sensitive credit card information. In addition to Utility payments and Permits, the Selectron platform has the potential to be used in the future as a common portal for making payments to other systems that allow payment integrations.

Advantage(s)

The upgraded web experience will allow utility customers to:

- View balances, billing dates and billing amounts
- Make credit card and e-Check payments
- Manage multiple utility accounts
- Set up stored payment methods, i.e., credit card or direct deposit
- Establish recurring payments and schedule future payments
- Review consumption and usage history
- Update user profile and change passwords

The upgrade will allow permitting customers to:

- Access inspection results
- Manage inspections
- Make credit card and e-Check payments
- Include messages for contractor
- Allows IVR post inspection and correction codes
- Includes 24-month inspection results history
- Access to plan review status
- Receive confirmations and access messages from the inspector

The upgrade provides a multi-channel outbound communication platform capable of sending voice, text and email messages to customers. These can include emergency boil water notifications, outbound campaigns, bill delinquency, shutoff notification and expiring permit notification.

Disadvantage(s)

None.

Budget Impact

Approval of the ordinance would authorize the City Manager or his designee to sign a Services and Hosting Agreement with Selectron for \$1 million over 5 years. The first year, which includes implementation costs, is \$280,000. The on-going cost for the new cloud-hosted portal is \$180,000 per year

The funds for this project are currently budgeted in the 2021-2022 Water Utility Fund, Building Inspection Fund, and the General Fund.

Prior Council Review

Approved decision package within the City's 2021-2022 Biennial Budget.

Action Requested

On Monday, July 19, 2021, subject to second reading and public hearing, approve the ordinance and authorize the City Manager or his designee to sign the Selectron Technologies, Inc. Services and Hosting Agreement for \$1,000,000 over 5 years.

Patrick Gilbride, IT Director, 360-487-7650

ATTACHMENTS:

- ▣ Ordinance
- ▣ Master Services and Hosting Agreement with Selectron

07/12/21
07/19/21

ORDINANCE M - _____

AN ORDINANCE authorizing the City Manager or designee to execute an Agreement with Selectron Technologies, Inc., an Oregon corporation (hereinafter “Contractor”), for the provision of software and materials, identified more particularly in the Agreement (collectively “Licensed Software”) for the benefit of providing the City of Vancouver, Washington (“City”) with upgraded utility billing and building permit payment portals; requiring Terms that such Agreement be for an initial term of five (5) years with successive one (1) year terms thereafter until terminated by either of the parties; providing for severability; and setting an effective date.

WHEREAS, the City implemented an earlier edition of Contractor’s software in 2007 and has found that such software has satisfactorily served the needs of the City and its customers; and

WHEREAS, the City’s current Selectron system is now outdated and no longer efficient for City customers or staff. Although the system works, it lacks many of the modern features found in today’s e-commerce sites; and

WHEREAS, upgrading to Selectron’s Licensed Software will provide the City and its customers access to a cloud-hosted portal offering several improvements including: increased credit card payment security; customer managed profile for managing payment information; bill and payment history; and customers being able to manage multiple utility accounts under a single profile for easier payments across multiple properties; and

ORDINANCE - 1

Does not require codification

WHEREAS, City staff and the Contractor have negotiated a tentative Agreement containing mutually agreeable terms including payments in a not to exceed amount of one million dollars (\$1,000,000.00) for access to Licensed Software over an initial term of five (5) years, and thereafter, fee increases that are limited to the change in the Consumer Price Index for the Seattle-Tacoma-Bremerton area; and

WHEREAS, upon execution of an Ordinance, the City Council has the authority to approve contracts involving the payment of money with a duration of more than five (5) years pursuant to City Charter Section 11.05; and

WHEREAS, the City wishes to obtain Contractor's Services pursuant to appropriate terms so as to obtain the benefits of the Selectron Licensed Software.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Approval. The City Manager or designee is hereby authorized to execute an Agreement with Contractor for provision of Licensed Software to provide the City with the benefits of upgraded utility billing and building permit payment portals.

Section 2. Terms. The initial term of such Agreement shall be for five (5) years, with successive one (1) year terms thereafter until terminated by either of the parties pursuant to the terms of the Agreement.

Section 3. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any parts thereof to any other person or circumstances and to this end the

ORDINANCE - 2

Does not require codification

provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 4. Effective Date. This ordinance shall go into effect five (5) days after its passage.

Read First Time:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Read Second Time:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

SIGNED this _____ day of _____, 2021.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

ORDINANCE - 3

Does not require codification

Approved as to form:

Jonathan Young, City Attorney

ORDINANCE - 4

Does not require codification

SUMMARY

ORDINANCE M-_____

AN ORDINANCE authorizing the City Manager or designee to execute an Agreement with Selectron Technologies, Inc., an Oregon corporation, for the provision of software and materials (“Licensed Software”) for the benefit of providing the City of Vancouver, Washington (“City”) with upgraded utility billing and building permit payment portals; requiring Terms that such Agreement be for an initial term of five (5) years with successive one (1) year terms thereafter until terminated by either of the parties; providing for severability; and setting an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at (360) 487-8799, or via www.cityofvancouver.us (Go to City Government and Public Records).

ORDINANCE - 5

Does not require codification



Master Services and Hosting Agreement

This Master Services and Hosting Agreement (this “**Agreement**”) by and between Selectron Technologies, Inc., an Oregon corporation having a principal place of business at 12323 SW 66th Avenue, Portland, OR 97223, and its successors and assigns (“**Selectron**”), and the City of Vancouver, Washington whose physical address is 415 West 6th Street, Vancouver WA 98660 and mailing address is P. O. Box 1995, Vancouver, WA 98668 (“**Licensee**”).

Recitals

Whereas, as between Selectron and Licensee, Selectron is the owner of all rights, titles, and interest in and to certain software and materials, identified more particularly in this Agreement as the “**Licensed Software**”; and

Whereas, Selectron wishes to grant to Licensee, and Licensee desires to obtain from Selectron, certain rights to access and use, and to permit authorized Licensee employees to access and use the Licensed Software through Selectron’s application hosting service, as more particularly described below and in accordance with the terms and conditions of this Agreement.

Now, Therefore, in consideration of the mutual promises and covenants contained herein, the parties agree to the following terms and conditions, which set forth the rights, duties and obligations of the parties:

Agreement

1. Definitions

For purposes of this Agreement, the following terms shall have the following meanings. Any capitalized terms used in this Agreement that are not defined in this Section 1 shall have the meaning given to them elsewhere in this Agreement.

1.1 “Aggregate Data” means information, data, and statistics about a group of individuals, organizations, or transactions that cannot be used to identify Licensee or a particular individual, including Licensee Data that has been de-identified and anonymized and combined with data about other individuals and transactions.

1.2 “Authorized User” means an Employee that Licensee provides with access to the Licensed Software.

1.3 “Customer Tools” means the Licensed Software components and interfaces that, as described in the Documentation, are designed and intended to be accessed by customers of Licensee through an application that is set up and maintained as part of the Services and/or Licensee’s website.

1.4 “Derivative Work” shall mean a new or modified work that is based on or derived from a preexisting work, including, without limitation, a work that

in the absence of a license, would infringe the Intellectual Property Rights associated with such preexisting work.

1.5 “Documentation” shall mean the standard documentation for the Licensed Software, as generally provided by Selectron to its other customers.

1.6 “Employee” shall mean a then-current employee of Licensee.

1.7 “Intellectual Property Rights” shall mean all rights associated with (a) patents, designs, algorithms, and other industrial property rights; (b) works of authorship, including copyrights, “moral rights”, and derivative works thereof; (c) the protection of trade and industrial secrets and confidential information; (d) Trademarks (as defined herein); (e) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated), whether arising by operation of law, contract, license, or otherwise; and (f) all registrations, initial applications, divisions, continuations, renewals, extensions, divisions, and re-issuances of any of the foregoing, now existing or acquired in the future.

1.8 “Licensed Software” shall mean, collectively, (a) the software programs that are listed in Exhibit A and further described in Exhibit C; (b) the Documentation; and (c) any Updates.

1.9 “Licensee Data” means structured data about and identifiable to customers of Licensee, including without limitation data about transactions between such customers and Licensee, (a) that Licensee provides to Selectron to enable Selectron to provide the Licensed Software and the Services, (b) that Selectron collects from Licensee’s customers to facilitate payments by those customers to Licensee, or (c) that Selectron otherwise collects or creates, including by automated means, in the course of performing the Services or providing the Licensed Software to Licensee.

1.10 “PCI Data” means Cardholder Data (including, without limitation, Primary Account Number, cardholder name, expiration date, and Service Code) and Sensitive Authentication Data (including without limitation full magnetic stripe data or the equivalent on a chip, CAV2/CVC2/CW2/CID, PINs/PIN block), as such terms are defined by the PCI Security Standards Council.

1.11 “Security Incident” means a breach of security resulting in an unauthorized third party gaining access to Licensee Data if (a) such breach creates a reasonably likely risk of harm to Licensee or any individual(s) and (b) the Licensee Data was accessed in unencrypted, usable, or readable form or it is reasonably likely that the unauthorized third party has acquired or will acquire the decryption key or other means of converting the Licensee Data to readable or usable form.

1.12 “Services” means the outbound call management, customization, training, set-up, configuration, or other services listed in Exhibit A and further described in Exhibit C hereto, the Technical Support Services, and any other services Selectron provides to Licensee as described herein.

1.13 “Technical Support Services” means the maintenance and technical support services described in Exhibit B hereto.

1.14 “Term” shall have the meaning set forth in Section 11.1.

1.15 “Trademarks” shall mean (a) the trademarks, trade names, and service marks used by a party, whether registered or unregistered; (b) the respective stylistic marks and distinctive logotypes for such trademarks, trade names, and service marks; (c) such other marks and logotypes as either party may designate from time to time in writing; and (d) the goodwill connected with the use of and symbolized by any of the foregoing.

1.16 “Updates” shall mean any modifications, error corrections, bug fixes, new releases, or other updates of or to Licensed Software, including the Documentation, that may be provided or otherwise made available hereunder by Selectron to Licensee during the Term.

1.17 “Work Product” means any and all work product, deliverables, materials, drawings, works of authorship, creative works, designs, inventions, documentation, methods, processes, techniques, software, reports, or data created or developed by Selectron in the course of performing the Services or providing the Licensed Software, excluding Licensee Data.

2. Grant of License; Restrictions

2.1 Grant of License to Use Licensed Software. Subject to the terms and conditions of this Agreement, including the End User License Agreement (“EULA”) attached hereto as Exhibit D which is incorporated into and made a part hereof, and the timely payment of all fees hereunder, Selectron hereby grants to Licensee a non-exclusive, nontransferable, nonsub licensable, limited license, during the Term, to access and use the Licensed Software solely in accordance with the Documentation and the EULA and solely for Licensee’s own internal business use. Except as set forth in this Section 2.1 or the EULA, no other right or license of any kind is granted by Selectron to Licensee hereunder with respect to the Licensed Software.

2.2 Software Restrictions. Licensee hereby acknowledges and agrees that it shall not use the Licensed Software for any purpose other than the purpose for which Selectron has developed the Licensed Software, and that it shall use the Licensed Software in accordance with the EULA and all applicable laws, rules, and regulations. In the event of any violation of this Section 2.2 or the terms of the EULA by Licensee or any person Licensee provides with access to the Licensed Software (whether or not such person is an Authorized User), Selectron may terminate this Agreement in accordance with Section 11.2, and shall be entitled to equitable relief in accordance with Section 12.5.

2.3 Data Restrictions. Selectron hereby acknowledges that the Licensee Data may contain sensitive, personally-identifiable information. Selectron will not disclose Licensee Data to any third-party except as required to perform its obligations under this Agreement (e.g., transmittal of PCI Data to Licensee’s designated payment gateway) and will maintain and use the Licensee Data only for purposes of performing its obligations under

this Agreement. Except as otherwise expressly provided herein, Selectron will promptly delete any Licensee Data that Licensee requests in writing to be deleted (except for data retention required by law).

2.4 Rights in Aggregate Data. Notwithstanding Section 2.3, Selectron may, (a) during the term of this Agreement, use and analyze the Licensee Data to generate Aggregate Data and (b) during and after the term of this Agreement, retain, use, publish, and otherwise disclose Aggregate Data without restriction, so long as the Aggregate Data is disclosed in a form in which it cannot be used to identify Licensee or any particular individual(s). By way of example and without creating any limitation, Selectron may analyze the Licensee Data along with data gathered from other sources to generate statistics and analytics about success rates of municipalities in collecting payments in response to application notification calls.

3. Deliverables and Services

3.1 Services. Selectron shall perform the Services described in Exhibit A and Exhibit C and the Technical Support Services described in Exhibit B in accordance with the terms of this Agreement.

3.2 Delivery, Testing, and Acceptance. All deliveries of equipment or physical goods required under this Agreement shall be F.C.A. Selectron's facilities. Selectron shall provide Licensee with the Documentation and access to the Licensed Software according to the delivery, testing, and acceptance schedule and terms and conditions set forth in Exhibit A and Exhibit C. Unless a testing period of different duration is set forth in Exhibit A or Exhibit C, Licensee shall have a testing period of thirty (30) days from the date of delivery of any Licensed Software, including any customized Licensed Software, to inspect and test the Licensed Software. If Licensee provides Selectron with written notice during the applicable testing period describing the Licensed Software's failure to substantially comply with the limited warranty set forth in Section 7.2 in sufficient detail to enable Selectron to reproduce such failure, the Service Fees for the non-conforming Licensed Software shall be suspended until Selectron corrects any such substantial non-conformity. If Licensee does not provide such notice during the testing period, the Licensed Software shall be deemed accepted, and Licensee's sole remedy for any non-conformance shall be the Technical Support Services provided hereunder.

3.3 Authorized Users; Licensee Identification and Passwords. Except as provided in Section 3.4, Licensee shall not permit any person to access the Licensed Software other than Employees whom Licensee has designated as Authorized Users. Each individual natural person shall be a separate Authorized User for purposes of this Agreement. Licensee shall create or request that Selectron create

unique log-in credentials, consisting of a "**User Identification**" and "**User Password**", for each individual Authorized User who shall be accessing the Licensed Software. Licensee hereby acknowledges that Licensee and its Authorized Users bear sole responsibility for protecting the confidentiality of all User Passwords and shall remain fully responsible and liable for (and Selectron shall not be responsible or liable for) any unauthorized use of any User Identifications or User Passwords. Licensee shall not share or disclose, and shall not permit any Authorized User to share or disclose, such Authorized User's log-in credentials with or to any other individual or entity, even if such other individual is also an Authorized User. A User Identification may not be transferred from one Authorized User to another Authorized User. Licensee shall promptly terminate (or cause to be terminated by requesting that Selectron terminate) the User Identification for any individual who ceases to be an Authorized User for any reason, including without limitation due to termination of such individual's employment with Licensee. Licensee shall promptly notify Selectron if it discovers or suspects that any log-in credentials have been accessed or used by any person other than the Authorized User to which such log-in credentials were granted, in which case Selectron shall promptly reset or provide Licensee with a means of resetting the password associated with such log-in credentials.

3.4 Customer Tools. Licensee may permit its customers to access and use the Customer Tools solely through Licensee's website and/or an application that is set up and maintained as part of the Services, and solely for the purpose of enabling such customers to (a) receive notifications sent by or on behalf of Licensee, (b) make payments to Licensee, (c) view their invoices from Licensee and history of payments to Licensee, and (d) update their contact information with Licensee.

3.5 Hosting. During the Term, Selectron and/or its designees shall host and maintain the Licensed Software, and provide access thereto, subject to the terms and conditions of this Agreement and the EULA. Selectron will make the Licensed Software available to Licensee in accordance with the Service Level Agreement attached hereto as Exhibit E.

3.6 Updates, Maintenance, and Technical Support. During the Term, Selectron shall provide Licensee with Updates as they are made generally available by Selectron to its other customers, as well as maintenance and technical support, in accordance with the terms and conditions set forth in Exhibit B. Any Update provided or made available by Selectron hereunder shall be deemed part of the Licensed Software and shall be subject to the terms and conditions of this Agreement.

3.7 Other Modifications to the Licensed Software.

Licensee understands and agrees that Selectron may make modifications and updates to the Licensed Software from time to time. Selectron may determine in its sole discretion whether to provide such modifications and updates to Licensee and its other customers as an Update hereunder, or whether such modifications and updates will be issued as a separate or new product or premium version of the Licensed Software that is available only at an additional charge.

3.8 Further Licensee Obligations. Licensee shall be solely responsible for acquiring and maintaining, at its own expense, the necessary equipment and Internet and telecommunication services required to access the Licensed Software and the Services. Licensee acknowledges that Selectron shall have no obligation to assist Licensee in using or accessing the Licensed Software or the Service except as expressly set forth in this Agreement.

4. Fees and Payment

4.1 Service Fees. Licensee shall pay to Selectron service fees (“**Service Fees**”) in the amounts and according to the terms and conditions set forth in Exhibit A. In addition to the payment of Service Fees, unless different terms are provided for in Exhibit A, Licensee agrees to reimburse Selectron for all actual, documented and reasonable travel and out-of-pocket expenses incurred by Selectron in connection with the performance of any Services. Travel expenses are limited to airfare, or mileage at the current IRS rate, and lodging at the U.S. General Services Administration rates. Selectron is solely responsible for its staff’s travel time, including travel to and from the City of Vancouver. The City will reimburse all pre-approved miscellaneous expenses at-cost and receipts are required.

4.2 Payment Terms. Unless different payment terms are set forth in Exhibit A, all fees and expenses payable hereunder shall be due thirty (30) days from the date of invoice, and any amounts not paid when due will incur late fee charges at the rate of 1% per month, or the maximum rate permitted by applicable law, whichever is lower, calculated on a daily basis. If any amounts are past due and outstanding, Selectron reserves the right to suspend the licenses granted hereunder, suspend access to the Licensed Software, and discontinue the Services until all outstanding amounts are paid. Selectron is entitled to recover all costs of collection, including reasonable attorney’s fees and related expenses.

4.3 Disputed Amounts. Any disputed charges must be presented by Licensee to Selectron in writing within thirty (30) days of the date of invoice, and the parties agree to cooperate in good faith to promptly resolve any disputed invoice within thirty (30) days of Selectron’s receipt of Licensee’s written notice of dispute. In the event Licensee disputes any amounts invoiced by Selectron in good faith, the undisputed amount shall be paid when due, and only

disputed amounts shall be withheld pending resolution of the dispute. If payment of a disputed amount has already been made and later resolution of the dispute is in Licensee’s favor, a credit will be issued by Selectron to Licensee on the next invoice.

4.4 Fee Increases. During the Initial Term, the Service Fees set forth in Exhibit A shall apply. After the Initial Term (as defined in Section 11.1 below), Selectron may increase or change its fees proportionate to the change in the Consumer Price Index for the Seattle-Tacoma-Bremerton area since the last fee increase by providing Licensee with notice of such increase or change at least ninety (90) days prior to the effective date of such increase or change. Such fee increases and changes may be based on the non-discounted fees. Licensee’s sole alternative to such fee increase or change shall be to terminate this Agreement by providing notice of termination to Selectron within thirty (30) days after receipt of the notice of price increase or change, which termination will become effective thirty (30) days after such written notice of termination.

4.5 Taxes. All prices set forth in this Agreement are in U.S. Dollars and are exclusive of any applicable taxes. Licensee shall pay, indemnify, and hold Selectron harmless from all import and export duties, customs fees, levies, or imposts, and all sales, use, value added, or other taxes or governmental charges of any nature, including penalties and interest, and all government permit or license fees assessed upon or with respect to any products sold, leased, or licensed to Licensee and any services rendered to Licensee; provided, however, that Licensee shall not be responsible for paying any taxes imposed on, or with respect to, Selectron’s income, revenues, gross receipts, personnel, or real or personal property or other assets.

5. Proprietary Rights

As between Selectron and Licensee, Selectron and/or its licensors own and shall retain all right, title and interest, including, without limitation, all Intellectual Property Rights in and to the Licensed Software and any Work Product resulting from performance of the Services and any portions thereof, including without limitation any copy or Derivative Work of the Licensed Software (or any portion thereof) and any Updates and upgrades thereto. Selectron grants Licensee a license as defined in Exhibit D of this Agreement. Licensee agrees to take any action reasonably requested by Selectron to evidence, maintain, enforce, or defend the foregoing consistent with applicable law. Licensee shall not take any action to jeopardize, encumber, limit, or interfere in any manner with Selectron’s or its licensors’ ownership of and rights with respect to the Licensed Software or Service, or any Derivative Work or Update or upgrade thereto. The Licensed Software and any Work Product are licensed, not sold, and Licensee shall have only those rights in and to the Licensed Software and Work Product and any Derivative Work or Update or upgrade thereto as are expressly granted to it under this Agreement, including the EULA.

6. Proprietary Information

During the Term of this Agreement and after the termination of this Agreement, the parties will take all steps reasonably necessary to hold the other party's Proprietary Information in confidence, will not use the disclosing party's Proprietary Information in any manner or for any purpose not expressly set forth in this Agreement, and will not disclose any such Proprietary Information to any third party without the disclosing party's express prior written consent; provided, however, that each party (the "**receiving party**") may disclose Proprietary Information of the other party (the "**disclosing party**") (a) to such receiving party's employees, directors, officers, contractors, and agents (collectively, "**Representatives**") who have a need to know such information and who have been advised of and have agreed to comply with the confidentiality restrictions contained in this Section 6 and (b) to such third parties as are authorized or directed by the disclosing party in writing. Each party shall be responsible and liable for the actions and omissions of its Representatives. "**Proprietary Information**" belonging to a disclosing party includes, but is not limited to, such disclosing party's (a) trade secrets, inventions, ideas, processes, formulas, source and object codes, data, other works of authorship, know-how, improvements, discoveries, developments, designs, and techniques; (b) information regarding its plans for research, development, new products, marketing and selling, budgets and unpublished financial statements, licenses, prices and costs, suppliers and customers; (c) information regarding the skills and compensation of employees, and (d) other information about or belonging to such disclosing party that the receiving party should reasonably know, due to the nature of the information or the circumstances surrounding its disclosure, is regarded by the disclosing party as confidential. Proprietary Information includes reports, analyses, notes, and other information or materials that contain or are derived using the disclosing party's Proprietary Information, even if developed in whole or in part by the receiving party.

For clarity, information about the Licensed Software, including information about its features, functionality, and pricing, are and shall remain the Proprietary Information of Selectron. For further clarity, Licensee Data is and shall remain the Proprietary Information of Licensee.

Notwithstanding the foregoing, information will not be considered to be Proprietary Information if (a) it is readily available to the public other than by a breach of this Agreement; (b) it has been rightfully received by the receiving party from a third party without confidentiality limitations; (c) it has been independently developed by the receiving party without reference to or use of the disclosing party's Proprietary Information; or (d) it was rightfully known to the receiving party prior to its first receipt from the disclosing party. ; or (e) it is disclosed pursuant to applicable law, including but not limited to the Washington State Public Records Act, Chapter 42.56 of the Revised Code of Washington ("RCW"). In the event Licensee receives a request for

Selectron of such request and withhold disclosure of such information for not less than five (5) business days to permit Selectron to seek judicial protection of such information, provided that Selectron shall be responsible for attorney fees and costs in such action and shall save and hold harmless Licensee from any costs, attorney fees, or penalty assessment under Ch. 42.56 RCW.

7. Representations and Warranties; Warranty Disclaimer.

7.1 Mutual Representations. Each party represents and warrants to the other party that the execution, delivery and performance of this Agreement (a) is within its corporate, municipal, or governmental powers, as the case may be (b) has been duly authorized by all necessary corporate, municipal, or governmental action on such party's part, and (c) does not and shall not contravene or constitute a default under, and is not and shall not be inconsistent with, any law, regulation, judgment, decree or order, or any contract, agreement, or other undertaking, applicable to such party.

7.2 Limited Software Warranty and Exclusive Remedy. Subject to the limitations set forth in this Agreement, Selectron represents and warrants to Licensee that the Licensed Software, when used in accordance with the Documentation, shall throughout the Term substantially conform to the functional specifications in such Documentation.

If Licensee finds what it reasonably believes to be a failure of the Licensed Software to substantially conform to the functional specifications in the Documentation, and provides Selectron with a written report that describes such failure in sufficient detail to enable Selectron to reproduce such failure, Selectron shall use commercially reasonable efforts to correct or provide a workaround for such failure at no additional charge to Licensee in accordance with Exhibit B hereto. Outside the United States, this limited warranty is only available with proof of purchase from an authorized source. EXCEPT FOR THE EXPRESS WARRANTY ABOVE, SELECTRON PROVIDES THE LICENSED SOFTWARE TO LICENSEE "AS IS" AND "AS AVAILABLE." SELECTRON MAKES NO WARRANTY THAT ALL ERRORS, FAILURES, OR DEFECTS SHALL BE CORRECTED, OR THAT ACCESS TO OR USE OF THE LICENSED SOFTWARE SHALL BE UNINTERRUPTED, ERROR-FREE, OR SECURE. NO ORAL OR WRITTEN INFORMATION OR ADVICE PROVIDED BY SELECTRON, ITS AGENTS, OR ITS EMPLOYEES, SHALL CREATE ANY WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THE WARRANTIES EXPRESSLY PROVIDED IN THIS AGREEMENT. This Section states the entire liability of Selectron and the sole and exclusive remedy of Licensee with respect to any breach of the foregoing express warranty.

7.3 Limited Services Warranty and Exclusive Remedy. Subject to the limitations set forth in this Agreement, Selectron warrants that the Services shall be performed in a professional and workmanlike manner. Selectron's sole obligation, and Licensee's exclusive remedy for breach of the foregoing warranty, is that Selectron shall use its commercially reasonable efforts to re-perform the Services or otherwise cure such breach. If, in Selectron's sole judgement, curing the breach is not

commercially feasible, Selectron shall credit Licensee for a portion of the fees allocable to the affected period of time that is proportionate to the period the Services or Licensee's ability to access or use the Licensed Software was impaired.

7.4 Disclaimer of Other Warranties. THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION 7 AND SECTION 8.5 CONSTITUTE THE ONLY WARRANTIES MADE BY SELECTRON WITH RESPECT TO THE LICENSED SOFTWARE AND THE SERVICES AND ANY OTHER SUBJECT MATTER OF THIS AGREEMENT. SELECTRON MAKES NO OTHER, AND HEREBY DISCLAIMS ALL OTHER, REPRESENTATIONS, WARRANTIES, OR CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, WITH RESPECT TO THE LICENSED SOFTWARE, THE SERVICES, OR ANY OTHER SUBJECT MATTER OF THIS AGREEMENT. SELECTRON EXPRESSLY DISCLAIMS ALL WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NONINFRINGEMENT, AND ALL WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. SELECTRON DOES NOT WARRANT THAT ANY USE OF OR ACCESS TO THE LICENSED SOFTWARE SHALL BE ERROR-FREE OR SECURE, OR THAT OPERATION OF THE LICENSED SOFTWARE SHALL BE UNINTERRUPTED, AND HEREBY DISCLAIMS ANY AND ALL LIABILITY IN CONNECTION THEREWITH. LICENSEE ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES IN SECTION 7 AND SECTION 8.5 OF THIS AGREEMENT.

7.5 Defects Not Covered by Warranties. Selectron shall have no obligations under Section 7.2 to the extent any nonconformance or failure of, or error in, the Licensed Software is caused by (a) use of any attachment, feature, hardware, software, or device in connection with the Licensed Software, or combination of the Licensed Software with any other materials or service, unless the combination is performed by Selectron; transportation, neglect, misuse, or misapplication of the Licensed Software, or any use of the Licensed Software that is not in accordance with this Agreement, the EULA, and/or the Documentation; (c) alteration, modification, or enhancement of the Licensed Software, except as may be performed by Selectron; (d) failure to provide a suitable use environment for all or any part of the Licensed Software; or (e) failure to maintain systems and environments that are compatible with Updates.

8. Security

(b) **Internet Security.** Selectron's Licensed Software is made available through the Internet and may be used to access and transfer information over the Internet. Licensee is solely responsible for the security and integrity of information it transfers from the Licensed Software, if any. Selectron makes no representations or warranties to

Licensee regarding (a) the security or privacy of Licensee's network environment, or (b) any third-party technologies' or services' ability to meet Licensee's security and privacy needs. These third-party technologies and services may include, but are not limited to, operating systems, database management systems, web servers, and payment processing services. Licensee is solely responsible for ensuring a secure environment for information it transfers from the Licensed Software, if any. Further, Licensee acknowledges and agrees that Selectron does not operate or control the Internet and that Selectron shall have no responsibility or liability in connection with a breach of security or privacy regarding the Licensed Software or information contained therein that is caused by (a) viruses, worms, Trojan horses, or other undesirable data or software; (b) unauthorized users, e.g., hackers; or any other third party or activity beyond Selectron's reasonable control; in each of the foregoing cases, except to the extent caused by Selectron's breach of Section 8.4 or 8.5.

8.1 Remote Access Security. In order to enable code development and support and maintenance of the software, Selectron may require remote access capability. Remote access is normally provided by installing PC-Anywhere, ControlIT, or other industry standard remote access software. It may also be provided through a Licensee solution such as VPN access. Regardless of what method is used to provide remote access, or which party provides remote access software, it is Licensee's responsibility to ensure that the remote access method meets Licensee's security requirements. Selectron makes no representations or warranties to Licensee regarding the remote access software's ability to meet Licensee's security or privacy needs. Selectron also makes no recommendation for any specific package or approach with regard to security. Licensee is solely responsible for ensuring a secure network environment.

8.2 Outbound Services Disclaimer. Outbound services are intended to create additional methods of communication for Licensee's employees who use the Licensed Software in support of existing processes. These services are not intended to replace all interaction with Licensee's end users or employees. While the outbound services have been created with the best available tools and practices, they are dependent on infrastructure that is inherently not fail-proof, including but not limited to infrastructure such as software, computer hardware, network services, telephone services, and e-mail. Examples of situations that could cause failure include but are not limited to: down phone lines, all lines busy, equipment failure, email address changes, and Internet service disruptions. For this reason, while outbound services are valuable in providing enhanced communication, they are specifically not designed to be used as the sole method to deliver critical messages. Licensee acknowledges that it is aware of the potential hazards associated with relying on an automated outbound service feature, when using the Licensed Software, and Licensee acknowledges and agrees that it is giving up in advance any right to sue or make any claim against Selectron, and that Licensee forever releases Selectron from any and all liability caused by (a) any failed call attempts (including excess of calls over and above network or

system capacity), incomplete calls, or any busy- outs; (b) any failure to transmit, obtain or collect data from callers or for human and machine errors, faulty or erroneous input, inarticulate caller communication, caller delays or call lengths exceeding estimated call lengths or omissions, delays and losses in connection with the Services provided hereunder; or (c) if Licensee, Licensee's employees, or Licensee's end user suffer injury or damage due to the failure of outbound services to operate, even though Licensee does not know what or how extensive those injuries or damages might be, unless such losses were directly attributable to Selectron's gross negligence or willful misconduct.

8.3 Privacy and Security Standards. Selectron agrees that it will gather, collect, receive, generate, store, use, maintain, transmit, process, import, export, transfer and disclose the Licensee Data substantially in compliance with applicable data protection, security, breach notification and privacy laws, rules, regulations and industry standards to which Selectron is subject. Selectron shall, at all times, use reasonable measures to protect the confidentiality of the Licensee Data in its possession or care, including technical, administrative, and physical safeguards that are appropriate given the nature of the Licensee Data.

8.4 PCI Compliance. Selectron warrants that, during the Term of this Agreement, (a) all system components, people, processes, and the cardholder data environment that are used in Selectron's collection, transmittal, or other processing of PCI Data on behalf of Licensee are and shall remain compliant with the applicable provisions of PCI DSS; and (b) Selectron PayEngine™, Selectron's proprietary payment application, is and shall remain compliant with PA-DSS. On an annual basis or upon Licensee's request, Selectron shall provide Licensee with an Attestation of Compliance or Attestation of Validation confirming such compliance.

8.5 Incident Response. In the event Selectron becomes aware of a confirmed or suspected Security Incident involving the unauthorized disclosure or theft of PCI Data, Selectron shall (a) notify Licensee within 24 hours of when Selectron first becomes aware of Security Incident, (b) cooperate in any investigation, (c) promptly take reasonable measures to prevent further unauthorized access or use of the Licensee Data, (d) cooperate with Licensee's notification to affected individuals if such notification is required by applicable law or regulation, and (e) perform all such other acts, or cooperate with Licensee's performance of all such other acts, that are required with respect to such Security Incident by applicable law or regulation. Notifications concerning Security Incidents will be sent to Help.Desk@cityofvancouver.us.

8.6 Limited Scope of PCI Data Processing. The parties acknowledge that Selectron's sole processing of PCI

Data on behalf of Licensee shall consist of (a) collecting PCI Data needed to facilitate payments to Licensee, (b) transmitting such PCI Data to a third party payment gateway designated by Licensee, and (c) receiving confirmation via the payment gateway that the payment transaction has been completed. After transmittal of PCI Data to the payment gateway, Selectron will not retain, store, or continue to use or process such PCI Data.

8.7 Data Transfers Between Licensee and Selectron. The parties acknowledge that, to facilitate providing the Services and the Licensed Software, Selectron and Licensee shall regularly transfer Licensee Data to each other. Licensee, not Selectron, is responsible for providing and maintaining a secure file transfer protocol for such transfer of Licensee Data, and shall be responsible for maintaining the security of the system components, environment, and procedures of such file transfer protocol.

8.8 Licensee's Privacy Practices. Licensee acknowledges that the Licensee Data includes information about individuals with whom Licensee, rather than Selectron, has direct relationships. Therefore, it is Licensee's obligation, and not Selectron's obligation, to provide any privacy notices or disclosures to, and obtain any consent from, such individuals as may be required by applicable law with respect to processing of the Licensee Data by Selectron on Licensee's behalf. Licensee represents, warrants, and covenants to Selectron that (a) Licensee has the authority to transmit the Licensee Data to Selectron; and (b) Selectron's collection, storage, transmittal, and other processing of the Licensee Data on behalf of Licensee, as described in the Documentation and this Agreement, does not and will not violate any applicable laws, regulations, ordinances, contracts, policies, orders, or decrees to which Licensee is subject.

9. Indemnification

9.1 Infringement Indemnity Obligations of Selectron. Selectron shall defend any action brought against Licensee to the extent it is based on a third party claim that use by Licensee of the Licensed Software as furnished hereunder, which use is in accordance with the terms and conditions of this Agreement, directly infringes or misappropriates any valid United States patent, copyright, or trade secret. Selectron shall pay any liabilities, costs, damages, and expenses (including reasonable attorney's fees) finally awarded against Licensee in such action that are attributable to such claim. Licensee agrees to promptly notify Selectron of any known or suspected infringement or misappropriation of Selectron's proprietary rights of which Licensee becomes aware. Should the Licensed Software become, or be likely to become in Selectron's opinion, the subject of any claim of infringement, Selectron may, at its option (a) procure for Licensee the right to continue using the potentially infringing materials; (b) replace or modify the potentially infringing materials to make them non-infringing; or (c) terminate this Agreement and provide Licensee with a refund equal to the set-up fees paid by Licensee, less an amount equal to the depreciated portion of such fees calculated on a five (5)

year straight-line basis. This Section 9.1 states the entire liability of Selectron and the exclusive remedy of Licensee with respect to infringement of any third-party intellectual property or other rights, whether under theory of warranty, indemnity, or otherwise.

9.2 Infringement Indemnity Obligations of Licensee. Selectron shall have no liability for any claim based upon (a) the use, operation, or combination of the Licensed Software with non-Selectron programs, data, equipment, or documentation if liability would have been avoided but for such use, operation, or combination; use of other than the then-current, unaltered version of the Licensed Software that incorporates all Updates; Licensee's or its agents' or Employees' activities after Selectron has notified Licensee that Selectron believes such activities may result in infringement; (d) any modifications to or markings of the Licensed Software that are not specifically authorized in writing by Selectron; (e) any third party software; (f) any Licensee Data; or (g) Licensee's breach or alleged breach of this Agreement. Licensee shall indemnify, defend, and hold Selectron harmless for, from and against all liabilities, costs, damages, and expenses (including reasonable attorney's fees) awarded against or incurred by Selectron in such action(s) that are attributable to such claim.

9.3 Security Related Indemnity Obligations of Selectron. If an investigation performed by a qualified third party forensic investigator confirms that a Security Incident was caused solely by an act or omission of Selectron, including any security vulnerability in system components, procedures, or environments owned or controlled by Selectron, then Selectron shall defend, indemnify, and hold harmless Licensee for, from and against all liabilities, costs, damages, fines, penalties, and expenses (including reasonable attorney's fees) incurred by Licensee as a result of such Security Incident, including the reasonable costs of investigation and reasonable costs of notification to affected individuals and providing credit monitoring or other fraud prevention services, but only to the extent such notification, credit monitoring, or other fraud prevention services are required by applicable laws, regulations, a court order or consent decree, or the terms of a settlement and release of claims arising from such Security Incident that Selectron has consented to (collectively, "**Losses**").

9.4 Security Related Indemnity Obligations of Licensee. Selectron shall have no liability or obligation to defend or indemnify Licensee with respect to any Losses caused by Licensee's breach of Sections 8.8 or 8.9 or any Security Incident to the extent caused in whole or in part by an act or omission of Licensee or any third party (other than Selectron's subcontractors) or any of their affiliates, employees, directors, officers, agents, or contractors (other than Selectron), including without limitation any of the

following acts or omissions: (a) their loss of control of any device, (b) their failure to maintain the confidentiality of log-in credentials, (c) their transmission of data via methods that are not secure, (d) their failure to maintain systems and environments that are compatible with any Update, (e) their violation of the applicable terms of this Agreement or any applicable laws, regulations, or industry standards, or (f) any vulnerability in their environment, systems, hardware, software, or physical or administrative security safeguards or procedures, including without limitation any vulnerability in the file transfer protocol maintained by Licensee pursuant to Section 8.8. Licensee shall indemnify, defend, and hold harmless Selectron for, from and against all Losses arising from any such Security Incident or Licensee's breach of Sections 8.7 or 8.8, including without limitation any expenses incurred by Selectron in complying with its obligations under Section 8.6.

9.5 Conditions for Indemnification. The parties' indemnification obligations hereunder shall apply only if (a) the party to be indemnified (the "**indemnitee**") notifies the party obligated to indemnify them (the "**indemnitor**") in writing of a claim promptly upon learning of or receiving the same; and (b) the indemnitee provides the indemnitor with reasonable assistance requested by the indemnitor, at the indemnitor's expense, for the defense and settlement, if applicable, of any claim. The indemnitee's failure to perform any obligations or satisfy any conditions under this Section 9.5 shall not relieve the indemnitor of its obligations hereunder except to the extent that the indemnitor can demonstrate that it has been materially prejudiced as a result of such failure.

9.6 Control of Defense. After receipt of notice of a claim, the indemnitor shall be entitled, if it so elects, at its own cost, risk and expense (a) to take control of the defense and investigation of such lawsuit or action; and (ii) to employ and engage attorneys of its own choice to handle and defend the same; *provided, however*, that the indemnitee's consent shall be required for any settlement that does not include a full release of all claims. If the indemnitor fails to assume the defense of such claim within ten (10) business days after receipt of notice of the claim, the indemnitee will (upon delivering notice to such effect to the indemnitor) have the right to undertake, at the indemnitor's cost and expense, the defense, compromise or settlement of such claim on behalf of and for the account and risk of the indemnitor; provided, however, that such claim shall not be compromised or settled without the written consent of the indemnitor. The party that assumes control of the defense of the claim will keep the other party reasonably informed of the progress of any such defense, compromise or settlement. Notwithstanding the foregoing, the indemnitee shall be entitled to conduct its own defense at the cost and expense of the indemnitor if the indemnitee establishes that the conduct of its defense by the indemnitor would reasonably be likely to prejudice materially the indemnitee due to a conflict of interest between the indemnitee and the indemnitor; and provided further that in any event, the indemnitee may participate in such defense at its own expense.

10. Limitation of Liability

10.1 Limited Remedy. EXCEPT AS EXPRESSLY PROVIDED HEREIN, TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT SHALL SELECTRON OR ITS SUPPLIERS OR LICENSORS BE LIABLE FOR, OR BE OBLIGATED TO INDEMNIFY LICENSEE FOR, ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE OR DATA, OR INTERRUPTION OF BUSINESS, OR FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR OTHER ECONOMIC LOSS ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, EVEN IF SELECTRON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, HOWEVER CAUSED.

10.2 Maximum Liability. Notwithstanding anything in this Agreement to the contrary or the failure of essential purpose of any limited remedy or limitation of liability, Selectron's entire liability arising from or relating to this Agreement or the subject matter hereof, under any legal theory (whether in contract, tort or otherwise), shall not exceed the amounts actually received by Selectron from Licensee hereunder in the twelve (12) months immediately preceding the action that gave rise to the claim. Licensee acknowledges that the Service Fees reflect the allocation of risk set forth in this Agreement and that Selectron would not enter into this Agreement without the limitations on liability set forth in this Agreement. Cyber Liability Insurance. Selectron shall obtain and keep in force during the entire term of this Agreement, cyber liability insurance covering claims involving privacy violations, data breach, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The amount of coverage provided by such insurance shall be not less than Two Million Dollars (\$2,000,000) combined single limit. The City of Vancouver, Washington shall be named as an additional insured with respect to all such policies. Selectron shall provide evidence of all insurance required, at Client's request, by submitting an insurance certificate to Licensee on a standard "Acord" or comparable form.

11. Term and Termination

11.1 Term. The term of this Agreement shall commence on the Effective Date and continue for an initial period of five (5) years therefrom (the "**Initial Term**"), and shall automatically renew for successive one (1) year periods unless either party notifies the other of its intention not to renew at least ninety (90) days before the end of the then-current term (collectively, the "**Term**"). If Licensee cancels prior to the end of the Initial Term of five (5) years, all fees for the Initial Term of this agreement that are unpaid will become immediately due.

11.2 Termination for Default. If either party

materially defaults in any of its obligations under this Agreement, the non-defaulting party, at its option, shall have the right to terminate this Agreement by written notice to the other party unless, within sixty (60) calendar days after written notice of such default, the defaulting party remedies the default, or, in the case of a default which cannot with due diligence be cured within a period of sixty (60) calendar days, the defaulting party institutes within the sixty (60) day-period substantial steps necessary to remedy the default and thereafter diligently prosecutes the same to completion. Notwithstanding anything herein to the contrary, in the event Licensee breaches the EULA or Sections 2.2, 5 and/or 6 of this Agreement, Selectron may immediately terminate this Agreement. Licensee shall notify Selectron within twenty-four (24) hours of Licensee's becoming aware of any breach (other than by Selectron) of the terms and conditions of this Agreement, including, without limitation, any breach of Sections 2.2, 5 or 6.

