

March 8, 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.

4:00-5:00 p.m. COVID-19 Pandemic Emergency Response and Management Update

Eric Holmes, City Manager, 360-487-8600; Julie Hannon, Incident Commander for COVID-19 Response, 360-487-8309; Natasha Ramras, Chief Financial Officer, 360-487-8484; Jonathan Young, City Attorney, 360-487-8500; Aaron Lande, Program and Policy Manager, 360-487-8612; Chad Eiken, Community and Economic Development Director, 360-487-7882; Ryan Lopossa, Streets & Transportation Manager, 360-487-7706

Summary

Staff provided Council with an update on the City's activities and programs related to the emergency response to the COVID-19 pandemic.

5:00-6:00 p.m. Commercial Corridors Strategy Update

Bryan Snodgrass, Principal Planner, 360-487-7946; Cayla Cothron, Associate Planner, 360-487-7899

Summary

Staff provided Council with an update on the outreach and planning activities related to the Commercial Corridors Strategy.

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 Citizen 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: Eric Holmes, City Manager; Jonathan Young, City Attorney; Amanda Delapena, Assistant to the City Council; Chad Eiken, Community and Economic Development Director; Patrick Gilbride, IT Director; Peggy Sheehan, Community Development Programs Manager; and members of the public.

Citizen Communication (items 1-3)

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

Consent Agenda (Items 1-2)

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

- 1. Continued use of Washington State contract #01114 for purchase of Cisco network equipment, software, and services from PC Specialists dba Technology Integration Group (TIG)**

Staff Report 036-21

Summary

The City uses Washington State contract #01114 to purchase Cisco network equipment such as firewalls, security appliances, network

switches, wireless access points and network-related software and services.

The City is requesting authorization to continue to use the contract to purchase up to the Council-approved annual budgeted amount for these commodities through the end of the contract, which is 5/31/2021, and into any extended period negotiated by the State of Washington.

The City is approaching the approved amount authorized in 2016 and requests authority to continue to purchase using this contract up to the amounts approved by Council in the City's budget process.

Request: Authorize the City Manager or their designee to approve purchases under Washington State contract #01114 for the life of the contract with PC Specialists dba Technology Integration Group.

Patrick Gilbride, Information Technology Director, 487-7650

Motion approved the request.

2. Approval of Claim Vouchers

Request: Approve claim vouchers for March 8, 2021.

Motion approved claim vouchers for March 8, 2021, in the amount of \$6,386,660.14.

Old Business (Item 3)

3. Multi-Family Tax Exemption Program Phase 1 Changes

Staff Report 037-21

AN ORDINANCE amending Chapter 3.22 VMC related to the multi-family property tax exemption changing definitions, deleting references to public amenities and expanding the area eligible for the program; and providing for an effective date.

Summary

On December 7, 2020, staff proposed an ordinance for Council approval that would have adjusted the Area Median Income (AMI) used to determine maximum affordable rents by -30% to be more representative of Vancouver's median income. Following a discussion after the public

hearing, Council voted to not approve the ordinance, citing concerns about how such a change might inadvertently reduce participation in the MFTE Program and therefore decrease the supply of new units.

Council remains concerned about the disparity between the HUD-based “affordable income” benchmark used by the program and Vancouver-specific incomes, and asked staff to return with a proposal that would balance the desire to base the affordable options on Vancouver median income with a desire for the program to continue to provide an attractive incentive for development of new housing targeted to a range of income levels. The current reference to “affordable” in the MFTE ordinance communicates that the program is designed to deliver housing that is affordable to Vancouver residents when in fact – because of the disparity noted above – it is not. The MFTE is, however, effective at stimulating development of additional multi-family housing available to a range of income levels.

Council discussion suggested that the benefits of the program could be maintained and the ordinance be made more accurate if the term “affordable housing” were replaced throughout the ordinance with some other term that is more accurate. While it will take some time to develop an alternative to the current “affordable” option that balances the above goals, staff could return to Council on a fairly short time frame with an ordinance that replaces “affordable housing” with “below market,” “work force,” or “income-based.”