11.3 Termination for Bankruptcy. Either party may terminate this Agreement if the other party (a) becomes insolvent; (b) fails to pay its debts or perform its obligations in the ordinary course of business as they mature; (c) is declared insolvent or admits its insolvency or inability to pay its debts or perform its obligations as they mature; or (d) becomes the subject of any voluntary or involuntary proceeding in bankruptcy, liquidation, dissolution, receivership, attachment, or composition, or makes a general assignment for the benefit of creditors, provided that, in the case of an involuntary proceeding, the proceeding is not dismissed with prejudice within sixty (60) days after the institution thereof.

11.4 Effect of Termination. Upon the expiration or termination of this Agreement, all rights and licenses granted to Licensee hereunder shall immediately and automatically terminate. Within ten (10) days after any termination or expiration of this Agreement, Licensee shall, at its sole expense, return to Selectron (or destroy, at Selectron's sole election) all Licensed Software and Proprietary Information of Selectron (and all copies, summaries, and extracts thereof) then in the possession or under the control of Licensee and its current or former employees. Licensee shall notify Selectron in writing that, to the best of its knowledge, such delivery or destruction has been fully effected. Termination of this Agreement by either party shall not act as a waiver of any breach of this Agreement and shall not act as a release of either party from any liability for breach of such party's obligations under this Agreement. Neither party shall be liable to the other for damages of any kind solely as a result of terminating this Agreement in accordance with its terms. Either party's termination of this Agreement shall be without prejudice to any other right or remedy that it may have at law or in equity, and shall not relieve either party of liability for breaches occurring prior to the effective date of such termination. Any provisions that would reasonably be expected by the parties to survive termination of this Agreement shall survive such termination, including without limitation the provisions of the EULA and Sections 1 ("Definitions"), 2.2 ("Software Restrictions"), 2.3 ("Data Restrictions"), 2.4 ("Rights in Aggregate Data"), 4 ("Fees and Payment") (with respect to

amounts accrued but as-yet unpaid), 5 ("Proprietary Rights"), 6 ("Proprietary Information"), 7 ("Representations and Warranties; Warranty Disclaimer"), 8 ("Security"), 9 ("Indemnification"), 10 ("Limitation of Liability"), 11 ("Term and Termination") and 12 ("General Provisions").

12. General Provisions

(a) **Notices.** Any notice, request, demand or other communication required or permitted hereunder shall be in writing, shall reference this Agreement, and shall be deemed to be properly given (on the earliest of) (a) when delivered personally; (b) when sent by facsimile, with written confirmation of receipt; or (c) upon receipt three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid. All notices shall be sent to City of Vancouver, Attn: IT Manager P.O. Box 1995 Vancouver, Washington 98668 (or to such other address as may be designated by a party by giving written notice to the other party pursuant to this Section 12.1).

12.1 Governing Law; Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, U.S.A., without reference to its conflicts of law provisions. The United Nations Convention on Contracts for the International Sale of Goods does not apply to and shall not be used to interpret this Agreement. Any dispute regarding this Agreement must be brought in the state or federal courts located in Clark County, Washington, U.S.A.

12.2 Construction. This Agreement has been negotiated by the parties and their respective counsel. This Agreement shall be interpreted fairly in accordance with its terms and without any construction in favor of or against either party.

12.3 Attorneys' Fees. If any legal action is brought relating to this Agreement or the breach hereof, the prevailing party in any final judgment shall be entitled to the full amount of all reasonable expenses, including all court costs and reasonable attorney fees paid or incurred.

12.4 Injunctive Relief. In the event that Licensee breaches any provision of the EULA or Sections 2, 5, or 6 or any other material provision of this Agreement, Licensee acknowledges and agrees that there may be no adequate remedy at law to compensate Selectron for such breach, that any such breach may result in irreparable harm to Selectron that would be difficult to measure; and, therefore, that upon any such breach or threat thereof, Selectron shall be entitled to seek injunctive and other appropriate equitable relief, in addition to whatever remedies Selectron may have at law, in equity, under this Agreement, or otherwise.

12.5 Waiver. The waiver by either party of a breach of or a default under any provision of this Agreement,

shall be in writing and shall not be construed as a waiver of any subsequent breach of or default under the same or any other provision of this Agreement, nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy that it has or may have hereunder, operate as a waiver of any right or remedy.

12.6 Severability. If the application of any provision of this Agreement to any particular facts or circumstances shall be held to be invalid or unenforceable, then (a) the validity and enforceability of such provision as applied to any other particular facts or circumstances and the validity of other provisions of this Agreement shall not in any way be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties, and reformed without further action by the parties, to the extent necessary to make such provision valid and enforceable. Without limiting the generality of the foregoing, Licensee agrees that Section 7.4 will remain in effect notwithstanding the unenforceability of any other provision hereof.

12.7 Independent Contractor Relationship. Selectron's relationship with Licensee will be that of independent contractor, and nothing contained in this Agreement shall be deemed or construed as creating a joint venture, partnership, or employer-employee relationship. Licensee is not an agent of Selectron and is not authorized to make any representation, contract, or commitment on behalf of Selectron, or to bind Selectron in any way. Selectron is not an agent of Licensee and is not authorized to make any representation, contract, or commitment on behalf of Licensee, or to bind Licensee in any way. Selectron will not be entitled to any of the benefits that Licensee may make available to its employees, such as group insurance, profit sharing, or retirement benefits.

12.8 Force Majeure. Neither party shall be responsible or have any liability for any delay or failure to perform to the extent due to unforeseen circumstances or causes beyond its reasonable control, including, without limitation, acts of God, earthquake, fire, flood, embargoes, labor disputes and strikes, riots, war, error in the coding of electronic files, Internet or other network "brownouts" or failures, power failures, novelty of product manufacture or other unanticipated product development problems, and acts of civil and military authorities; provided that such party gives the other party prompt written notice of the failure to perform and the reason therefor and uses its reasonable efforts to limit the resulting delay in its performance and to mitigate the harm or damage caused by such delay.

12.9 Public Announcements. Licensee shall cooperate with Selectron so that Selectron may issue a press release concerning this Agreement; provided, however, Selectron may not release any such press release without the prior approval of Licensee (which shall not be unreasonably withheld, delayed, or conditioned). However, without seeking prior approval in each instance, Selectron shall have the right to

use Licensee's name as a customer reference, and to use Licensee's trade name on Selectron's customer lists.

12.10 U.S. Government Rights. (a) The Licensed Software is a "commercial item," as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R.12.212 or 48 C.F.R. 227.7202, as applicable. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, the Licensed Software are licensed to any U.S. Government End Users (i) only as a commercial item and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Manufacturer is Selectron Technologies, Inc., 12323 SW 66th Avenue, Portland, OR 97223, USA. This Section, consistent with 48 C.F.R. § 12.212 and 48 C.F.R. § 227.7202 is in lieu of, and supersedes, any other Federal Acquisition Regulation, Defense Federal Acquisition Regulation Supplement, or other clause or provision that addresses United States Government rights in computer software, technical data, or computer software documentation.

(b) The parties agree that, in the event that Licensee is a governmental entity, all other state and local governments within Licensee's state may purchase a license from Selectron to use the Licensed Software under the same terms and conditions as set forth in this Agreement by entering into a master services and hosting agreement with the same terms and conditions as set forth herein with Selectron and be compliant with the Washington State interlocal Cooperation Act, Ch 39.34 RCW with no liability to the licensee.

12.11 Export Controls. The Licensed Software is subject to the export control laws of the United States and other countries. Licensee may not export or re-export the Licensed Software, unless Licensee has first obtained Selectron's prior written permission and the appropriate United States and foreign government licenses, at Licensee's sole expense. Licensee must otherwise comply with, and contractually require that all of its employees comply with, all applicable export control laws and regulations in the use of the Licensed Software. None of the Licensed Software may be downloaded or otherwise exported or re-exported (a) into any country for which the United States has a trade embargo, or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Denied Persons List. Licensee represents and warrants that it is not located in, under the control of, or a national or resident of any such country or on any such list. Licensee shall defend, indemnify and hold Selectron and all successors, assigns, affiliates, suppliers, and each of their officers, directors, employees, and agents harmless for, from, and against any and all claims, allegations, damages, liabilities, and costs and expenses (including without limitation attorneys' fees and costs) arising out of Licensee's violation of such export control laws. Licensee further agrees to comply with the United States Foreign Corrupt Practices Act, as amended.

12.12 Captions and Section Headings. The captions and Section and paragraph headings used in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement.

12.14 Right to Review. The Licensee shall have the right to review the financial and service components of this program, limited in scope to the supporting information and documentation related specifically to this agreement. Such review may occur with adequate notice and by providing all requests in writing. Selectron shall preserve and maintain all financial records, and records relating to the performance of work under this Agreement, for 12 months after contract termination.

12.15 Debarment. By signing this Agreement, Selectron certifies that it is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal, state, or city department or agency. The Agency also agrees to include the above requirement in any and all subcontracts in which it enters. The Agency shall immediately notify the City if it becomes debarred.

12.16 E-Verify. Selectron 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. Selectron shall ensure all Selectron employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Selectron shall provide verification of compliance upon Licensee's request. Failure by Selectron to comply with this subsection shall be considered a material breach.

12.17 Business License. Selectron will be required to obtain a business license when contracting with the City of Vancouver, unless allowable exemptions apply.

12.18 Nondiscrimination. Licensee is an equal opportunity employer. In the performance of this Agreement, Selectron 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

12.19 Counterparts. This Agreement may be signed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement, and, when taken together, shall be deemed to constitute one and the same agreement. Each party agrees that the delivery of this Agreement by facsimile transmission or by PDF attachment to an e-mail transmission will be deemed to be an original of the Agreement so transmitted and, at the request of either party, the other party will confirm facsimile or e-mail transmitted signatures by providing the original document.

12.20 Modification; Subsequent Terms. No amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized signatory of Selectron and Licensee. To the extent that the terms and conditions of the Exhibits hereto or Exhibits to subsequent amendments or modifications of or to the Agreement ("Subsequent Terms") differ from those herein, those Subsequent Terms shall control the interpretation and any conflict resolution thereof. The terms on any purchase order or similar document submitted by Licensee to Selectron will not modify the terms and conditions of this Agreement.

12.21 Entire Agreement; Amendment. This Agreement, including the Exhibit(s) attached hereto, constitutes the entire agreement between the parties concerning the subject matter hereof, and supersedes all prior or contemporaneous representations, discussions, proposals, negotiations, conditions, agreements, and communications, whether oral or written, between the parties relating to the subject matter of this Agreement, and (b) all past courses of dealing and industry custom.

12.22 Evaluation and Compliance with the Law. Selectron shall have the authority to control and direct the performance and details of the work described herein. Selectron agrees to comply with all relevant, federal, state and municipal laws, Policies, rules, and regulations.

In Witness Whereof, the parties have caused this Agreement to be executed by duly authorized representatives of the parties as of the Effective Date.

DATED this _____ day of _____, 2021

CITY OF VANCOUVER, a municipal corporation

BY: _____
Anna L. Vogel, Procurement Services Manager

SELECTRON, Contractor

BY: _____

Title _____

Approved as to form:

Jonathan Young, City Attorney

EXHIBIT A
Scope of Work

PRICING DETAILS FOR 5-YEAR TERM OPTION

	Unit Cost	Total Cost
RELAY PLATFORM UPDATE		
Relay IVR for Utility	\$35,000	\$35,000
Relay IVR for Permits	\$30,000	\$30,000
Relay IWR for Utility	\$15,000	\$15,000
Relay IWR for Permits	\$15,000	\$15,000
20 Production Voice Ports	\$2,000	\$40,000
Outbound Channel License	\$5,000	\$5,000
1 Outbound Notification – Delinquency	\$1,500	\$1,500
12-Month Inspection Results & History	\$6,000	\$6,000
CommunitySelect	\$9,500	\$9,500
Utility Notification	\$3,000	\$3,000
Plan Review Status	\$7,500	\$7,500
2 Test IVR Voice Ports	\$1,000	\$2,000
RELAY UPDATE TOTAL		\$169,500
MANAGED ENVIRONMENT SETUP & CONFIGURATION		
Move to Managed Environment		\$20,000
MANAGED ENVIRONMENT SETUP & CONFIGURATION TOTAL		\$20,000
NEW ADD-ONS FOR UTILITIES:		
Replace CommunitySelect with Inbound Builder		\$7,500
Advanced Payments & Profile Management Bundle		\$90,000
E-Billing Enrollment & Management		\$15,000
Outbound Notification – Shutoff Notification		\$1,500
Payment Extension		\$8,750
Display E-Bill Enrollment Status on Relay IWR Solution		\$2,000
NEW ADD-ONS FOR UTILITIES TOTAL		\$124,750
NEW ADD-ONS FOR PERMITS:		
Credit Card & E-Check Payments for IVR and Web		\$31,500
Plan Review Status		\$0
Outbound Notification – Expiring/Expired Permit Notification		\$1,500
IPS Logging for: Utility Notifications, Expiring/Expired Permit Notifications, and Contractor Voicemail Messages for Inspectors		\$6,000
NEW ADD-ONS FOR PERMITS TOTAL		\$39,000
TOTAL PROJECT SETUP COST		\$353,250

DISCOUNTS

Relay Platform Update Discount	(\$81,150)
Managed Environment Setup & Configuration Discount	(\$20,000)
Preferred Payment Vendor Forte	(\$30,000)
Inbound Builder	(\$7,500)
New Add-Ons for Utilities	(\$62,375)
New Add-Ons for Permits	(\$19,500)
DISCOUNTS TOTAL	(\$220,525)

TOTAL ONE-TIME PROJECT SETUP COST AFTER DISCOUNT	\$132,725
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BUNDLES AND SERVICE FEES	Unit Cost	Total Cost
ANNUAL BUNDLES AND SERVICE FEES		
Utilities: IVR/IWR Managed Service Fee		\$43,755
Utility Annual Service Fee Discount		(\$18,988)
Utilities: Inbound Call Bundle (320,000 calls)	\$0.40	\$128,000
Utilities: Outbound RCS Bundle (100,000 messages)	\$0.15	\$15,000
Permits: IVR/IWR Managed Service Fee		\$40,245
Permits Annual Service Fee Discount		(\$18,987)
Permits: Inbound Call Bundle (25,000 calls)	\$0.40	<u>\$10,000</u>
BUNDLE AND SERVICE FEE TOTAL		\$199,025
ANNUAL DISCOUNTS		
Utilities: Inbound Call Bundle (320,000 calls)	(\$0.15)	(\$48,000)
Permits: Inbound Call Bundle (25,000 calls)	(\$0.15)	(\$3,750)
DISCOUNTS TOTAL		(\$51,750)
BUNDLE AND SERVICE FEE TOTAL AFTER DISCOUNT		\$147,275
TOTAL FIRST YEAR COST		\$280,000

Required Items Not Included with Relay

- Required Existing Infor Hansen application database interface(API)
- Relay does not include merchant account provider or payment gateway costs or associated fees

Quote Notes

- Application Database Integration: Infor Hansen
 - A Standard Application Database is defined as an Application Database that exposes the needed data and transaction business rules via an API. All functionality listed in the Application Packs is contingent on the accessibility of the data and business logic from the Application Database via an API.
 - Integration to Hansen requires appropriate ports enabled within the City of Vancouver's network and VPN connectivity, as determined is necessary during the system implementation
- Payments: Relay can be integrated to either Forte or Paymentus for gateway & processing services
- Number of IVR Ports: 20 for Production IVR and 2 for Test IVR
- Telephone Number: IVR service requires a local-to-customer phone number. Selectron can either use an existing number provided by customer, or obtain and provide a number if needed.
- Call Definition: IVR Services are provided by the Call. A Call is defined as a successful completed connection. A Call can be up to 4 minutes in length, with each additional 4-minute period counted as an additional Call. Actions such as transfer that result in multiple connected circuits are counted on the per circuit basis and are measured for the duration of the connection including the time after a transfer occurs.

CONTRACT LENGTH

The following fully illustrates year over year pricing based on a 5-year commitment. *

5 YEAR CONTRACT

*Year over year pricing***

Retail

		Year 1	Year 2	Year 3	Year 4	Year 5	TOTAL
Relay Platform Setup	\$169,500	\$50,850					\$50,850
Managed Environment Setup & Configuration	\$20,000	\$0					\$0
Utilities: New Modules	\$124,750	\$62,375					\$62,375
Permits: New Modules	\$39,000	\$19,500					\$19,500
Utilities: Annual Service Fee	\$48,131	\$43,755	\$45,943	\$48,240	\$50,652	\$53,184	\$241,774
Utility Annual Service Fee Discount		-\$18,988	-\$4,725	-\$6,930	-\$9,245	-\$11,676	-\$51,564
Utilities: Inbound Call Bundle (320,000 calls)	\$128,000	\$80,000	\$80,000	\$80,000	\$80,000	\$80,000	\$400,000
Utilities: Outbound RCS Bundle (100,000 messages)	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$75,000
Permits: Annual Service Fee	\$44,245	\$40,245	\$42,257	\$44,370	\$46,589	\$48,918	\$222,379
Permits Annual Service Fee Discount		-\$18,987	-\$4,725	-\$6,930	-\$9,246	-\$11,676	-\$51,564
Permits: Inbound Call Bundle (25,000 calls)	\$10,000	\$6,250	\$6,250	\$6,250	\$6,250	\$6,250	\$31,250
TOTAL	\$598,651	\$280,000	\$180,000	\$180,000	\$180,000	\$180,000	\$1,000,000

* All contracts including non-appropriations or termination for convenience without penalty will utilize Retail pricing.

** All discounted pricing based on the City using Forte or Paymentus for Credit Card Gateway & Processing for all Selectron applications.

- This agreement is a purchase, per the rates outlined above, for a 5-year period. Payment for all costs shall not exceed \$1,000,000 unless authorized in writing by the City, unless the Parties agree to additional scope in writing.

MANAGED SERVICES PAYMENT TERMS

Payment Terms

Receipt of Purchase Order by the Customer will constitute acceptance of the terms and conditions utilized in the Professional Services Agreement executed with the initial purchase of your interactive system.

Selectron Technologies expects payment to occur within 30 days of receipt of invoice unless otherwise agreed to in the contract or purchase order terms and conditions. All presented pricing is in US Dollars.

Setup and New Module Fees Payment Schedule

- 25% Invoiced at contract to procure hardware/rack space, etc.
- 25% Invoiced at execution of system design documents
- 30% Invoiced upon delivery of system to user
- 20% Invoiced at "System Go-Live."

"System Go-Live" shall be the earlier of: (a) final system acceptance by Licensee assuming Licensee has used commercially reasonable diligence and efforts to test functionality; or (b) upon live operation of any system component that would allow citizen use of the system; (c) 90 days from delivery of the system to Licensee provided that no material deficiencies (equivalent to Class A or Class B Errors as defined within Exhibit B) are reported to Selectron and remain unresolved by Selectron by the end of the 90-day period.

Annual Fees and Bundle Fees Payment Schedule

- 100% Due upon System Go-Live and then 45 days prior to next service year or upon reload of messages.

Any prepaid maintenance and support fees will be credited towards the first year of managed service fees. Subsequent service fees will be invoiced 45 days prior to beginning of next service year.

Outbound messages are purchased in annual call bundles. Calls, as defined by the agreement, that are not used rollover to the next qualifying renewal. The rollover calls from one period may only be used to offset overages in the next immediate period. If there are no overages from one period, the rollover calls from the prior period expire.

A qualifying renewal is one that is equal to or greater than the previous period. If customer chooses to reduce their annual plan renewal, rollover calls do not apply.

PremierPro On-going Support

An active Support and Maintenance Agreement and all applicable fees are required as qualification for the discounted pricing offered in this quote.

Taxes

Sales Tax or any other applicable taxes are **NOT** included in any of this proposal's pricing information. If taxes become applicable, these taxes will then need to be added to the proposed pricing.

Notices

All notices, invoicing and correspondence, with the City's contract number identified & the Projects Manager's (PM) name, are to be sent to:

Vendor Information

Selectron Technologies, Inc.
12323 SW 66th Avenue, Portland, Oregon
97223 Phone: 866.878.0048 | Fax: 03.443.2052

Licensee Information

City of Vancouver/IT Manager/(PM name), P.O. Box 1995, Vancouver, Washington 98668

EXHIBIT B
Service Level Agreement

This Exhibit provides the terms and conditions and service levels for Selectron's Hosting and Maintenance of the Licensed Software, including both the production and test servers.

1.0 DEFINITIONS

Any capitalized terms used in this Exhibit, "Hosting, Maintenance, and Technical Support," that are not defined below shall have the same meaning as defined in Section 1 of the Agreement. The following definitions are used only within this Exhibit and shall have the meaning stated herein only for application within this Exhibit.

"Basic Support Hours" shall mean Monday through Friday, 5:00 am to 5:00 pm Pacific Time, excluding United States federal holidays.

"Downtime" means minutes when the Licensed Software is unavailable.

"Emergency Maintenance" means Maintenance performed in response to a Force Majeure Event or with the aim to prevent an Error; Selectron shall notify the City as soon as possible, but no later than within two hours after commencement of Emergency Maintenance.

"Error" means any failure of the Licensed Software or the Service, as applicable, to conform in any material respect with the Documentation.

"Error Correction" means either a bug fix, patch, or other modification or addition that brings the Licensed Software or the Service, as applicable, into conformity with the Documentation.

"Maintenance" means Services provided by Selectron to the City to keep the System conforming to the Documentation and to respond to requests by the City.

"Priority A Error" means an Error that causes the Licensed Software or Services to be (i) severely impacted, resulting in a complete loss of Access or Use, or (ii) significantly degraded resulting from an essential element of the Licensed Software or Services being non-functional and materially unavailable to a material percentage of Authorized Users without a Workaround being available.

"Priority B Error" means an Error that (i) substantially degrades the performance of the System, (ii) materially restricts Customer's Use of the System, or (iii) causes the System to be materially unstable or have periodic interruptions over a sustained period of time.

"Priority C Error" means an Error that (i) causes only a minor impact on Customer's Use the System, (ii) causes a minor degradation not visible to Users, or (iii) that is cosmetic or otherwise not material to the essential functions of the System.

"Scheduled Maintenance" means the number of minutes that is scheduled for regular maintenance on the System, maintenance normally occurs weekly on any weekday between 09:00pm to 06:00am Pacific Time with a maximum planned Downtime of 240 minutes per month. Whenever possible the City will be provided advance written notice of Downtime relating to Scheduled Maintenance.

"System Availability" means the total number of minutes within the applicable month less any time designated by Selectron as planned Downtime.

“Scheduled Downtime” means Scheduled Maintenance, Customer Configuration Maintenance, and Emergency Maintenance.

“Unscheduled Downtime” means a System outage (other than those arising from Maintenance, Scheduled Maintenance, Emergency Maintenance, events of Force Majeure, or City systems or the City’s third party systems) that prevents City Users or the City’s end users from consummating transactions.

“Workaround” means with respect to any Error, the provision of a temporary repair used to bypass, mask or otherwise avoid the Error until a permanent repair is available.

2.0 ERROR REPORTING

- 2.1 Selectron shall provide Maintenance and Error Corrections to the Licensed Software and Services as required to keep the Licensed Software and Services performing in all respects to the Documentation, and to correct reported Errors that are diagnosed by the City. Selectron shall coordinate isolation and diagnosis of Errors, testing and repair work for the response, tracking, and resolution of all Errors.
- 2.2 Selectron shall provide Customer with telephone support twenty-four (24) hours per day, seven (7) days per week for the reporting of and response to Priority A Errors, and telephone support during Basic Support Hours for the reporting of Priority B and Priority C Errors.
- 2.3 When reporting an Error, the City will provide Selectron with sufficient explanation of the circumstances under which the Error occurred or is occurring, and the City shall reasonably classify the Error as a Priority A, B, or C Error.

3.0 ERROR RESPONSE AND RESOLUTION

- 3.1 Selectron shall use commercially reasonable efforts to correct Errors. Selectron shall provide a first response, first update and subsequent updates for each Error according to time periods described in the following table, in accordance with the priority level actually assigned by the City to such Error.

Incident	First Response	First Update	Subsequent Updates	Resolution
Priority A Error	1 hour	1 hour	Every 2 hours	Workaround within 24 hours; Error Correction within 48 hours, or other time as mutually agreed
Priority B Error	3 hours during Basic Support Hours	2 hours during Basic Support Hours	Every 2 hours during Basic Support Hours	Workaround within 48 hours; Error Correction within 5 Business Days, or other time as mutually agreed
Priority C Error	3 business days	5 business days	5 business days	Workaround within 6 Business Days; Error Correction within three weeks, or other time as mutually agreed

- 3.4 A response may be provided to the City by email. A status update on the Error may be provided by email or may be made available online, on a status website which has been communicated to the City. Each update shall include a description of (a) functionality affected; (b) the start time of the Error; and (c) current status of Error Correction.
- 3.5 If the Parties have a good faith dispute whether an Error is priority level B or C, the Parties shall negotiate in good faith, including escalation to their respective executives, for resolution within three (3) Calendar Days of notice of the dispute. The Parties, in their respective discretion, may mutually agree to an alternative dispute resolution process for prompt and discrete resolution of the Severity Level dispute.

4.0 SYSTEM AVAILABILITY

- 4.1 Selectron's goal for System Availability is set forth in the table below.

Service Level	Goal	Measure Start	Measure End
System Availability (24x7x365)	99.9%	First day of the month	Last day of the month

System Availability shall be measured over the period of each calendar month and calculated as set forth above. System Availability shall be measured on a pro-rated basis for the month of Acceptance.

- 4.2 Availability shall be calculated as a percentage using the following formula:

$$\text{System Availability} = \frac{(\text{total minutes in given month minus Unscheduled Downtime})}{\text{divided by total minutes in a given month}}$$

The System Availability and goal is for the production server only. The test server shall be considered independent and not calculated as part of System Availability.

- 4.3 In the event that the Error Response and Resolution parameters in Section 3.1 are not being met, the Parties agree to escalate the issue to their respective Executive teams, who will meet to discuss next steps and improvement measures.

5.0 BACK-UP

- 5.1 Selectron shall back up City data collected by Selectron on a periodic basis throughout the day, with a full backup performed nightly. On a weekly basis, Selectron shall verify such backups are complete, accurate, and accessible. The combination of incremental and daily backups will ensure that no more than twenty-four (24) hours of data loss will be incurred in the event of a disaster.
- 5.2 Within the primary datacenter, Selectron shall maintain redundancy for all required server, storage, data base, network, and Internet connectivity to prevent against disruption of the System due to a single hardware device or connectivity failure.

6.0 DISASTER RECOVERY

- 6.1 Disaster Recovery. In event that Selectron declares a "disaster" status (as described in Section 6.2 below), Selectron will use best efforts to restore the system at a secondary hosting site (either the current alternate collocation site or Selectron's own facilities) on a temporary basis. This effort

will take between 2 and 10 days and requires support from the City. As the solution is a complex system reliant on third party systems, Selectron's ability to restore the system will be limited to the elements within Selectron's immediate control. Examples of other systems that could delay restoration include the hosted backend database, the City's network, the regional and national telephone and internet backbones, as well as other interdependent systems.

- 6.2 Declaration of Disaster Status. Selectron will declare "disaster" status within one day of its reaching the reasonable belief that an event will cause a complete loss of Service for seventy-two (72) hours or more. At this time Selectron will contact the City to initiate a recovery plan. The City will be requested to provide direction on priority and availability of necessary assistance for restoration. Selectron will begin recovery efforts coordinated with the City's priorities for bringing systems back on line.

7. EXCEPTIONS

The terms of this Exhibit do not apply during the following times of exception:

- 7.1 Service outages beyond Selectron's immediate control, such as Force Majeure Events or an outage caused by the City, such as the City's permitting or utility databases being unavailable.
- 7.2 Outages following a scheduled Update or Upgrade of the Software, where the City did not participate in coordinated functional testing and the coordinated functional testing could have reasonably determined the issue.
- 7.3 Outages during the initial project implementation phase, or any subsequent major changes to the Software and/or Hosting environment that the City requests, or any major changes being made to the City's networks or systems.

8.0 LIMITATIONS

- 8.1 The terms and conditions of this Exhibit apply only to Services related to the production and test environments of the Licensed Software and Services in conformity with the Documentation.
- 8.2 Unless agreed to by the Parties in writing, this Exhibit does not apply to, and the City may not deploy to City's end users, the Licensed Software on beta, test and other pre-production release Hardware or operating systems.
- 8.2 Services provided by Selectron under this Exhibit do not include the restoration of data which has been modified or deleted by the City, the provision of additional training because of Updates to the Licensed Software, consulting and training regarding the Use of the Licensed Software or Services and the adjustment of interfaces within the City's systems.

EXHIBIT C

Statement of Work



Statement of Work

Relay

Utilities, Permitting

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1. Overview

This Statement of Work (SOW) outlines the services provided by Selectron Technologies, Inc. (Selectron) to Vancouver, WA (Vancouver or Customer). This SOW is in the context of Vancouver's move from Selectron's Gen4 solution to the Relay platform; from on-premise to Selectron's managed service; from CyberSource to Forte for payment processing. The features, functionality, and services are provided through Selectron Technologies' Relay communication platform (Relay).

1.1. Revision History

Version #	Details	Date
1.0	Initial Release	3/7/2019
1.1	Revisions per 4/23/2019 meeting	6/20/2019
1.2	Revisions	7/11/2019
1.3	Payment gateway revisions	10/8/2019

2. Functionality

This section details the functionality of each application included in Relay. All functions and features are dependent upon the accessibility of Vancouver's IPS application database to provide the given data to Relay.

2.1. The Relay Platform

Vancouver's solution is powered by Selectron's Relay platform. Relay is a multi-channel, multi-agency platform that is designed to connect customers, constituents, and field workers to government agencies and utilities. Relay offers interactive voice response (IVR), web, mobile, outbound, call center agent, and field worker capabilities all in a single platform.

The following sections detail the functionality that will be implemented for Vancouver. Additional channels, applications, and integrations that are not specified in this SOW are not included, but may be able to be added to the system under a supplemental statement of work. Please contact your Selectron representative for more details for additional functionality.

2.1.1. Application Packs and Channels

Vancouver's solution includes the following application pack and channels:

- Application packs:
 - Utility Pack
 - Permit Pack
- Channels:
 - IVR
 - Web
 - Outbound

2.2. Utility Pack

Vancouver will be configured with the Utility Pack. The Utility Pack offers Vancouver's customers with a central point of access for account management and payments. Citizens will be able to enter an account number and access account data and activities, including:

- Current balance owed
- Last billing date and amount (up to last 6)
- Last payment date and amount (up to last 6)
- Payment Processing – Credit Card and E-Check

In addition to the above, the following add on features are included with this implementation of the Relay Utility Pack:

- Manage User Name & Password – Web only
- Consumption and Usage History – Web Only
- Recurring Payments – IVR and Web
- Shopping Cart –Web
- Customer Profiles
 - Multiple utility accounts – Web
 - eBilling enrollment and management – IVR and Web
 - Display account holder's E-Bill enrollment status when user is logged into Relay Web (will require Vancouver interface assistance)
 - Username Authentication/Password Retrieval – Web Only
- Advanced Payments
 - Stored payment method – IVR and Web
 - Schedule future payment – IVR and Web

All account information is made available through an API to the IPS application database. For any of the features detailed below to function as described, data must be available in this database to be presented to users.

2.2.1. IVR Channel

The IVR Channel for the Utility Pack provides callers with an Interactive Voice Response (IVR) system for accessing account information and making payments over the phone.

Citizens can call the Utility IVR channel in order to hear account information and to make a payment. Citizens will access their account using an account number. The IVR validates this data against the IPS application database. Once the account is validated, the IVR will speak the service address, followed by the current balance owed and due date. During the kickoff phase of the implementation project, Selectron and Vancouver will need to determine the exact terminology and methodology around presenting 'current' and 'delinquent' amount due to the user. The caller will then be given the option of making a payment. If no payment is due, then the IVR will speak that there is currently no payment due.

Using the IVR, callers will also be presented with other options, as listed under Utility Pack, above.

Callers will also be able to transfer to an agent. If a caller requests a transfer, the IVR performs a transfer to a number specified by Vancouver.

2.2.2. Web Channel

The Web Channel for the Utility Pack provides users with a web system for accessing account information and making payments over the internet.

Citizens can log onto the web channel in order to view account information as well as make a payment. Citizens will validate their account using an account number and password. The Web Channel validates this data against the IPS database. Once the account is validated, the citizen will be able to view account information, including balance due and due date (if any). The total amount due includes an aggregate of current and delinquent amounts owed. The citizen will then be given the option of making a payment (if one is due).

Using the web channel, users will also be able to view other account information as listed under Utility Pack, above.

2.2.2.1. Responsive Design

The Web Channel for the Utility Pack includes a mobile-friendly responsive web site for accessing account information and making payments over the internet. Selectron targets a range of the most popular devices and form factors for responsive design – if Vancouver needs to support a specific device or form factor, additional development time and professional services may be required.

2.2.2.2. Hosted Web Certificate

Because this implementation includes a web application on a hosted environment, it is Vancouver's responsibility to provide Selectron with a certificate in order to deploy the web site under Vancouver's domain.

2.2.3. Add Ons

The following Add Ons are included with Vancouver's Utility Pack. These add ons provide additional functionality for the channel(s) purchased as part of this Relay solution.

2.2.3.1. Manage User Name & Password (Web Only)

Using the web channel, Relay Web for Utilities users can create a profile to associate with a utility account. The profile will include an email address and password as a two-factor login. The web system sends a confirmation email to the email login address and a user must respond to this email to activate the user profile. When a user attempts to claim a utility account, the user enters the desired account number and last four digits of social security number (if the utility billing system's interface does not support the return of SSN, the secondary piece of validation information will be agreed upon by the Vancouver and Selectron). A successful claim attempt results in the desired utility account becoming associated with the user profile. A user may associate multiple utility accounts with a single user profile.

When logged in using a user profile, a user may see a list of all utility accounts associated with the user profile. The user may select an individual utility account to view associated account information and perform self-service activities against that account. A utility account may be associated with more than one user profile.

2.2.3.2. Consumption and Usage History (Web Only)

Help account holders visually chart the utility consumption and usage figures from their monthly bills over a 12-month timespan.

2.2.3.3. Customer Profiles: Multiple Utility Accounts (Web Only)

Within their user profile, account holders will be able to manage multiple utility accounts for easy payments and usage monitoring, all with a single login.

2.2.3.4. Customer Profiles: eBilling Enrollment and Management (Web Only)

Perfect for “green” initiatives, offer your account holders who have created a Web profile the option of receiving their monthly bill digitally via email rather than a paper statement delivered via postal mail.

An account holder’s e-bill enrollment status will be displayed when a user is logged into the Relay web solution. This particular functionality will require Vancouver interface assistance.

2.2.3.5. Customer Profiles: Username Authentication/Password Retrieval (Web Only)

Assist account holders who have created a web profile in retrieving their username and resetting their password credentials, in case they are ever forgotten.

2.2.3.6. Advanced Payments: Stored Payment Method (IVR and Web)

After making a payment with credit card or eCheck, account holders will be asked whether they would like to store that payment method to their account for future use, eliminating the need to re-enter payment information during future payments.

2.2.3.7. Advanced Payments: Schedule Future Payment (IVR and Web)

Allow account holders to select a future date when they would like their payment applied.

2.2.3.8. **Advanced Payments: Recurring Payments (IVR and Web)**

After account holders make a payment and store a payment method (whether through the IVR or their Web profile), they will be presented with the option of signing up that account for recurring payments. During the signup process, users will select which stored payment method they would like the recurring payments applied to. Payments will be rendered on the bill due date.

2.2.3.9. **Advanced Payments: Shopping Cart (Web Only)**

Streamline the payment process by allowing users with a profile to group the account balances they would like to pay into a shopping cart for a single payment.

2.3. **Permit Pack (CED Permitting)**

Vancouver will be configured with the Relay Permit Pack. The Permit Pack offers Vancouver's customers with a central point of access for permit information and services. Callers will be able to enter a permit number and perform the following actions:

- Contractor Menu
 - Access inspection results
 - Permit based messaging
 - Insert Contractor Message as .wav file into IPS Attachment Catalogue (will require Vancouver interface assistance)
 - Schedule/reschedule inspections
 - Cancel inspections
 - Hear site address for the permit – IVR Only
 - Payment Processing – Credit Card and E-Check
- Inspector Menu
 - Post inspection results – IVR Only
 - Post correction codes – IVR Only
 - Leave Message for contractor – IVR Only

In addition to the above, the following add on features are included with this implementation of the Relay Permit Pack:

- 24 Month Inspection Results History
- Plan Review Status
- Utility Activation

All permit, inspection, and/or code information is made available through an API to the IPS application database. For any of the features detailed below to function as described, data must be available in this database to be presented to users.

2.3.1. IVR Channel

The IVR Channel for the Permit Pack provides callers with an Interactive Voice Response (IVR) system for accessing and posting permit information. The IVR offers functionality in the form of a Contractor Menu and an Inspector Menu.

Using the Contractor Menu, a contractor can enter a permit number to access permit information and functions. Upon entering a valid permit number, the user can schedule, reschedule, and/or cancel inspections. After an inspection has been scheduled/rescheduled/canceled, the caller will receive a confirmation number. Additionally, contractors can use the IVR to access inspection results, including any associated correction codes and descriptions. A payment module integrated with the Relay application would allow the user to pay permit fees and related inspector fees. The payment module payment types would vary depending on the application database and payment gateway. A payment module on a Permit Pack may incur additional integration costs. Finally, the contractor can access messages left for them by an inspector, or leave a message for an inspector.

Using the Inspector Menu, accessible via a hidden main menu option, an inspector can enter a permit number to post inspection results via the IVR. When posting results, the caller will need to enter a valid Inspector PIN number (or some other validation number to be determined during implementation). The PIN can be determined by Vancouver, but must be validated by the IPS database.

When posting results, inspectors can add correction codes as well as leave a message for the contractor. Messages for contractors will be inserted as a .wav file into the IPS Attachment Catalogue. This will require Vancouver interface assistance.

If desired, callers can be given the option to transfer to an agent. If a caller requests a transfer, the Relay IVR performs a transfer to a number specified by Vancouver.

2.3.2. Web Channel

The Web Channel for the Permit Pack provides users with a web system for accessing permit information, posting/obtaining inspection results, and scheduling over the internet.

Citizens can log onto the web channel in order to view permit information and scheduling tools. Citizens will need to enter a permit number to access the site. The Web Channel validates this data against the IPS database. Once validated, the user can

view permit status information and pay permitting fees and make scheduling updates, including scheduling, cancelling, and rescheduling inspections.

Additionally, inspectors can use the Web Channel to post inspection results, including adding correction codes. Users can also access inspection results via the Web Channel, including result status and correction codes.

Using the web channel, users will also be able to request other permit information as listed under Permit Pack, above.

2.3.2.1. Responsive Design

The Web Channel for the Permit Pack includes a mobile-friendly responsive web site for accessing permit information and making scheduling changes over the internet. Selectron targets a range of the most popular devices and form factors for responsive design – if Vancouver needs to support a specific device or form factor, additional development time and professional services may be required.

2.3.2.2. Hosted Web Certificate

Because this implementation includes a web application on a hosted environment, it is Vancouver's responsibility to provide Selectron with a certificate in order to deploy the web site under Vancouver's domain.

2.3.3. Add Ons

The following Add Ons are included with Vancouver's Permit Pack. These add ons provide additional functionality for the channel(s) purchased as part of this Relay solution.

2.3.3.1. 12 Month Inspection Results History – IVR and Web

After accessing inspection results, users can view up to 12 months of inspection results history. The history can be for a specific inspection or for all inspections associated with a permit. If requested via the IVR, this information will be emailed to the user, assuming a valid email is tied to the caller.

2.3.3.2. Plan Review Status – IVR and Web

Users can request their plan review status after entering a permit number and site address. The user will be able to hear the department stop, the review status for each stop, and the date completed for each stop. IVR users can request an email to receive additional notes associated with each stop.

2.3.3.3. **Utility Notification**

Upon approval of final inspections, Relay will automatically notify the proper utility companies to turn on services at the address on the permit.

The following functionality applies to the Utility Notification:

- Log item in IPS when Utility Notification is sent to utility of record (will require Vancouver interface assistance)

2.4. **Relay Cloud Services Outbound**

Relay Cloud Services (RCS) Outbound provides Vancouver with a multi-channel outbound communication platform capable of sending Voice, SMS, and email messages to citizens. Two kinds of notifications can be sent: Targeted Notifications, which include dynamic account data and are designed to be sent to specific recipients; and Static Notifications, which do not include customer-specific data and are designed as more 'general information' style messaging. Static Notifications can be designed and recorded by Vancouver staff using the Relay Portal.

Vancouver's RCS Outbound will include targeted notification messaging in the following language(s): English.

Dynamic Notifications require development and are designed during the implementation process. This project includes the following Dynamic Notifications:

- Bill Delinquency
- Impending Shutoff

2.4.1. **Bill Delinquency Notification**

The Delinquency Notification is used to warn citizens that their account is delinquent. It includes the following customer-specific data: account number, delinquent amount, and due date.

2.4.2. **Impending Shutoff Notification**

The Impending Shutoff Notification is used to warn citizens that their account will be shut off very soon. It presents the following customer-specific data: account number, delinquent amount, due date, and shutoff date.

2.4.3. **Expired Permits Notification**

The Expired Permits Notification contacts permit holders about their expiring and expired permits. It includes the following information: the permit number and the expiration, or expired, date. The date and time of notification delivery, relative to the expiration date, can be configured during the implementation process to fit the Customer's business rules.

When an Expired Permits Notification is sent to a permit holder, an item will be logged in IPS. This functionality will require Vancouver interface assistance.

2.4.4. Static Notifications

Vancouver will be able to send Customer-defined static notifications to citizens via phone, email, or SMS text. Vancouver is responsible for defining and configuring these notifications, which can be done via the Relay Portal. Training for configuring and recording static notifications will be provided at the end of the implementation process.

2.5. Builder

Relay Builder allows users to create and update call distribution flows within the web-based Relay Portal. Through step-by-step call flow construction, users guide callers to the information they need.

With Builder, Vancouver can add nodes and menus for:

- Spoken information
- Document requests
- Transfers to departments or representatives

2.6. Payment Processing

The following solutions in this SOW that will be configured to accept credit card and e-check payments are:

- Relay IVR for Permits
- Relay Web for Permits
- Relay IVR for Utilities
- Relay Web for Utilities

Relay utilizes a PA-DSS-Verified payment system that **does not** retain any cardholder data. Vancouver's Relay solution supports both one-time payments and the option to store payment information within a user profile.

2.6.1. Payment Amounts

Relay can be configured during the application design phase to allow account holders to perform the following:

- Only pay the amount due
- Pay the partial amount due
- Make an overpayment

2.6.2. Payment Posting

Depending on vendor API support, Relay can be configured during the application design phase to post payments in the following manner.

- Post payment amount as a credit to the account balance in real-time (vendor API support required)
- Post payment amount as a lock-box credit, requiring manual/automated back-end reconciliation to the account balance
- Post payment amount to a flat file, requiring manual/automated back-end reconciliation to the account balance

2.6.3. Payment Processing

Vancouver will continue with Bank of America's Merchant Services for payment processing. Relay interacts with Forte as the solution's payment gateway to provide payment functionality. As such, Relay integrates to Forte's AGI payment APIs, and Forte acts as the payment gateway. As such, no cardholder data is stored within Relay. Vancouver will be able to take payments from citizens via the following payment methods:

- Credit Card
- E-Check

2.6.4. Credit Card

The interactive solution accepts Visa®, MasterCard®, Discover®, and American Express®. Vancouver can elect to accept all or a subset of these card types. Any credit card types not accepted by Vancouver will not be accepted by the solution. When taking a payment, Relay verifies the credit card number and expiration date. For more security, Vancouver can choose to verify the card holder's zip code and/or security code. All credit card transactions are sent through the designated payment gateway.

2.6.5. E-Check

Users wishing to pay via E-Check will need to enter their bank routing number and bank account number. All E-Check transactions are sent through the designated payment gateway.

3. System Integration

Depending on the implemented features, Relay requires varying levels of integration with other Vancouver components. These are described in the following sections.

3.1. Application Database Interfaces

It is anticipated that Selectron will be integrating with Vancouver's IPS application database. All data-based interactivity on the solution is reliant upon data being available via the application vendor APIs.

During the implementation phase, if data elements are identified as necessary but are not available via the included APIs, the project will be impacted. This may affect the implementation timeframe and will result in additional professional services fees.

3.2. Payment Gateway Interfaces

Relay will integrate to Forte as the payment gateway for the solution described in this SOW. Selectron uses a PA-DSS validated system for integration to payment gateways. Integration to Forte, as the payment gateway, initiates the collection and reconciliation of the payments being gathered by the department. For payment processing, Vancouver will continue with Bank of America's Merchant Services.

The following payment processing fees and services are not covered by the purchase of the application:

- Transaction fees
- Merchant accounts
- Third-party payment processing services, fees, and software

4. Deployment Model

This implementation of Relay will be deployed in Selectron's single-tenant Relay Managed Services environment.

Relay Managed Services is a single-tenant hosted application, located in Selectron's local hosting facility. Selectron's hosting facility is a co-located data center featuring keyed entry and individual server locks for security. With a Managed Services solution, Selectron owns all hardware and is responsible for security, ongoing maintenance, and proactive support.

Vancouver's solution is licensed for:

- Two (2) inbound VoIP/SIP IVR test ports allowing for up to two concurrent calls
- Twenty four (24) inbound VoIP/SIP IVR ports allowing for up to twenty concurrent calls
- 320,000 annual inbound calls for Relay Utilities
- 100,000 outbound messages for RCS Outbound
- 25,000 annual inbound calls for Relay Permits
- Four (4) Web VM Licenses to support expected concurrent web users

4.1. Hosted IVR Access

For optimal user experience and telecom usage, it is recommended that callers access the hosted IVR by dialing directly into the hosted solution using a local Vancouver 10-digit number, which will be provided by Selectron. If Vancouver elects to have calls routed through your phone system first before connecting to the IVR, two customer telecom channels may be tied up during the duration of the entire call, and callers may experience a decrease in call quality.

5. Administrative Tasks

This section details administrative tasks that can be performed in order to manage Relay. All system administration for Relay is handled through the Relay Portal web application. An administrator from Vancouver will be provided with user credentials for the Relay Portal application during the implementation process. Additional users can be created by the administrator as needed. Permissions can be assigned on a per-user basis; permissions govern the functionality available to a given user.

The Relay Portal provides Vancouver administrators with a single platform for viewing system usage and health, running reports, and configuring various system settings. The Relay Portal is supported on all modern, “evergreen” browsers including: Chrome, Firefox, IE10+, Microsoft Edge, and Safari.

5.1. Run System Reports

Vancouver administrators will be able to run system reports via the Relay Portal. Reports that can be run by the administrator include:

- Payment Summary
- Payment Detail
- Payment By Day
- Call Statistics
- Call Activity
- Call Detail
- Web Statistics
- Web Activity
- Web Detail
- Email Activity
- Outbound Campaign Summary
- Outbound Campaign Detail
- Inspector Posting Activity Report
- Inspections Summary Report
- System Status

5.2. Schedule Outbound Campaigns

Using the Relay Portal, administrators can create, edit, schedule, and review outbound campaigns made using Relay Outbound. This includes selecting the type of notification, the date/time of delivery, and (for static notifications) the configuration of the message.

The administrator will also need to upload a contact list in .csv format for the notification. The exact formatting of the .csv file will vary depending on the notification being scheduled. Selectron will provide Vancouver with example .csv files for the configured notifications included in this project, as well as assistance in generating the outbound call list.

6. Responsibilities

6.1. Selectron Technologies, Inc.

This section outlines Selectron Technologies' responsibilities regarding service initiation and operation.

6.1.1. Provide Project Management

Selectron Technologies assigns a Project Manager to the service implementation. The Project Manager is the Customer's primary contact at Selectron Technologies and coordinates all necessary communication and resources.

6.1.2. Provide Documentation

The Project Manager provides the Customer with the following documents to help facilitate the service implementation process:

- Implementation Questionnaire- gathers critical information needed to setup and initiate the service. This includes information on the toll-free numbers, call volume, APIs, account validation information, and the types of payments being gathered.
- Remote Access Questionnaire- details information needed by Selectron Technologies to remotely access the Customer's network and application database, prior to system initiation, to allow for complete system testing.
- Implementation Timetable- details project schedule and all project milestones.
- Quality Assurance Test Plan- assists the Customer in determining that the interactive solution is functioning as specified in the Contract.
- Service Acceptance Sign-off Form- indicates that the Customer has verified service functionality.

6.1.3. Develop Channel Design

The Project Manager works with the Customer to develop and complete the following portions of channel design:

- IVR call flow design
- Web customization elements
- Outbound messaging configuration

Software development cannot begin until these design elements are completed and approved by the Customer.

6.1.4. Perform Quality Assurance Testing

Selectron Technologies thoroughly tests all applications and integration points prior to initiation, ensuring system functionality. This includes data read from and written to the application database and the general ability for a customer to successfully access live data and complete a transaction.

6.1.5. Provide Installation and Administrative Training

Selectron will provide remote training for the Relay solution. All installation is handled by Selectron technical staff at our remote hosting facility.

6.1.6. Provide Marketing Materials

Selectron Technologies provides marketing collateral that the Customer can use to promote the interactive solution to citizens. Marketing collateral includes a poster, tri-fold brochure, and business card; standard templates for each item are used. Collateral is provided to the Customer in PDF format (original Adobe InDesign files are provided upon request).

Marketing collateral will be provided for each department included in this project. Selectron Technologies' Project Manager will assist in gathering the correct information to be displayed on the marketing collateral. Information displayed includes the following:

- IVR phone number(s)
- Web addresses
- Department logo (preferably in EPS format)
- Department address
- A description of functionality
- Additional contact/informational phone numbers
- Samples: where to find account/ permit/ case numbers, etc.

Any changes to the collateral that do not include the items listed above (e.g., design changes to the template) are billed on a time and materials basis. Any changes to the marketing materials after final delivery are also billed on a time and materials basis.

6.1.7. Interface Upgrades

After service initiation, Vancouver's IPS database application may release new updates to their application or its interface. Upgrading the Relay interface to be compatible with any Vancouver application database (or other application database software) may require professional services outside the scope of this service.

6.2. Vancouver, WA

This section outlines the Customer's service implementation and maintenance requirements and responsibilities.

6.2.1. Return Questionnaires and Information

Selectron Technologies' Project Manager provides Vancouver with an implementation questionnaire. The implementation questionnaire must be returned prior to developing the call flow design and the implementation timetable.

6.2.2. Provide Customer Specific Information

The following information should be supplied to Selectron Technologies, in conjunction with the Implementation Questionnaire, to help create a precisely integrated product. For further clarification on the format and detail of the following data, refer to the Implementation Questionnaire or contact your Selectron Technologies' Project Manager.

- Street names
- Observed holidays
- Extensions used for transfer functions
- Utility account numbering scheme
- Validations used for receiving payment on a utility bill
- Permit status codes and types
- Inspection types and descriptions
- Validations used for scheduling an inspection
- Correction codes and descriptions
- Permit numbering scheme

6.2.3. Approve Channel Configuration

The Customer is responsible for approving the application design developed by Selectron Technologies' Project Manager. This includes reviewing:

- Call flow for the IVR solution
- Web customization elements
- Outbound messaging format

Once the channel design(s) have been approved, software development begins.

6.2.4. Provide Remote Network Access to Application Database(s)

In order to fully test the interactive solution, Selectron Technologies requires access to Vancouver's application database(s) prior to installation. The Customer will help facilitate communication between Selectron and the database vendor.

6.2.5. Provide System Access

Selectron Technologies requires access to the Customer's network and database/system. Changing or deleting access accounts could lead to disruption in service for the interactive solution and/or Selectron Technologies' ability to provide timely support. Please notify Selectron Technologies immediately if the accounts for the Application Database, payment gateway or network are modified. Vancouver is responsible for providing Selectron with appropriate application database and payment gateway network access as defined in the System Integration section.

6.2.6. Confirm Service Functionality

Vancouver, WA has 30 calendar days after service initiation to verify the functionality of the interactive solutions. Within the 30-day system acceptance period the Customer should test system functionality using the provided Quality Assurance Test Plan. Additionally, the System Acceptance Sign-off form must be sent to Selectron Technologies' Project Manager within this period.

6.2.7. Contact Customer Support

Anytime the Customer requests a significant change to their Selectron interactive solution, an authorized contact from the agency must provide acknowledgement to Selectron's Customer Support Department. A significant change is a modification that will A) change system behavior, B) allow users to change the system, or C) allow access to protected data.

EXHIBIT D
SELECTRON TECHNOLOGIES, INC.
END USER LICENSE AGREEMENT

This End User License Agreement (this “**EULA**”) is part of a Master Services and Hosting Agreement (the “**Master Agreement**”) between Selectron Technologies, Inc., an Oregon corporation (“**Selectron**”, “**we**”, “**our**”, or “**us**”) and the person or entity identified in the Master Agreement as the Licensee purchasing Services from us (“**Licensee**”). This EULA governs use by Licensee and all natural persons to whom Licensee provides access to the Licensed Software (each, an “**Authorized User**”). In this EULA, unless the context clearly indicates otherwise, all references to “**you**,” or “**your**” means both the Licensee and the Authorized User. All capitalized terms used but not defined in this EULA have the meanings given to them in the Master Agreement.

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- (b) your ceasing to be authorized by Licensee to use the Licensed Software for any or no reason.

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- (b) Will be subject to the terms and conditions of the Master Agreement and this EULA; and

(c) Must include all trademark, copyright, patent and other intellectual property rights notices contained in the original.

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(b) Copy all or any portion of the Licensed Software, except as expressly permitted in Section 2 of this EULA;

(c) Decompile, disassemble, decode, or otherwise reverse engineer the Licensed Software, or any portion thereof, or determine or attempt to determine any source code, algorithms, methods, or techniques used or embodied in the Licensed Software or any portion thereof;

(d) Modify, translate, adapt or otherwise create derivative works or improvements, whether or not patentable, of the Licensed Software or any part thereof;

(e) Provide any other person, including any subcontractor, independent contractor, affiliate, service provider, or other employee of Licensee, with access to or use of the Licensed Software, except as expressly permitted by the Master Agreement or this EULA;

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(g) Use the Licensed Software for the commercial or other benefit of a third party;

(h) Permit the Licensed Software to be used for or in connection with any facility management, service bureau, or time-sharing purposes, services, or arrangements, or otherwise used for processing data or other information on behalf of any third party;

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(l) Use the Licensed Software for any purpose other than in accordance with the terms and conditions of this EULA and the Master Agreement.

(m) Use the Licensed Software in, or in association with, the design, construction, maintenance or operation of any hazardous environments or systems, including (i) power generation systems; (ii) aircraft navigation or communication systems, air traffic control systems or any other transport management systems; (iii) safety-critical applications, including medical or life-support systems, vehicle operation applications or

any police, fire or other safety response systems; (iv) military or aerospace applications, weapons systems or environments;

(n) Use the Licensee Data or the Licensed Software in any way that is fraudulent, misleading, or in violation of any applicable laws or regulations (including federal, state, local, and international laws and regulations), including but not limited to export or import control laws, information privacy laws, and laws governing the transmission of commercial electronic messages; or

(o) Use the Licensed Software for purposes of competitive analysis of the Licensed Software, the development of a competing software product or service or any other purpose that is to Selectron's commercial disadvantage.

5. Collection and Use of Information. Selectron may, directly or indirectly through the services of others, including by automated means and by means of providing maintenance and support services, collect and store information regarding your use of the Licensed Software, its performance, the equipment through which the Licensed Software accessed and used, such as dates and times of use by each Authorized User, activities conducted using the Licensed Software, the type of web browser used to access the Licensed Software, the operating system/platform you are using, your IP address, and your CPU speed. You agree that the Selectron may use such information for any purpose related to the Licensed Software, including but not limited to improving the performance of the Licensed Software, developing Updates, and verifying compliance with the terms of this Agreement and enforcing Selectron's rights, including all intellectual property rights in and to the Licensed Software.

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7. Login Credentials. You, the Authorized User, shall not share or disclose your log-in credentials with or to any other individual or entity, even if such other individual is also an Authorized User. If you discover or suspect that log-in credentials of any Authorized User have been accessed or used by anyone other than the individual to whom such log-in credentials were originally granted, you will promptly notify Selectron, and Selectron shall promptly reset or provide Licensee with a means of resetting the password associated with such log-in credentials.

8. Export Regulation. The Licensed Software may be subject to US export control laws, including the US Export Administration Act and its associated regulations. You shall not, directly or indirectly, export, re-export or release the Licensed Software to, or make the Licensed Software accessible from, any jurisdiction or country to which export, re-export or release is prohibited by law, rule or regulation. You shall comply with all applicable federal laws, regulations and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing or otherwise making the Licensed Software available outside the US.

9. Governing Law. This EULA shall be governed by and construed in accordance with the internal laws of the State of Washington without giving effect to any choice or conflict of law provision or rule (whether of the State of Washington or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Washington .

Impact Fees Amendments



July 19, 2021

Vancouver City Council
Public Hearing

Jason Nortz, Development Review Manager

Background of VMC 20.915 Impact Fees

- Impact fee ordinance first adopted in mid-1990's
- Purpose is to ensure adequate school, park and transportation facilities are available to serve new growth and development
- In principle, new development pays impact fees based on impacts as assessed at the time of building permit issuance (non-residential development only pays transportation impact fees)

Background of VMC 20.915 Impact Fees (cont.)

- Current code:
 - *Calculated* at the time of site plan approval or subdivision or short plat approval
 - Impact fees “vest” for 3 years
 - *Paid* at building permit issuance

Background of VMC 20.915 Impact Fees (cont.)

- Due to lag between impact fee calculation and collection (as much as three years), projects are often paying much lower impact fees than if calculation of fees occurred when fees are collected
- In context of budget adoption, Council expressed interest in considering an ordinance that would eliminate the vesting for impact fees in order to collect most current fees at the time a building permit is issued

Background of VMC 20.915 Impact Fees (cont.)

- November 2020, Council approved an Ordinance specific to park impact fee adjustments (VMC 20.915.050 and 20.915.100)
- Vesting amendments were discussed as part of overall park impact fee amendments but were not included in new ordinance because Council felt more discussion and outreach was needed.

Background of VMC 20.915 Impact Fees (cont.)

- Three requests to reduce school impact fees received within the last year.
- Primary reason for requests were because the multi-family per unit fee decreased by approximately 50% after each development received site plan approval.
- City Council approved all three requests but directed staff to review the City's municipal code regarding the timing of calculating and collecting impact fees.

Background of VMC 20.915 Impact Fees (cont.)

- February 23, 2021: Planning Commission Workshop to discuss proposed changes to the timing of calculating and collecting impact fees, vesting of impact fees and the process for reducing or eliminating impact fees.
- May 11, 2021: Planning Commission Public Hearing. Planning Commission unanimously recommended approval of all impact fee amendments.

Potential Changes to VMC 20.915

- Language that states that impact fees are to be calculated and “vested” until the time of building permit issuance would be deleted (VMC 20.915.020);
- Text would be inserted that says impact fees would be calculated at the current rate at the time of building permit application;
- Impact fees would be due and payable at building permit issuance;
- Impact fees shall be recalculated for building permit applications that have not been issued within one year

Potential Changes to VMC 20.915 (cont.)

- Minor revisions to VMC 20.915.070.C *Calculation of Impact Fee*:
 - Reduction requests be reviewed at staff level as opposed to City Council
 - More specificity on what is required to be provided by developer to demonstrate calculated fees do not accurately reflect the cost of system improvements generated by their proposed development

Stakeholder Outreach Plan

- Targeted outreach to BIA, SWCA and school districts
- Other opportunities: SEPA comment period; Planning Commission and Council hearings

Regional Impact Fee Policies

	Assessed, Calculated, Determined		Collected, Imposed			
	Site Plan Approval	Building Application Received	Building Application Issued	Building Application Received	Building Application Issued	Final Building Approval
Camas		3.88.040 B			3.88.120	
Clark County	MOH Parks		40.610.040 B		40.630.040 A	
Washougal	MOH Parks	15.45.050 (2)			15.45.050 (2)	
Ridgefield	18.070.060 B					18.070.060 B
Vancouver	20.915.020 C				20.915.020 C	

2020

New Construction Only

CMI - PROJECT TYPE	AVE of # of Days	Count of Apps	Percent Issued in 180 Days	Range	Percent issued Same Year
Commercial*	76.5	55	96%	2 - 227 days	
MFR**	104.1	39	85%	45 - 277 days	79%
School	104.7	14	93%	32 - 315 days	
Total Count		109			86%

RES - PROJECT TYPE	AVE of # of Days	Count of Apps	Percent Issued in 180 Days	Range	Percent issued Same Year
ADU/Garage	134.5	13	70%	32 - 337 days	
Duplex	99.6	5	100%	71 - 124 days	
Mobile/Modular	70.8	5	80%	10 - 188 days	
Single Family	108.3	422	83%	18 - 330 days	91%
Shed	80.5	2	100%	67 - 94 days	
Total Count		447			91%

Next Steps

- July 19, 2021:
 - Required Public Hearing
 - Approve the Ordinance amending Chapter 20.915

Questions and Discussion

- Jason Nortz, Development Review Manager
- Jason.nortz@cityofvancouver.us or (360) 487-7844



Staff Report 101-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 7/19/2021

SUBJECT Impact Fee Vesting Amendments

Key Points

- The purpose of impact fees is to ensure that adequate facilities are available to serve new growth and development, and to promote orderly growth and development by requiring that new development pay a proportionate share of the cost of new facilities needed to serve growth.
- VMC Section 20.915.020 currently calculates the impact fee for new development projects at preliminary plat approval or site plan approval. In practice this results in holding fees static for up to three years (potentially more if extensions are approved) until building permits are issued.
- In the context of the budget adoption last fall and more recently related to multiple requests from developers to adjust school impact fees (SIF), members of the development community expressed interest in an ordinance that would eliminate the vesting of all impact fees in order to collect the most current fees at the time a building permit is issued. City Council has since expressed interest in the same.

Strategic Plan Alignment

Goal 1: Ensure our built environment is one of the safest, most environmentally responsible and well maintained in the Pacific Northwest.

Goal 4: Ensure that Vancouver's parks and trails system is the highest quality and most complete in the region.

Goal 10: Use our influence to support community partners' actions, projects and initiatives that improve our community's livability and prosperity.

Present Situation

In the context of the budget adoption last fall and more recently related to multiple requests from developers to adjust school impact fees (SIF), City Council has expressed interest in considering an ordinance that would eliminate the vesting of all impact fees in order to collect the most current fees at the time a building permit is issued.

On November 16, 2020, the City Council approved an ordinance relating specifically to park impact fee adjustments, amending Vancouver Municipal Code Sections 20.915.050 and 20.915.100, and changing the method and timing of fee adjustments. In addition to the approved amendments City staff proposed amending other sections of VMC 20.915 including:

- VMC 20.915.020: the timing of when impact fees are calculated and due and payable; and
- VMC 20.915.070: the removal of the impact fee determination provision that currently vests project impact fees for 1 year upon applicant request.

The above noted code sections were not included as part of the overall park impact fee adjustments considered by Council in the recent biennial budget process, in order to provide for additional stakeholder outreach.

Additionally, within the last year the City has received three separate requests from multi-family developments to adjust the Evergreen School District school impact fee (SIF) rate. The primary reason for the requests was the SIF for multi-family development decreased by approximately 50% per multi-family unit as part of the update to the 2019-2015 Evergreen Public School Capital Facilities Plan (CAP).

City Council approved all three requests but directed staff to review the City's municipal code regarding the timing of calculating and collecting impact fees. The City also received feedback from Evergreen School District and the proponents of the SIF reduction requests that they would support a code change to bring the timing of the impact fee assessment and collection closer together for development projects.

This item went before the Planning Commission as a workshop item on February 23, 2021, and as a public hearing item on May 11, 2021. At the workshop on February 23 there was consensus among the Planning Commission that calculating impact fees at preliminary plat or site plan approval and allowing the impact fees to vest for three years is not conducive to accurately collecting the true cost of facility improvements at the time the building permit is issued. Several Planning Commissioners encouraged staff to explore calculating impact fees at the time of building permit *application* instead of building permit *issuance*.

Based on the feedback received from the Planning Commission, the Building Industry Association, the Southwest Washington Contractor's Association, school districts and City Parks, Transportation and Development Review staff, the timing of calculating the impact fees has been adjusted from building permit issuance to building permit application. Based on staff's review of permit activity from 2020 approximately 90% of all building permit applicants subject to payment of impact fees were issued their building permit within the same calendar year. Given the high percentage of building permits issued within one year of application, staff is supportive of calculating impact fees at building permit application. Calculating fees at this point in the process would be a fair representation of the true cost of facility improvements. It also provides the

applicant with a high level of certainty as to what the actual permit costs will be by the time the building permit is ready for issuance. Impact fee estimates can still be provided to applicants at site plan and plat plan approval with the caveat that these are merely estimates based on the current fee amounts and the actual impact fees will be calculated at building permit application.

The proposed amendment would be applicable to school, transportation and park impact fees. Representatives of the PIF, TIF and SIF programs are equally supportive of removing the vesting of impact fees in order to keep fees as current as possible to meet the intent of state legislation to serve future development. The proposed removal of impact fee vesting would not be retroactive, and therefore, would not apply to projects currently vested in the project review process by Preliminary Plat or Site Plan approval. Projects that are vested under current code provisions of Preliminary Plat and Site Plan Review approval would remain vested for three-years from their approval date, after which the impact fees that are in effect at the time of building permit issuance shall apply.

VMC 20.915.070.C Calculation of Impact Fee allows the development approval authority setting the impact fee, upon application by the developer supported by studies and data, to reduce or eliminate such fee. The City Council is the authority that sets the impact fees. The City is not proposing amending this section in its entirety but is proposing minor revisions to 20.915.070 that include:

- Requiring reduction requests be reviewed at staff level (i.e.; CED Director, Parks Director, or Public Works Director) therefore not requiring a public hearing. This is consistent with other jurisdictions regionally.
- More specificity on what is required to be provided by the developer to demonstrate the adopted formulas or methodologies do not accurately reflect the cost of the system improvements generated by their proposed development

The proposed amendments to VMC 20.915 would direct impact fees to be calculated at building permit application based on the rates in effect at that time. The impact fees would be due and payable at building permit issuance. All impact fees would be required to be recalculated for building permit applications that have not been issued within one year of application.

This policy is consistent with multiple jurisdictions surveyed, including Camas and Washougal and others throughout the state – none of which have shown any decline in growth as a result.

On May 11, 2021, the Planning Commission unanimously approved staff's recommendation to approve the proposed text changes to VMC 20.915.

Review Criteria and Findings

Vancouver Municipal Code 20.285.070 provides the approval criteria for comprehensive plan or zoning code text amendments:

A. Text amendments to the comprehensive plan or VMC Title 20 zoning standards shall demonstrate the following:

1. The proposal is consistent with applicable policies of the Vancouver strategic plan and

comprehensive plan; and

2. The proposal is necessary to further the public interest based on present needs and conditions.

Applicable Vancouver Comprehensive Plan Policies

CD-9 Compatible uses: Facilitate development that minimizes adverse impacts to adjacent areas, particularly neighborhoods.

PFS-3 Impact fees: Establish and maintain policies and regulations, including traffic, park and school impact fees, to ensure new development pay for a proportionate share. Impact fees should be reduced or eliminated for low-income housing developments.

PFS-33 Parks coordination: Plan for parks, trails, open spaces and recreational services in coordination with other local and regional public agencies and private entities. Facilitate provision of lands and/or impact fees for parks as part of the development review process.

Staff Findings

The proposed amendments to VMC 20.915 Impact Fees are consistent with the Vancouver Strategic Plan, Vancouver Comprehensive Plan and other applicable laws, and the public interest. The proposed amendments further Comprehensive Plan policy PFS-3 by ensuring new development pay for a proportionate share of the cost of facility improvements that most accurately reflect the cost of the improvement. Additionally, ensuring new developments pay a proportionate share will help enable the City to develop high quality parks and trail systems that help improve our community's livability and prosperity which align with Strategic Plan Goals 1, 4 and 10.

Advantage(s)

1. Approving the text amendments would ensure new development pay for a proportionate share of the cost of facility improvements that most accurately reflect the cost of the improvements.
2. Ensuring new developments pay a proportionate share will help enable the City to develop high quality parks, trails and roadway systems that help improve our community's livability and prosperity which align with Strategic Plan Goals 1, 4 and 10.

Disadvantage(s)

None

Budget Impact

No City budget impact.

Prior Council Review

Briefing to City Council on June 21, 2021.

Action Requested

On Monday, July 19, 2021, subject to second reading and public hearing, approve the ordinance.

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

ATTACHMENTS:

- ▣ Ordinance
- ▣ Impact Fee Amendments
- ▣ Presentation

07/12/21
07/19/21

ORDINANCE NO. M-_____

AN ORDINANCE of the City of Vancouver relating to Title 20, Land Use and Development, of the Vancouver Municipal Code (VMC), amending Chapter 20.915 titled “Impact Fees” to prospectively remove the vesting of impact fees, calculate impact fees at the time of building permit application, collect impact fees at the time of building permit issuance, and allow impact fee reduction requests to be reviewed at staff level based on specified criteria; provide for severability; and provide for an effective date.

WHEREAS, the Growth Management Act established impact fees as the funding tool provided to cities and counties to ensure adequate roads, schools, parks, open space, and fire protection services; and

WHEREAS, the City of Vancouver adopted VMC Chapter 20.915 to imposes impact fees on development pursuant to the authority of RCW Chapter 82.02 in order to meet the demands of future growth; and

WHEREAS, the current method of calculating and vesting impact fees is not conducive to accurately collecting the true cost of facility improvements at the time of building permit issuance; and

ORDINANCE - 1

WHEREAS, the purpose of impact fees is to ensure that adequate facilities are available to serve new growth and development and to promote orderly growth and development by requiring that new development pay a proportionate share of the cost of new facilities needed to serve growth; and

WHEREAS, these texts amendments comply with the approval criteria for comprehensive plan or zoning code text amendments required for VMC Title 20 under VMC Section 20.285.070; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA) and WAC 197-11, the City of Vancouver as lead agency determined that the proposed amendments will not have a probable significant adverse impact on the environment and published notice of the Determination of Nonsignificance (DNS) in The Columbian with a 14-day public comment period that expired on April 21, 2021 with no comments received; and

WHEREAS, the Planning Commission reviewed the proposed text changes to the Impact Fee Code at a public workshop on February 23, 2021, and at public hearing on May 11, 2021, following which public hearing the Planning Commission voted unanimously to recommend adoption of these amendments to City Council; and

WHEREAS, these text amendments are consistent with the Vancouver Strategic Plan, the Vancouver Comprehensive Plan, other applicable laws, and the public interest; and

WHEREAS, City Council held a first reading of this Ordinance on July 12, 2021, and held a second reading and public hearing on July 19, 2021, following which the Council adopted the Planning Commission recommendations;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

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Section 1. Findings.

A. The current method of calculating and vesting impact fees is not conducive to accurately collecting the true cost of facility improvements at the time of building permit issuance.

B. The purpose of impact fees is to ensure that adequate facilities are available to serve new growth and development and to promote orderly growth and development by requiring that new development pay a proportionate share of the cost of new facilities needed to serve growth.

C. In accordance with the requirements of VMC Chapter 20.285 governing text amendments, the following text amendments are: (a) consistent with applicable policies of the Vancouver Strategic Plan and Comprehensive Plan; and (b) are necessary to further the public interest based on present needs and conditions.

Section 2. Section 20.915.020 of the Vancouver Municipal Code, originally adopted by Ordinance M-3643 and last amended by Ordinance M-4325, Section 3, is amended in its entirety to read as follows:

20.915.020 Applicability.

A. Uniform applicability. This Chapter shall be uniformly applicable to development that occurs within a designated service area or overlay service areas.

B. For pre-development permit issuance. No building permit shall be issued for a development in a designated service area or overlay service area as defined in this Chapter unless the impact fee is calculated and ~~imposed~~paid pursuant to this Chapter.

C. For new development requiring a building permit ~~approval of a development (i.e., written authorization from the City authorizing development activities)~~ the impact fee(s)

shall be calculated at time of building permit application. Impact fees shall be due and payable at the time the building permit is issued and due and payable at the time of building permit issuance or development approval, as applicable, except as provided in Section 20.915.075. For various types of development. For single-family and duplex residential subdivisions and short subdivisions hereinafter approved, the per lot impact fee shall be calculated at the time of preliminary subdivision plat or short subdivision plat approval, noted on the face of the final plat, and imposed on a per lot basis at the time of building permit application. For new multi-family and nonresidential development hereafter approved, the impact fee shall be calculated at the time of site plan approval or building permit application if the proposed development is not sufficiently defined to permit such calculation. Notwithstanding the foregoing, the fee shall be re-calculated for building permit applications filed more than three years following the date of the applicable preliminary subdivision plat, preliminary short subdivision plat or site plan approval. Notwithstanding the foregoing, all impact fees shall be recalculated for building permit applications that have not been issued within one year.

~~D. For preliminary plats. For development not necessitating or having been previously granted preliminary subdivision plat, preliminary short subdivision plat or site plan approval, the impact fee shall be calculated and imposed at the time of building permit application.~~

~~D. E. For development not requiring a building permit. For development not requiring a building permit, the impact fee shall be calculated and imposed at the time of site plan approval. For development not requiring a building permit. For development not requiring a building permit (e.g., approval of a change in use of a building or land), the impact fee shall be calculated and imposed at the time of the associated development approval.~~

FE. For manufactured home parks. For manufactured home parks, the impact fee shall be calculated and imposed at the time of site plan approval.

F. All impact fees shall be calculated using the impact fee rates in effect at the time of calculation.

Section 3. Section 20.915.070 of the Vancouver Municipal Code, originally adopted by Ordinance M-3643 and last amended by Ordinance M-4172, Section 1, is amended in its entirety to read as follows:

A. For residential and nonresidential development. The impact fee for a nonresidential development shall be computed by applying the traffic impact fee formula set out in Section [20.915.040](#) VMC. The impact fee for a residential development shall be computed by applying the traffic impact fee, park impact fee and school impact fee formulae set out in Sections [20.915.050](#) VMC and [20.915.060](#) VMC, combining the results, provided that the school impact fee component shall not apply to housing which by restrictive covenant is exclusively for persons sixty-two years of age or older.

B. For mixed uses. If the development for which approval is sought contains a mix of uses, the impact fee must be separately calculated for each type of use.

C. Criteria to reduce or eliminate impact fees. ~~The development approval authority setting the impact fee, upon application by the developer supported by studies and data, may reduce or eliminate such fee if it is shown that:~~ An administrative appeal may be considered by the Director of Community and Economic Development to reduce or eliminate impact fees by submittal of an application prior to the payment of fees. Appeals shall be reserved for unusual circumstances which make the standard impact fee as applied to the development unreasonable.

Upon receipt of an application for any such appeal, the City shall distribute a written notice of appeal and a copy of the supporting studies and data required below to the office, department, or school district responsible for the applicable capital facilities for which the impact fee is imposed. The appeal must be supported by reasonable studies and data provided by the applicant showing that:

1. The formulae or method contained in Sections [20.915.040](#), [20.915.050](#) or [20.915.060](#) VMC to calculate the fees do not accurately reflect ~~traffic, park, or school~~ impacts the cost of system improvements that are reasonably related to the service demands and needs of, respectively a particular development; or

2. ~~Due to unusual circumstances:~~

a. ~~Facility improvements identified for the applicable service area are not reasonably related to the proposed development; or~~

b. ~~Such facility improvements will not reasonably benefit the proposed development.~~

3. The current development proposal implements a concomitant rezoning agreement, development agreement or other development approval pursuant to which public facilities identified in the capital facilities plan were dedicated or constructed, and which are of benefit to the community at large and which fall within the definition of system improvements. The appellant shall have the burden of producing and presenting studies and data that clearly shows the basis and substantiation of the appeal upon submittal. Appeals shall be reviewed by means of a Type I procedure, pursuant to VMC 20.210.020. Impact fees may be paid under protest in order to obtain a permit or approval of development activity.

~~D. Request for impact fee determination. Prior to making an application for a building permit, an applicant upon payment of the applicable fee may request an impact fee determination from either the Parks or Public Works department, which determination shall be based upon information supplied by the applicant sufficient to permit calculation of the impact fee. The impact fee determination shall be binding upon the city for a period of one (1) year unless there is a material change in the development proposal, the capital facilities plan or this chapter.~~

~~E. Impact fee collection. Except as provided for in Section , the impact fee imposed under this chapter shall be due and payable at the time of issuance of a building permit, or final site plan approval when no building permit is required for the development.~~

Section 4. Section 20.915.080 of the Vancouver Municipal Code, originally adopted by Ordinance M-3643 and last amended by Ordinance M-4154, Section 3, is amended in its entirety to read as follows:

20.915.080 Impact Fee Exemptions, Reductions, and Waivers.

A. Exemptions from impact fees. The following developments shall be exempt from the requirement for payment of impact fees: publicly operated elementary, middle, junior high and senior high schools, and administrative, maintenance and other facilities of a school district and facilities of an Educational Service District.

B. Exemption or waiver from impact fees for low income housing pursuant to RCW 82.02.060(2). Pursuant to RCW 82.02.060(2), the Review Authority may grant a total or partial exemption or waiver from impact fees for housing developments containing up to three dwelling units and qualifying as low-income housing as defined in this Chapter, to be owned and

occupied by, or leased to, low-income persons. Requests for exemption and/or waiver for four or more dwelling units must be approved by the City Council. No such impact fee exemption and/or waiver shall be granted for any low-income housing that has been granted a property tax exemption pursuant to VMC 3.22, Multi-family Tax Abatement. Any such exemption or waiver shall be subject to:

1. Provision being made for payment of the impact fee from public funds other than impact fee accounts; and

2. Adequate documentation that the housing meets appropriate standards regarding household income, rent levels, sales price, location, and number of units;

C. Alternative exemption from impact fees for low-income housing pursuant to RCW 82.02.060(3). Pursuant to RCW 82.02.060(3), the City Council may grant an alternative exemption for low-income housing under this Subsection C. No such impact fee exemption and/or waiver shall be granted for any low-income housing that has been granted a property tax exemption pursuant to VMC 3.22, Multi-Family Tax Abatement.

1. The City Council may either:

- a. Grant a partial exemption of not more than eighty percent of impact fees, in which case there is no requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or

- b. Provide a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts; and

2. Compliance with all of the requirements of Subsection D of VMC 20.915.080 is required.

D. An exemption for low-income housing granted under Subsection B or C of this section must comply with all of the following conditions:

1. The developer shall record a covenant with the Clark County Auditor.

The covenant must:

a. Prohibit using the property for any purpose other than for low-income housing.

b. Require that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion.

c. Define low-income housing as housing for which the monthly housing expense is no greater than thirty percent of eighty percent of the median family income adjusted for family size for Clark County, Washington, as reported by the United States Department of Housing and Urban Development.

2. When the City grants an exemption for low-income housing granted under Subsection B or C of this section, it may not collect revenue lost through the granting of the exemption by increasing impact fees unrelated to the exemption.

3. A school district that receives school impact fees collected by the City must consent in writing prior to City approval of any exemption from school impact fees granted under Subsection B or C of this section. Failure of a school district to provide consent in writing to the City within 30 days of the school district's receipt of written request for approval ~~by~~from the City shall constitute disapproval of the requested exemption.

E. Reduction in traffic impact fees for qualifying businesses. To promote business development, the Review Authority may grant a reduction of traffic impact fees as specified in Table 20.915.080-1 below for businesses which meet all of the following requirements:

1. The business owner shall commit, through a Development Agreement approved by City Council, to locate a number of new employees that coincides with the TIF incentive in Table 20.915.080-1. Such new employees shall locate to the City within the first year of the business obtaining an occupancy permit; and

2. The median salary of all company employees to be located shall, at a minimum, coincide with the specified percent of median individual income in Table 20.915.080-1. Median individual income shall be based on the most recent available information from US Department of Housing and Urban Development for the Portland-Vancouver MSA at the time of the Development Agreement approval; and

3. If the owner or developer of the property or building is not the business locating within the eCity, documentation shall be submitted to the City that satisfactorily demonstrates that the business received the benefit of the fee reduction rather than the owner or developer; and

4. The business shall provide the eCity with such documentation and access to records as needed to verify satisfaction of the foregoing requirements. In the event that the business fails to satisfy any of the requirements criteria, the business shall pay to the eCity the amount of the fee reduction together with interest at the statutory rate provided for at RCW 19.52.010 upon demand.

The eCity shall make provision for payment of the impact fee reduction to the transportation impact fee account from public funds other than impact fee accounts.

ORDINANCE - 10

Table 20.915.080-1 Business Development TIF Incentive			
Median Salary of All Business Employees		Minimum Employees	TIF Benefit
1.	200% of Median Individual Income	200	25% TIF reduction, up to \$100,000
2.	150% of Median Individual Income	250	25% TIF reduction, up to \$100,000
3.	125% of Median Individual Income	300	25% TIF reduction, up to \$100,000
4.	200% of Median Individual Income	400	50% TIF reduction, up to \$200,000
5.	150% of Median Individual Income	500	50% TIF reduction, up to \$200,000
6.	125% of Median Individual Income	600	50% TIF reduction, up to \$200,000

This provision shall be operative until December 31, 2020 unless renewed by City Council.

F. Criteria for calculating impact fees. The impact fee for an exempt or waived development shall be calculated as provided for in this Chapter and paid with public funds;

except that there is no requirement to pay the exempted portion of the fee from public funds other than impact fee account for a partial exemption of not more than eighty percent of impact fees that has been approved under Subsection C of VMC 20.915.080. Such payment may be made by including such amount(s) in the public share of system improvements undertaken within the applicable service area. If an impact fee(s) is waived, the Review Authority, pursuant to Section 20.915.070 VMC, or state law may determine whether a public share-contribution or a reduced public-share contribution is required.

Section 5. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid by a court of competent jurisdiction for any reason, such declaration shall not affect the validity or constitutionality of the remaining parts of this ordinance.

Section 6. Effective Date and Notice. This ordinance shall become effective thirty (30) days after passage by the City Council. The City Clerk is directed to publish a summary hereof including the title at the earliest possible publication date.

Read first time: July 12, 2021

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

ORDINANCE - 12

Read second time: July 19, 2021

PASSED by the following vote:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

SIGNED this _____ day of _____, 2021.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

ORDINANCE - 13

SUMMARY

ORDINANCE NO. _____

AN ORDINANCE amending Chapter 20.915 of the Vancouver Municipal Code, titled “Impact Fees” applicable to school, transportation, and park impact fees that prospectively removes the vesting of impact fees, calculates impact fees at the time of building permit application, collects impact fees at the time of building permit issuance, and allows impact fee reduction requests to be reviewed at staff level based on specified criteria. This Ordinance amends VMC Section 20.915.020 and VMC Section 20.915.070 to change the substantive text, and amends VMC Section 20.915.080 to provide clarity and consistency in the Code.

This summary provides a brief description of the main points of the ordinance. The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at (360) 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).

Attachment A

20.915.010 Purpose.

Reasons for impact fees. It is the purpose of this Chapter to ensure that adequate facilities are available to serve new growth and development, and to promote orderly growth and development by requiring that new development pay a proportionate share of the cost of new facilities needed to serve growth. In addition, it is also the purpose of this Chapter to ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicate fees for the same impact. (Ord. M-3643, 01/26/2004)

20.915.020 Applicability.

A. *Uniform applicability.* This Chapter shall be uniformly applicable to development that occurs within a designated service area or overlay service areas.

B. For pre-development permit issuance. No building permit shall be issued for a development in a designated service area or overlay service area as defined in this Chapter unless the impact fee is calculated and ~~imposed due paid~~ pursuant to this Chapter.

C. ~~For new development requiring a building permit approval of a development (i.e., written authorization from the City authorizing development activities) such , the impact~~ the impact fee(s) shall be calculated at time of building permit application. Impact fees shall be due and payable at the time the building permit is issued and due and payable at the time of building permit issuance or development approval, as applicable, except as provided in Section 20.915.075. and Section 20.915.020 (D). For various types of development. For single-family and duplex residential subdivisions and short subdivisions hereinafter approved, the per lot impact fee shall be calculated at the time of preliminary subdivision plat or short subdivision plat approval, noted on the face of the final plat, and imposed on a per lot basis at the time of building permit application. For new multi-family and nonresidential development hereafter approved, the impact fee shall be calculated at the time of site plan approval or building permit application if the proposed development is not sufficiently defined to permit such calculation. Notwithstanding the foregoing, the fee shall be re-calculated for building permit applications filed more than three years following the date of the applicable preliminary subdivision plat, preliminary short subdivision plat or site plan approval. Notwithstanding the foregoing, all impact fees shall be recalculated for building permit applications that have not been issued within one year

D. ~~For preliminary plats. For development not necessitating or having been previously granted preliminary subdivision plat, preliminary short subdivision plat or site plan approval, the impact fee shall be calculated and imposed at the time of building permit application.~~

Attachment A

~~DE. For development not requiring a building permit. For development not requiring a building permit, the impact fee shall be calculated and imposed at the time of site plan approval.~~ For development not requiring a building permit. For development not requiring a building permit (e.g., approval of a change in use of a building or land), the impact fee shall be calculated and imposed at the time of the associated development approval.

~~FE.~~ For manufactured home parks. For manufactured home parks, the impact fee shall be calculated and imposed at the time of site plan approval. (Ord. M-3643, 01/26/2004)

~~F. All impact fees shall be calculated using the impact fee rates in effect at the time of calculation.~~

20.915.030 Establishment of Development Service Areas.

A. *General.* Service areas, which may vary by type of public facility, are established as shown on the Park Impact Fee Technical Document and Vancouver Transportation Impact Fees Program Technical Document, which are incorporated herein by reference.

B. *Service areas and fees.* Such areas will provide a nexus between those paying the fees and receiving the benefits to ensure that those developments paying impact fees receive substantial benefits.