Based on feedback from Council on December 7, 2020 regarding the proposal to revise the Area Median Income (AMI) benchmark used by the program, staff revised the proposed work program to combine an analysis of the affordable options into more comprehensive look at how the program is working, areas where it might be expanded, and how the program can be further refined to address specific policy goals in each area. At the January 4, 2021, Council workshop, staff provided more data on how the MFTE program has been used since 2001, and proposed a revised work program for addressing the above issues in a more holistic manner.

At the January workshop, Council acknowledged more time would be needed to develop a more comprehensive set of revisions to the program, and confirmed their interest in more quickly advancing changes to the MFTE ordinance that address: 1) the lack of clarity in the public benefit requirement for market rate housing, and 2) elimination of the use of the term “affordable” in the ordinance when the maximum rents under the “affordable” options have been found to not be affordable to families earning below the Vancouver-specific median income level. These are seen as potentially being interim changes until a set of more comprehensive changes can be considered later this year.

The proposed ordinance would provide for the following phase 1 program revisions:

- 1. Replacement of the term “affordable” with the term “income-based,” as an interim solution to the discrepancy between Vancouver incomes and the income benchmark used by the program.*
- 2. Refine the public benefit requirements regarding type of qualifying amenity/infrastructure under the market rate option, such as deleting enhanced design, enhanced landscaping, energy efficiency, and consistency with the subarea plan, the relative value of which have been found to be difficult to quantify, or have been difficult to administer.*
- 3. A proposed revision to the downtown MFTE boundary to bring in a 2-acre property that is adjacent to the downtown VCCV area, which would facilitate a major mixed use redevelopment proposal.*

At the February 22, 2021, workshop, City Council asked staff to return with several changes to the public benefit requirements, which have been incorporated into the draft ordinance, as follows:

- 1. For parking to be considered a "public benefit," Council requested that the ordinance require a minimum number or percentage of additional spaces above the minimum parking requirement. Staff is proposing that the developer provide 10% more parking spaces than the minimum requirement in order for this to qualify as a benefit;*
- 2. Additionally in regard to parking as a public benefit, Council requested that only spaces within a parking structure, versus surface parking, be eligible as a public benefit and this change has been incorporated into the ordinance.*
- 3. Council requested that a minimum size of any proposed public plaza be established, and that any public plaza used to qualify for the incentive be accessible to the public after the tax exemption period expires. Staff is recommending that public plazas be at least 1,000 square feet in size and permanently accessible to the public (which can be formalized through an easement or covenant);*
- 4. Lastly, Council asked that staff propose a minimum value/cost of the features so that collectively the public benefit is something substantial. Staff is proposing that the cost of the features, which would be "up front" be no less than 25% of the estimated tax benefit over the abatement period.*

The second phase, which would likely take most of 2021 to complete, would consist of a more comprehensive evaluation of how the MFTE Program is working and ways that it should be adjusted to be a more

effective tool in furthering city goals. The second phase would include:

- 1. Additional analysis regarding the use of the MFTE program for affordable housing, in order to base maximum rent on Vancouver median incomes while maintaining participation in the program;*
- 2. Consideration of an expansion of geographic boundaries of program to include Mill Plain Corridor to include the Heights District, broaden Fourth Plain Corridor, and potentially other areas where multi-family housing is desired; and*
- 3. Analysis of the overall efficacy of the program to review and refine policy goals and adjust the incentive by area as needed to accomplish policy goals.*

Request: On Monday, March 8, 2021, approve ordinance on first reading, setting date of second reading and public hearing for Monday, March 15, 2021.

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

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

Chad Eiken, Community and Economic Development Director, provided an overview of the proposed amendments to the MFTE program.

Councilmember Stober stated he appreciates changing the terminology from "affordable" to "income-based," noting it is not perfect but an improvement. He expressed concerns about striking "energy efficiency" from the list of public benefits, stating he would rather see some kind of placeholder language there, but given that the City is currently developing a climate action plan, he stated he recognizes the Council could consider additional changes to this section of the MFTE program later on to align with the goals of the City's climate strategy. He stated he is supportive of bringing the Kirkland property into the MFTE boundaries at this time.

Councilmember Hansen noted that energy efficiency may be difficult to quantify and measure at this point, but renewable energy would not be. For example, a developer could propose to provide solar energy infrastructure as a public benefit.