C. *Establishment of overlay service areas.* Overlay service areas may be established for system improvements identified in the capital facilities plan which are:

1. Designed to serve geographic areas whose boundaries are not generally contiguous with established service areas; or
2. Designed to serve more than one established service area; or
3. Where a system improvement is designed to serve an established service area, or service areas, but is located partly or entirely outside of the city or urban growth area, and provides a substantial benefit to the assigned service area. Properties within this type of overlay service area are not subject to city impact fees to the extent those properties are outside the city.

D. *Factors affecting service areas.* Additional or revised service areas may be designated by the city council upon consideration of the following factors:

1. The Comprehensive Plan;
2. Standards for adequate public facilities incorporated in the capital facilities plan;

Attachment A

3. The projections for full development as permitted by land use ordinances and timing of development;
4. The need for and cost of un-programmed capital improvements necessary to support projected development; and
5. Such other factors as the city council may deem relevant.

E. *Service areas and urban growth boundaries.* Service areas adjoining an urban growth boundary shall automatically be adjusted to conform to any change in such boundary. (Ord. M-4181 § 1, 11/07/2016; Ord. M-4107 § 2, 12/01/2014; Ord. M-3933 § 3, 11/16/2009; Ord. M-3643, 01/26/2004)

20.915.040 Traffic Impact Fee.

A. *Formula.* The impact fee component for roads shall be calculated using the following formula:

$$\text{TIF} = \text{F} \times \text{T} \times \text{A}$$

1. "TIF" means the traffic impact component of the total development impact fee.
2. "F" means the traffic impact fee rate per vehicle trip in dollar amounts, for each service area. Such rate shall be established in the Traffic Impact Fee Program Technical Document, incorporated herein by this reference, for each service area by estimating the cost of anticipated growth-related roadway projects divided by the projected number of growth-related trips within that service area. Between major program updates, the calculated per trip fee will be adjusted annually to account for inflation using the Engineering News Record Construction Cost Index for Seattle, and as outlined in the Traffic Impact Fee Program Technical Document.
3. "T" means the trips generated by a proposed development and calculated according to the Traffic Impact Fee Program Technical Document. The calculation of "T" described in the Traffic Impact Fee Program Technical Document includes, for some retail commercial land uses, a "business enhancement factor (BEF)" adjustment. Refer to the Traffic Impact Fee Program Technical Document for land uses eligible for the BEF. In the absence of a land use code precisely fitting the development proposal, the director of public works or designee shall select the most similar code and may make appropriate adjustments to the trip equation applicable thereto. In selecting the appropriate land use code and in making adjustments thereto, the Review Authority shall be guided by the most recent edition of the Trip Generation Manual, Institute of Transportation Engineers.
4. "A" means an adjustment for the portion of anticipated additional tax revenues resulting from a development which is prorated to system improvements contained in the capital facilities plan. Such adjustment for traffic impacts is determined to be 15%, so that "A" equals 85%. (Ord. M-4107 § 3, 12/01/2014; Ord. M-3643, 01/26/2004)

Attachment A

20.915.050 Park Impact Fee.

A. *Formula.* The impact fee component for parks shall be calculated using the following formula:

$$\text{PIF} = F \times U$$

1. “PIF” means the parks impact component of the total development impact fee.
2. “F” means the parks impact fee rate per unit of housing, either single-family or multi-family residential, as applicable, for each service area. Such rate shall be established in the parks impact fee program technical document, incorporated herein by this reference, for each service area by estimating the cost of anticipated growth-related parks projects. Between major program updates, the calculated per unit fee will be adjusted annually to account for inflation using the Seattle-Bellevue-Tacoma CPI-U Index, as reported by the Bureau of Labor Statistics, and as outlined in the parks impact fee program technical document.
3. “U” means the number of units, either single-family or multi-family, whichever is applicable, consistent with a proposed development.

B. Current park impact fee rates shall be as set forth in Table 915.050-1:

Table 20.915.050-1.

Year	Park District	Single-Family (SF)	Multi-Family (MF)
January 1, 2021	A, B, C	\$2,819	\$2,060
January 1, 2022	A, B, C	\$3,523	\$2,575

C. At least one copy of the park impact fee technical document adopted by the city council including the current park impact fee schedule as calculated thereunder, shall be filed in the office of the city clerk for use and examination by the public. (Ord. M-4181 § 2, 11/07/2016; Ord. M-4080 § 5, 07/07/2014; Ord. M-3933 § 4, 11/16/2009; Ord. M-3663 § 22, 08/02/2004; Ord. M-3653 § 3, 05/03/2004 and 5; Ord. M-3643, 01/26/2004)

20.915.060 School Impact Fee.

A. *Plan adoption.* In order for the city to collect School Impact Fees on behalf of a school district, said school district’s capital facilities plan shall be adopted as a portion of the City of Vancouver’s Comprehensive Plan in accordance with the provisions of this section.

Attachment A

B. *Plan submittal.* In conjunction with mandated Comprehensive Plan updates, a school district requesting impact fees shall submit to the City Planning Commission a capital facilities plan adopted by the school board and consisting of the following elements:

1. A standard of service which identifies the program year, class size by grade span, number of classrooms, types of facilities, and other factors identified by the school district.
2. The district's capacity over the next six years based upon an inventory of the district's facilities either existing or under construction and the district's standard of service.
3. A forecast of future needs for school facilities based upon the district's enrollment projections.
4. At least a six-year financing plan component, updated as necessary to maintain at least a six-year forecast period, for financing needed school facilities within projected funding levels.
5. Application of the formula set out in Section [20.915.060\(F\)](#) VMC based upon information contained in the capital facilities plan. Separate fees shall be calculated for single-family and multi-family types of dwelling units, based upon the student generation rates determined by the district for each type of dwelling unit. If insufficient information is available for a district to calculate a multi-family student generation rate, a county-wide average shall be utilized. For purposes of this chapter, manufactured homes and each unit of a duplex shall be treated as single-family dwellings.

C. *Planning Commission review.* The Planning Commission shall review a school district's capital facilities plan or plan update in accordance with the provisions of this Subsection.

1. *Factors.* The Planning Commission shall consider:
 - a. Whether the district's forecasting system for enrollment projections appears reasonable and reliable;
 - b. Whether the anticipated level of state and voter-approved funding appears reasonable and historically reliable;
 - c. Whether the district appropriately applied the formula set out in Section [20.915.060\(F\)](#) VMC.
2. *Public hearing.* In the event the district or the Planning Commission on its own motion proposes to modify the school impact fee, the Planning Commission shall not make its recommendation until holding a duly advertised public hearing on the proposal.
3. *Recommendation.* The Planning Commission may request a school district to review and to re-submit its capital facilities plan or update consistent with the provisions of this section. The Planning Commission shall submit an annual report to the board for each school district for which school impact fees are collected.

Attachment A

D. *Council action.* No new or revised school impact fees shall be effective until adopted by the council following a duly advertised public hearing to consider the school district's capital facilities plan or plan update.

E. *Inter-local agreement.* School Impact Fees shall not become effective until the school district has entered into an inter-local agreement provided for in Section [20.915.100](#) VMC.

F. *Formula.* The impact fee component for schools shall be separately calculated for each participating school district using the following formula:

$$\text{SIF} = \{(\text{CS} \times \text{SF}) - (\text{SM}) - (\text{TC}) - (\text{FC})\} \times \text{A}$$

1. SIF means the school component of the total development impact fee.
2. CS means the cost of the improvements for each type of facility listed in the school district's capital facilities plan less the cost to cure existing overcapacity divided by the capacity of the improvement. Type of facility means elementary school, middle school and high school. The development cost by service area is shown in Table 20.915.060-1.
3. *SF means student factor.* The student factor is the number of students typically generated from one residential unit for each type of school facility.
4. *SM means state match.* State match is the amount received from the state toward school construction costs. The state match component of the formula is that amount representing the per student amount of state matching funds. This is calculated for each type of facility as: student factor times Boeckh Index (average annual construction cost of a school facility per square foot) times square-foot standard per student established by the Superintendent of Public Instruction times state match percentage (that percentage of the total cost of a school facility funded by state funds). The state match for each school district shall be calculated annually.
5. *TC means tax credit.* This is calculated as:

$$\text{TC} = \frac{(1+i)^{20} - 1}{i(1+i)^{20}} \times (\text{AAV}) \times (\text{SPTL})$$

- a. AAV means the average assessed value for the dwelling per single family unit.
 - b. SPTL means the current school district capital property tax levy rate.
 - c. *i* means the current interest rate as stated in the Bond Buyer Twenty Bond General Obligation Bond index.
6. *FC means facilities credit.* This is the value of any improvements listed in a school district's capital facilities plan provided by the developer.

Attachment A

7. A means an adjustment for the portion of anticipated additional tax revenues resulting from a development that is prorated to system improvements contained in the capital facilities plan. The adjustment for school impacts is determined to be 85%.

Table 20.915.060-1 School District Impact Fees		
School District	Single-Family	Multi-Family
Battle Ground	\$6,397	\$2,285
Camas	\$5,371	\$5,371
Evergreen	\$6,432	\$3,753
Vancouver	\$2,880.75	\$2,381.93

(Ord. M-4223 § 4, 12/04/2017; Ord. M-4147 § 4, 12/07/2015; Ord. M-3994 § 5, 11/07/2011; Ord. M-3959 § 45, 07/19/2010; Ord. M-3952 § 1, 04/05/2010; Ord. M-3951 § 1, 04/05/2010; Ord. M-3909 § 1, 12/15/2008; Ord. M-3854 § 1, 11/19/2007; Ord. M-3785 § 2, 12/18/2006; Ord. M-3736 § 1, 02/27/2006; Ord. M-3730 § 34, 12/19/2005; Ord. M-3663 § 23, 08/02/2004; Ord. M-3653 § 2, 05/03/2004; Ord. M-3643, 01/26/2004)

20.915.070 Calculation of Impact Fee.

A. For residential and nonresidential development. The impact fee for a nonresidential development shall be computed by applying the traffic impact fee formula set out in Section [20.915.040](#) VMC. The impact fee for a residential development shall be computed by applying the traffic impact fee, park impact fee and school impact fee formulae set out in Sections [20.915.050](#) VMC and [20.915.060](#) VMC, combining the results, provided that the school impact fee component shall not apply to housing which by restrictive covenant is exclusively for persons sixty-two years of age or older.

B. For mixed uses. If the development for which approval is sought contains a mix of uses, the impact fee must be separately calculated for each type of use.

C. *Criteria to reduce or eliminate impact fees.* ~~The development approval authority setting the impact fee, upon application by the developer supported by studies and data, may reduce or eliminate such fee if it is shown that:~~

~~An administrative or appeal may be considered by the Director of Community and Economic Development respective approval authority to reduce or eliminate impact fees by submittal of an application prior to the payment of fees. Appeals shall be reserved for unusual circumstances which make the standard impact fee as applied to the development unreasonable, unfair or unjust in specific cases such as nursing homes and memory care facilities to ensure that impact fees are imposed fairly.~~ Upon receipt of an application for any such appeal,

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the City shall distribute a written notice of appeal and a copy of the supporting studies and data required below to the office, department, or school district responsible for the applicable capital facilities for which the impact fee is imposed.

The appeal must be supported by reasonable studies and data provided by the applicant showing that:

1. The formulae or method contained in Sections 20.915.040, 20.915.050 or 20.915.060 VMC to calculate the fees do not accurately reflect ~~traffic, park, or school impacts~~ the cost of system improvements that are reasonably related to the service demands and needs of, respectively a particular development; or

2. ~~Due to unusual circumstances:~~ _____

~~a. Facility improvements identified for the applicable service area are not reasonably related to the proposed development; or~~

~~b. Such facility improvements will not reasonably benefit the proposed development.~~

3. The current development proposal implements a concomitant rezone agreement, development agreement or other development approval pursuant to which public facilities identified in the capital facilities plan were dedicated or constructed, and which are of benefit to the community at large and which fall within the definition of system improvements.

The appellant shall have the burden of producing and presenting studies and data that clearly shows the basis and substantiation of the appeal upon submittal. Appeals shall be reviewed by means of a Type I procedure, pursuant to VMC 20.210.020. Impact fees may be paid under protest in order to obtain a permit or approval of development activity.

~~D. Request for impact fee determination. Prior to making an application for a building permit, an applicant upon payment of the applicable fee may request an impact fee determination from either the Parks or Public Works department, which determination shall be based upon information supplied by the applicant sufficient to permit calculation of the impact fee. The impact fee determination shall be binding upon the city for a period of one (1) year unless there is a material change in the development proposal, the capital facilities plan or this chapter.~~

~~E. Impact fee collection. Except as provided for in Section , the impact fee imposed under this chapter shall be due and payable at the time of issuance of a building permit, or final site plan approval when no building permit is required for the development. (Ord. M 4172 § 1, 08/15/2016; Ord. M 4107 § 5, 12/01/2014; Ord. M 3643, 01/26/2004)~~

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20.915.075 Additional provisions for Deferral of Impact fees for Single-Family Housing.

A. Prior to issuance of single-family detached or attached residential building permits, an application may be submitted for deferral of payment of full impact fees until scheduling of final building inspection by the City. For these purposes “attached single-family” shall be limited to common-wall housing with no more than one unit per legal lot.

B. The amount of impact fees deferred shall be determined by the fees in effect at the time the applicant applies for a deferral. “Applicant” as defined in this section shall include an entity that controls the applicant, that is controlled by the applicant, or is under common control with the applicant.

C. An impact fee deferral application must be submitted for each parcel to be developed. This application shall include:

1. Administrative fees as specified under VMC [20.180](#).
2. A locally recorded impact fee deferral lien against the property involved, granted to the City of Vancouver in the amount of the deferral. The deed shall be signed by all owners of the property, with signatures acknowledged as required for a deed. The deed shall be binding on all successors, and subordinate to one mortgage for construction of the property granted by the impact fee deferral applicant.
3. The deferral period shall not exceed a period of 18 months from issuance of the building permit, at which time any deferred impact fees shall be due.
4. Upon receipt of all deferred impact fees, the City of Vancouver shall execute release of the lien for the property. The property owner at that time shall be responsible for recording the release, at their expense.
5. The City of Vancouver may institute foreclosure proceedings for unpaid impact fees due. For unpaid School Impact Fees, School Districts may also institute foreclosure proceedings if the City of Vancouver has not done so within 45 days after receiving notice from the District requesting initiation of such proceedings. (Ord. M-4172, Added, 08/15/2016, Sec 2)

20.915.080 Impact Fee Exemptions, Reductions, and Waivers.

A. *Exemptions from impact fees.* The following developments shall be exempt from the requirement for payment of impact fees: publicly operated elementary, middle, junior high and senior high schools, and administrative, maintenance and other facilities of a school district and facilities of an Educational Service District.

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B. Exemption or waiver from impact fees for low income housing pursuant to RCW [82.02.060\(2\)](#). Pursuant to RCW [82.02.060\(2\)](#), the Review Authority may grant a total or partial exemption or waiver from impact fees for housing developments containing up to three dwelling units and qualifying as low-income housing as defined in this Chapter, to be owned and occupied by, or leased to, low-income persons. Requests for exemption and/or waiver for four or more dwelling units must be approved by the City Council. No such impact fee exemption and/or waiver shall be granted for any low income housing that has been granted a property tax exemption pursuant to VMC [3.22](#), Multi-family Tax Abatement. Any such exemption or waiver shall be subject to:

1. Provision being made for payment of the impact fee from public funds other than impact fee accounts; and
2. Adequate documentation that the housing meets appropriate standards regarding household income, rent levels, sales price, location, and number of units;

C. Alternative exemption from impact fees for low-income housing pursuant to RCW [82.02.060\(3\)](#). Pursuant to RCW [82.02.060\(3\)](#), the City Council may grant an alternative exemption for low-income housing under this Subsection C. No such impact fee exemption and/or waiver shall be granted for any low income housing that has been granted a property tax exemption pursuant to VMC [3.22](#), Multi-family Tax Abatement

1. The City Council may either:
 - a. Grant a partial exemption of not more than eighty percent of impact fees, in which case there is no requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or
 - b. Provide a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts; and
2. Compliance with all of the requirements of Subsection D of VMC [20.915.080](#) is required.

D. An exemption for low-income housing granted under Subsection [B](#) or [C](#) of this section must comply with all of the following conditions:

1. The developer shall record a covenant with the Clark County Auditor. The covenant must:
 - a. Prohibit using the property for any purpose other than for low-income housing.
 - b. Require that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion.
 - c. Define low-income housing as housing for which the monthly housing expense is no greater than thirty percent of eighty percent of the median family income adjusted for family size for Clark

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County, Washington, as reported by the United States Department of Housing and Urban Development.

2. When the City grants an exemption for low-income housing granted under Subsection [B](#) or [C](#) of this section, it may not collect revenue lost through the granting of the exemption by increasing impact fees unrelated to the exemption.
3. A school district that receives school impact fees collected by the City must consent in writing prior to City approval of any exemption from school impact fees granted under Subsection [B](#) or [C](#) of this section. Failure of a school district to provide consent in writing **to the City** within 30 days of **the school district's receipt of** written request for approval **by** **from the City** shall constitute disapproval of the requested exemption.

E. *Reduction in traffic impact fees for qualifying businesses.* To promote business development, the Review Authority may grant a reduction of traffic impact fees as specified in Table 20.915.080-1 below for businesses which meet all of the following requirements:

1. The business owner shall commit, through a Development Agreement approved by City Council, to locate a number of new employees that coincides with the TIF incentive in Table 20.915.080-1. Such new employees shall locate to the City within the first year of the business obtaining an occupancy permit; and
2. The median salary of all company employees to be located shall, at a minimum, coincide with the specified percent of median individual income in Table 20.915.080-1. Median individual income shall be based on the most recent available information from US Department of Housing and Urban Development for the Portland-Vancouver MSA at the time of the Development Agreement approval; and
3. If the owner or developer of the property or building is not the business locating within the city, documentation shall be submitted to the City that satisfactorily demonstrates that the business received the benefit of the fee reduction rather than the owner or developer; and
4. The business shall provide the city with such documentation and access to records as needed to verify satisfaction of the foregoing requirements. In the event that the business fails to satisfy any of the requirements criteria, the business shall pay to the city the amount of the fee reduction together with interest at the statutory rate provided for at RCW [19.52.010](#) upon demand.

The city shall make provision for payment of the impact fee reduction to the transportation impact fee account from public funds other than impact fee accounts.

Table 20.915.080-1 Business Development TIF Incentive		
Median Salary of All Business Employees	Minimum Employees	TIF Benefit

Table 20.915.080-1 Business Development TIF Incentive			
Median Salary of All Business Employees		Minimum Employees	TIF Benefit
1.	200% of Median Individual Income	200	25% TIF reduction, up to \$100,000
2.	150% of Median Individual Income	250	25% TIF reduction, up to \$100,000
3.	125% of Median Individual Income	300	25% TIF reduction, up to \$100,000
4.	200% of Median Individual Income	400	50% TIF reduction, up to \$200,000
5.	150% of Median Individual Income	500	50% TIF reduction, up to \$200,000
6.	125% of Median Individual Income	600	50% TIF reduction, up to \$200,000

This provision shall be operative until December 31, 2020 unless renewed by City Council.

F. *Criteria for calculating impact fees.* The impact fee for an exempt or waived development shall be calculated as provided for in this Chapter and paid with public funds; except that there is no requirement to pay the exempted portion of the fee from public funds other than impact fee account for a partial exemption of not more than eighty percent of impact fees that has been approved under Subsection C of VMC [20.915.080](#). Such payment may be made by including such amount(s) in the public share of system improvements undertaken within the applicable service area. If an impact fee(s) is waived, the Review Authority, pursuant to Section [20.915.070](#) VMC, or state law may determine whether a public share-contribution or a reduced public-share contribution is required. (Ord. M-4154 § 3, 01/04/2016; Ord. M-4108 § 1, 12/01/2014; Ord. M-3643, 01/26/2004)

20.915.090 Impact Fee Credits.

A. For the developer. The developer shall be entitled to a credit against the applicable impact fee as follows:

1. The developer shall be entitled to a credit against the applicable impact fee for the fair market value of any dedication of land for and reasonable documented construction costs acceptable to the City associated with the improvement to, or new construction of any system improvements provided by the developer that

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are identified in the capital facilities plan and that are required by the City as a condition of approval to the development proposal against which the impact fee is assessed.

2. No credit shall be given for project improvements as defined under VMC [20.150](#).

3. *Traffic Impact Fee Credit*. Effective June 3, 2015 (effective date of ordinance), the maximum traffic impact credit shall be in the amount of the impact fee applicable to the development proposal against which the impact fee is assessed. The credit shall be applied to the impact fee as calculated for the development proposal against which the impact fee is assessed and shall not exceed the impact fee due.

4. *Street Project Assessment Reimbursement Contract for Excess Costs*. If a developer has incurred costs for street project system improvements in excess of the amount of the traffic impact fee applicable to the development proposal against which the impact fee is assessed, the developer may apply to the City for a street project assessment reimbursement contract pursuant to VMC Chapter [11.10](#).

5. *Existing traffic impact fee credits*. TIF credits that existed prior to June 3, 2015 (effective date of ordinance) shall be utilized consistent with the provisions of the TIF Program Technical Document. The value and ownership of such TIF credits as of June 3, 2015 (effective date of ordinance) shall be documented by a list thereof published by the City and distributed by US mail to the last known addresses of said owners on June 3, 2015 (effective date of ordinance).

B. *Traffic Impact Fee reduction*. The developer may be provided a TIF reduction pursuant to Section [20.550.050\(A\)](#) VMC.

C. *Traffic Impact Fee Credit for the developer*. Additionally, the developer may be provided a credit against the impact fee in an amount up to 10% of the traffic component to account for contributions of mass transit facilities that are approved by the City and made a condition of approval for the development.

D. *Impact fee reduction*. Where impact fees are owing prior to completion of a system improvement undertaken by the developer, the impact fee shall be reduced by 85% from the Director of Public Works estimate of the credit to be due upon dedication and completion of the required work, provided, if the same has been assured by a bond or other guarantee, as governed by Chapter [20.909](#) VMC, to be completed no later than the date of occupancy for commercial/industrial/multi-family structures or the final building inspection for single-family and other uses. Upon completion of the required system improvement, appropriate refunds shall be made and credits recognized up to but not to exceed the amount of the impact fee applicable to the development proposal against which the impact fee is assessed based upon the Director of Public Works' determination of the value of dedication and reasonable construction costs.

E. *City credit utilization*. Traffic impact fee credits issued by the City after June 3, 2015, (effective date of adopted ordinance) may be utilized in lieu of cash payment only for traffic impact fees for the development proposal against which the impact fee is assessed, as provided in subsection A.3 above. Other impact fee credits recognized by the City may be utilized in lieu of cash payment of impact fees for the subject

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development and/or any other development within the same service area. (Ord. M-4107 § 6, 12/01/2014; Ord. M-3643, 01/26/2004)

20.915.100 Other provisions.

A. *Process for revision of traffic impact fees.* Traffic impact fee rates shall be adjusted periodically to reflect changes in costs of land acquisition and construction, facility plan projects and anticipated growth. Traffic Impact Fee Program Technical Document may contain provision for automatic revision of traffic impact fee rate no more than once annually to reflect the change in a generally recognized and applicable inflation/deflation index.

B. Park impact fee rates may be revised. Rates may be revised using the following process:

1. The adopted Park Impact Fee Technical Document may be revised periodically by the city council when financial analysis establishes that there is a need for a major program update, but no less than every three years to evaluate the status of the rate of collection and the projected need to serve future residents. Such adjustments shall only become effective upon adoption by the city council.

C. *Process for revision of school impact fees.* School impact fee rates shall be adjusted periodically to reflect changes in costs of land acquisition and construction, facility plan projects and anticipated growth. Such adjustments shall only become effective upon adoption by the city council of a modification to the capital facilities plan.

D. *Operation of impact fee fund.* The city has created and established a special purpose, nonlapse impact fee fund. The city finance director shall establish separate accounts within such fund and maintain records for each such account whereby impact fees collected can be segregated by type of facility and by service area:

1. *Collected interest.* All interest shall be retained in the account and expended for the intended purposes that the impact fees were imposed.
2. *Impact fee fund annual report.* By April of each year, the finance director shall provide a report for the previous calendar year on each impact fee account showing the source and amount of moneys collected, earned or received and system improvements that were financed in whole or in part by impact fees.

E. *Inter-local agreements and fees.* The city of Vancouver may enter into an inter-local agreement with Clark County to establish a coordinated program for the imposition, collection, administration and expenditure of traffic and park impact fees.

F. *School impact fees.* School impact fees shall not be collected on behalf of any school district until such district enters into an inter-local agreement with city of Vancouver providing for submittal of capital facilities

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plans, fund administration, report of expenditure, allocation of risk, and other appropriate matters. Where Clark County adopts a substantially similar school impact fee for a district whose boundaries include portions of the city of Vancouver, such an inter-local agreement may include the county. The inter-local agreement may include a fee to cover the city's cost of administering the school impact fee program.

G. *Imposition of impact fees for costs previously incurred.* The Review Authority may impose an impact fee for system improvements costs previously incurred by the city of Vancouver to the extent that new growth and development will be served by the previously constructed improvements, provided such fee shall not be imposed to make up for any system improvement deficiencies.

H. *Expenditures for system improvements with impact fees.* Impact fees for system improvements shall be expended only in conformance with the capital facilities plan. Impact fees shall be expended or encumbered for a permissible use within 10 years of receipt, unless an extraordinary and compelling reason exists for fees to be held longer than 10 years. Such extraordinary or compelling reasons shall be identified in written findings by the city council.

I. *Refunds for the current owner.* The current owner of property on which an impact fee has been paid may receive a refund of such fee if the city fails to expend or encumber the impact fees within 10 years of when the fees were paid, or such other period of time established pursuant to this subsection, on public facilities intended to benefit the development activity for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis. The current owner likewise may receive a proportionate refund where the public funding of applicable service area projects by the end of such 10-year period has been insufficient to satisfy the ratio of public-to-private funding for such service area as established in the capital facilities plan. The city shall notify potential claimants by first-class mail deposited with the United States Postal Service at the last known address of claimants.

1. *Refund time period.* The request for refund money must be submitted to the Vancouver city council in writing within one year of the date the right to claim the refund arises or the date the notice is given, whichever is later. Any impact fees that are not expended within these time limitations, and for which no application for refund has been made within this one-year period, shall be retained and expended on the indicated capital facilities. Refunds of impact fees under this subsection shall include interest earned on the impact fees.

2. *Criteria for a refund with interest.* A developer may request and shall receive a refund, including interest earned on the impact fees, when the building permit for which the impact fee has been paid has lapsed for noncommencement of construction. A partial refund shall be provided where the project for which a building permit has been issued has been altered resulting in a decrease in the amount of the impact fee due.

J. *Impact fees as additional and supplemental requirements.* The impact fee is additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the

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issuance of building permits. This is provided that any other such city development regulation which would require the developer to undertake dedication or construction of a facility contained within the city capital facility plan shall be imposed only if the developer is given a credit against impact fees as provided for in Section [20.915.090](#) VMC. (Ord. M-4181 § 3, 11/07/2016; Ord. M-4107 § 7, 12/01/2014; Ord. M-4034 § 31, 12/03/2012; Ord. M-3959 § 46, 07/19/2010; Ord. M-3952 § 2, 04/05/2010; Ord. M-3951 § 2, 04/05/2010; Ord. M-3933 § 5, 11/16/2009; Ord. M-3909 § 2, 12/15/2008; Ord. M-3854 § 2, 11/19/2007; Ord. M-3785 § 2, 12/18/2006; Ord. M-3653 § 1, 05/03/2004; Ord. M-3643, 01/26/2004)

The Vancouver Municipal Code is current through Ordinance M-4320, passed November 16, 2020.

Disclaimer: The city clerk's office has the official version of the Vancouver Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

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Heights District Plan Implementation

VANCOUVER
CITY HALL



July 19, 2021

City Council Public Hearing

Rebecca Kennedy, Long Range Planning Manager

Greg Turner, Land Use Manager

Presentation Overview

- Vision for the Heights
- Implementation process to date
- Heights Mixed Use (HX) Plan District
- Heights District Urban Design Guidelines
- Comprehensive Plan and Title 20 amendments
- Planned Action Ordinance
- Lifting of Tower Mall development moratorium
- Staff Recommendation
- Next Steps

Presentation Purpose

- Council Public Hearing review of the following:
 - Heights Mixed Use (HX) Zoning District, Heights District Urban Design Guidelines, and associated Comprehensive Plan and Vancouver Municipal Code Title 20 text amendments
 - Planned Action Ordinance and associated mitigation document for the Heights District
 - Lifting of Tower Mall Redevelopment moratorium
- Council questions, discussion and direction in advance of planned August 2, 2021 adoption hearing

Prior City Council Review

- February 8 Council Workshop
- May 17 Council Workshop

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

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 Plan Implementation



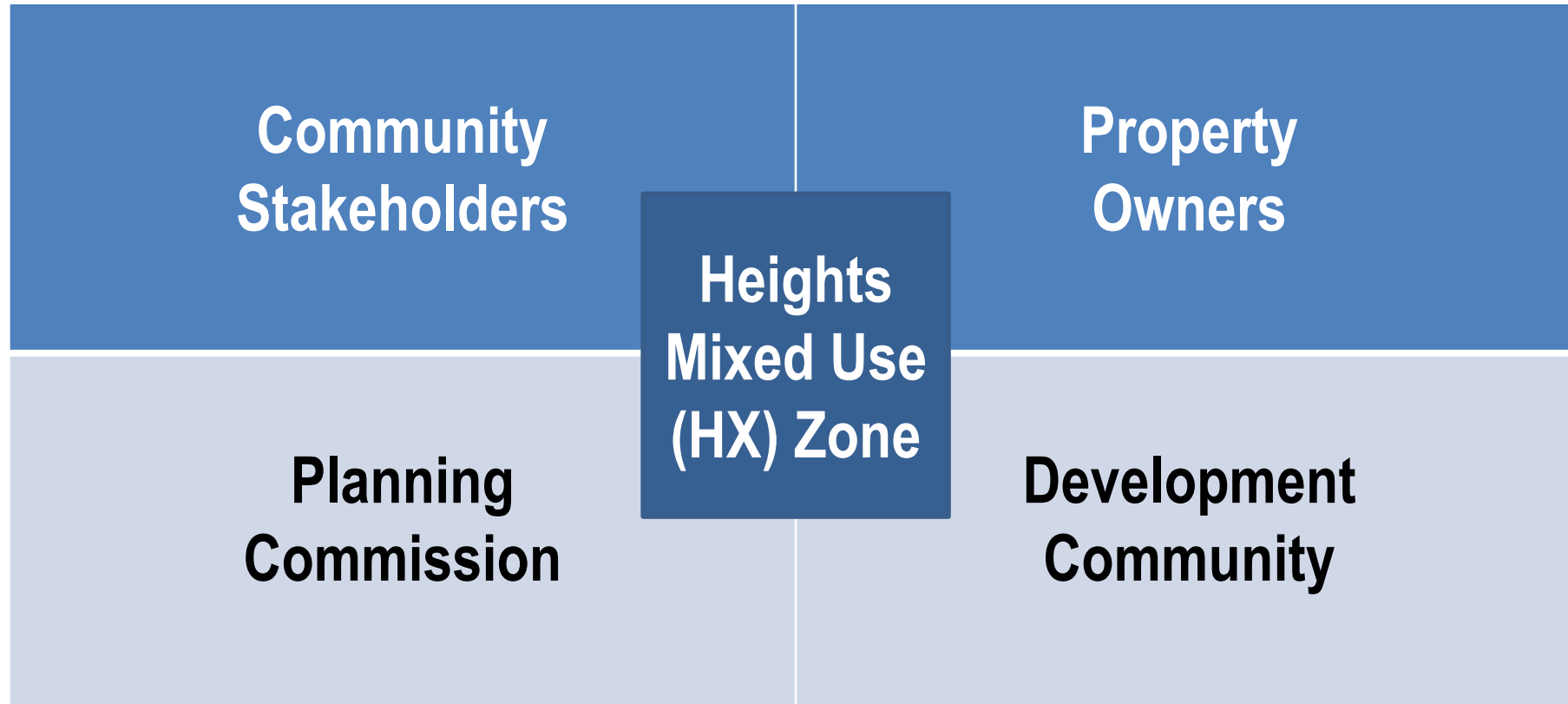
City Council adopted the Heights District Plan on August 17, 2020.



First phase of Plan implementation:

- **HX zoning district**
- **Heights urban design guidelines**
- **Planned Action for the District**
- Updates to street standard details
- Fitwell community certification for the Tower Mall Redevelopment Area
- Demolition of Tower Mall building

Stakeholder Engagement



Stakeholder Engagement Tools

- Be Heard Vancouver project page providing information on proposed implementing regulations and the relationship to policy direction in the Plan, and opportunities to submit questions to staff
- Stakeholder meetings
- Project webpage
- Project email distribution list and regular updates
- Project visualization tools

Community Feedback Reflected in Standards

- Building heights in each sub-district
- Parking ratios on the edges
- Step-down provisions
- Limitations on uses in different subdistricts
- Additional CPTED provisions
- Refined TDM standards
- Greater flexibility in screening for surface parking
- Updated bike parking standards
- Greater flexibility on ground floor uses

Updates since May 17 City Council workshop:

- Marijuana retail a limited use per regulations in VMC 20.884; removed prohibition
- Height maximum fronting Idaho and along Devine north of Mill Plain within step-down area along Devine changed from 34 to 35 ft. to be consistent with adjacent single family zone height standards
- Revised TDM requirements to require inclusion of one of two options that have the highest impact on demand for parking and drive alone trips, and three other elements from a list of five
- Sub-district and ground floor uses maps converted to black and white for purposes of code publication (color maps will still be available online and in other documents)
- Adjustments to bicycle parking requirements to require a minimum of 2-short term spaces for all uses, regardless of floor area
- Requirement to provide parking for larger cargo bikes and electrical sockets for e-bikes

HX Zone

Purpose:

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. The purpose of the Heights Mixed Use (HX) Plan District is to implement the vision, goals and policies of the adoption Heights District Plan, and ensure future development is integrated, cohesive context sensitive, and contributes to the overall District Vision.



Heights Mixed Use (HX) Zoning District

Application:

- Applies to development within identified sub-districts within the overall district
- Does not apply to properties not located in an identified sub-district

HX Plan District Major Elements:

- Regulation of uses, including ground floor frontage requirements
- Development Standards, including building height, residential density, building step downs and transitions, façades, building line provisions, modulation, entrances, roof forms, architectural characteristics, materials and colors, landscaping, stormwater, signage, vehicle and bicycle parking requirements, and utilities and screening
- Design standard modification process
- Approval processes for site plan, planned action, and design review

Existing Regulations: Allowed Uses

Existing zoning allows the following heights:

- R9: 35 ft.
- Community Commercial: 50 ft

Community Commercial (CC) allows a wide variety of uses, including:

- Limited types of residential, no ground floor residential
- Lodging (limited)
- Office
- General retail, including less-restrictive uses such as bulk sales, big-box retail, etc.
- Motor vehicle repair, sales/rental, and gas stations
- Self-storage



HX Zone: Uses

Permitted Uses

- Housing
- Civic uses
- Day care facilities
- Eating/drinking establishments
- General retail
- Artisan and specialty good production
- General and medical office
- Temporary surface parking
- Limited recreational marijuana retail



Prohibited Uses

- Non-accessory permanent surface parking
- Outdoor & bulk sales
- Motor vehicle sales/rental/service
- Self-storage
- Industrial uses
- Animal kennel/shelters
- Detention facilities



HX Zone: Ground Floor Uses



- Commercial:** All commercial uses except office allowed, residential (except lobbies/entrances on a limited basis) and institutional uses prohibited
- Residential:** Residential uses allowed, commercial and institutional uses prohibited
- Mixed Residential/Commercial:** Commercial uses allowed, residential uses limited to maximum 50% of street frontage, institutional uses prohibited
- Limited Commercial:** Residential uses allowed, commercial uses limited to maximum 25% of street frontage, institutional uses prohibited

HX Zone: Building Heights

Building height maximums by character zone/sub-district

Character Zone	Proposed Maximum Building Height
Activity Center	Maximum of 85 ft
Residential Neighborhood	Maximum of 85 ft
Innovation Hub	Maximum of 50 ft
District Gateway	Maximum of 50 ft for properties not abutting residentially-zoned properties Maximum of 40 ft for properties abutting residentially-zoned properties Maximum of 35 ft for properties fronting Idaho St

HX Zone: Building Heights



*Note that height restrictions to not apply to rooftop equipment, parapets and railings, and roof mounted solar energy equipment, but that the code does limit how much they can exceed building height maximums and requires them to be appropriately screened

HX Zone: Step Down Depth Standards

Step Down Depth Standards

- Building heights reduced to 3 stories/40 ft approximately 60 ft from residentially-zoned property
- Fire station Parcel: Building heights reduced to 2 stories/35 ft approximately 140 feet from Idaho St.

HX Zone Rendering: Devine Looking North



HX Zone Rendering: N. Idaho & Devine



HX Zone Rendering: MacArthur & Mill Plain



HX Zone Rendering: MacArthur & Devine



HX Zone Rendering: Devine & Mill Plain



HX Zone: Residential Density Requirements

Minimum residential density by sub-district:

Sub-District	Minimum Density
Activity Center	75 dwelling units per acre
Residential Neighborhood	45 dwelling units per acre
Innovation Hub	30 dwelling units per acre
District Gateway	30 dwelling units per acre

Local Development Examples



Esther Short Commons, 8th & Esther:

- 5 stories, 21,000 sf commercial
- 160 units
- 82 units per acre



Evergreen Townhomes

Evergreen & S Street:

- 2-3 stories
- 12 units
- 21 units per acre



The Hamilton- 20th & Broadway:

- 3 stories
- 30 units
- 157 units per acre

HX Zone: Vehicle Parking Requirements

Minimum off-street parking requirements for residential uses by character zone/sub-district

Character Zone	Proposed Minimum Off-Street Parking Requirements	Proposed Parking Reductions with TDM
Activity Center	1/1	.75/1
Residential Neighborhood	1/1	.75/1
Innovation Hub	1.25/1	1/1
District Gateway	1.25/1	1:1 for properties not abutting residentially-zoned properties No reductions for properties abutting residentially-zoned properties

* New streets internal to the core redevelopment area will add more than 400 additional on-street parking stalls to support retail uses and visitor parking

HX Zone: Vehicle Parking Requirements



HX Zone: TDM Plans

The minimum number of parking spaces required for residential uses may be reduced if the City approves a Transportation Demand Management (TDM) plan for the proposed development.

- TDM Plan, to include:
 - Narrative describing the characteristics of the proposed development and how it is served by the larger transportation system
 - Specific TDM measures to be employed to reduce transportation via single-occupancy vehicles and resulting on-site parking needs
 - A description of how TDM measures will be communicated to users
 - A description of how users will be required or encouraged to use TDM measures
 - A proposed process for monitoring individual and overall use of TDM measures and reporting their use to the City annually

HX Zone: TDM Strategies

TDM – MENU OF TOOLS PROJECTS MUST SELECT FROM TO ACCESS RESIDENTIAL PARKING REDUCTIONS	
Parking cash-outs/decoupling cost of parking from rent	Must Select at least 1
Free/discounted transit passes (reduced rate of 75% or more)	
At least 5% of available parking spaces for priority shared/high occupancy vehicles	Must Select at least 3
On-site car share program accounting for at least 5% of total parking spaces	
Guaranteed ride home – Option to pay into and utilize City’s existing program	
Shared micro-cargo/cargo bikes	
On-site provision of repair services for bicycles & other non-vehicular mobility options	

HX Zone: Vehicle Parking Requirements

Minimum off-street parking requirements for non-residential uses

HX Zone	Land Uses			
	Hotel	Senior Living	Office	Commercial
Proposed Minimum Parking Requirements	.5/lodging unit	1/ living unit	1/1,000 sf	No minimum requirement for ground floor commercial uses (retail, restaurant, community facilities, etc.), utilize on-street system

HX Zone: Bicycle Requirements

Minimum bicycle parking requirements for different uses

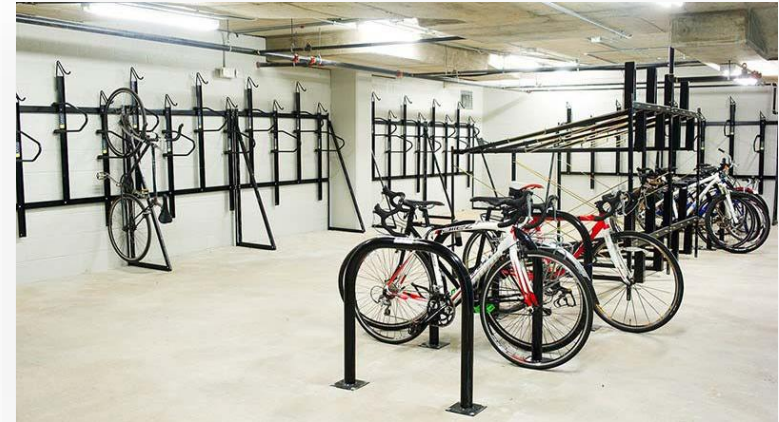
Uses	Required Short-Term Bike Parking	Required Long-Term Bike Parking
Residential	.05 per dwelling unit for dwellings, 2 spaces minimum	1 per dwelling unit for dwellings with 5 or more units
Commercial	1 per 5,000 sf of floor area, 2 space minimum	1 per 15,000 sf of floor area, 2 minimum
Office	1 per 25,000 sf of floor area, 2 spaces minimum	1 per 5,000 sf of floor area, 2 minimum
Civic/institutional Buildings	1 per 5,000 sf of floor area, 2 spaces minimum	1 per 15,000 sf of floor area, 2 minimum
Lodging	2 spaces minimum	1 per 10 rooms, 2 spaces minimum
Parks	1 per 5,000 sf park area, 2 spaces minimum	None

Bicycle Parking: Examples

Short-term Bicycle Parking



Long-term Bicycle Parking



HX Zone: Additional Parking Standards

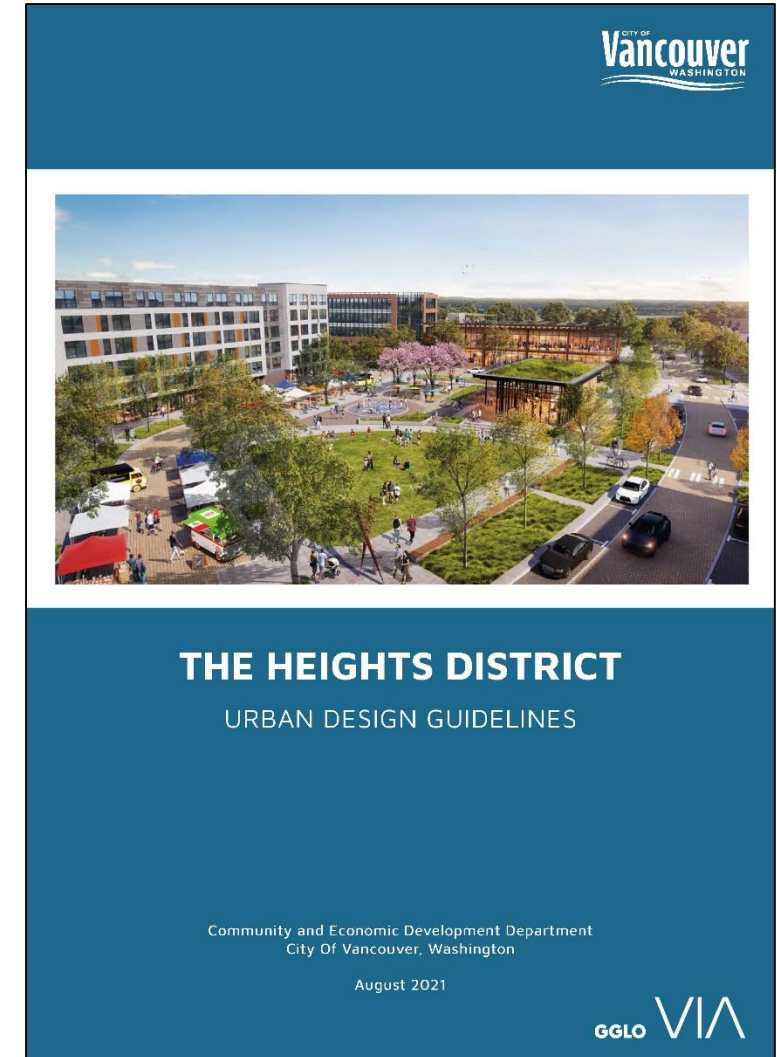
- Structured parking- integration, shared use, screening
- Surface parking- screening
- Existing parking- can be maintained until redevelopment occurs
- Parking access
- Visibility
- Garage openings
- Setbacks
- Signage
- Bicycle parking

HX Zone: Other Development Standards

- Massing and Scale- façade breaks, build to line, massing breaks, etc.
- Modulation/Façade Articulation- ground floor transparency, minimum ground floor height
- Entrances- ground floor, recessed floor level, vehicle, townhome garage parking
- Roof forms- lines, projections, screening, materials, decks
- Secondary Architectural elements- visual interest, encroachment, weather protection, pedestrian oriented features and interest generating features, blank walls
- Materials and colors
- Landscape design- Heights-specific native and adaptive plant species list under development
- Stormwater
- Signage

Draft Design Guidelines: Purpose & Structure

- Purpose: Help to ensure high-quality and sustainable development
- Address all aspects of development that contribute to the Vision: Public spaces, streets and streetscapes, and built urban form
- Organized around key design topics with an intent statement, standards, and guidelines:
 - **Standards** are prescriptive requirements codified in the HX zone.
 - **Guidelines** are a flexible and discretionary tool administered in concert with city codes and development standards to ensure that individual projects meet the vision and design objectives for the District.



Draft Design Guidelines:

- **Public Infrastructure:** Principal Street System, Blocks & Streets, The Loop (including internal streets), Streetscapes, Traffic Calming, Sidewalks, Park & Open Spaces, Landscape Design, Enhanced Stormwater Management Systems
- **Building Typologies:** Civic, Institutional, Religious; Multi-Family Townhouse; Mixed-Use Residential; Mixed-Use Commercial
- **Architecture:** Massing & Scale, Modulation & Façade Articulation, Setbacks, Roof Forms, Secondary Architectural Features
- **Materials & Color:** Building Façade Materials, Building Colors & Accents
- **Signage**
- **Public Art**
- **Parking:** Including bicycle parking
- **Lighting Design**
- **Utilities & Screening**
- **Sustainable Site & Development Design**

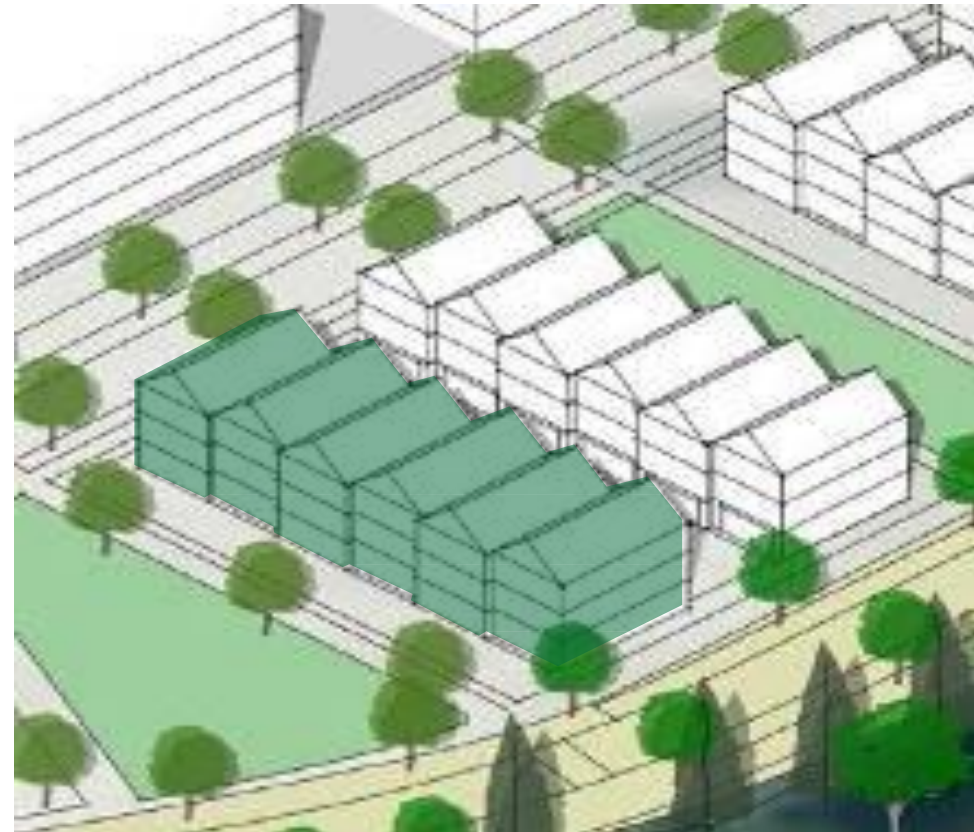
Draft Design Guidelines: Public Infrastructure

- Includes principal street system, blocks and streets, the loop and internal streets, streetscapes, traffic calming, sidewalks, parks and open spaces, landscape, stormwater
- Consistent with standards in draft Heights Mixed Use (HX) zoning district and new Heights-specific street standard details
- Includes Heights-specific Native and Adaptive Plant Species List



Draft Design Guidelines: Building Typologies

- Intent: Provide a diverse range of building types that contribute to overall District character and enhance the experience of users.
- Includes building variation and architectural diversity, transparency, design, etc.
- Addresses different types of uses: civic, institutional, religious; townhomes; mixed use residential; mixed use commercial



Draft Design Guidelines: Architecture

- Consistent with standards in draft Heights Mixed Use (HX) zoning district and forthcoming street standard details
- Includes: massing and scale (building height, step downs and transitions, build to line, etc.); modulation and façade articulation; entrances; roof forms; secondary architectural features (weather protection, blank walls, etc.); service and loading areas



Draft Design Guidelines: Other Sections

- Consistent with standards in draft Heights Mixed Use (HX) zoning district and forthcoming street standard details
- Includes: materials and colors; signage; public art; parking; lighting design; utilities and screening; and sustainable site and development design



Comprehensive Plan Text Amendment

- Heights District Plan was adopted into the Comprehensive Plan by reference in August 2020 as part of subarea plan adoption
- With adoption of the Heights Mixed Use (HX) zoning designation, another Comprehensive Plan text change will add the HX zone to list of commercial and mixed use zoning districts referenced in Table 5-1 Vancouver Comprehensive Plan land use designations and corresponding zoning

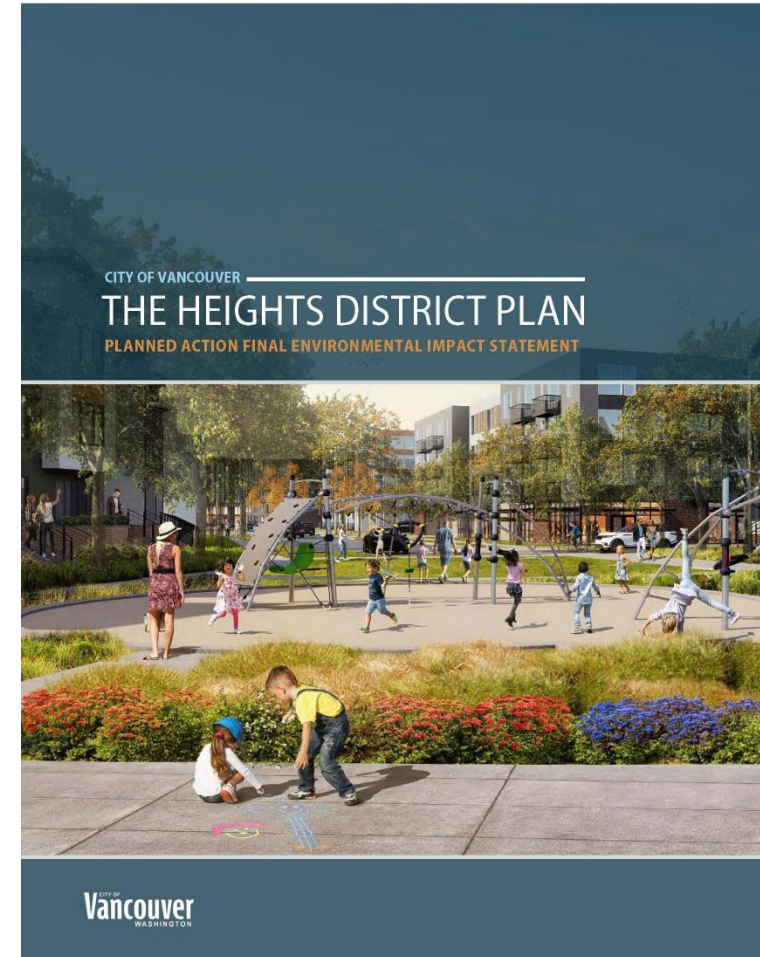
Commercial		
Commercial and Mixed Use	CN Neighborhood Commercial	Small scale commercial uses and services primarily for nearby residences. Designated areas are typically less than 2 acres in size. These areas provide services within walking distance for the frequent needs of the surrounding residents and are generally small areas designed to be compatible with the surrounding residentially zoned neighborhoods.
	CC Community Commercial	Medium scale commercial uses and services, typically serving more than one neighborhood. Designated areas are typically between 2 and 10 acres in size, located near collector or arterial street intersections
	CG General Commercial	Medium to larger commercial use and services serving large sections of urban areas and beyond. Designated areas are typically in urban activity centers or along major travel routes connecting activity centers. General Commercial areas provide a full range of goods and services necessary to serve large areas and the traveling public. These areas are generally located at interchanges, along state highways and interstates, and adjacent to major and minor arterial roadways.
	CX City Center intensity	Specific to downtown Vancouver. A mix of generally higher commercial, residential, institutional uses envisioned
	WX Waterfront Mixed Use	A mix of residential, commercial, office and recreation uses along the Columbia River
	CPX Central Park Mixed Use	Specific to Vancouver Central Park. A mix of open space, recreation, educational, governmental, and public service uses developed according to policies and guidelines contained in the master plan document "A Park for Vancouver: A Concept Plan" (as amended).
	MX Mixed Use	A mix of residential, commercial, office and recreation uses
	RGX Riverview Gateway (1)	Specific to the Riverview Gateway subarea at the intersection of 192nd Avenue and SR-14. A mix of residential, mixed use, office, and light industrial uses
	<u>HX</u>	<u>Specific to the Heights District Plan. A mix of commercial, residential, mixed use, open space and other uses envisioned.</u>

Other Title 20 Amendments

- Table 20.130.040-1 Comprehensive Plan and Corresponding Zoning District Designations
- 20.430.020 Listing of Zoning Districts
- 20.430.030-1 Commercial and Mixed Use Districts Use Table
- 20.430.040-1 Development Standards
- 20.430.050 Special Limitations on Uses
- 20.770.080 Tree Density Requirements
- 20.850.020 Approval Process
- 20.850.030 Development Standards
- 20.890.060 Additional Development Standards by Zoning District
- 20.925.030 General Provisions
- 20.945.080 Off Loading Requirements
- 20.985.020 Development Standards

Heights District: Planned Action

- Planned Action supported by previously completed Planned Action Final Environmental Impact Statement (FEIS), established by ordinance and subject to mitigation document
- Establishes mitigation measures and conditions of approval for projects
- Provides for streamlined review and approval of projects that meet Planned Action criteria and thresholds established by Heights District Plan
- Streamlined review is administrative- does not include public notice and provides for limited appeal



Heights District: Planned Action

Development thresholds for Planned Action are consistent with Heights District Plan:

- 1,800 residential units
- 204,000 sf of commercial development (includes office and retail)
- 36,000 square feet of institutional development

Mitigation activities are consistent with those identified in the FEIS and include:

- Adoption of the HX zone and design guidelines
- Compliance with all existing regulations
- Transportation compliance letter for all projects
- Proportionate share funding for upgrades on existing arterial streets
- Monitoring parking needs/impacts in District and adjacent neighborhoods

Implementing the Heights Vision

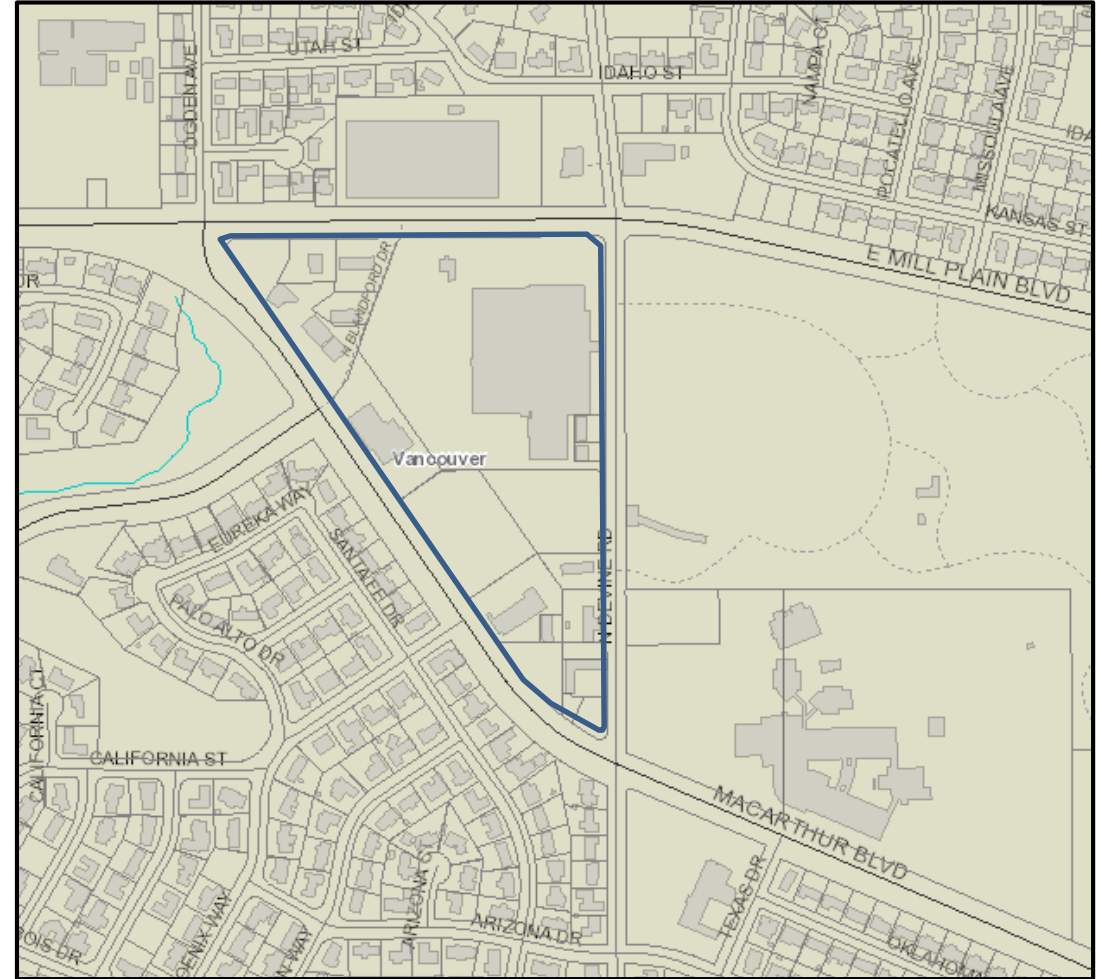
Together, the HX zoning district, Heights Urban Design Guidelines, Comprehensive Plan and Title 20 amendments provide a regulatory framework for implementing the vision for the Heights District, which will apply to all future public and private development.

In addition, these regulations advance other Council goals, including:

- Supports Comprehensive Plan and Strategic Plan goals for growing housing and employment opportunities in livable, mixed-use centers
- Creates 20-minute neighborhoods where people can walk, bike, roll and take transit to access daily services and amenities
- Leverages recent investments in Skyline Crest, three schools, and the forthcoming Mill Plain BRT extension
- Ensures context sensitive development that limits impacts to existing neighborhoods while adding services that current as well as new residents can enjoy

Tower Mall Development Moratorium

- Originally established in 2017 to prevent development inconsistent with forthcoming subarea plan vision
- Prohibited the acceptance and processing of applications for the development of new structures, expansion of existing structures, or subdivisions within a portion of the Tower Mall Redevelopment Area
- Extended through the Heights District Plan process and implementation work on new development standards; last extended in February of this year
- Ordinance before Council would lift the moratorium 30 days from adoption, allowing private development under new standards consistent with the Heights District Plan



Staff Recommendation

- Following July 19 public hearing review, adopt the new Heights Mixed Use (HX) zoning district and associated Heights District Urban Design Guidelines, Comprehensive Plan text amendments, and Vancouver Municipal Code Title 20 text amendments as provided in Exhibits A, B, C and D to the staff report at a second public hearing on August 2.
- Following July 19 public hearing review, adopt the Heights District Planned Action and associated mitigation document as provided in Exhibit E to the staff report at a second public hearing on August 2.
- Following July 19 public hearing review, adopt an ordinance lifting the existing Tower Mall Development Moratorium at a second public hearing on August 2.

Next Steps

- City Council adoption public hearing on August 2: HX Zone, Design Guidelines, Comprehensive Plan and Title 20 amendments, Planned Action Ordinance, and lifting of existing Tower Mall Development Moratorium
- Other near-term implementation steps underway:
 - Street standard details
 - Fitwell certification
 - Tower Mall demolition
- Next Phase of Implementation:
 - Design and engineering of public infrastructure (roads, utilities, parks)
 - Anti-displacement and equitable development strategy

A Questions and Discussion

VANCOUVER
CITY HALL

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Rebecca.Kennedy@cityofvancouver.us

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Greg.Turner@cityofvancouver.us



www.cityofvancouver.us/TheHeights



Staff Report 104-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 7/19/2021
8/2/2021

SUBJECT Heights District Plan Implementation - first reading

Key Points

- The general Heights area has been identified since 2011 by the Vancouver Comprehensive Plan as a future urban center envisioned to accommodate development as the City grows. Centers are areas where existing services and infrastructure support new development and allow for the creation of 20-minute neighborhoods, and where proximity to services, amenities and transportation options increase livability and promote community identity.
- In June 2017 the City of Vancouver purchased the Tower Mall property with the intention of facilitating redevelopment and catalyzing private investment in an underserved area, now called the Heights District. The 205-acre District includes a mix of City and privately-owned properties, and includes commercial and retail uses, social and healthcare services, three schools, several churches, and a housing complex owned by the Vancouver Housing Authority. Within the District, the 63-acre Tower Mall Redevelopment Area was identified as the area where most redevelopment will occur in the future. The entire District will also be served by the forthcoming Mill Plain Bus Rapid Transit (BRT) extension.
- At the beginning of the planning process, the Council established key objectives for the Heights District, including establishing a vision for a vibrant urban neighborhood, integrating affordable and workforce housing, creating accessible public open spaces, integrating innovative and sustainable urban design, seamlessly integrating transit, increasing multimodal safety and connectivity, and establishing 20-minute neighborhoods where residents can safely and comfortably walk, bike, roll and take transit to access daily services and amenities.
- In order to ensure that the Heights District Plan reflected community values and the needs and aspirations of a variety of stakeholders, the project planning team undertook a robust community engagement process. Public outreach and engagement was conducted using a variety of methods designed to engage a diverse group of stakeholders as well as the broader community, including three large public in-person open houses and concurrent online open houses; nearly 100 meetings with individuals, focus groups, community

organizations and student groups; a Community Advisory Committee (CAC) comprised of 20 diverse stakeholders that met 12 times throughout the planning process and provided detailed feedback and guidance on the Plan recommendations; and regular project updates including a project webpage, mailing list, media releases, distribution through schools, and postcards mailed to thousands of households. Efforts were made throughout the process to engage underrepresented communities, including persons of color, immigrants, renters, youth, and people with disabilities.

- Following a series of workshops and plan refinements, the City Council adopted the Heights District Plan, Plan Appendices, and a Planned Action Final Environmental Impact Statement on August 17, 2020, and directed staff to begin implementation efforts.
- In September 2020 the Heights project team initiated a process for updating development standards to ensure future development in the Heights aligned with the Plan vision and goals, including a new Heights Mixed Use (HX) zoning district and associated Urban Design Guidelines, updates to Title 20 and the City's Comprehensive Plan, and a Planned Action Ordinance and supporting mitigation measures.
- Outreach and engagement related to implementation of the Heights District Plan has continued the robust community process that occurred as part of the subarea planning process, including ongoing engagement with the following stakeholder groups: Neighborhood Associations and coalitions, Heights Community Advisory Committee (CAC), agency partners, property owners, businesses, service providers, community-based organizations, affordable housing partners, and the broader development community.
- Community engagement and stakeholder feedback resulted in significant changes to the proposed regulatory standards over the course of their development. Items that were refined based on this engagement include building heights throughout the District, step-down provisions, minimum parking ratios, limitations on uses in different subdistricts, greater flexibility for ground floor uses, additional requirements for Crime Prevention Through Environmental Design features (CPTED), flexibility in parking screening requirements, refined transportation demand management provisions, and updated bike parking standards, among others. More detailed information on community outreach and engagement associated with implementation of the Heights District Plan is available in a summary memo provided to Council at a May 17 workshop and in the staff report for the June 8, 2021, Planning Commission public hearing on this topic.
- In addition to stakeholder input, the City Council and Planning Commission reviewed and made recommendations on refinements to the proposed Heights regulatory standards at a series of workshops in 2020 and 2021. Planning Commission workshops were held on October 13 and November 10, 2020, and January 26 and April 13, 2021. City Council workshops were held on February 8 and May 17, 2021.

Strategic Plan Alignment

Goal 1: Ensure our built urban environment is one of the safest, most environmentally responsible and well maintained in the Pacific Northwest.

Goal 6: Facilitate the creation of neighborhoods where residents can walk or bike to essential

amenities and services "20-minute neighborhoods."

Goal 8: Strengthen commercial, retail and community districts throughout the city.

Present Situation

The following implementing regulations have been developed for the Heights District: adoption of a new Heights Mixed Use (HX) zoning district and associated Heights District Urban Design Guidelines; adoption of additional amendments to the City of Vancouver Comprehensive Plan and Title 20 of the Vancouver Municipal Code; and adoption of a Planned Action for the Heights District, including mitigations.

The Heights Mixed Use (HX) Plan District (Exhibit A) is intended to implement the Heights District Plan vision, goals and policies, and includes standards in the following areas: regulation of uses, including ground floor frontage requirements; development standards, including minimum residential density, maximum building height, building step-down and transitions, facades, building line provisions, modulation, entrances, roof forms, architectural characteristics, materials and colors, landscaping, stormwater, signage, vehicle and bicycle parking minimums and other requirements, and utilities and screening; a design standard modification process; and approval processes for site plan, planned action and design review.

The Heights District Urban Design Guidelines (Exhibit B) work in tandem with the Heights Mixed Use (HX) Plan District to implement Plan visions, goals, and policies. They are founded on several universal design principles that help shape the character, urban form and public spaces of the District, and are based on key design drivers identified through the Heights District planning process. These include inclusive mixed-income housing, connectivity, community health, wellness and equity, and sustainability, among others. The Urban Design Guidelines inform the development of all structures and landscapes within the District and are intended as a discretionary tool, which is administered in concert with the HX Plan District. They address the following aspects of development: public infrastructure, including new and existing streets, sidewalks, traffic calming, parks and open spaces, landscape design and stormwater management systems; building typologies, including housing, commercial, and civic/institutional uses; architecture, including massing, scale, building modulation and façade articulation, entrances, and roof forms; materials and color; signage; public art; parking, including vehicle and bicycle parking; lighting design; utilities and screening; and sustainable development and design.

Updates to several sections of Title 20 of the Vancouver Municipal Code (Exhibit C) will ensure integration of the new HX Plan District and maintain consistency between various sections within the development code. This includes changes in the following code sections and tables: Table 20.130.040-1 Comprehensive Plan and Corresponding Zoning District Designations; 20.430.020 Listing of Zoning Districts; 20.430.030-1 Commercial and Mixed Use Districts Use Table; 20.430.040-1 Development Standards; 20.430.050 Special Limitations on Uses; 20.770.080 Tree Density Requirements; 20.850.020 Approval Process; 20.850.030 Development Standards; 20.890.060 Additional Development Standards by Zoning District; 20.925.030 General Provisions; 20.945.080 Off Loading Requirements; and 20.985.020 Development Standards.

The Heights Mixed Use (HX) Plan District requires an amendment to Table 1-5 on page 1-13 of the Vancouver Comprehensive Plan (Exhibit D) to add the HX Plan District and definition to the list of Commercial zones in the City.

Based on the previously issued Heights District Plan: Planned Action Final Environmental Impact Statement (FEIS) a Planned Action Ordinance (PAO) is proposed to facilitate future development of the Heights District through a front loading of future environmental review. Pursuant to RCW 43.21C.440, WAC 197-11-164, and VMC 20.790.530, PAOs allow individual future development projects that are within adopted impact thresholds to undergo less extensive SEPA environmental review provided such review was undertaken in the full district EIS. The cumulative environmental thresholds for the full Heights District established in the FEIS and referenced in the Mitigation Document (Exhibit E) are for 1,800 new residential units, 204,000 square feet of commercial development, and 36,000 square feet of institutional development. To qualify for expedited SEPA review, individual future projects must not cause these cumulative district wide thresholds to be exceeded and must also follow various mitigation measures listed in the Mitigation Document. It should be noted that future projects qualifying for expedited SEPA review are still subject to the full range of substantive and procedural City planning and building codes applied during Site Plan Review or other applicable review processes.

The proposed Heights Mixed Use (HX) Zoning District, Heights District Urban Design Guidelines, Heights Planned Action Ordinance and associated Comprehensive Plan and Title 20 amendments are consistent with the Heights District Subarea Plan, applicable portions of the Vancouver Strategic Plan and Comprehensive Plan, and provide for updated development standards and regulations necessary to implement an adopted subarea plan, which is designated as an urban center in the Comprehensive Plan. Together, the proposed updates provide a framework of prescriptive standards and discretionary guidelines that will ensure individual development projects implement the vision of the Heights District Plan, and provide for enhanced housing options, additional services and amenities, and new recreation and employment opportunities in a well-designed, livable, mixed-density, mixed-use, connected and sustainable environment.

The proposed regulatory updates provide for a mix of uses that allow for the development of the District as a 20-minute neighborhood where residents can walk, bike, roll or take transit to essential amenities, services, and employment opportunities which include stores, restaurants, parks, schools, and transit stations.

The Heights Mixed Use (HX) Zoning District includes sub-districts with unique standards and supported by design guidelines to ensure development is sensitive to and compatible with the adjacent established neighborhoods, and the HX Zone includes requirements for decreased building heights and increased minimum parking ratios in transition areas where redevelopment will occur in close proximity to existing neighborhoods.

With regard to wireless communication facilities, the proposed standards ensure non-discriminatory provision of personal wireless services and adequate service in the area. While monopolies are not permitted within the HX zone, wireless facilities may be attached to existing and future structures within the zone. Additionally, the Heights District is located in close proximity to other land use zoning districts also permitting wireless communication facilities, including monopolies, that can assist in providing adequate service to the area. This regulatory standard is consistent with the authority of the City of Vancouver over the placement, construction, and modification of personal wireless service facilities.

The Urban Design Guidelines provide a framework for transportation and infrastructure improvements, including bicycle and pedestrian facilities and guidance on low impact

development stormwater management strategies and best management practices, to improve the efficiency and safety of Vancouver's transportation and utility infrastructure systems.

A duly advertised Planning Commission public hearing on this topic was held on June 8, 2021, at which the Planning Commission forwarded a unanimous recommendation to Council to adopt the Heights Mixed Use (HX) zoning district, Heights District Urban Design Guidelines, Heights Planned Action, and associated Comprehensive Plan and zoning code amendments as outlined in the staff report without edits. All materials from this public hearing are available [here](#).

Advantage(s)

1. Establishes a regulatory framework that will implement the Heights District Plan vision for 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.
2. Implements the Comprehensive Plan and Strategic Plan goals of providing enhanced housing and employment opportunities in well-designed, livable, mixed-density, mixed-use centers and corridors, and incorporating sustainability strategies in these areas.
3. Facilitates creation of a 20-minute neighborhood where residents can walk, bike, roll or use transit to access essential amenities, services, and employment opportunities.
4. Establishes unique sub-districts within the HX zone that are supported by development standards and design guidelines to ensure development is sensitive to and compatible with the adjacent neighborhoods.
5. Facilitates cohesive redevelopment in alignment with a community vision, and ensures that all future investments in buildings, transportation and utility infrastructure, parks and public space, and community development initiatives are coordinated in order to collectively implement this vision.
6. Leverages additional public investments currently being made in the Plan area, including the forthcoming Mill Plain Bus Rapid Transit (BRT) high-capacity transit line, redevelopment of three existing schools in the area, and recent investment in Skyline Crest that has resulted in new facilities providing community services and resources.
7. Allows for the lifting of the development moratorium currently in place for a portion of the Tower Mall Redevelopment Area and facilitates private investment that implements the Heights District vision.

Disadvantage(s)

Implementation of the Plan recommendations over time will result in changes to existing development patterns in the District, which is located adjacent to existing residential neighborhoods. New development standards include provisions to minimize such impacts and ensure compatibility with existing neighborhoods and uses over time.

Budget Impact

None

Prior Council Review

- [February 8, 2021 workshop](#)
- [May 17, 2021 workshop](#)

Action Requested

1. Following July 19 first reading and public hearing, approve an ordinance related to the new Heights Mixed Use zoning district and associated Heights District Urban Design Guidelines, Comprehensive Plan text amendments, and Vancouver Municipal Code Title 20 text amendments as provided in attachments to the staff report, setting date of second reading and final public hearing for August 2, 2021.
2. Following July 19 first reading and public hearing, approve an ordinance related to the Heights District Planned Action and associated mitigation document, setting date of second reading and final public hearing for August 2, 2021.
3. Following July 19 first reading and public hearing, approve an ordinance related to the lifting of the existing Tower Mall Development Moratorium that currently prohibits the acceptance and processing of applications for permits for the development of new structures, the expansion of existing structures, or subdivisions in the Tower Mall area, setting date of second reading and public hearing for August 2, 2021.

Rebecca Kennedy, Community and Economic Development Deputy Director, 360-487-7896

ATTACHMENTS:

- ▢ Public hearing presentation - July 19, 2021 (*separate cover*)
- ▢ Ordinance A - Heights Mixed Use (MX) Zoning District, Urban Design Guidelines, Comprehensive Plan and VMC 20 text amendments
- ▢ Exhibit A - Heights Mixed Use (HX) Plan District
- ▢ Exhibit B - Heights District Urban Design Guidelines
- ▢ Exhibit C - Title 20 Text Changes
- ▢ Exhibit D - Text Changes to Vancouver Comprehensive Plan 2011-2030
- ▢ Ordinance B - Heights Planned Action
- ▢ Exhibit E - Planned Action Mitigation Document
- ▢ Ordinance C - Lifting of Tower Mall Development Moratorium

07/19/21
08/02/21

ORDINANCE NO. M-

AN ORDINANCE of the City of Vancouver, Washington for a subarea known as the Heights District and relating to comprehensive planning under Chapter 36.70A and setting forth associated implementation measures amending the Vancouver Comprehensive Plan and Vancouver Municipal Code; specifically, amending the Vancouver Municipal Code by adding a new Chapter, The Heights (HX) Plan District, VMC 20.670, incorporating the Heights Plan District into other relevant code sections, adopting new Heights District Urban Design Guidelines and amending the Vancouver Comprehensive Plan to provide for implementing measures for Heights District Plan policies and goals; and providing for an effective date.

WHEREAS, in 2011, the City of Vancouver adopted a Comprehensive Plan for the Vancouver Urban Growth Area under the provisions of Chapter 36.70A RCW; and

WHEREAS, the Comprehensive Plan provides for adoption of a subarea plan for the geographic area located within the urban growth boundary commonly known as the Heights District; and

WHEREAS, the City of Vancouver developed the Heights District Subarea Plan for an area of Central Vancouver known as the Heights District to guide future development via a vision, policies, phased implementation strategies, and direct City participation; and

WHEREAS, the Subarea Plan was developed with the input of the citizen-based Community Advisory Committee and the community at large; and

ORDINANCE - 1

WHEREAS, the Subarea Plan is consistent with the policies of the Comprehensive Plan as required in Chapter 36.70A RCW; and

WHEREAS, the Community & Economic Development Department conducted a thorough review of the development anticipated within the Heights District Subarea Plan and prepared an Environmental Impact Statement (EIS) under the State Environmental Policy Act (SEPA), Chapter 43.212C RCW, which adequately considered the environmental impacts of the anticipated development of the Heights District consistent with the Subarea Plan, and provides for mitigation measures and other conditions to ensure that such future development will not create a significant adverse environmental impact; and

WHEREAS, the use designation for the Heights District with respect to wireless communication facilities ensures nondiscriminatory provision of personal wireless services and adequate service in the area and is consistent with the authority of the City of Vancouver over the placement, construction, and modification of personal wireless service facilities;

WHEREAS, the Vancouver City Council adopted the Heights District Subarea Plan on August 17, 2020 to provide for the future redevelopment of the District and the Tower Mall Redevelopment Area in a manner consistent with the Comprehensive Plan and community vision; and

WHEREAS, the Heights District Plan provided an implementation framework, including the adoption of updated implementing regulations and standards for future development;

WHEREAS, the Vancouver Planning Commission held duly advertised work sessions on October 13, 2020, November 10, 2020, January 26, 2021 and April 13, 2021, and a duly advertised public hearing on June 8, 2021, to consider the above referenced implementation measures to amend the development code; and did take public testimony; and did close public testimony on

ORDINANCE - 2

June 8, 2021, and voted to recommend approval of the Heights Plan District, VMC 20.670, the Heights District Urban Design Guidelines, and associated amendments to the Comprehensive Plan and Title 20 of the Vancouver Municipal Code as staff recommended; and

WHEREAS, the City Council held work sessions on February 8, 2021 and May 17, 2021, and duly advertised public hearings of this ordinance on July 19, 2021 and August 2, 2021, to consider the Planning Commission recommendations of June 8, 2021, and public testimony; and

WHEREAS, after taking testimony and reviewing the Planning Commission record the City Council adopts the implementation measures of the Heights District Subarea Plan including the adoption of the Heights (HX) Plan District and the Heights District Urban Design Guidelines and associated amendments to Title 20 of the Vancouver Municipal Code and the Vancouver Comprehensive Plan.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Purpose

The City Council declares that the purpose of this Heights Ordinance is to:

1. Set forth implementation measures for development and improvements within this subarea.
2. Amend the Vancouver Comprehensive Plan as provided for in Chapter 36.70A RCW, as recommended by the Vancouver Planning Commission, as indicated in Exhibit D:
3. Amend the Vancouver Municipal Code, as recommended by the Vancouver Planning Commission, including the new Heights Plan District, VMC 20.670, is adopted as indicated in Exhibit A, the new Heights District Urban Design

Guidelines are adopted as indicated in Exhibit B, and various Development Code sections are amended as indicated in Exhibit C.

Section 2. Findings

City Council makes the following legislative findings:

1. A subarea plan has been adopted per the provisions of the Growth Management Act, Chapter 36.70A RCW, for the geographic area located within the Vancouver Urban Growth Area commonly known as the Heights Plan District.
2. The Heights Plan District and Heights District Urban Design Guidelines as provided for in Exhibits A and B, respectively, are consistent with the Vancouver Comprehensive Plan and provide for the planned build out of the Heights District subarea over a twenty year time horizon in alignment with the adopted subarea plan.
3. Amendments to Title 20 of the Vancouver Municipal Code as provided for in Exhibit C are consistent with the Vancouver Comprehensive Plan and provide for the planned built out of the Heights District subarea over a twenty year time horizon in alignment with the adopted subarea plan.
4. Amendments to the Vancouver Comprehensive Plan are outlined in Exhibit D are consistent with Chapter 36.70A RCW.

Section 3. Amendments.

A. Comprehensive Plan Amendments

1. Amend Table 1-5, Vancouver Comprehensive Plan Land Use Designations, on page 1-13 of the Vancouver Comprehensive Plan as provided in Exhibit D.

B. Vancouver Municipal Code Title 20 Development Code Amendments

1. Add the Heights Plan District, VMC 20.670, to the Vancouver Municipal Code as provided for in Exhibit A;
2. Adopt the Heights District Urban Design Guidelines as provided for in Exhibit B;
3. Amend the following sections of the Vancouver Municipal Code as provided for in Exhibit C:

- i. 20.130.040 Amendments to Map and Text
- ii. 20.430.020 Listing of Zoning Districts
- iii. 20.430.030 Uses
- iv. 20.430.040 Development Standards
- v. 20.430.050 Special Limitations on Uses
- vi. 20.770.080 Tree Density Requirements
- vii. 20.850.020 Approval Process
- viii. 20.850.030 Development Standards
- ix. 20.890.060 Additional Development Standards by Zoning District
- x. 20.890.130 Summary Table
- xi. 20.925.030 General Provisions
- xii. 20.945.080 Off Loading Requirements
- xiii. 20.985.020 Development Standards

Section 4. Severability.

Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any

reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation.

Section 5. Effective date.

This ordinance shall take effect 30 days following passage and publication.

Read first time: July 19, 2021

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Read second time: August 2, 2021

PASSED by the following vote:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

SIGNED this _____ day of _____, 2021.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

ORDINANCE - 6

Jonathan Young, City Attorney

ORDINANCE - 7

SUMMARY

ORDINANCE NO. _____

AN ORDINANCE of the City of Vancouver, Washington for a subarea known as the Heights District and relating to comprehensive planning under Chapter 36.70A and setting forth associated implementation measures amending the Vancouver Comprehensive Plan and Vancouver Municipal Code; specifically, amending the Vancouver Municipal Code by adding a new Chapter, The Heights (HX) Plan District, VMC 20.670, incorporating the Heights Plan District into other relevant code sections, adopting new Heights District Urban Design Guidelines and amending the Vancouver Comprehensive Plan to provide for implementing measures for Heights District Plan policies and goals; and providing for an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).

EXHIBIT A

NEW VMC 20.670, THE HEIGHTS PLAN DISTRICT

CHAPTER 20.670 THE HEIGHTS (HX) PLAN DISTRICT

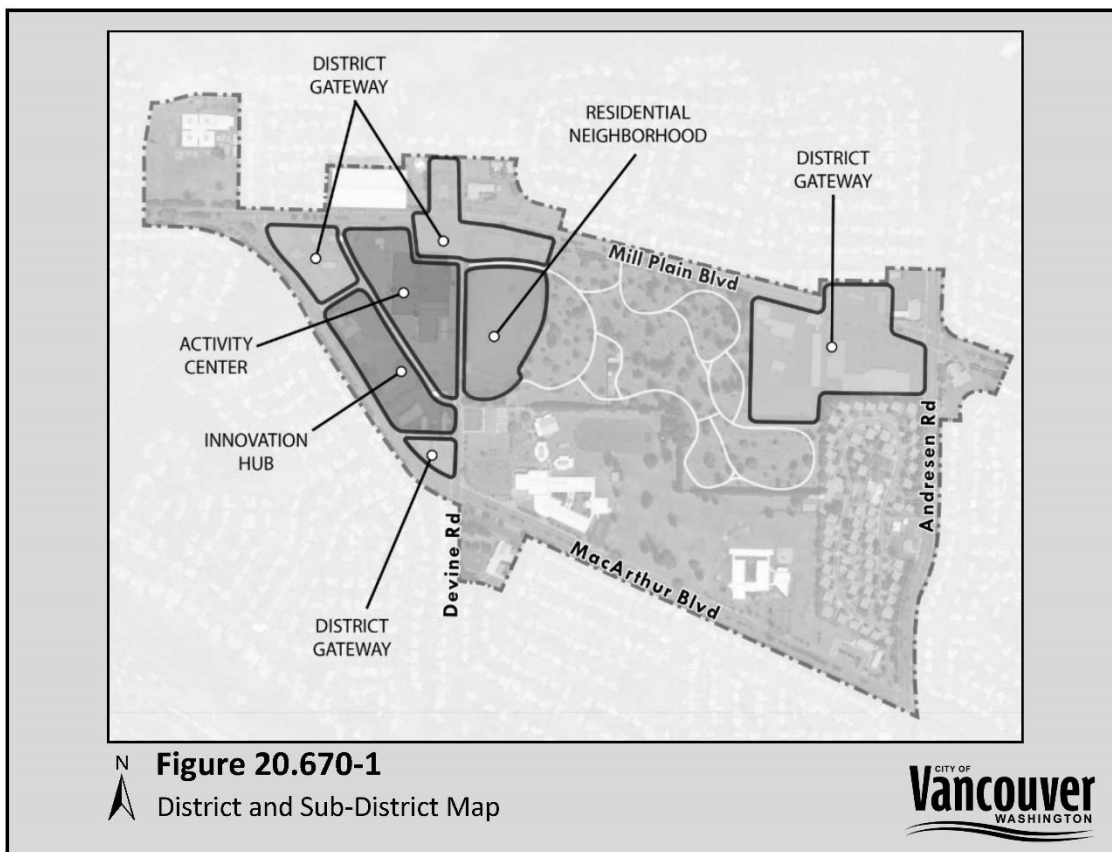
20.670.010 Purpose

The Heights District is envisioned as a vibrant neighborhood center that is sustainable, healthy, equitable, accessible and safe, and includes a mix of complementary uses, 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. The purpose of the Heights Mixed Use (HX) Plan District is to implement the vision, goals, and policies of the Heights District Plan, and ensure future development is integrated, cohesive, context sensitive and contributes to the overall District Vision.

20.670.020 Applicability

These standards apply to the properties within the subdistrict areas shown on Figure 20.670-1. These standards shall be in addition to other applicable standards of Vancouver Municipal Code or state law, and shall supersede those standards where they conflict

Figure 20.670-1. District and Sub-District Map



20.670.030 Regulation of Uses

A. Uses are allowed as specified in Table 20.430.030-1 and as shown in Figure 20.670-2, subject to standards and guidelines for The Heights District established in this Chapter.

B. *Ground Floor Use Regulation by Frontage Type.* Ground floor uses shall be regulated by Frontage Type as shown in Figure 20.670-2.

1. Commercial frontage:
 - a. All commercial uses, except office uses allowed
 - b. Residential uses prohibited except residential lobbies and entrances associated with upper story residential uses are allowed but limited to 25% of the total length of the street frontage
 - c. Institutional uses prohibited
2. Residential frontage:
 - a. Residential uses allowed
 - b. Commercial and institutional uses are prohibited
3. Mixed Residential/Commercial frontage:
 - a. Commercial uses allowed
 - b. Residential uses allowed but limited to no more than 50% of the total length of street frontage
 - c. Institutional uses prohibited
4. Limited Commercial frontage:
 - a. Residential uses allowed
 - b. Commercial uses allowed but limited to no more than 25% of the total length of street frontage
 - c. Institutional uses prohibited

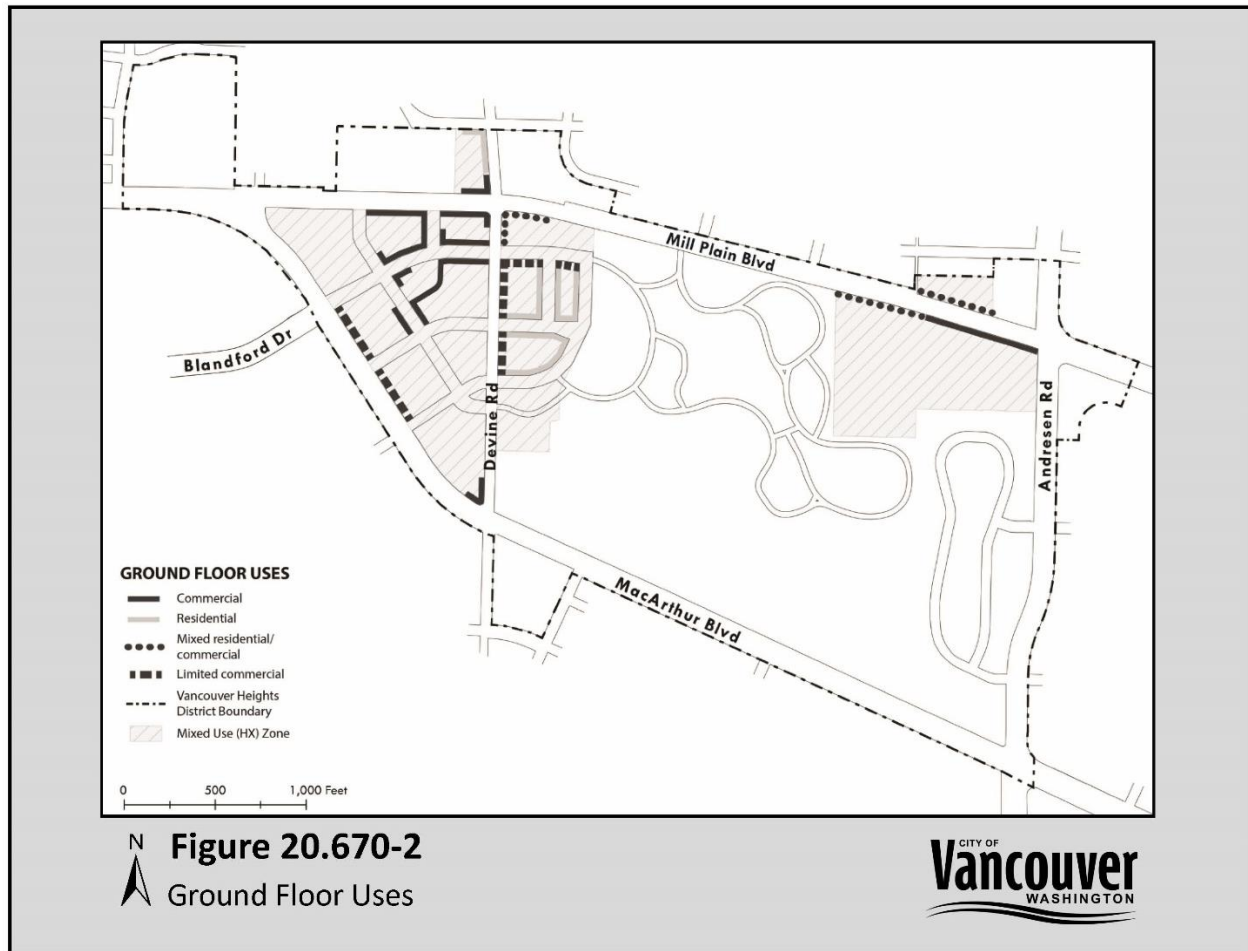


Figure 20.670-2. Ground Floor Use Map

C. Live/work uses and standards.

Live/Work. A commercial space where residential and commercial uses are combined and where the dwelling unit is the principal residence of the business operator/proprietor.

1. Uses.

- a. Live/work uses are permitted where commercial uses are permitted in the District Gateway and Innovation Hub sub-districts of the HX District.
- b. The following commercial uses are prohibited in live/work units.
 1. Any use not permitted in the HX District, as specified in Table 20.430.030-1;
 2. The retail sale of food and/or beverages with customers arriving on-site. This does not include online (Internet) sales, mail order, or off-site catering preparation;
 3. Entertainment, drinking, and public eating establishments;
 4. Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale;
 5. Businesses that involves the use of prescription drugs.

- c. A live/work unit is allowed instead of, or in addition to, a home occupation.
- d. The residential and the commercial space must be occupied by the same tenant, and no portion of the live/work unit may be rented or sold separately.

2. Standards.

- a. The commercial use may occupy a maximum of 50 percent of the unit floor area.
- b. Residential uses are permitted above, to the side, or in back of the commercial use, provided that there is internal access between the residential and commercial uses;
- c. Signage intended to promote on-site commercial uses shall be restricted to two square foot signs permanently affixed to door or wall of the commercial use;
- d. No more than one employee (excluding residents of the dwelling unit) shall work or report to work on the premises, and the employment of any persons who do not reside in the live/work unit shall comply with all applicable building code requirements;
- e. Off-site impacts of the commercial use, such noise, glare, and vibration, shall be subject to City performance standards in VMC 20.935.030; and
- f. Explosive, toxic, combustible, or flammable materials in excess of what is allowed incidental to permitted residential uses shall not be stored or used on the premises.

20.670.040 Design and Development Standards

A. MASSING AND SCALE

- 1. *Minimum Density.* The minimum residential densities in Table 20.670.040-1 shall apply in the HX District.

Table 20.670.040-1. Minimum Residential Density

Sub-District	Minimum Density
Activity Center	75 dwelling units/acre
Residential Neighborhood	45 dwelling units/acre
Innovation Hub	30 dwelling units/acre
District Gateway	30 dwelling units/acre

- 2. *Building Heights.* The building height standards in Table 20.670.040-2 shall apply in the HX District.

Table 20.670.040-2 Maximum Building Heights

Sub-District	Maximum Height
Activity Center	Maximum of 85 feet
Residential Neighborhood	Maximum of 85 feet
Innovation Hub	Maximum of 50 feet
District Gateway	Maximum of 50 feet not abutting residentially-zoned properties

Sub-District	Maximum Height
	Maximum of 40 feet abutting residentially zoned properties
	Maximum of 35 feet fronting Idaho Street

Note: For the Heights District, abutting is defined as sharing a property line with residentially zoned property

3. *Height exceptions.* In addition to the height exceptions allowed by VMC 20.910.030, maximum height limitations set forth in this Chapter and elsewhere in this Title shall apply to the following in the HX District:

- a. Parapets and railings. Parapets and rooftop railings may extend 4 feet above the maximum height limit;
- b. Walls or fences located between individual rooftop decks may extend 6 feet above the maximum height limit if the wall or fence is set back at least 4 feet from the edges of the roof;
- c. Rooftop mechanical equipment, any required screening for the mechanical equipment, and stairwell enclosures that provide rooftop access may extend above the maximum height limit as follows, with the requirement that the equipment and enclosures must be set back at least 15 feet from roof edges on street-facing facades:
 - 1. Elevator mechanical equipment may extend up to 16 feet above the maximum height limit; and
 - 2. Other mechanical equipment, required screening, and stairwell enclosures may extend up to 10 feet above the maximum height limit.
- d. Roof-mounted solar energy production equipment may extend up to 3 feet above the maximum height limit; and
- e. Wind energy production equipment may extend up to 30 feet above the maximum height limit.

4. *Building step downs and transitions.* In the District Gateway sub-district, building heights shall be reduced to a maximum of 40 feet within 60 feet of a shared property line with residential uses, and a maximum of 35 feet within 140 feet of Idaho Street.

5. *Building facades.* Building facades shall not exceed 165 feet in length without an intervening break.

6. *Build to Line.*

- a. Building shall comply with the provisions of VMC 20.630.020 that describe building lines provisions for street frontages except no portion of the structure shall extend into the right of way except as specified in VMC 20.670.040.E.2. Residential uses may include setbacks per VMC 20.670.040.C.2.
- b. Setbacks for pedestrian amenities. Setbacks up to 20 feet for up to 50% of the building frontage is allowed if the setback is used for a walkway, plaza, courtyard, or other pedestrian-oriented amenity or public space.

7. *Ground floor plane.* For buildings five stories and above, the maximum ground floor plate area shall not exceed 16,000 square feet. An option to this standard is to demonstrate

significant massing breaks in the building façade to include recessed breaks (minimum of 20 feet in length and depth) and ground plane openings as pedestrian connections.

B. MODULATION AND FAÇADE ARTICULATION

1. *Ground floor transparency.* Buildings with ground floor commercial uses visible from the public way or public areas such parks and other publicly accessible space shall have a minimum 75% ground level façade transparency between 2 feet and 8 feet above sidewalk grade.
2. *Ground floor to floor height.* The ground floor of buildings shall have a minimum of 16 feet building floor to floor height.
3. *Modulation.* A minimum building modulation along the façade shall be one foot in depth and the minimum width shall be five feet.
4. *Building entry.* Main entrances shall be easily identifiable through the use of building articulation and modulation. Avoid recessed doorways to provide high visibility from the public way.

C. ENTRANCES

1. *Ground floor level.* Ground floor residential uses shall be elevated above the sidewalk grade a minimum of 2 feet 6 inches to create privacy adjacent to the public realm. For these units, ensure an alternate access point that is accessible (as required by the Building Code)
2. *Entryways.* Ground floor residential entrances shall be setback from the property line a minimum of 6 feet and a maximum of 10 feet to ensure privacy from the public realm. Porches, patios, private spaces allowed within the setback.
3. *Recessed ground floor level.* Recessed ground floors shall be restricted to one level height, except at main entrances.
4. *Vehicle entries.* For mixed use residential and commercial buildings requiring vehicular garage entrances, the garage opening shall be setback from the building frontage a minimum of six feet. Adhere to all required visual sight setbacks.
5. *Townhome Garage Parking.* A minimum of 3-foot setback shall be applied for alleyway garage or tuck under parking.

D. ROOF FORMS

1. *Roof lines.* The length of any continuous flat roofline shall not exceed more than 100 feet without modulation. The minimum modulation for roof lines is 3 feet.
2. *Roof Materials.* Roof materials shall meet the minimum SRI (solar reflectance index) standards to reduce urban heat gain. Inappropriate materials such as wood singles, cement tiles and plastic slate and shingles shall be discouraged.
3. *Roof Top Projections.* Elevator cores, stair projections, solar panels and mechanical equipment shall be incorporated into the architecture of the building with consistent building materials. See VMC 20.670.040(A)(3) for provisions regarding height, setbacks, and screening of roof top features.
4. *Roof Decks.* Accessible roof decks shall provide safety setback standards from the roof edge and mechanical equipment as required.

E. SECONDARY ARCHITECTURAL FEATURES

1. *Visual Interest.* Add visual depth to facades where appropriate by incorporating balconies, canopies, awnings, decks, or other secondary elements into the façade design.
2. *Encroachment.* A building's enclosed occupiable space shall not encroach into the right-of-way, with the exception of bay windows or balconies. Bay windows and balconies shall not extend more than 4 feet into the right-of-way and 30% of width of residential units or 50% of the width of hospitality units.
3. *Weather Protection.* Overhead weather protection shall be provided along all streets with a minimum clear height of 10 feet and maximum clear height of 15 feet consistent with the provisions of VMC 20.630.030 except in instances where the pedestrian amenities articulated in section A.6.b of this chapter are utilized.
4. *Pedestrian oriented features.* At least 75% of the width of any new or reconstructed ground-level building wall facing a street shall be devoted to pedestrian-oriented features or material variation, pedestrian entrances and/or windows affording views into retail, storefront, office or lobby space.
5. *Blank walls.* Continuous blank walls shall not exceed 15 feet in length. Where blank walls are present, incorporate a range of design approaches such as green walls, façade articulation, art or other approved applications to create interest at the adjacent pedestrian area.

F. MATERIALS AND COLORS

1. *Prohibited materials.* The following are prohibited exterior building materials: plastic laminate, glossy or large expanses of acrylic or plexiglass, pegboard, mirror, highly polished or plated metals (except as a trim), mirrored glass, fabric or paper wall coverings, plywood or particle board, sheet or modular vinyl, shingles, shakes and horizontal lap siding.
2. *Mechanical equipment.* Mechanical equipment and above grade utilities shall be located or screened with quality materials to minimize visual impact on the public right-of-way.

G. LANDSCAPE DESIGN

1. *Adaptive Plant Types.* Use the Heights-specific Preferred Native and Adaptive Plant Species List as a primary resource for all at-grade planting areas both on site and within the public right-of-way. If the plant species are not available, applicants shall submit no less than five (5) statements from wholesale plant nurseries stating that plant materials are not available. If the Planning Official approves, applicants must provide plant substitutions that meet the same characteristics of the preferred plants such as but not limited to size, shape, fall color, flower, genetic potential. The characteristics must come from objective sources, such as books, manuals, or green industry cut sheets. The full Heights-specific Native and Adaptive Plan Species List can be found in the Heights District Urban Design Standards and Guidelines, Appendix 1.0
2. *Landscape requirements.* All development will meet or exceed landscaping standards in VMC 20.925.030-1 for the HX zone.
3. *Tree Cap Program.* Establish minimum standards for The District consistent with the City of Vancouver Tree Canopy Achievement Program (Tree CAP) neighborhood Gold Leaf standard for neighborhoods. More information about the City of Vancouver Tree CAP program can be found at: <https://www.cityofvancouver.us/publicworks/page/tree-canopy->

4. *Landscaped Buffers, Planter Strips, and Vegetated Swales.* All landscape buffers, planter strips and vegetated swales approved as part of the development on-site and/or within the public right-of-way shall be maintained. Plants shall be maintained in a vigorous and healthy condition, free from diseases, pests, and weeds. Competing vegetation shall be controlled to the extent necessary to allow establishment, survival, and growth of the plantings per the approved Landscape Plan. Plants which become diseased, severely damaged, or which die, shall be removed and replaced by the owner as soon as possible but no later than 60 days if notified by the city. All plants removed shall be replaced with a healthy plant of the same size and species as required by the approved Landscape Plan for the property.

H. *STORMWATER*

In addition to the standards of VMC 14.24, VMC 14.25 and VMC 14.26, the following standards apply in the Heights.

1. *Integrated Stormwater Management Systems.* The District shall incorporate stormwater management systems as a principle design element in order to manage and direct stormwater runoff while creating an opportunity to integrate public space amenities as part of the sustainable site management approach.

2. *System Design.* Stormwater infrastructure shall be designed as a complete system connecting buildings, sites, parcels and blocks as an interconnected system. The Loop feature is a key stormwater management infrastructure that shall be connected to the MacArthur Greenbelt. These corridors shall serve as a passive public space and amenity while integrating functional roadway and stormwater features using the existing street rights-of-way.

3. *Sustainable Plant Materials.* Select plant materials conducive to periods of high-water levels, as well as prolonged periods of drought shall be utilized to mitigate varying seasonal conditions.

4. *Stormwater Manage Infrastructure.* Stormwater infrastructure located in the public right-of-way shall be provided consistent with the City of Vancouver Transportation Standard Details for the Heights District and the Heights District Stormwater and Urban Forestry Guidance Document

I. *SIGNAGE*

1. All signage shall comply with the provisions of VMC 20.960 for number, location and size restrictions unless as modified herein.

2. *Sign Location.* Building signage shall be located no higher than the first floor of the building.

3. *Monument Signage.* Standalone monument signage is permitted if located on private property and shall not impede right-of-way vision triangles. Monument signs shall be no taller

than 8.5 feet above grade, no wider than 4 feet and be constructed of materials contained on the exterior of adjacent buildings.

4. *Electronic Message Center signage.* Electronic Message Center signage shall not be permitted.

5. *Master Sign Program- Individual Buildings.* Individual buildings that accommodate multiple businesses and require signage for each business shall produce a master signage program that defines the size, number, and locations of signs. The design of signs shall be reviewed and approved by the City as a part of the Master Sign Program and building design review process to ensure the signage is integrated into the architecture and overall development.

6. *Master Sign Program- District.* All signs shall adhere to the Master Development Signage program for The Heights District.

7. *Materials.* Signage shall be constructed of high quality, durable materials

8. *Illumination.* Direct illumination such as goose neck, exterior illumination as well as halo style lettering or back lit lettering are the preferred method of signage illumination. Channel letter signage is allowed as an option only if exterior lighting applications are demonstrated to not be possible based on constraints for the mounting location, ambient light levels or to eliminate the use of a backer board.

9. *Prohibited signage.* In addition to prohibited signage contained in VMC 20.960.030, the following signage or signage materials are prohibited:

- a. Cabinet signage/box signage/can signage
- b. No exposed raceways

10. *Application.* Signage shall be appropriate for its intended use such as residential, office, and retail.

11. *Public Realm Signage.* Kiosk, wayfinding and interpretive signage intended to promote a comprehensive District placemaking strategy shall be allowed upon review from the City.

J. PARKING

1. *Parking Strategy.* Provide a dispersed, shared parking strategy through a combination of surface, at-grade, podium and above-grade mixed-use parking structures that meet the demand of residents, visitors, and employees.

2. *Parking Ratios.* Parking will be provided to meet the acceptable City of Vancouver standards for the HX zone as listed in Table 20.670.040-3 and 20.670.040-4 below.

Table 20.670.040-3. Parking Minimums for Residential Uses

Sub-District	Required off-street parking	Parking reductions with transportation demand management (TDM) measures
Activity Center	1 space per dwelling unit	.75 spaces per dwelling unit
Residential Neighborhood	1 space per dwelling unit	.75 spaces per dwelling unit
Innovation Hub	1.25 spaces per dwelling unit	1 space per dwelling unit
District Gateway	1.25 spaces per dwelling unit	1 space per dwelling unit if development not abutting residentially zoned properties No reductions for development abutting residentially zoned properties

Note: For the Heights District, abutting is defined as sharing a property line with residentially zoned property

Table 20.670.040-4. Parking Minimums for Nonresidential Uses

Nonresidential Uses	
Uses	Required off-street parking
Office	1 space per 1,000 square feet
Hotel	.5 spaces per lodging unit
Senior Living	1 space per living unit
Commercial/All other uses	No minimum requirement for ground floor uses

a. The minimum number of parking spaces required for residential uses may be reduced per Table 20.670.040-3 below, if the City approves a Transportation Demand Management (TDM) plan for the proposed development.

b. The TDM Plan described in subsection (a) shall include the following elements.

1. Narrative describing the characteristics of the proposed development and how it is served by the larger transportation system, including roads, transit facilities and services, and other multi-modal transportation facilities.
2. Specific TDM measures to be employed to reduce transportation via single-occupancy vehicles and resulting on-site parking needs. Eligible TDM measures are listed in subsection (c) below.
3. A description of how TDM measures will be communicated to users of the development.

4. A description of how users will be required or encouraged to use TDM measures.
 5. A proposed process for monitoring individual and overall use of TDM measures and reporting their use to the City on an annual basis.
- c. TDM Plans must include specific provisions to be eligible for residential parking reductions, TDM plans must include either measure (c)(1) or Measure (c)(2) below, and at least three other measures selected from (c)(3), (4), (5), (6) or (7) below, for a total of at least four measures:
1. Provision of annual transit pass or equivalent for residents at no charge or a rate reduced by 75% or more.
 2. Pricing for parking spaces that is charged separately from residential units.
 3. Designation of at least 5 percent of available parking spaces for high occupancy vehicle use.
 4. On-site presence of car-share vehicles and parking spaces (which account for at least 5 percent of the total number of parking spaces).
 5. Use of a guaranteed ride home program or an agreement to pay into and utilize the City of Vancouver's existing guaranteed ride home program.
 6. On-site presence of shared cargo bikes available to all residential tenants.
 7. On-site provision of repair facilities and/or services for bicycles and other non-vehicular mobility devices available for all residential tenants.
- d. Operators of an approved TDM program shall submit a report summarizing operation, and results of the program on an annual basis beginning one year after occupancy of the building. The report shall describe the following:
1. Specific TDM measures used.
 2. Certification that all TDM measures selected for the TDM program are operating as described in the TDM Plan.
 3. Documented participation of program users, including average number and frequency of use of measures and services.
- e. Additional information about TDM program requirements shall be provided to participants by City staff.
3. *Parking Standards.* All parking shall meet the requirements contained in VMC 20.945 as applicable unless as contained herein.
4. *Parking Structures*
- a. All structured parking shall be accessory to and integrated into a block and building envelope and will support multiple permitted uses in The District. Stand-alone parking structures are not permitted.
 - b. Any above grade structured parking shall be screened from public view by integrating into the overall building design, and/or through a combination of screen walls and landscape buffer areas. Screening provides an opportunity to enhance building design through the use of art, green walls, and innovative materials.

c. Semi subterranean parking shall be screened along all sides with the exception of entrances and exits. Separate openings for ventilation shall be screened with evergreen landscape planting and/or metal mesh screens.

5. *Surface Parking.* New surface parking lots shall be located behind buildings and screened from the public right-of-way. In the event screening by the building is not feasible, staff may consider surface parking lots located along the right-of-way with required screening.

6. *Parking Lot Screening.* A wall, fence, or evergreen planting is required between an off-street parking area and a street frontage in the HX District.

a. This screening is required for new construction or paving or repaving of a parking area over 1,000 square feet.

b. The wall or planting shall be a minimum height of two-and-a-half (2.5) feet and a maximum height of three (3) feet.

c. A fence shall be a maximum height of five (5) feet. The total height of a combined wall and fence structure also shall be a maximum of five (5) feet.

d. A pedestrian access (break in the screening) is required a minimum of every 150 feet or a minimum of one per street frontage.

e. Fencing shall be wrought iron.

f. A wall shall be a solid, decorative concrete, or masonry wall.

g. If a solid, plain wall, the wall must incorporate one of the following design features:

1. Decorative panels;

2. Integrated planting (systems);

3. Public art; or

Other features as approved by the Planning Official.

7. *Existing Parking.* Existing surface parking lots will be allowed to be maintained until replaced by development of the parcels.

8. *Parking Access.* Access to structured parking shall only be from alleys or side streets. Access to structured parking is anticipated to be from designated secondary streets consistent with the City of Vancouver standards or approved road modifications.

9. *Parking Lot Lighting.* Parking lots shall be well lit to provide for visibility at night.

10. *Garage Openings.* Garage openings visible from public streets shall include decorative screening to soften the appearance of the garage facade.

11. *Parking Setbacks.* Parking garage entrances and exits shall be setback 6 feet from the building facade. Entrances to parking structures that are completely fronted by buildings.

12. *Parking Signage.* All parking shall have clear signage and entrances/exits lighted.

13. *Bicycle parking.* Bicycle parking shall be provided to meet acceptable City of Vancouver standards for the HX zone as listed below in table 20.670.040-5, and shall be consistent with the standards of VMC 20.945.050 <https://vancouver.municipal.codes/VMC/20.945.050>

and *The City of Vancouver Bicycle Parking Guidelines*.

a. Up to 50 percent of long-term bicycle parking spaces may be provided in individual residential dwelling units, if they meet the following criteria:

- (1) The bicycle parking is located within 15 feet of the entrance to the dwelling unit
- (2) The bicycle parking is located in a closet or alcove of the dwelling unit that includes a rack
- (3) For buildings with no elevators that utilize the in-unit long-term bicycle parking provisions, in-unit long term bicycle parking spaces may only be located in ground floor units.

Table 20.670.040-5 Bicycle Parking Minimums

Uses	Required Short-Term Parking Bicycle Parking	Required Long-Term Bicycle Parking
Residential	.05 per dwelling unit, 2 spaces minimum	1 per dwelling unit for buildings with 5 or more dwelling units
Commercial	1 per 5,000 sf of floor area, 2 spaces minimum	1 per 15,000 sf of floor area, 2 spaces minimum
Office	1 per 25,000 sf of floor area, 2 spaces minimum	1 per 5,000 sf of floor area, 2 spaces minimum
Civic/Institutional Buildings	1 per 5,000 sf of floor area, 2 spaces minimum	1 per 15,000 sf of floor area, 2 minimum
Lodging	2 spaces minimum	1 per 10 rooms, 2 spaces minimum
Parks	1 per 5,000 sf park area, 2 spaces minimum	None

b. Additional Development Standards. The following standards apply to sites where more than 20 long-term bicycle parking spaces are required and provided in one or more shared bicycle parking facilities outside of individual dwelling units:

- (1) Minimum number of horizontal bicycle parking spaces. At least 20 percent of spaces must be in a horizontal rack, or on the lower level of a stacked bicycle parking rack.
- (2) Parking for larger bicycle spaces. At least 5 percent of spaces must accommodate a larger bicycle space for cargo bikes, placed in a horizontal rack. These spaces must be a minimum of 3 feet (36 inches) in width, 10 feet (120 inches) long with 3 feet and 4 inches (40 inches) of height clearance.
- (3) Electrical outlet requirement. At least 20 percent of spaces must have electrical sockets within four feet of the spaces. Each electrical socket must be accessible to horizontal bicycle parking spaces.

L. UTILITIES AND SCREENING

1. *Utility and Solid Waste Locations.* Utilities shall be located away from primary streets and pedestrian sidewalks and located on alleys or from secondary streets wherever possible.
2. *Below Grade Utilities.* Utilities shall be located below grade in vaults or inside buildings where possible. Solid waste containers and disposal are shall be located inside buildings. If not possible, screening shall be provided per VMC 20.970.
3. *Venting System Locations.* Venting of air exhaust and mechanical building systems shall be away from primary streets and main pedestrian areas and shall be architecturally incorporated into buildings.
4. *Wall-Mounted Utilities.* Utilities mounted on building walls shall not intrude on the public right of way space adjacent to a pedestrian path of travel, shall be setback, or have a landscape zone for a buffer.
5. *Mechanical Vents.* Mechanical vents required on building exteriors shall be located 8'-0" above grade or between grade and 18" and shall be integrated into the façade design to minimize visual impacts.

20.670.050 Design Standards Modification.

Modifications to design standards listed above and The Heights Urban Design Guidelines, with the exception of height and parking, may be processed as part of the request for site plan approval if the applicant can demonstrate compliance with the following approval criteria:

- A. The modification(s) is warranted given site conditions and/or characteristics of the design; and
- B. The proposed change meets the intent of the development standards and The Heights Subarea Plan and is consistent with the Design Guidelines; and
- C. The proposed change will not result in a substantial impact to transportation, water, sewer, or storm water management systems; and
- D. The proposed change is consistent with Vancouver Municipal Code and Vancouver Comprehensive Plan.

20.670.060 Approval Process

- A. New developments and modifications to existing permitted development shall comply with the approval process outlined in VMC 20.270 Site Plan Review and VMC 20.790.530 Planned Action Review.
- B. New development and modifications to existing permitted development shall also comply with Design Review approval criteria for the HX District established below in VMC 20.670.060(D) unless exempted. The following activities shall be administratively exempt from design review:
 1. Exterior work not visible from the public way or public areas such as parks and other publicly accessible spaces;
 2. Placement of permanent signs, unless a) inconsistent with adopted design guidelines, such as pole signs; or b) potentially inconsistent with nearby uses;
 3. Public art; and
 4. Other minor construction such as replacement of doors, windows, awnings, etc., determined by the Planning Official to be exempt.
- C. *Site Plan approval criteria.* The Site Plan shall be approved, approved with conditions or denied upon finding that:

1. The proposed development implements the Heights District Plan and the requirements of this chapter
2. The proposed development is consistent with The Heights District Plan vision, goals, and policies, as applicable
3. The development is consistent with The Heights District Urban Design Guidelines or proposed standards that will achieve at least equal quality site development
4. All new development is consistent with the conceptual street and open space layout as illustrated in The Heights District Subarea Plan and Urban Design Guidelines

D. Design Review approval criteria. The Planning Official shall base all reviews of the design of any proposed construction, remodeling or development according to the following criteria:

1. The requirements, guidelines, and applicable provisions of this Title that are applicable to the zoning district where the property is located and including all additional zoning regulations which may apply to the use or to its area by provision for overlay district, or made applicable by any conditional use or variance approval;
2. The Heights Urban Design Guidelines kept on file and available for public inspection at the Community and Economic Development Department;
3. The relationship found to exist between existing structures and open space, and between existing structures and other structures in the vicinity, and the expected effect of the proposed construction upon such relationships;
4. The impact of the proposed construction on adjacent uses, including impact of new or revised parking and pedestrian uses; and
5. The protection of neighboring uses from identifiable adverse effects of the design of the proposed construction.
6. The proposed development is consistent with The Heights District Plan vision, goals, and policies, as applicable.

Exhibit B: Heights District Urban Design Guidelines

https://www.cityofvancouver.us/sites/default/files/fileattachments/city_council/page/47621/exhibit_b_heights_district_urban_design_guidelines.pdf

EXHIBIT B

AMENDED VANCOUVER MUNICIPAL CODE SECTIONS

(see underlines)

Amend VMC Table 20.130.040-1 as follows:

20.130.040 Amendments to Map and Text

Table 20.130.040-1. COMPREHENSIVE PLAN AND CORRESPONDING ZONING DISTRICT DESIGNATIONS

Comprehensive Plan Designation	Corresponding Zoning Districts
Urban Lower Density	R-2 (2 du/ac) ² R-4 (4 du/ac) ² R-6 (6 du/ac) R-9 (9 du/ac)
Urban Higher Density	R-18 (18 du/ac) R-22 (22 du/ac) R-30 (30 du/ac) R-35 (35 du/ac) MX Mixed Use
Commercial and Mixed Use	CN Neighborhood Commercial CC Community Commercial CG General Commercial CX City Center WX Waterfront Mixed Use CPX Vancouver Central Park RGX Riverview Gateway (1) MX Mixed Use <u>HX The Heights</u>

Comprehensive Plan Designation	Corresponding Zoning Districts
Industrial	OCI Office Commercial Industrial ECX – Employment Center Mixed-Use IL Light Industrial IH Heavy Industrial A Airport
Open Space	GW Greenway NA Natural Area P Park
Public Facility	All Zones

1 RGX Riverview Gateway is also consistent with Low Density and High Density Residential, and Industrial Comprehensive Plan designations.

2 In accordance with VMC [20.410.025\(B\)\(5\)](#), No vacant or underutilized land areas (per Vacant Buildable Lands Model criteria) within the City shall be rezoned R-2 or R-4 for new residential development. Land use and zoning designations for residential lands being annexed into the City shall be converted to City designations in accordance with VMC [20.230.030](#).

Amend VMC 20.430.020(H) as follows:

20.430.020 Listing of Zoning Districts

H. HX: Heights District. The HX zoning district is envisioned as a vibrant neighborhood center that is sustainable, healthy, equitable, accessible and safe, and includes a mix of complementary uses, 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. The purpose of the Heights Mixed Use (HX) Plan District is to implement the vision, goals, and policies of the Heights District Plan, and ensure future development is integrated, cohesive, context sensitive and contributes to the overall District Vision.

Amend VMC Table 20.430.030-1 as follows:

20.430.030 Uses

Table 20.430.030-1. Commercial and Mixed-Use Districts Use Table

USE	CN	CC	CG	CX	WX	CPX ₁	MX ²	RGX ⁴⁴	HX ⁵¹
RESIDENTIAL									
Household Living	L ⁴	L ^{4,8}	L ^{4,8}	L ^{42,8}	L ^{5,8}		P ^{6,8}	P ⁸	<u>P⁸</u>
Group Living	P/C ⁷	P/C ⁷	P/C ⁷	P/C ⁷	P/C ⁷		P ⁶	P	<u>P</u>
Home Occupation	L ¹⁰	L ¹⁰	L ¹⁰	L ¹⁰	L ¹⁰		L ¹⁰	L ¹⁰	<u>L¹⁰</u>
HOUSING TYPES									
Single Dwelling Units, Attached	L ⁴	L ⁴	L ⁴	L ⁴²	L ⁴		P ⁶	P	<u>L⁴</u>
Single Dwelling Units, Detached	X	X	X	X	X		P ⁶	P	<u>X</u>
Accessory Dwelling Units	X	X	X	X	X		P ⁶	P	<u>P</u>
Duplexes	L ⁴	L ⁴	L ⁴	L ⁴²	L ⁴		P ⁶	P	<u>X</u>
Multi-Dwelling Units	L ⁴	L ⁴	L ⁴	L ⁴²	L ⁴		P ⁶	P	<u>L⁴</u>
Existing Manufactured Home Development	X	X	X	X	X		X	X	<u>X</u>
Designated Manufactured Home	X	X	X	X	X		X	X	<u>X</u>
New Manufactured Home	X	X	X	X	X		X	X	<u>X</u>

USE	CN	CC	CG	CX	WX	CPX ₁	MX ²	RGX ⁴⁴	HX ⁵¹
Affordable Housing Projects	X	L ⁸	L ⁸	L ⁸	L ⁸	L ⁸	L ⁸	L ⁸	<u>P</u>
CIVIC (Institutional)									
Basic Utilities	C	C	C	P	C		C	C	<u>C</u>
Colleges	X	C	C	P	C		P	P	<u>P</u>
Community Centers	X	C	C	C	C		C	C	<u>C</u>
Community Recreation	X	L ¹¹	L ¹¹	L ¹¹	L ¹¹		L ¹¹	L ¹¹	<u>L¹¹</u>
Cultural Institutions	L ¹⁹	P	P	P	P		P	P	<u>P</u>
Day Care									
- Family Day Care Home	P/L ¹³	P/L ¹³	P/L ¹³	P/L ¹³	P/L ¹³		P/L ¹³	P/L ¹³	<u>P/L¹³</u>
- Child Care Center	L ¹³	L ¹³	L ¹³	L ¹³	L ¹³		P/L ¹³	P/L ¹³	<u>P/L¹³</u>
- Adult Day Care	P/C ¹⁴	P	P	P	P		P	P	<u>P</u>
Emergency Services	X	C	P	P	C		P	P	<u>P</u>
Medical Centers	X	C	C	P	C		C	P	<u>C</u>
Parks/Open Space									
- Neighborhood Parks	P	P	P	P	P		P	P	<u>P</u>
- Community Parks	P	P	P	P	P		P	P	<u>P</u>
- Regional Parks	X	P	P	P	P		P	P	<u>P</u>
- Trails	P	P	P	P	P		P	P	<u>P</u>
Postal Service	L ¹⁹	P	P	P	P		P	P	<u>P</u>

USE	CN	CC	CG	CX	WX	CPX ₁	MX ²	RGX ⁴⁴	HX ⁵¹
Religious Institutions	X	P	P	P	C		P	P	<u>P</u>
Schools (not truck driving schools)	C	P	P	P	P		P	P	<u>P</u>
Social/Fraternal Clubs	C	L ¹¹	L ¹¹	L ¹¹	L ¹¹		L ¹¹	L ¹¹	<u>L¹¹</u>
Transportation Facility	P	P	P	P	P		P	P	<u>P</u>
Park & Ride Facilities									
Surface	X	L ⁴⁸	L ⁴⁸	X	X	X	X	X	<u>X</u>
Structure	X	L ⁴⁸	L ⁴⁸	L ⁴⁸	L ⁴⁸	L ⁴⁸	L ⁴⁸	X	<u>L⁴⁸</u>
COMMERCIAL									
Commercial and Transient Lodging	X	C	P	P	L ¹⁸ /C		L ¹⁸ /C	P	<u>L¹⁸/C</u>
Eating/Drinking Establishments	L ^{19/20}	P	P	P	P		P	P	<u>P</u>
Entertainment-Oriented									
- Adult Entertainment	X	X	L ²³	X	X		X	X	<u>X</u>
- Indoor Entertainment	X	P/L ²⁴	P/L ²⁴	P/L ²⁴	P/L ²⁴		P/L ²⁴	P/L ²⁴	<u>P/L²⁴</u>
- Major Event Entertainment	X	X	P	P	C		C	X	<u>C</u>
General Retail									
- Sales-Oriented	L ¹⁹	P	P	P ²⁵	P		P	P ^{25, 46}	<u>P</u>
- Personal Services	L ¹⁹	P	P	P	P		P	P	<u>P</u>

USE	CN	CC	CG	CX	WX	CPX ₁	MX ²	RGX ⁴⁴	HX ⁵¹
- Repair-Oriented	X	P	P	P	X		P	P	<u>P</u>
- Bulk Sales	X	P	P	P	X		P	C	<u>P</u>
- Outdoor Sales	X	C	P/L ²⁶	P/L ²⁶	X		P/L ²⁶	X	<u>P/L²⁶</u>
Artisan and Specialty Goods Production	X	L ⁴⁰	L ⁴⁰	L ⁴⁰	X		X	X	<u>L^{40,52}</u>
Motor Vehicle Related									
- Motor Vehicle Sales/Rental	X	L ²⁷	P	P	X		C ²⁷	X, L ⁴⁵	<u>X</u>
- Motor Vehicle Servicing/Repair (entirely indoors)	X	L ²⁸	L ²⁸	L ²⁸	X		C ²⁸	X	<u>X</u>
- Vehicle Fuel Sales	X	L ²⁸	L ²⁸	L ²⁸	C		C ²⁸	X	<u>X</u>
- EV Basic Charging Stations (accessory and standalone)	P	P	P	P	P		P	P	<u>P</u>
- EV Rapid Charging Stations (accessory and standalone)	P	P	P	P	P		P	P	<u>P</u>
-EV Battery Exchange Stations	X	P	P	P	X		X	P	<u>X</u>
Office									
- General	L ¹⁹	P	P	P	P		P	P	<u>P</u>
- Medical	L ¹⁹	P	P	P	P		P	P	<u>P</u>
- Extended	X	P	P	P	X		X	X	<u>X</u>

USE	CN	CC	CG	CX	WX	CPX ₁	MX ²	RGX ⁴⁴	HX ⁵¹
Marina (See also Chapter 20.760 VMC)	X	P	P	P	P		P	X	<u>P</u>
Non-Accessory Parking	X	C	C	C ⁴³	C		C	C ⁴³	<u>X</u>
Self-Service Storage	X	P ^{3, 50}	P ⁵⁰	X	X		X	X	<u>X</u>
INDUSTRIAL									
Industrial Services	X	C	C	X	X		X	C	<u>X</u>
Manufacturing and Production	X	C/X ³⁰	P/X ³¹	P/X ⁴¹	X		C/X ³²	P ⁴¹	<u>C/X³</u> ₂
Railroad Yards	X	X	X	X	X	X	X	X	<u>X</u>
Research and Development	X	X	P	C	C		C	P	<u>C</u>
Warehouse/Freight Movement	X	X	X	X	X		X	X	<u>X</u>
Waste-Related	X	X	P ⁴⁷	X	X		X	X	<u>X</u>
Wholesale Sales	X	X	C	C	X		X	X	<u>X</u>
Major Utility Facilities	X	X	X	X	X		X	X	<u>X</u>
OTHER									
Agriculture/Horticulture	X	X	X	X	X		X	X	<u>X</u>
Airport/Airpark	X	X	X	X	X		X	X	<u>X</u>
Animal Kennel/Shelters	X	L ³³	L ³³	X	X		X	X	<u>X</u>
Cemeteries	X	C ³⁴	P ³⁴	C ³⁴	X		C ³⁴	X	<u>C³⁴</u>

USE	CN	CC	CG	CX	WX	CPX ₁	MX ²	RGX ⁴⁴	HX ⁵¹
Detention & Post Detention Facilities	X	X	C/X ³⁵	C/X ³⁵	X		X	X	<u>X</u>
Dog Day Care	L ³⁶	L ³⁶	L ³⁶	L ³⁶	L ³⁶		L ³⁶	L ³⁶	<u>L³⁶</u>
Heliports	X	X	X	C ³⁷	C ³⁷		C ³⁷	C ³⁷	<u>C³⁷</u>
Medical Marijuana Cooperatives	X	X	X	X	X		X	X	<u>X</u>
Recreational Marijuana, Production or Processing	X	X	X	X	X		X	X	<u>X</u>
Recreational Marijuana Retail	X	L ⁴⁹	L ⁴⁹	X	X		X	X	<u>L⁴⁹</u>
Mining	X	X	X	X	X		X	C	<u>X</u>
Rail Lines/Utility Corridors	C	P	P	P	C		C	P	<u>C</u>
Temporary Uses	L ²⁶	L ²⁶	L ²⁶	L ²⁶	L ²⁶		L ²⁶	L ²⁶	<u>L²⁶</u>
Wireless Communication Facilities	X	L/C/X ³ ₉	L/C/X ³ ₉	L/C/X ³ ₉	L/C/X ³ ₉		L/C/X ³ ₉	L/C/X ³ ₉	<u>L/X³⁹</u>

1 Refer to Vancouver Central Park Plan District, Chapter [20.640](#) VMC.

2 Refer to Mixed Use standards in VMC [20.430.060](#).

3 A single ground floor caretaker/security/manager residence is allowed if it is an integral part of a mini-storage building.

4 All or part of residential uses must be located above the ground floor of the structure as specified by VMC [20.430.060\(B\)\(2\)](#) with exception of Community Commercial (CC) zoned properties fronting

Broadway Street and located within the Uptown Village District of the Vancouver City Center Subarea Plan (refer to VMC [20.430.020\(B\)](#)).

5 Must have a minimum density of 10 dwelling units/net acre.

6 Allowed pursuant to mixed use standards of VMC [20.430.060](#).

7 Residential Care Homes with six or fewer residents and any required on-site staff permitted by right in housing above the ground floor; all larger group home uses are permitted conditionally.

8 Eligible affordable housing projects must (a) demonstrate eligibility for Washington State Housing Finance Commission Low Income Housing Tax Credits by providing at least 40 percent of units affordable to households at 60 percent of Area Median Income or otherwise as demonstrated eligible for credits; (b) include a guarantee that the threshold is maintained for at least 30 years unless specified longer by the finance commission; and (c) be located on properties whose borders are within 1,000 feet of a bus rapid transit or other high capacity transit corridor, or transit corridors with existing weekday peak service frequencies of 35 minutes or less, as indicated in the C-Tran 2018-2033 Transit Development Plan.

9 The language for this footnote has been deleted.

10 Subject to the provisions of Chapter [20.860](#) VMC, Home Occupations.

11 Subject to provisions of VMC [20.895.040](#), Community Recreation and Related Facilities.

12 The language for this footnote has been deleted.

13 Family day care homes for no more than 12 children are permitted when licensed by the state. Child care centers (13 or more children) are Limited (L), subject to a Type II procedure in Chapter [20.210](#) VMC. Child care centers can also be approved as part of a Planned Development, Chapter [20.260](#) VMC. In all cases child care centers must meet the standards outlined in Chapter [20.840](#) VMC.

14 In the CN zone, adult day care facilities for six or fewer adults allowed outright in the CN zone, all other facilities are permitted as conditional uses.

15 The language for this footnote has been deleted.

16 The language for this footnote has been deleted.

17 Transportation facilities are permitted except for large or land-intensive facilities such as park-and-ride lots and water taxi and ferry stations.

- 18** Bed-and-breakfast establishments are allowed as limited uses, subject to the provisions in Chapter [20.830](#) VMC, and all other lodging allowed as conditional uses.
- 19** Limited uses subject to the development standards in VMC [20.430.040\(D\)](#).
- 20** Eating and drinking establishments are permitted only in conjunction with another permitted use on site. Exclusively or predominantly drive-through eating and drinking establishments are prohibited.
- 22** Limited uses subject to the development standards in VMC [20.430.050\(B\)](#).
- 23** Subject to provisions in Chapter [20.820](#) VMC, Adult Entertainment.
- 24** Provisions in VMC [20.895.060](#) apply to Indoor Target Shooting Ranges.
- 25** Pawnshops allowed in CX and CG Districts only. No more than four pawnshop establishments allowed in the CX District.
- 26** Subject to provisions in Chapter [20.885](#) VMC, Temporary Uses.
- 27** Sales/rental lots for motor vehicles only are subject to the following criteria: (a) the lot size is approximately 200 feet by 200 feet, or 100 feet by 100 feet if a corner lot, though smaller lots will be considered if shown to meet all other requirements; (b) reviewed and approved by the city transportation manager for on-site circulation, access, and parking plan; (c) located on a primary arterial with average traffic in excess of 10,000 vehicle trips per day; (d) employee/customer parking is provided at a rate of one space plus an additional space per each 5,000 square feet of lot area; (e) there is no vehicle display in setback areas, and all setbacks are landscaped rather than paved.
- 28** Subject to provisions in VMC [20.895.070](#), Motor Vehicle Fuel Sales and Repair.
- 29** The language for this footnote has been deleted.
- 30** Micro-breweries and manufacturing of optical, medical, and dental devices, goods, and equipment allowed by conditional use; all others prohibited.
- 31** Micro-breweries, bakeries, printing, publishing, binding, lithography, repair shops for tools, scientific/professional instruments and motors, and manufacturing of optical, medical and dental devices, goods, and equipment allowed outright; all others prohibited.
- 32** Micro-breweries allowed by conditional use; all others prohibited.
- 33** Subject to provisions in VMC [20.895.020](#), Animal Kennel/Shelters.
- 34** Subject to provisions in VMC [20.895.030](#), Cemeteries.

- 35** Secure Transition Facilities as per VMC [20.855.020\(B\)\(6\)\(a\)](#) are prohibited.
- 36** Subject to the provisions in Chapter [20.850](#) VMC, Dog Day Care.
- 37** Subject to provisions in VMC [20.895.080](#), Private Landing Strips and Heliports. Airpark related uses are permitted in Pearson Airpark and Evergreen Airport only.
- 38** The language for this footnote has been deleted.
- 39** Subject to requirements in Chapter [20.890](#) VMC, Wireless Telecommunications Facilities.
- 40** Subject to limitations in VMC [20.430.050\(A\)](#). Uses defined in VMC [20.160.020\(C\)\(10\)](#).
- 41** Printing, binding, lithography, repair shops for tools, scientific/professional instruments and motors, computer research or assembly, and manufacturing of optical, medical and dental devices, goods and equipment permitted outright; all others prohibited.
- 42** Ground floor residential is allowed within the CX zone with the exception of properties fronting Main Street between Sixth Street and Mill Plain.
- 43** Parking structures are permitted outright.
- 44** Allowed subject to provisions of Riverview Gateway Plan District Standards, Chapter [20.680](#) VMC, and associated Master Plan adopted for the area of proposed development.
- 45** Motor vehicle rental permitted where ancillary to another use.
- 46** Retail uses shall not exceed 50,000 square feet in total floor space unless included in a mixed-use building with other uses accounting for at least 20 percent of floor space, and is in full compliance with Riverview Plan District Design Guidelines.
- 47** Neighborhood recycling and/or yard debris collection centers which are exempt from a state solid waste handling permits are permitted; all other waste-related uses prohibited. If a neighborhood recycling and/or yard debris collection center is handling organic materials, they shall not be stored on site for a period longer than seven days.
- 48** See VMC [20.430.040\(E\)](#), Park and Ride Facility Development Standards.
- 49** Subject to Chapter [20.884](#) VMC.
- 50** Subject to requirements and standards within the Miscellaneous Special Use Standards for Self-Service Storage, pursuant to VMC [20.895.100](#). **40** Subject to limitations in VMC [20.430.050\(A\)](#). Uses defined in VMC [20.160.020\(C\)\(10\)](#).
- 51** Allowed subject to the provisions of the Heights District Plan Standards, Chapter [20.670](#).

52 Permitted in the HX Plan District where commercial uses are permitted.

Amend VMC Table 20.430.040-1 as follows:

20.430.040 Development Standards

Table 20.430.040-1 Development Standards									
STANDARD	CN	CC	CG	CX**	WX**	CPX* *	MX***	RGX*** *	<u>HX**</u>
Minimum Lot Size	None	None	None	None	None		None	None	<u>None</u>
Minimum Lot Width	None	None	None	None	None		None	None	<u>None</u>
Minimum Lot Depth	None	None	None	None	None		None	None	<u>None</u>
Maximum Lot Coverage	Maximum determined by compliance with screening and buffering standards contained in VMC Tables 20.925.030-1 and 20.925.030-2, stormwater standards, erosion control regulations, and all other applicable development standards.			100%	70%		100%	100%	<u>100%</u>
Minimum Setbacks									
Front yard	See minimum setback	See minimum setback	See minimum setback	None	All 25' except parking lots, 10'		All 10' abutting an R zone;	All 10' abutting an R zone;	<u>None</u>

Table 20.430.040-1 Development Standards									
STANDARD	CN	CC	CG	CX**	WX**	CPX* *	MX***	RGX*** *	<u>HX**</u>
	s sharing property line below	s sharing property line below ³	s sharing property line below		and driveways		otherwise, same as abutting zone	otherwise, zero	
Rear yard	See minimum setbacks sharing property line below	See minimum setbacks sharing property line below ³	See minimum setbacks sharing property line below	None	All 25' except parking lots, 10' and driveways		All 10' abutting an R zone; otherwise, same as abutting zone	All 10' abutting an R zone; otherwise, zero	<u>See</u> <u>minimum</u> <u>setbacks</u> <u>sharing</u> <u>property</u> <u>line</u> <u>below</u>
Rear through- street	See minimum setbacks sharing property line below	See minimum setbacks sharing property line below ³	See minimum setbacks sharing property line below	None				None	<u>See</u> <u>minimum</u> <u>setbacks</u> <u>sharing</u> <u>property</u> <u>line</u> <u>below</u>
Side yard	See minimum setbacks	See minimum setbacks	See minimum setbacks	0/5' ⁴	5'			0/5' ⁴	<u>See</u> <u>minimum</u> <u>setbacks</u>

Table 20.430.040-1 Development Standards									
STANDARD	CN	CC	CG	CX**	WX**	CPX* *	MX***	RGX*** *	<u>HX**</u>
	sharing property line below	sharing property line below ³	sharing property line below						<u>sharing property line below</u>
Street Side yard	See minimum setbacks sharing property line below	See minimum setbacks sharing property line below ³	See minimum setbacks sharing property line below	None	None			None	<u>See minimum setbacks sharing property line below</u>
Between buildings on site	None	None	None	None	None		None	None	<u>None</u>
Maximum Height	35'	50'	None	Refer to Figure 20.630 ⁴	60'		35' – 75' ⁵	35' – 75' ⁶	<u>35'-85'***</u>
Minimum setbacks adjacent to residential district	Pursuant to the screening and buffering standards contained in VMC Tables 20.925.030-1 and 20.925.030-2, plus an additional 1/2 foot for each								

Table 20.430.040-1 Development Standards									
STANDARD	CN	CC	CG	CX**	WX**	CPX* *	MX***	RGX*** *	<u>HX**</u>
	foot the building exceeds 20 feet in height to a maximum setback requirement of 40 feet. Buildings in excess of 20 feet may be stepped.								
Minimum setbacks adjacent to nonresidential districts	Pursuant to screening and buffering standards contained in VMC Tables 20.925.030-1 and 20.925.030-2.								
Minimum Landscaping Requirement (percentage of total net area)	15%	15%	15%	None	20%		15%	15%, unless adjusted through master plan	<u>None</u>

** Subject to additional development standards of 20.600, Plan Districts.

*** Subject to development standards of VMC [20.430.060](#).

**** Subject to development standards of Chapter [20.680](#) VMC, and associated Master Plan Adopted for the area of proposed development. Single-family residential development shall meet the development standards of the R-6 zone, except that the minimum lot size shall be 7,000 square feet and maximum lot size shall be 14,500 square feet. Any changes to platted single-family lots including lot line adjustments, adding new lots or consolidating lots shall comply with the approved master plan and applicable provisions of Chapter [20.680](#) VMC, Riverview Gateway Plan District.

1 Deleted.

2 Commercial condominiums shall have no minimum lot size.

3 Zero setbacks allowed for buildings along Main Street and Broadway between McLoughlin and Fourth Plain.

4 None except when abutting residentially zoned property, when the minimum setback is five feet.

5 In the MX District, maximum building height shall be the same as that of the abutting zone within a distance of the same number of feet from the property line. Farther from the property line, height may increase by two feet for every additional foot that a structure is set back from the property line to a maximum height of 75 feet. (For example, where the MX district abuts a residential district with a maximum height of 35 feet, the maximum height in the MX district would be 35 feet for the first 35 feet from the property line. The height may then be increased by two feet for every additional foot the structure or portion of the structure is removed from the property line to a maximum of 75 feet.) Where the abutting zone is MX or OCI, the maximum height shall be 35 feet; however, the height may be increased two feet for every additional foot that a structure is set back from the property line, to a maximum of 75 feet (for example, a building which is set back 10 feet from an abutting MX or OCI property may be 45 feet tall).

6 Maximum heights in the RGX District shall be the same as the MX District as described herein including footnote 5, except where indicated otherwise through Master Plan review and approval pursuant to Chapter [20.680](#) VMC, subject to conditions therein.

Update VMC 20.430.050 as follows:

20.430.050 Special Limitations on Uses

A. CX and HX Zone. The following special use limitations apply within the CX and HX zone.

1. Artisan and Specialty Goods Production uses in CX and HX zone.

a. The Artisan and Specialty Goods Production structure shall not encompass more than ten thousand (10,000) square feet of area. The ten thousand (10,000) square feet total shall include all storage areas associated with the manufacturing operation. These types of uses are limited in size to assure that they will not dominate the commercial area and to limit the potential impacts on residential and commercial uses. Upon application the Planning Official may increase the square feet of area by no more than 20% if it is determined that the additional area will not adversely impact neighboring uses and improvements, and will be consistent with the intent of the CX District and HX District.

b. All activities except loading shall occur within buildings; outdoor storage/repair is prohibited.

c. All Artisan and Specialty Goods Production uses are required to accommodate public viewing or a customer service space as defined below.

1. Public viewing shall be accomplished with windows or glass doors covering at least 25% of the front of the building face abutting the street or indoor lobby wall, allowing direct views of manufacturing, openings between the display or lobby area and manufacturing/work space may be reduced below 25% where fire rated separation requirements restrict opening size as determined by the planning official, or;
 2. A customer service space includes, a showroom, tasting room, restaurant, or retail space.
- d. Drive-through facilities are prohibited.

Amend VMC 20.770.080A as follows:

20.770.080 Tree Density Requirement

A. *Minimum tree density requirement established.* The required minimum tree density is 30 tree units per acre for new development; 30 tree units per acre of site disturbance for commercial, industrial and multiple-family (more than four units) development; and 200 tree units for Conversion Option Harvest Forest Practices. For properties within the City Center and HX Districts, the minimum tree density does not apply.

Amend VMC 20.850.020.C as follows:

20.850 Dog Day Care

20.850.020 Approval Process

C. *Commercial and Industrial Zoning Districts.* Dog Day Care uses are limited uses in the commercial zones (CN, CC, CG, CX, WX, HX and MX) and industrial zones (OCI, IL and IH), subject to the development standards contained in Section [20.850.030](#) below. Dog day care is a prohibited use in the Vancouver Central Park Plan District (CPX).

Amend VMC 20.850.030.C as follows:

20.850.030 Development Standards

C. *Commercial zoning districts.* A Dog Day Care facility is permitted as a Type I limited use in the CN, CC, CG, CX, WX, HX and MX zoning districts subject to the procedural requirements of VMC 20.210 Decision-Making Procedures. Such a facility in one of these zoning districts shall satisfy the following requirements in addition to those in Subsection A above:

1. Maximum of 40 dogs on the premises.
2. Minimum setback requirements shall be consistent with the standards of the CN, CC, CG, CX, WX, HX and MX unless the Dog Day Care facility abuts a residential district, in which case the setback shall be 50'. The setback requirements of this section do not apply if all activity is contained indoors.
3. Provide on-site indoor play area when located within the City Center (CX), Waterfront (WX), The Heights (HX) and Mixed Use (MX) districts. Outdoor play areas are not permitted in the (CX), (WX), (HX) or (MX) districts.
4. Hours of operation: 6 a.m. to 10 p.m.

Amend VMC 20.890.060.C as follows:

20.890.060 Additional Development Standards by Zoning District

C. In commercial districts. Wireless communications facilities in commercial districts, (i.e., CN, CC, CG, CX, HX and WX) are regulated as follows:

1. Lattice tower support structures are prohibited on the site of attached and detached single-family dwellings, and otherwise require a conditional use permit on the site of all other uses. Lattice tower support structures are prohibited in the HX district.
2. Monopole support structures are prohibited on the site of existing attached and detached single-family uses in all commercial districts and within the HX district.
3. Monopole support structures are permitted in CN districts, on the roof of multi-family and nonresidential uses, if the criteria in [20.890.040\(Q\)](#) VMC for replacement are met.
4. Monopole support structures and their associated accessory equipment structures and antennae otherwise require a conditional use permit in the CN, CC, CG, CX, WX and A districts. Monopole support structures and their accessory equipment structures and antennae are not permitted in the HX district. Furthermore, within the Airport Height Overlay District the provisions of VMC [20.570](#) for Pearson Airpark shall apply.
5. Antennae are prohibited on attached and detached single-family dwellings. Antennae and micro-cell facilities are permitted on multi-family residential dwellings and nonresidential structures within such districts subject to the general development standards of Section [20.890.040](#) VMC.

Amend VMC Table 20.890.130-1 as follows:

20.890.130 Summary Table

Table 20.890.130-1 Wireless Summary Table										
	Monopole (New) On				Replace with Monopole ¹		Attached Antenna On			Height
Zone District	Lattice Tower	SF	MF	N/RES	MF	N/RES	SF	MF	N/RES	
R-2 – 9	X	X	X	X	X	X	X	C	C ⁴	-
R-18 – 35	X	X	X	X	X	X	X	C	C ⁴	35
CN	C	X	C	C	P	P	X	P	P	35
CC	C	X	C	C	P	P	X	P	P	50
CG	C	X	C	C	P	P	X	P	P	-
CX	C	X	C	C	C	C	X	P	P	See Note ⁵
MX	C	C	C	C	C	C	X	P	P	65*
WX	C	C	C	C	C	C	X	P	P	60 ⁵
<u>HX</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>See Note⁵</u>
OCI	C	C	C	C	P	P	X	P	P	72
IL	P	X	P	P	P	P	X	P	P	45 ⁵
IH	P	X	P	P	P	P	X	P	P	-
NA	C	C	C	C	P	P	X	C	P	35
GW/VL GW/LF	C	C	C	C	P	P	X	C	P	See Note ⁵

Table 20.890.130-1 Wireless Summary Table										
	Monopole (New) On				Replace with Monopole¹		Attached Antenna On			Height
Zone District	Lattice Tower	SF	MF	N/RES	MF	N/RES	SF	MF	N/RES	
CPX/H ²	X	X	X	X	X	X	X	X	X	See Note ²
CPX ³	X	X	X	X	X	X	X	X	P	See Note ²

1 Replacement of an existing pole, light standard, telecommunications pole or other pole-like structure by a monopole of the same or less height, and not more than twice the same circumference of the pole being replaced. (20.890.040(Q) VMC)

2 Vancouver Central Park Plan District VMC [20.640.040](#), Historic Reserve Conservation District.

3 Vancouver Central Park Plan District, VMC [20.640.050](#), Education and Recreation Conservation District, or VMC [20.640.060](#) Social & Health Services Conservation District, as applicable.

4 Subject to [20.890.060](#) (A)(3) VMC and [20.890.060](#) (B)(3) VMC.

5 See underlying zoning district for further clarification.

Key:

P – Permitted (subject to development standards)

C – Conditional Use

X – Prohibited

Additional Notes:

Collocation on an existing, legally established wireless support structure is permitted in all districts.

All new support structures over 100 feet in height require a Conditional Use Permit.

Amend VMC Table 20.925.030-1 as follows:

20.925.030 General Provisions.

A. *Landscaping Requirements.* Landscaping shall be provided and maintained per Table 20.925.030-1 and 20.925.030-2 of this section.

Table 20.925.030-1. Minimum Landscaping and Buffer Setback Standards

Zoning of Proposed Development (Buffer width is the setback for the commercial and industrial zoning districts)													
Required street trees and parking area landscaping do not count towards these requirements except as allowed by the street tree and parking code sections.		Lower Density Residential ³		Higher Density Residential ³		Commercial and Mixed Use ¹		Industrial ¹					
		R-2, R-4, R-6, R-9		R-18, R-22, R-30, R-35		CN, CC, CG, <u>HX</u> & MX only		OCI		IL A		IH	
Zoning Of Land Abutting Development Site		Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street
Lower Density Residential	R-2, R-4, R-6, R-9	None	None	L2 10-ft	L3 5-ft	L2 10-ft	L4 10-ft	L2 10-ft	L4 10-ft	L3 20-ft	L4 in 40-ft ⁵ L5 in 50-ft ⁵	L3 20-ft	L4 in 40-ft ⁵ L5 in 50-ft ⁵

Zoning of Proposed Development (Buffer width is the setback for the commercial and industrial zoning districts)													
Required street trees and parking area landscaping do not count towards these requirements except as allowed by the street tree and parking code sections.		Lower Density Residential ³		Higher Density Residential ³		Commercial and Mixed Use ¹		Industrial ¹					
		R-2, R-4, R-6, R-9		R-18, R-22, R-30, R-35		CN, CC, CG, <u>HX</u> & MX only		OCI		IL A		IH	
Zoning Of Land Abutting Development Site		Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street
Higher Density Residential	R-18, R-22, R-30, R-35	None	L3 5-ft	L1 10-ft	L1 5-ft	L2 10-ft	L4 10-ft	L2 5-ft	L2 5-ft	L3 20-ft	L4 in 40-ft ⁵ L5 in 50-ft ⁵	L3 20-ft	L4 in 40-ft ⁵ L5 in 50-ft ⁵

Zoning of Proposed Development (Buffer width is the setback for the commercial and industrial zoning districts)													
Required street trees and parking area landscaping do not count towards these requirements except as allowed by the street tree and parking code sections.		Lower Density Residential ³		Higher Density Residential ³		Commercial and Mixed Use ¹		Industrial ¹					
		R-2, R-4, R-6, R-9		R-18, R-22, R-30, R-35		CN, CC, CG, <u>HX</u> & MX only		OCI		IL A		IH	
Zoning Of Land Abutting Development Site		Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street
Commercial and Mixed Use	CN, CC, CG, MX	L1 10-ft	L3 5-ft	L2 10-ft	L3 5-ft	L2 10-ft	L1 ² 0-5 ft	L2 5-ft	L1 ² 0-5 ft	L2 10-ft	L3 5-ft	L2 10-ft	L3 10-ft
	Industrial	L1 10-ft	L3 5-ft	L1 10-ft	L3 5-ft	L2 10-ft	L1 ² 0-5 ft	L2 5-ft	L1 ² 0-5 ft	L2 10-ft	L3 5-ft	L2 10-ft	L3 10-ft
	IL, A,	L1	L3	L2	L3	L2	L2	L2	L1 ²	L2	L1	L2	L3

Zoning of Proposed Development (Buffer width is the setback for the commercial and industrial zoning districts)													
Required street trees and parking area landscaping do not count towards these requirements except as allowed by the street tree and parking code sections.		Lower Density Residential ³		Higher Density Residential ³		Commercial and Mixed Use ¹		Industrial ¹					
		R-2, R-4, R-6, R-9		R-18, R-22, R-30, R-35		CN, CC, CG, <u>HX</u> & MX only		OCI		IL A		IH	
Zoning Of Land Abutting Development Site		Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street
		10-ft	5-ft	10-ft	5-ft	10-ft	5-ft	5-ft	0-5 ft	10-ft	5-ft	10-ft	10-ft
	IH	L1 10-ft	L3 5-ft	L2 10-ft	L3 5-ft	L2 5-ft	L3 5-ft	L2 5-ft	L3 5-ft	L2 10-ft	L3 10-ft	L2 10-ft	L1 ² 0-5 ft
Resource (County)	FR-80, FR-40,	L1 10-ft	L3 50-ft	L2 10-ft	L3 50-ft	L2 10-ft	L2 5 ft	L2 5-ft	L3 10-ft	L2 10-ft	L1 5-ft	L2 10-ft	L3 10-ft

Zoning of Proposed Development (Buffer width is the setback for the commercial and industrial zoning districts)													
Required street trees and parking area landscaping do not count towards these requirements except as allowed by the street tree and parking code sections.		Lower Density Residential ³		Higher Density Residential ³		Commercial and Mixed Use ¹		Industrial ¹					
		R-2, R-4, R-6, R-9		R-18, R-22, R-30, R-35		CN, CC, CG, <u>HX</u> & MX only		OCI		IL A		IH	
Zoning Of Land Abutting Development Site		Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street
	AG-20, AG-WL, Park /WL												

1 Zero lot line developments shall comply with the standards and requirements of VMC [20.910.050](#).

2 If building is to be built on the property line there is no required buffer for that portion of the site.

3 Applies to multi-family site plan applications and the perimeter of land divisions not to individual single-family lot developments.

4 In case of conflict with yard, setback, landscape, screening, or buffer standards specified in other sections of Title [20](#), the stricter standard shall apply, except for Plan Districts where the district standards shall always apply even if less strict than the standards of this table.

5 Buffer widths abutting parking areas that are landscaped in accordance with the requirements of VMC [20.945.040\(I\)](#) can be reduced to 25 feet.

Amend VMC 20.945.080.A as follows:

20.945.080 Off Loading Requirements

A. *Berths required.* Except in the City Center (CX) and the Heights (HX) Districts ~~(CX)~~, new or substantially renovated buildings or structures that require receipt, delivery or distribution of materials and merchandise by trucks, shall provide and maintain off-street loading berths according to prescribed standards. The Planning Official may through a Type 1 procedure waive off-street loading requirements for uses that demonstrate a loading berth is not needed. The applicant shall demonstrate that either the proposed use does not require receipt, delivery or distribution of materials and merchandise by truck that only small delivery trucks will access the site, or that large trucks will only access the site outside of normal business hours.

Amend VMC 20.985.020.B as follows:

20.985.020 Development Standards

B. *Provisions with precedence.* The provisions of this Section shall take precedence over any building and parking setbacks, except in the City Center (CX) and the Heights (HX) Districts ~~(CX)~~ where the City Transportation Manager may authorize lesser requirements upon a finding that the public health, safety and welfare will not be adversely impacted.

Table 1-5. Vancouver comprehensive plan land use designations

Comprehensive Plan designation	Corresponding Zoning	General Intent
Residential		
Urban Lower Density	R-2, R-4, R-6, R-9	Predominantly single-family detached residential development, with some allowances for duplexes, townhouses, and single-family homes on small lots using infill standards
Urban Higher Density	R-18, R-22, R-30, R-35, MX	Predominantly apartments and condominiums, with some allowance for attached housing (such as duplexes, townhouses, and small-lot single-family homes) and mixed use
Commercial		
Commercial and Mixed Use	CN Neighborhood Commercial	Small scale commercial uses and services primarily for nearby residences. Designated areas are typically less than 2 acres in size. These areas provide services within walking distance for the frequent needs of the surrounding residents and are generally small areas designed to be compatible with the surrounding residentially zoned neighborhoods.
	CC Community Commercial	Medium scale commercial uses and services, typically serving more than one neighborhood. Designated areas are typically between 2 and 10 acres in size, located near collector or arterial street intersections
	CG General Commercial	Medium to larger commercial use and services serving large sections of urban areas and beyond. Designated areas are typically in urban activity centers or along major travel routes connecting activity centers. General Commercial areas provide a full range of goods and services necessary to serve large areas and the traveling public. These areas are generally located at interchanges, along state highways and interstates, and adjacent to major and minor arterial roadways.
	CX City Center intensity	Specific to downtown Vancouver. A mix of generally higher commercial, residential, institutional uses envisioned
	WX Waterfront Mixed Use	A mix of residential, commercial, office and recreation uses along the Columbia River
	CPX Central Park Mixed Use	Specific to Vancouver Central Park. A mix of open space, recreation, educational, governmental, and public service uses developed according to policies and guidelines contained in the master plan document "A Park for Vancouver: A Concept Plan" (as amended).
	MX Mixed Use	A mix of residential, commercial, office and recreation uses
	RGX Riverview Gateway (1)	Specific to the Riverview Gateway subarea at the intersection of 192nd Avenue and SR-14. A mix of residential, mixed use, office, and light industrial uses
	<u>HX</u>	<u>Specific to the Heights District Plan. A mix of commercial, residential, mixed use, open space and other uses envisioned.</u>
Industrial		
Industrial	OCl Office-Campus-Industrial	Combination of light industry, office, & limited supporting commercial uses
	IL Light Industrial	Light manufacturing, research, warehousing, and industrial services, with provisions for office uses. Generally clean uses not involving outdoor storage, noise or odors or use of rail or marine transport.
	IH Heavy Industrial	Intensive industrial manufacturing, service, production or storage often involving heavy truck, rail or marine traffic, or outdoor storage and generating vibration, noise and odors.
	A Airport	General Aviation airports and accessory uses
Other		
Open Space	P Park, GW Greenway, NA Natural Area	Areas intended for parks, greenways and natural areas
Public Facilities	All zones	Areas developed with schools, fire stations, colleges, hospitals and other large facilities serving the public

(1) RGX Riverview Gateway is also consistent with Low Density and High Density Residential, and Industrial Comprehensive Plan designations

07/19/21
08/02/21

ORDINANCE NO. M- _____

AN ORDINANCE of the City of Vancouver, Washington, relating to land-use and zoning; establishing a Planned Action for the Heights District Plan; providing for the establishment of mitigation measures and conditions for approval of projects located within the Heights District Plan Area (hereafter the Heights District); providing for a streamlined review and approval of projects which meet planned action criteria; providing for an effective date; and providing for an expiration date.

WHEREAS, the City of Vancouver has adopted a comprehensive plan for the Vancouver Urban Growth Area under the provisions of Chapter 36.70A RCW; and

WHEREAS, the comprehensive plan provides for adoption of a subarea plan for the geographic area located within the urban growth boundary commonly known as the Heights District (identified as the MacArthur/Mill Plain Center in the comprehensive plan), and the Heights District Plan provides for the future build out of the Heights District in a manner consistent with the comprehensive plan and community vision; and

WHEREAS, the Community Development Department has conducted a thorough review of the development anticipated within the Heights District and prepared an Environmental Impact Statement (EIS) under the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, which environmental analysis has considered the impacts of the anticipated development of the Heights District consistent with the Heights District Plan, and provides for mitigation measures and other conditions to ensure that such future development will not create probable, significant, adverse environmental impacts; and

WHEREAS, the provisions of Chapter 43.21C.440 RCW and the regulations issued thereunder provide for the designation of Planned Actions within geographic areas that are less extensive than a municipality's jurisdictional boundaries and where substantial comprehensive planning and environmental review has been completed prospectively; and

WHEREAS, the City SEPA procedures and project review procedures incorporate the provisions for planned actions and provide for streamlined review of land use actions designated as Planned Actions.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Purpose.

A. The City Council declares that the purpose of this ordinance is to:

1. Set forth a procedure designating certain land use actions within the boundaries of the geographic area (see attachment “A”) described in the Heights District Plan as "Planned Actions" consistent with RCW 43.21.440, WAC 197-11-164 to 172, and Vancouver Municipal Code (VMC) 20.790.530, Planned Action Review.
2. Streamline the review process for projects, which qualify as planned actions within the Heights District Plan by applying the provisions of VMC 20.790.530, Planned Action Review to the approval of such planned action projects.
3. Combine environmental analysis with land use planning.
4. Ensure that land use actions designated as planned actions are appropriately mitigated and conditioned by the provisions of this ordinance and all of the City's development regulations to ensure that no adverse impacts to the environment will occur as a result of development approval.

Section 2. Findings.

A. The City Council finds that:

1. A subarea plan has been prepared and adopted by the Council under the provisions of the Growth Management Act, Chapter 36.70A RCW and 36.70A.130(2)(a)(i) for the geographic area located within the Vancouver Urban Growth Area commonly known as the Heights District.
2. The Heights District Plan is consistent with the Vancouver Comprehensive Plan and provides for the planned build out of the Heights District over a twenty-year planning period.
3. An environmental impact statement (hereafter "EIS") has been prepared pursuant to Chapter 43.21C RCW in conjunction with the adoption of the Heights District Plan.
4. The Heights District Plan and EIS have addressed all the significant environmental impacts associated with the land uses allowed by the applicable development regulations and standards as described in the Heights District Plan.
5. The thresholds described in the Heights District Plan and EIS are adequate to identify significant adverse environmental impacts.
6. The mitigation measures contained in the mitigation document, attachment "E" to this ordinance, together with the City's development regulations and standards, are adequate to mitigate any significant adverse environmental impacts anticipated by development consistent with the Heights District Plan.
7. A streamlined process will benefit the public, adequately protect the environment, and enhance the economic redevelopment of the Heights District.

8. Public involvement and review of the Heights District Plan and EIS have been extensive and adequate to ensure a substantial relationship to the public interest, health, safety, and welfare.
9. The uses allowed by the City's development regulations in the zoning classifications in the Heights District will implement the Heights District Plan.
10. This ordinance shall be known as the "Heights District Planned Action Ordinance".

Section 3. Procedure and Criteria for Evaluating and Determining Projects as Planned Actions.

- A. Land uses and activities described in the Heights District Plan and EIS, subject to the thresholds described therein and the mitigation measures described in the mitigation document attached to this ordinance as attachment "B", may be determined to be Planned Actions consistent with RCW 43.21C.440, WAC 197-11-164 to 172, VMC 20.790.530, and pursuant to this ordinance.
- B. Where the Planning Official determines that an application for project permit or approval does not qualify as a planned action, the application shall be reviewed and processed under the applicable procedures for project approval under VMC Chapter 20.200, Land Use Decisions. The Planning Official shall prescribe a SEPA review procedure consistent with the VMC Chapter 20.790, SEPA Regulations. Such SEPA review may use or incorporate relevant elements of the environmental analysis in the EIS or Heights District Plan.
- C. Where the Planning Official determines that an application for project permit or approval qualifies as a Planned Action, the project permit application shall be processed under the administrative procedures set forth in VMC 20.790.530, Planned Action Review.

Section 4. Review and Approval of Planned Action Projects

- A. An application for project permit or approval, which is designated by the Planning Official as a Planned Action under Section 3 of this Ordinance shall be subject to approval under the provisions of VMC 20.210, Decision Making Procedures.
- B. No application for project permit or approval designated a Planned Action under Section 3 of this Ordinance shall require the issuance of a threshold determination under SEPA, as provided by RCW 43.21C.440, WAC 197-11-172(2)(a) and VMC 20.790.530, Planned Action Review. No procedural SEPA appeals under VMC Chapter 20.790 shall be allowed.
- C. An application for project permit or approval designated a Planned Action under Section 3 of this ordinance shall not be subject to further procedural review under SEPA, but the proposed project may be conditioned to mitigate any adverse environmental impacts which are reasonably likely to result from the project proposal.
- D. The determination to approve, conditionally approve, or deny an application for Planned Action project permit or approval shall be appealable pursuant to VMC 20.790.530(I). *Provided that*, the environmental analysis and mitigation measures or other conditions contained in the mitigation document (attachment "B"), the Heights District Plan, or EIS shall be afforded substantial weight.

Section 5. Environmental Documents

A Planned Action designation for a site-specific project action, permit, or approval shall be based upon the environmental analysis contained in the Heights District Plan and EIS. This Heights District Plan and EIS, including potential mitigation measures, are hereby incorporated in this ordinance and adopted by reference. The mitigation document (attachment "B") is based upon the analysis contained in the EIS. The mitigation document, together with existing City codes, ordinances, and standards, shall provide the framework for the decision by the City to impose

conditions on a Planned Action project. Other environmental documents and studies listed in the Heights District Plan and EIS may also be used to assist in analyzing impacts and determining appropriate mitigation measures in accordance with Section 4 of this ordinance.

Section 6. Conflict of Development Regulations and Standards.

In the event of conflict between this Ordinance or any mitigation measures imposed pursuant thereto and any other ordinance or regulation of the City, the provisions of this Ordinance shall control.

Section 7. Severability.

If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any parts thereof to any other person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 8. Third Party Liability.

This ordinance does not create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of these regulations. No provision or term used in these regulations is intended to impose any duty whatsoever upon the City or any of its officers, employees, or agents.

Notwithstanding any language used in this ordinance, it is not the intent of this Ordinance to create a duty and/or cause of action running to any individual or identifiable person, but rather any duty is intended to run only to the general public.

Section 9. Effective Date.

This Ordinance shall take effect 30 days following passage and publication.

Section 10. Expiration Date.

This ordinance shall expire twenty (20) years from the date of adoption unless otherwise repealed or readopted following a public hearing.

Read first time: July 19, 2021

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Read second time: August 2, 2021

PASSED by the following vote:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

SIGNED this _____ day of _____, 2021.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan. Young, City Attorney

ATTACHMENTS:

Attachment A: Planned Action Area Map

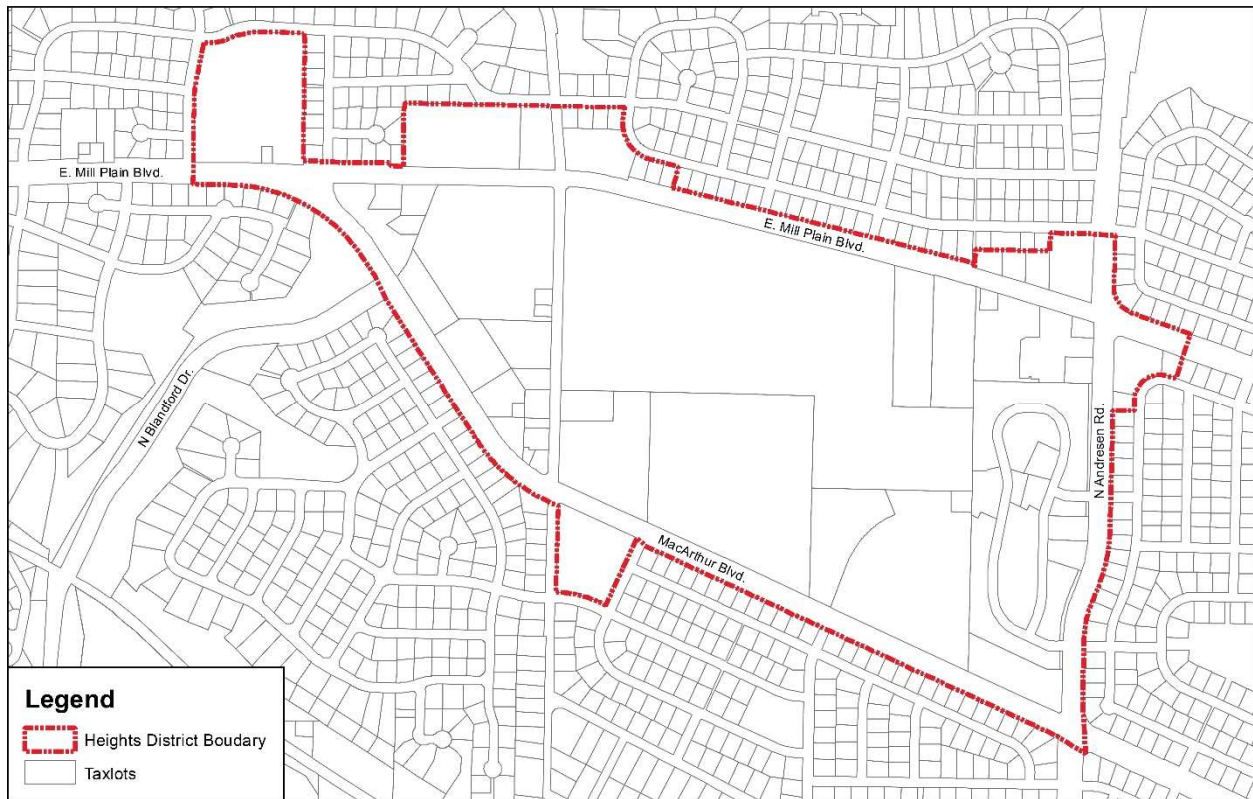
Exhibit E: Mitigation Document (separate cover)

SUMMARY
ORDINANCE NO. _____

AN ORDINANCE of the City of Vancouver, Washington, relating to land-use and zoning; establishing a Planned Action for the Heights District Plan; providing for the establishment of mitigation measures and conditions for approval of projects located within the Heights District Plan Area (hereafter the Heights District); providing for a streamlined review and approval of projects which meet planned action criteria; providing for an effective date; and providing for an expiration date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).

Attachment A: Planned Action Area Map



Attachment B: Exhibit E - Mitigation Document

ATTACHMENT B

MITIGATION DOCUMENT



1. Introduction

The State Environmental Policy Act (SEPA) requires all state agencies and local governments in Washington to consider impacts to environmental resources in decision making. The SEPA review process is intended to provide information to agencies and the public through the identification and evaluation of environmental impacts and the development of mitigation measures to reduce adverse environmental impacts. To comply with SEPA, the City of Vancouver (City) prepared an Environmental Impact Statement (EIS) to analyze the potential environmental impacts resulting from adoption of the Heights District Plan. The City issued the Draft EIS (DEIS) on January 22, 2020. Following a 120-day public comment period that closed on May 20, 2020, the City issued Final EIS on July 10, 2020. The Draft together with the Final EIS are referenced herein as the “EIS”. The EIS identified significant beneficial and adverse impacts that are anticipated to occur with the future development of the Heights District, together with a number of possible measures to mitigate those impacts.

The City has established the Heights District as a SEPA Planned Action as authorized by Section 43.21C.440 of the Revised Code of Washington and Section 197-11-164 of the Washington Administrative Code. Future projects developing under the planned action will not require individual environmental review at the time of permit application if they are consistent with the range of alternatives and mitigation identified in the EIS.

This mitigation document summarizes the development thresholds under which future projects can qualify as planned actions and the specific mitigation measures to offset impacts identified in the EIS. The mitigation measures shall apply to future development proposals which qualify as planned actions (per VMC 20.790.530, Planned Action Review) and are located within the Heights District Planned Action Area, identified as the District Plan boundary on Figure 1. Projects proposed in the district may be subject to additional requirements established by city, state or federal regulatory programs.

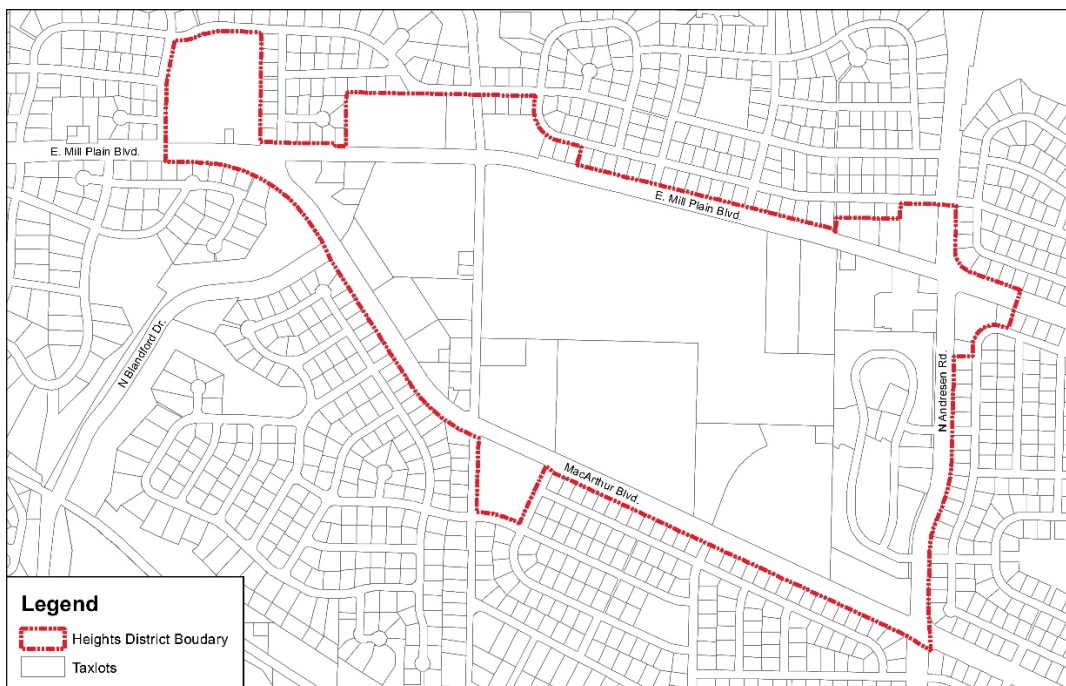


Figure 1. The Heights District Planned Action Area

2. Thresholds

The Heights District Plan anticipates that, with City of Vancouver investment in subarea and environmental planning, the Heights District will redevelop more intensively than was anticipated in the existing City of Vancouver Comprehensive Plan. To complete the analysis reflected in the EIS, land use, population, and job projections were established for the 20-year plan period.

The overall thresholds used to complete the SEPA analysis for the EIS, and as anticipated by the Heights District Plan for the 20-year plan period, are as follows:

Overall Thresholds

- 1,800 new residential units
- 204,000 square feet of commercial development
- 36,000 square feet of institutional development

Proposed development that would exceed these thresholds was not evaluated and would not qualify as a Planned Action and would require individual SEPA analysis.

3. Environmental Mitigation Measures

The EIS identifies measures to mitigate for probable significant environmental impacts for environmental elements addressed in the EIS. In order to qualify as a Planned Action, development must follow or incorporate the mitigation measures identified in this section. Mitigation consists of measures included within the project, compliance with established development regulations and additional actions. The following sections establish the mitigation measures. Please refer to the EIS for analysis and impacts associated with each element of the environment.

LAND USE

Mitigation Measures Designed into the Project

- Adoption and adherence to the standards included in a new HX zone and Heights Plan District to implement the Heights District Plan, including standards to address building height adjacent to residential zones.
- Adoption and adherence to the Heights District Urban Design Guidelines, which include standards to address building scale and mass, landscaping, lighting, and infrastructure design.
- Adherence to parking standards for the Heights Plan District included within the HX zone.

Existing Regulations and Other Mitigation

All development must comply with existing local regulations applicable to the Heights District including the following:

- The City of Vancouver Municipal Code (VMC) - Title 20, Land Use and Development Code, Title 11 Streets and Sidewalks, Chapter 12.04 Street Trees, Title 17 Building and Construction and Title 22 Uniform Enforcement Code.

AESTHETICS, LIGHT AND GLARE

Mitigation Measures Designed into the Project

The Heights District Plan Planned Action Ordinance
Attachment E: Mitigation Document

- Adoption and adherence to the Heights District Urban Design Guidelines and Heights Plan District

Existing Regulations and Other Mitigation

Compliance with applicable regulations and standards within the VMC, including:

- Site Plan Review (VMC 20.270)
- Landscaping (VMC 20.925)

HISTORIC AND CULTURAL RESOURCES

Mitigation Designed into the Project

The Heights District Plan does not identify any specific measures to address potential impacts to Historic and Cultural Resources. Existing regulations and other mitigation to offset potential impacts are identified below.

Existing Regulations and Other Mitigation

All development must comply with the regulations, goals, and standards applicable to the Heights District, including the following:

City of Vancouver

- Historic Preservation (VMC 17.39)
- Archaeological Resource Protection (VMC 20.710)

State of Washington

- State Historical Societies-Historic Preservation (RCW 27.34)
- Indian Graves Records (RCW 27.44)
- Preservation of Historical Materials (RCW 27.48)
- Archaeological Sites and Resources (RCW 27.53)
- Archaeological Excavation and Removal Permit (WAC 25.48)
- Governor's Executive Order 05-05

Federal

- National Historic Preservation Act (Public Law 89-665; 54 United States Code [U.S.C.] 300101 et seq.)
- Native American Graves Protection and Repatriation Act (Public Law 101-601; 25 U.S.C. 3001-3013)
- Secretary of the Interiors Guidelines for Treatment of Historic Properties

For each of the following City owned parcels, an archaeological predetermination study is required prior to development, in accordance with VMC Chapter 20.710. For each city-owned parcel, at least a portion of the parcel is classified as high probability for archaeological resources according to the Clark County and/or statewide predictive models.

In addition to the requirements above, additional research is required for three resources (Park Hill Cemetery, Vancouver Heights United Methodist Church, and George C. Marshall Elementary School) to determine their eligibility for listing in the National Register of Historic Places prior to any future development.

TRANSPORTATION

Thresholds

The EIS Transportation analysis (beginning on page 50 of the EIS) assumed development in the Heights District as described by the Overall Thresholds. During the AM peak hour, 699 new vehicle trips are estimated, with 180 entering trips and 519 exiting trips. During the PM peak hour, 853 new vehicle trips are estimated, with 523 entering trips and 330 exiting trips.

To document compliance with the Height District Plan and traffic impacts evaluated in the EIS, a Transportation Compliance Letter shall be submitted to the City for review and approval as part of each development within the district. The Transportation Compliance Letter shall be completed by a licensed traffic engineer and shall include:

- Calculation of the cumulative AM and PM peak hour automobile trip generation and distribution;
- An assessment of whether overall trip general will remain within the trips allocated in the district;
- Identification of the intersections impacted by 10 or more additional PM peak hour trips;
- Safety analysis of proposed site access driveways; and
- Analysis of onsite pedestrian, bicycle and vehicular circulation and safety.

Mitigation Designed into the Project

The following motor vehicle, transit, and bicycle and pedestrian improvements will be completed by the City or others as appropriate to offset potential impacts associated with development in the Heights District. The City will establish proportionate share funding program(s) for the MacArthur Boulevard at N Devine Road and MacArthur at N. Andresen Road roundabout and MacArthur Boulevard/St Helens Avenue at N Lieser Road signalization projects identified below. Proportionate share agreements may be established for other projects. Development within the Heights District will be responsible for payment of the calculated fee based on the trip generation of the development.

Motor Vehicle

- Convert existing stop-controlled intersections on MacArthur Boulevard at N Andresen Road and N Devine Road to single lane roundabouts.
- Convert existing stop-controlled intersection on MacArthur Boulevard/St Helens Avenue at N Lieser Road to a signalized intersection.
- Reduce N Andresen Road to one travel lane in each direction from just south of the Mill Plain Boulevard intersection to Highland Drive with protected bike facilities.
- Signal timing optimization along the E Mill Plain Boulevard corridor and at the N Andresen Road at NE 18th Street intersection. Signal timing optimization includes 110 second cycle length for the AM peak and a 120 second cycle length for the PM peak (or half cycle lengths), as well as adjustments to splits, offsets, and lead/lag phasing for protected left turns.
- Provide protected/permitted left turns (flashing yellow arrow) at the E Mill Plain Boulevard and Garrison Road and N Andresen Road and NE 18th Street intersections.

Transit

- Coordinate with C-TRAN to ensure sidewalk and crosswalk improvements provide safe and convenient access with future BRT stations on Mill Plain Boulevard, preliminarily planned near the intersections with Devine Road and Andresen Road.
- Ensure sidewalk widths near and adjacent to planned BRT stations are sufficient to accommodate platforms, station amenities, and pedestrian through travel.
- Where possible, align additional crosswalks with bus stops to improve pedestrian access to and

from stops.

- Ensure ADA-compliant access to bus stops and stations throughout the Heights District.

Bicycle and Pedestrian

- Mill Plain Boulevard: Buffered bike lanes and continuous sidewalks with street trees, pedestrian lighting, and site furnishings.
- MacArthur Boulevard: Two-way protected bike facility and greenbelt with multiuse trail, lighting, and enhanced landscaping on the south side.
- Devine Road: Two-way protected bike facility on the west side of Devine Road through the Redevelopment Area.
- Buffered bike lanes on N Andresen Road between MacArthur Boulevard and Mill Plain Boulevard.
- Improved crosswalks along major arterials and added crosswalks and ADA curb ramps at key points within the Heights District.
- Landscaped pedestrian walkways and safe crosswalks to BRT stops and where feasible, weather protection.
- Increase access to Park Hill Cemetery and add pedestrian circulation improvements to create a more connected walkway network. Potential walkway connections include to Heights Shopping Center, Skyline Crest Apartments, Burdick Avenue/ Marshall Elementary School, Northcrest Community Church, and People's Church. Future connections shall be identified in individual redevelopment projects and provided where feasible.

In addition to the proposed bicycle and pedestrian facilities included within the Heights District, the plan includes the following connectivity improvements to improve the bicycle and pedestrian circulation in surrounding areas.

- Improved crossings on Kansas Street at Andresen Road and Idaho Street at Devine Road, which will improve connections between neighborhoods and MLK Elementary.
- Improved safety and connectivity on Blandford Drive, which could include on or off-street bicycle facilities to connect the Heights District to the Lower Grand Employment Area, neighborhoods to the south, and the Columbia River.
- Improved bicycle facilities on Devine Road north of Mill Plain to connect the Heights District to existing bike facilities (including Burnt Bridge Creek Trail and Evergreen Boulevard).
- Improve existing pedestrian walkways connecting adjacent neighborhoods with the Heights District, add ADA curb ramps where missing, and increase visibility of walkways through wayfinding signage and landscape maintenance.

Parking

In order to reduce the overall parking demand of future development, the City will develop a Heights District shared use parking plan and require uses within the Heights District to implement traffic demand management (TDM) techniques.

The City will actively manage the on-street parking system within the Heights District through time limits, metering, or other measures to ensure sufficient parking for visitors and guests. The City will also monitor parking demand as development occurs within the Heights District to determine if there is spillover parking into adjacent residential neighborhoods. If it is determined that spillover parking is occurring and is affecting the ability of residents to access adequate parking in proximity to their place of residence, then additional measures would be introduced to reduce the effects of spillover parking. Measures could include but are not limited to residential permit parking or time limits for on-street parking in affected areas.

Existing Regulations and Other Mitigation

All development must comply with the regulations applicable to the Heights District, including the following:

City of Vancouver

- Land Use and Development Code (VMC Title 20), including Transportation Impact Fees (VMC 20.915.040)
- Street Standards (VMC Title 11), including Transportation Concurrency (VMC 11.70.060) and the submittal of trip generation reports for projects
- City of Vancouver Transportation System Plan
- Commute Trip Reduction (VMC 18.12)

CLIMATE CHANGE AND GREENHOUSE GAS EMISSIONS

Mitigation Measures Designed into the Project

- Implementation of strategies to reduce GHG emissions from energy use such as, daylighting and green roofs, retaining mature trees and planting new trees to provide carbon sequestration, air purification, and cooling, and generating power on site (e.g., solar panels).
- Implementation of strategies to reduce vehicle miles traveled, such as increasing access to multi-modal transit options including improved access to BRT service and bicycle and pedestrian infrastructure improvements.
- Implementation of low impact development and Leadership in Energy and Environmental Design (LEED) standards (or equivalent)
- Implementation of a Heights-specific transportation demand management (TDM) program to encourage developers to provide TDM strategies such as subsidized transit passes, bike parking, and shared use vehicles on site.
- Implementation of and compliance with Heights District Plan Policies L-1, L-3, L-6, C-3, C-5, S-2, S-4, S-6, S-8 (policy text included in the Land Use, Access/Circulation, and Environmental Sustainability sections of the Heights District Plan).

Existing Regulations and Other Mitigation

All development must comply with the regulations, goals, and standards, applicable to the Heights District including the following:

City of Vancouver

- Commute Trip Reduction (VMC 18.12)
- Energy efficiency (VMC 17.09)
- Tree, vegetation, and soil conservation (VMC 20.770)
- Landscaping (VMC 20.925)

State of Washington

- Washington State Energy Code
- Evergreen Sustainability Development Standard for affordable housing

PUBLIC SERVICES AND UTILITIES

Fire and Emergency Medical Services

Mitigation Designed into the Project

- Adherence to the density and compact form of development proposed within the Heights District Plan, which could reduce growth in outlying areas of the City and result in more efficient service delivery.

Existing Regulations and Other Mitigation

All development must comply with the following regulations, as well as local, state, and federal safety regulations for on-site construction and coordinate with the Vancouver Fire Department (VFD) to maintain proper access during construction.

City of Vancouver

- Comprehensive Plan
- VMC Title 16, Fire; Title 11, Streets and Sidewalks; Title 14, Water and Sewers; Title 17, Buildings and Construction; Title 20, Land Use and Development

State of Washington

- RCW 35.103.040, which requires annual reporting of VFD service level performance

Police

Mitigation Measures Designed into the Project

- Adherence to the density and compact form of development proposed within the Heights District Plan, which could reduce growth in outlying areas of the City and result in more efficient service delivery.
- Implementation of Crime Prevention Through Environmental Design measures, such as orienting buildings towards the street and public spaces, providing public connections between buildings, and providing adequate lighting and visibility, to help reduce criminal activity and calls for service.

Existing Regulations and Other Mitigation

All development must comply with the following regulations, as well as local, state, and federal safety regulations for on-site construction and coordinate with the Vancouver Police Department (VPD) to maintain proper access during construction.

City of Vancouver

- Comprehensive Plan
- Public Peace and Safety ordinance (VMC Title 8)

Schools

Mitigation Measures Designed into the Project

- Compliance with the connectivity and walkability improvements included in the Heights District Plan to improve access and safety for students attending schools within the District.

Existing Regulations and Other Mitigation

All development must comply with the following regulations, as well as local, state, and federal safety

The Heights District Plan Planned Action Ordinance
Attachment E: Mitigation Document

regulations for on-site construction and coordinate with the Vancouver Public Schools to maintain proper access during construction.

City of Vancouver

- Comprehensive Plan
- VMC Title 20, including school impact fees (VMC 20.915.060)

Water Service

Mitigation Measures Designed into the Project

- Development of buildings and infrastructure that exceed sustainability benchmarks required to achieve LEED standards in order to support water conservation and reduce the impacts of water demand. All new publicly financed buildings are required to meet or exceed LEED Gold Certification.
- Installation of a 12-inch water mains in Devine Road and the proposed Loop roadway.
- Installation of 8-inch on site water lines to serve individual developments.

Existing Regulations and Other Mitigation

All development must comply with the regulations, goals, and standards, applicable to the Heights District including the following:

City of Vancouver

- Comprehensive Plan
- Comprehensive Water System Plan
- VMC Title 6, Health and Sanitation; Title 14, Water and Sewers; Title 16, Fire
- Payment of connection fees and system development charges to mitigate for development impacts to source, supply, and storage capacities.

State of Washington

- Department of Health Drinking Water standards

Sewer

Mitigation Measures Designed into the Project

- Encourage the implementation of greywater systems to collect gently-used water from bathroom sinks, showers, tubs, and washing machines for reuse as water for laundry and toilet flushing, as well as outdoor irrigation.
- Replacement of the 10-inch sewer in Devine Road with an 18-inch pipe to convey increased flow from the Heights District.

Existing Regulations and Other Mitigation

All development must comply with the regulations, goals, and standards, applicable to the Heights District including the following:

City of Vancouver

- Comprehensive Plan
- General Sewer Plan
- VMC Title 6, Health and Sanitation; Title 11, Streets and Sidewalks; Title 14, Water and Sewers; Title 16, Fire; Title 20, Land Use and Development

The Heights District Plan Planned Action Ordinance
Attachment E: Mitigation Document

In addition to existing regulations and mitigation designed into the project, the following measures are required to offset potential impacts.

- Development that would contribute wastewater flows to the 10-inch sewer in Devine Road shall provide an analysis of available capacity of the line consistent with the *General Requirements and Details for the Design and Construction of Public Sanitary Sewers*. The developer shall be responsible for replacement of the line with an 18-inch line if capacity is not available. Costs associated with the replacement may be eligible for reimbursement through VMC 14.04.285.
- Rehabilitation and structural strengthening (such as a cured-in place liner) of the existing trunk sewer located south across Mill Plain and a sewer easement will be required in conjunction with redevelopment on parcel 37910109, at the west end of the Redevelopment Area.

Franchise Utilities

No significant capital improvements were identified in the EIS to support franchise utility service for future development as outlined in the Heights District Plan and therefore, no specific measures to address potential impacts are incorporated into the project. Existing regulations to ensure adequate service are identified below.

Existing Regulations and Other Mitigation

All development must comply with the regulations, goals, and standards, applicable to the Subarea including the following:

City of Vancouver

- Comprehensive Plan
- VMC Title 17, Buildings and Construction, including Washington State's currently adopted International Building Code, adopted by reference under VMC 17.12.

In addition to existing regulations, the following measures are required to offset potential impacts.

- The undergrounding of existing overhead power lines will be required for development proposals within the District.

Parks and Recreational Facilities

Mitigation Measures Designed into the Project

The following park and recreation facility improvements are proposed within the Heights District Plan to offset potential impacts.

- A 1-acre civic plaza in the center of the Redevelopment Area that supports surrounding commercial and retail uses. The civic plaza will be designed with an event plaza, market stalls, retail supportive seating and café space, interactive water feature, and an adjacent festival street that could be closed to vehicular traffic during events.
- An approximately 1.5-acre neighborhood park spanning both sides of Devine Road. The west side of the park will be dedicated to community garden plots and an entry gateway. The east side of the park will be an off-leash dog park.
- A series of small pocket parks to support age-appropriate play areas, integrated into the residential areas of the Heights District.
- The MacArthur Greenbelt will be a corridor greenspace offering passive open space along the redesigned MacArthur Boulevard. The greenbelt will include benches, art installations, and interpretive signage.

- Passive recreation and pedestrian amenities along different segments of The Loop throughout the Redevelopment Area.
- Enhanced connectivity to and from the Park Hill Cemetery and ongoing maintenance of the cemetery road network as open, public pathways for light recreation.

Existing Regulations and Other Mitigation

All development must comply with the regulations, goals, and standards, applicable to the Heights District including the following:

City of Vancouver

- Comprehensive Plan
- Parks, Recreation, and Open Space Plan
- Land Use and Development Code (VMC Title 20), including park impact fees (VMC 20.915.060)

In addition to existing regulations and the park and recreation facility improvements designed into the Heights District Plan, the City shall pursue the following measures to further offset potential impacts.

- Pursue the acquisition of additional parks and recreation lands when available. Acquisition and development funds may be produced through a combination of park impact fees, real estate excise tax, grants, and/or other sources.
- Redesign and develop David Douglas and Bagley Parks for community park amenities.
- The VPRD will consider alternative park standards within the project boundaries. Typical acre-to-population ratios for park standards may be lower and impact fees higher than in lower density suburban settings. A Heights District-specific standard would accommodate a more intense urban form and allow for smaller parks with a higher development standard.
- VPRD shall continue to work closely with the City's Transportation Department to plan and create user-friendly pedestrian and bicycle systems and promote healthy lifestyle choices. This system will increase connectivity, improve the overall streetscape, enhance visual attractions to the project area, ensure public safety, and provide attractive parks, greenway, and open spaces and amenities.

AIR

Mitigation Measures Designed into the Project

- Implementation of and compliance with Heights District Plan Policies L-1, L-3, L-6, C-3, C-5, S-4, S-6 (policy text included in the Land Use, Access/Circulation, and Environmental Sustainability sections of the Heights District Plan).

Existing Regulations and Other Mitigation

All development, on-site construction, and demolition must comply with the regulations, goals, and standards, applicable to the Heights District including the following:

State/Regional

- Southwest Clean Air Agency (SWCAA) permitting program
- SWCAA 400 – General Regulations for Air Pollution Sources
- SWCAA 476 – Standards for Asbestos Control, Demolition, and Removal
- State Ambient Air Quality Standards

Federal

- National Ambient Air Quality Standards
- National Emission Standard for Asbestos (40 Code of Federal Regulations, Chapter 61, Subpart M)
- Other relevant federal air quality or transportation requirements

In addition to existing regulations and mitigation designed into the project, the following measures are required to offset potential impacts.

- Implementation of best management practices to reduce emissions related to construction.

WATER

Thresholds

The EIS analysis of Water (beginning on page 94 of the EIS) assumed development in the Heights District as described by the Overall Thresholds.

Mitigation Measures Designed into the Project

- Development of the proposed MacArthur Greenbelt to provide a continuous stormwater feature.
- Implementation of low-water use landscapes and bioswales in civic spaces, parks, open spaces, and streets
- Implementation of and compliance with Heights District Plan Policies S-4, S-5, S-11 (see the Environmental Sustainability section of the Heights District Plan for policy text)
- Implementation of stormwater and erosion control best management practices

Existing Regulations and Other Mitigation

All development must comply with the regulations, goals, and standards, applicable to the Heights District, including the following:

City of Vancouver

- Erosion Control Ordinance (VMC 14.24)
- Stormwater Control Ordinance (VMC 14.25)
- Water Resources Protection Ordinance (VMC 14.26)
- Water Conservation Standards (VMC 20.925.100)

State of Washington

- Washington State Stormwater Management Manual for Western Washington
- Washington State Water Pollution Control Act of 1971 (RCW 90.48)

Federal

- The Clean Water Act (33 U.S.C.) § 1251 et seq.)
- The Safe Drinking Water Act (42 U.S.C. §300f et seq.)
- National Pollution Discharge Elimination System (NPDES) permits

In addition to existing regulations and mitigation designed into the project, the following measures may be required to address site-specific impacts. The need to implement these measures will be addressed during permit review.

- Additional site investigations to determine the potential for contamination to be present on the property.
- Additional site investigations of soil and groundwater to evaluate the type, concentration, and extent of contamination, if present.
- Cleanup of contamination sources (e.g. removal of underground storage tanks, excavation of contaminated soil) in accordance with Ecology's current guidelines and regulations.
- Handling and disposing of contaminated soil and groundwater according to local and state regulations.

PLANTS AND ANIMALS

Thresholds

The EIS analysis of Plants and Animals (beginning on page 96 of the EIS) assumed development in the Heights District as described by the Overall Thresholds.

Mitigation Measures Designed into the Project

While no impacts to Plants and Animals are anticipated as a result of the Heights District Plan and no mitigation is required, the following measures designed into the project would have the potential to have a positive impact on priority species outside of the District.

- Limiting the amount of impervious surfacing
- Increasing green infrastructure and reducing stormwater runoff
- The addition of new parks, open space, and community gardens
- The use of native and adaptive plant species

Mitigation Required by Existing Regulations

All development must comply with the regulations, goals, and standards applicable to the Heights District, including the following:

City of Vancouver

- Critical Areas Protection (VMC 20.740)
- Tree, Vegetation, and Soil Conservation (VMC 20.770)
- SEPA Regulations (VMC 20.790)
- Landscaping (VMC 20.925)

State and Federal

- NPDES permits
- Endangered Species Act (16 U.S.C. §1531 et seq.)
- Migratory Bird Treaty Act (16 U.S.C. §§ 703–712)
- Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d)

07/19/21
08/02/21

ORDINANCE NO. _____

AN ORDINANCE lifting the temporary moratorium on the acceptance and processing of applications for permits for the development of new structures, the expansion of existing structures, or subdivisions in the Tower Mall area as defined herein; and establishing an effective date 30 days from adoption.

WHEREAS, the City of Vancouver has the authority to adopt temporary moratoria pursuant to RCW 36.70A.390 and 35.63.200; and

WHEREAS, the City adopted a subarea plan for the Heights District, which is identified in the 2011-2030 Comprehensive Plan. The Tower Mall area is within the Heights District and is bordered by East Mill Plain Blvd. on the north, North Devine Rd. on the east, and MacArthur Blvd. on the west and is depicted on the map attached hereto as Exhibit A; and

WHEREAS, the City Council found that in order to preserve the ability to implement the subarea plan that includes the Tower Mall area in alignment with the vision articulated therein, it was necessary to temporarily restrict development of new structures; the expansion of existing structures; and subdivisions within the Tower Mall area until new development regulations were established and zoning ordinances updated; and

WHEREAS, updated development regulations and zoning standards consistent with the City of Vancouver Comprehensive Plan and the Heights District subarea plan vision were adopted by the City Council, setting forth necessary implementation measures;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Temporary Moratorium. As authorized by RCW 36.70A.390 and RCW 35.63.200, the City Council hereby lifts the temporary moratorium on the acceptance, processing, and granting of applications for permits for the development of new structures; the expansion of existing structures; and subdivisions within the Tower Mall area.

Section 2. Effective date. This ordinance shall become effective 30 days from adoption of this ordinance.

Read the first time: July 19, 2021

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Read the second time: August 2, 2021

Passed by the following vote:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

SIGNED this _____ day of _____, 2021.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

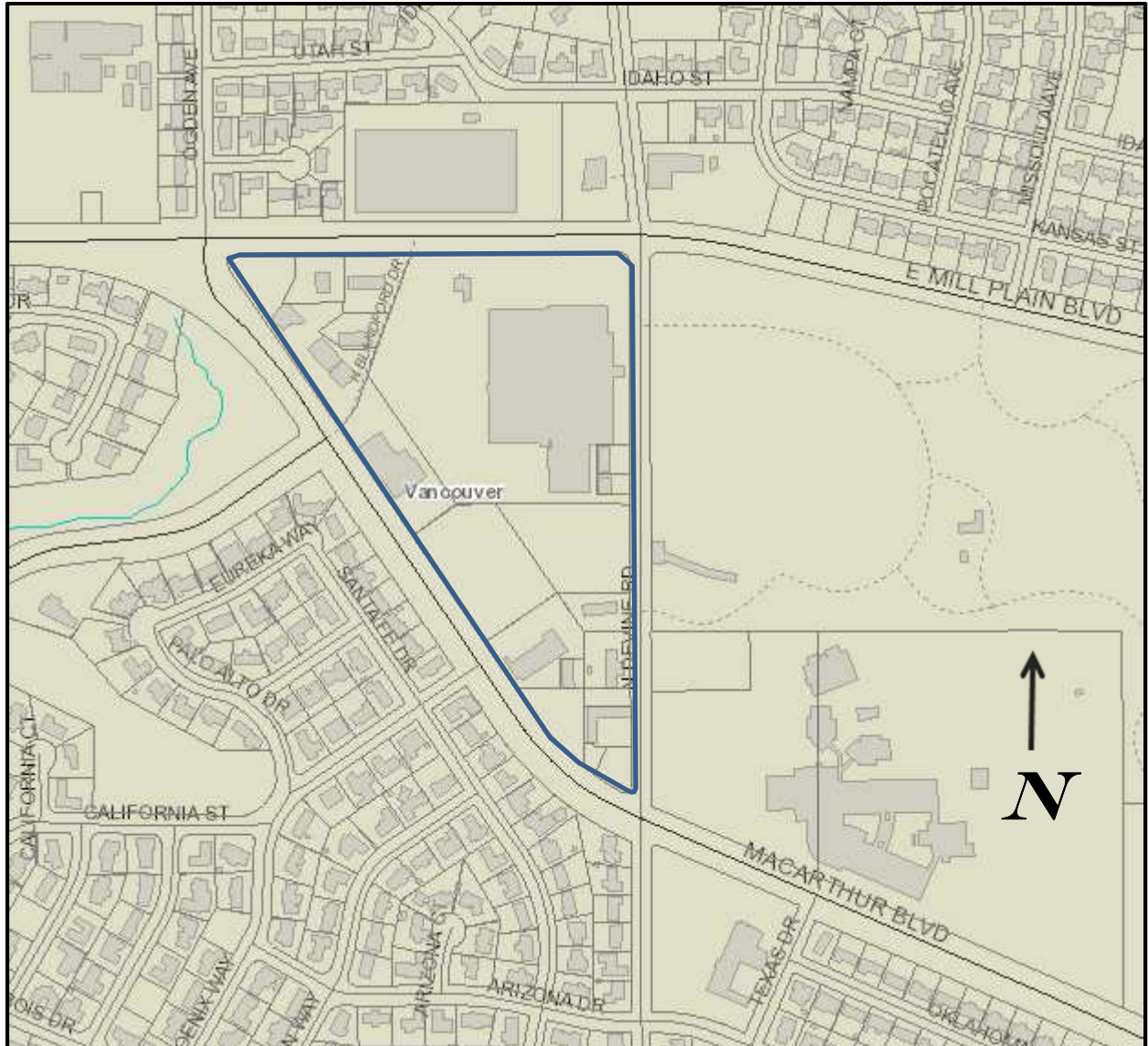
SUMMARY

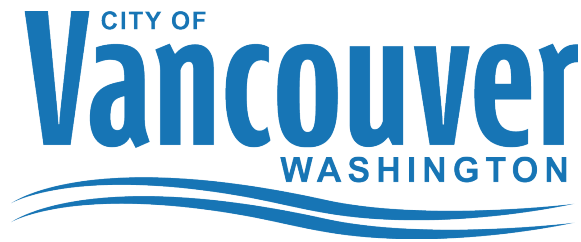
ORDINANCE NO. M-_____

AN ORDINANCE lifting a temporary moratorium upon the acceptance and processing of applications for permits for the development of new or the expansion of existing structures and subdivisions in the Tower Mall area as defined herein; and establishing an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).

EXHIBIT A: PROPERTIES SUBJECT TO DEVELOPMENT MORATORIUM





MEMORANDUM

TO: Eric Holmes, City Manager

CC: Mayor McEnerny-Ogle, Vancouver City Council

FROM: Jonathan Young, City Attorney 

DATE: July 19, 2021

SUBJECT: Criminal Prosecution Diversion Update

The City Attorney's Office is pleased to report that over the past six months the legal community has seen significant developments in criminal prosecution of the crime Driving While License Suspended in the Third Degree. ^{FN1}

December 2020:

In December 2020, the Vancouver City Attorney's Office announced equity-based changes to the practices used for screening and prosecuting referrals for Driving While Licenses Suspended in the Third Degree (DWS-III) – an offense that often arises from failure to pay monetary fines and is sometimes referred to as 'driving while poor.' The City Attorney's Office made two important changes:

1. Creation of a Pre-Citation Diversion Program in which eligible program participants could avoid criminal prosecution by either: (a) working with City Attorney's Office Staff to obtain successful license reinstatement; or (b) remaining offense-free for 6 months.
2. Revision of Prosecution Standards calling for the use of civil infractions, rather than criminal charges, for those who qualify for participation in the DWS-III Pre-Citation Diversion Program even if they fail to successfully enroll in, or complete, the program.

Our office committed to study the results of these program changes and evaluate the need for further program refinements.

¹ RCW 46.20.342(1)(c).

March 2021:

In March 2021, the Vancouver City Attorney's Office reviewed the results of the first quarter of operation of its Pre-Citation DWS-III Diversion Pilot Program and made changes expanding the eligibility criteria to allow participation by out-of-state residents and individuals with warrants.

May 2021: Legislative Changes

This past legislative session, the Washington Legislature recognized the same equal justice concerns articulated by the Vancouver City Attorney's Office last December concerning DWS-III. As a result, the Washington Legislature passed Engrossed Substitute Senate Bill 5226 ([ESSB 5226](#)); Governor Inslee signed the Bill into law in May with an effective date of January 1, 2023. When the new law becomes effective its changes will include:

1. Removal the penalty of driver's license suspension for failing to comply with the terms of a notice of a non-criminal traffic infraction for a moving violation.
2. Requiring courts to enter into a payment plan when a person requests to do so if the person does not have the ability to pay the monetary obligation in full and certain other conditions are met.
3. Authorizing the Department of Licensing to administratively reinstate the driver's license of a person whose license was suspended prior to March 1, 2022 because the person failed to respond to a notice of a traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or failed to comply with the terms of a notice of traffic infraction.

June 2021: Court Ruling

In June 2021, the Thurston County Superior Court considered a legal challenge directed at the Washington State Department of Licensing (DOL) regarding equal protection of low-income drivers charged with DWS-III.² In response, the Court issued an injunction, requiring the following specific statewide action by Washington DOL:

² *Pierce v. Dept. of Licensing*, Thurston County Superior Court No. 20-2-02149-34. Order Enjoining Suspension of Certain Driver's Licenses.

1. Effective June 8, 2021, DOL must stop suspending driver's licenses for failure to pay fines for non-criminal moving violations. Similarly, if DOL receives notice of failure to appear at a court hearing for such charges, DOL not suspend licenses for such failure to appear.
2. DOL must rescind all existing suspensions for FTA on non-criminal moving violations, waive the \$75 license reissuance fee, and reinstate licenses for drivers who are otherwise qualified to drive. DOL must also post notice of the court order on its website (which has now been done) and make periodic reports to the Court on its progress.

Midyear DWS-III Program Evaluation:

As a result of the legislative and judicial changes described above, statewide protections are now in place affording all Washington drivers substantially the same protections as those that the City Attorney's Office implemented last December for drivers in Vancouver. As a result, the City Attorney's Office intends to take the following steps relative to its DWS-III Diversion Program:

1. 'No action' qualifying pending referrals. Washington DOL is currently in the process of rescinding driver's license suspensions that were initiated for non-criminal moving violations, waiving the \$75 license reissuance fee, and reinstating licenses for drivers who are otherwise qualified to drive. The Vancouver City Attorney's Office will be declining to take prosecution action for any driver who was referred on suspicion of DWS-III, qualifies for reinstatement by WA DOL, and would have otherwise qualified for the 2021 Pre-Citation Diversion Program.
2. Dismiss qualifying court cases. The City Attorney's Office will be reviewing our pending files to identify drivers who qualify for license reinstatement by Washington DOL who would not have a pending prosecution matter but-for such suspension. Any such cases will be dismissed.
3. Cancel qualifying DWS-III diversion contracts and write-off outstanding balances owed from June 1, 2021 forward. The City has approximately fifty DWS-III diversion cases opened on or before December 31, 2020. These drivers entered the City's older (post-charging) diversion program. Some of these drivers will now be eligible for automatic license reinstatement by Washington DOL. However, their license reinstatement will not automatically relieve these drivers of their contractual obligation to repay the City for their diversion filing fees and administrative fees (up to \$379 each). In the aggregate, the total amount owed by such drivers is less than \$20,000 for all program participants combined (fewer than 50 participants at no more than \$379/each.)

To avoid potential injustice, the City Attorney and City Finance Director have conferred and agreed to administratively cancel the diversion contracts of DWS-III Diversion participants eligible for automatic license reinstatement by WA DOL and waive collection of outstanding diversion filing fees and administrative fee balances from June 1, 2021 forward pursuant to [VMC 3.25.020](#).

Next Steps: City Attorney's Office DWS-III Diversion Program to be replaced by Community Court Program.

The preventative measures implemented by the Washington Legislature and Washington Courts mean that future DWS-III referrals to the City Attorney's Office will neither be due to a driver's inability to pay fines for non-criminal moving violations, nor for Failure to Appear (FTA) on such charges. As a result, the equity-based concerns that the City Attorney's Office set out to address locally last December will effectively be remedied through a statewide solution moving forward.

In light of the recent developments described above, the City Attorney's Office will be discontinuing the DWS-III Pre-Citation Diversion Program. In its place, the City Attorney's Office will begin shifting its resources to establish a Community Court Program to align with the City's ongoing work of establishing Supportive Campsites for individuals experiencing unsheltered homelessness.

We hope that you find this information to be of use. At the July 19, 2021 City Council Meeting, representatives of the City Attorney's Office Criminal Prosecution Division will be in attendance to answer any questions you may have regarding the City's Criminal Prosecution Diversion Programs.



MEMORANDUM

TO: Eric Holmes, City Manager

FROM: Jonathan Young, City Attorney 

DATE: December 3, 2020

SUBJECT: Updated Criminal Prosecution Priorities: DWS-III *
* Driving While License Suspended Third Degree

Overview

The Vancouver City Attorney's Office is committed to advancing our understanding of who is, and is not, benefitting from the institutions our society has created. Where possible, we will seek opportunities to lawfully balance inequities that exist and repair inequities in our systems.

To this end, beginning January 2021, the City Attorney's Office will be piloting changes to our prosecution practices relative to the crime of "Driving While License Suspended in the Third Degree" (DWS-III).

While the requirement that motorists maintain a valid driver's license is certainly one ingredient in the overall recipe of traffic safety, prosecution trends increasingly suggest that bringing and maintaining criminal charges for DWS-III disproportionately impacts community members who are Black, Indigenous, and People of Color, as well as those who are of low or moderate financial means.

The 2021 DWS-III Pilot Program will bring two important changes to the City Attorney's prosecution practices:

1. The City Attorney's Office will offer qualifying individuals referred for DWS-III the opportunity to participate in a pre-citation diversion program. If completed, no infraction or criminal charges will be filed.
2. Prosecution standards will be revised to call for the use of civil infractions (rather than criminal charges) where appropriate, for those who do not choose to participate in the DWS-III Pre-Citation Diversion.

Anatomy of a DWS-III Case: While most people can quickly describe the elements of crimes like “assault,” “theft” or “DUI,” very few non-lawyers can accurately distinguish the elements of DWS-III as compared to DWS-I or DWS-II.

DWS-III referrals generally arise in instances where someone has received a ticket for a moving violation (e.g., speeding or rolling through a stop sign) and then fails to pay the ticket or show up in court to contest it. When this happens, the District Court notifies Washington State Department of Licensing (DOL). DOL sends the driver a notice that their license may be suspended; if the individual fails to timely contest, their driver's license is suspended by the state. The next time this individual gets in their car and drives, they are committing the misdemeanor Driving While License Suspended in the Third Degree (DWS-III). (RCW 46.20.342(1)(c)).

By contrast, a person who has been declared a habitual offender, or who drives after having their license revoked due to impairment, commits the crime of DWS-I or DWS-II (respectively), and may be charged with a gross misdemeanor. It is generally agreed that DWS-I and DWS-II have a strong nexus to community traffic safety. The City Attorney's Office is not proposing any changes to its current practices of charging DWS-I and DWS-II offenses as crimes.

The problem is that prosecution trends increasingly suggest that this charge disproportionately impacts community members who are Black, Indigenous and People of Color, as well as those who are of lower financial means.

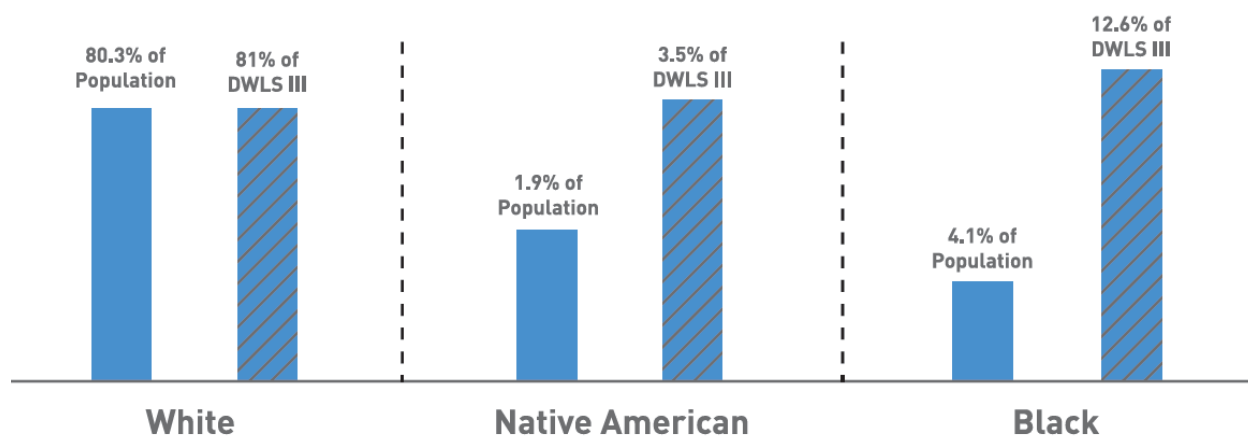
Nexis to Social Justice Reform: Within the 2017 Harvard Law Review commentary [“The President's Role in Advancing Criminal Justice Reform”](#) Barack Obama observed that state and local government action is needed to advance criminal justice reform by addressing the criminalization of poverty. Practices that criminalize poverty “destroy trust, deprive our fellow Americans of their fundamental rights, and have too often led to a two-tiered system in which the poor are not accorded the equal protection under the laws to which they are entitled under the U.S. Constitution.” (130 Harv. L. Rev. 811.)

By its very nature, a referral for DWS-III typically arises due to a driver's failure to pay legal fines. As a result, it is not surprising that DWS-III prosecutions disproportionately impact those who are of low or modest financial means. Further, DWS-III cases typically require multiple court appearances, each of which causes non-salaried defendants to lose earnings. If a DWS-III criminal defendant fails to appear, the court issues a warrant that may disqualify the individual from employment opportunities or public benefits. Non-indigent defendants found guilty of DWS-III must also pay court fees. In 2020, a DWS-III conviction carried a minimum of \$424.50 in court fees. For a minimum wage worker, \$424.50 equates to over 31 hours of labor. A warrant may be issued if a defendant fails to pay court-ordered fees.

In 2019, the Vancouver City Attorney's Office charged approximately 4500 cases. Of these, DWS-III charges made up 1140 cases -- roughly a quarter of the City's criminal caseload. The 1,140 DWS-III cases filed by the City in 2019 reflect the following dynamics:

- 58% (661) had at least one warrant issued;
- 53% (609) were still pending as of July 2020;
- 29% (333) were resolved guilty of DWS-III as of July 2020;
- 158 defendants (47% of all cases resolved guilty) were ordered to pay \$0 in fees, most likely because the court found the defendant to be indigent);
- The remaining 175 (53% of all cases resolved guilty) were ordered to pay a total of \$25,717. Of this amount, as of July 2020, only \$3,041 had been paid.

In summary, DWS-III defendants of low and modest means are severely impacted by DWS-III prosecutions, often in ways that more financially affluent defendants are not. As one might suspect, financial disparities translate to racial inequities. Charges for DWS-III disproportionately disadvantages community members who are Black, Indigenous, and People of Color. As reflected in the 2015 statewide DWS-III filings:



Source – ACLU of Washington analysis of Administrative Office of the Courts Data.

Black community members are roughly three times as likely to be charged with DWS-III as white people. Indigenous community members are approximately twice as likely to be charged with DWS-III as white people. [“Driven to Fail, the High Cost of Washington's Most Ineffective Crime – DWS-III,”](#) ACLU of Washington

(2017).¹ There are several other practical reasons to explore changes to the DWS-III program at this time:

- Neighboring jurisdictions in Oregon regard similar conduct as a Class A civil infraction. (Oregon Revised Statute 811.175.)
- The current COVID-19 pandemic has required suspension of the expiration dates of thousands of driver's licenses – creating a potential backlog of renewals. (Washington State Emergency Proclamation 20-41.)
- The current COVID-19 pandemic has created backlogs in criminal case trial schedules; numerical caps on jail inmates to reduce the spread of infection; and higher caseloads in other areas such as the Domestic Violence Prosecution Center.
- Appropriate changes to the DWS-III program stand to afford greater policy alignment with City Council's 2021-2022 Financial Policies which now include community safety as well as social justice as recognized priorities.

2021 DWS-III Prosecution Changes: Historically, referrals for DWS-III have been charged as misdemeanor criminal charges. While the City Attorney's Office already has a DWS-III Diversion Program, the benefits of that program have historically only been available after an individual has been charged with a crime.

Beginning in January 2021, the City Attorney's Office will make two important changes to the City's DWS-III diversion program:

1. Creation of a Pre-Citation Diversion Program. The DWS-III pre-citation diversion program will be able to be completed in two ways: (1) working with City Attorney's Office Staff to obtain successful license reinstatement; or (2) remaining offense-free for 6 months.
2. Revision of Prosecution Standards. Revised 2021 standards will call for the use of civil infractions (rather than criminal charges) where appropriate, for those who do not choose to participate in the DWS-III Pre-Citation Diversion program.

The City Attorney's Office plans to study the results of these program changes after one year and evaluate the need for further program refinements.

¹ Regrettably, the City Attorney's Office has found – and the ACLU acknowledges, too – that no data is available regarding the impacts of DWS-III on members of the Latinx community. Efforts to improve criminal justice data collection remains the subject of ongoing efforts within the City Attorney's Office and was a factor in the City Attorney's 2021-22 Budget Request for funding a new criminal case tracking system. This budget request was approved by the Vancouver City Council in November 2020 with projected procurement and implementation in 2022.