Councilmember Glover agreed but stated she would rather wait to get more information on the City's developing climate action plan before adding specific renewable energy incentives to the public benefit options of the MFTE program.

Councilmember Stober asked if a developer would still be able to utilize

energy efficiency investments as a public benefit under the MFTE program if that is not called out specifically in the ordinance. Mr. Eiken stated the list in the ordinance is not all-inclusive. He explained it has been difficult to quantify things like energy efficiency, but striking that out of the list of examples would not preclude a developer from proposing it to the City as a public benefit. But putting it into the ordinance means the City must count it as a public benefit.

Councilmember Stober asked if staff could come back and quickly add specifics regarding energy efficiency and renewable energy to the public benefit section once the climate action plan is adopted. Mr. Eiken confirmed that would be possible.

Councilmember Fox stated she is reluctant to expand the MFTE program area while Council and staff still have a lot of work to do on the comprehensive evaluation of the MFTE program. She stated she supports the change in terminology to "income-based" housing, but does not support expanding the boundary until the program improvements are finalized and the Council has come to agreement on what the entire program should look like.

Motion by Councilmember Fox to move the ordinance forward with the changes to the terminology and the public benefit options but excluding the expansion of the program boundary failed for lack of a second.

Motion by Councilmember Glover, seconded by Councilmember Paulsen, and carried 6-1 to approve the ordinance on first reading, setting the date of second reading and public hearing for Monday, March 15, 2021. Councilmember Fox voted No.

Citizen Forum

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

- Cathryn Chudy, Vancouver, spoke in support of the City's moratorium on large-scale fossil fuel facilities and the development of a climate action strategy.
- Alona Steinke, Vancouver, stated the energy crisis in Texas following the winter storms is an example of why governments and communities need to look at alternative energy sources, and noted that another benefit to reducing emissions is improving the health of a community.
- Don Steinke, Vancouver, urged the City to require new buildings to produce net zero emissions and require developments to install electric vehicle charging infrastructure prior to laying pavement for projects.
- Den Mark Wichar, Vancouver, urged the City to tie into the state's climate

reforms. He also expressed support for the City's progress related to police reform and how it has handled the COVID-19 pandemic.

- Peter Fels, Vancouver, stated the City and other governments need to act urgently to address climate change and meet long-term commitments with immediate interim actions.
- Teresa Hardy, Vancouver, urged the City to adopt the most aggressive goals and strategies for its climate action plan.
- Heidi Cody, Vancouver, spoke in support of the City adopting the quickest and boldest strategy in its climate action plan. She also urged the Council to make the moratorium on large-scale fossil fuel facilities a permanent ban.

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

Adjournment

7:21 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.

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WORKSHOPS

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4:00-6:00 p.m. Retreat follow-up: Council Values and 2021-22 Priorities Review

Jeanne Lawson and Adrienne Dedona, JLA Public Involvement; Eric Holmes, City Manager, 360-487-8600; Aaron Lande, Program and Policy Manager, 360-487-8612

Summary

Consultants from JLA Public Involvement facilitated a discussion regarding Council values and refinement of 2021-2022 priorities. This workshop was a continuation of the discussions from the Council's January 15 and 16 retreat. A [full summary](#) is available on the City's website.

REGULAR COUNCIL MEETING

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

Call to Order and Roll Call

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

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

Absent: None

Also present on the call were the following: Eric Holmes, City Manager; Jonathan Young, City Attorney; Amanda Delapena, Assistant to the City Council; Jan Bader, Special Projects; Brian Carlson, Deputy City Manager; Frank Dick, Wastewater Engineering Supervisor; Chad Eiken, Community and Economic Development Director; Brian Enslow, State Government Affairs Liaison; Sheryl Hale, Senior Engineering Supervisor; Julie Hannon, Parks and Recreation Director; Aaron Lande, Program and Policy Manager; Dan Lloyd, Assistant City Attorney; James McElvain, Vancouver Police Chief; Cara Rene, Communications Director; Peggy Sheehan, Community Development Programs Manager; Alicia Sojourner, Director of Diversity, Equity, and Inclusion; Dan Swensen, Interim Public Works Director; Brent Waddle, Risk Analyst; and members of the public.

Approval of Minutes

Minutes - February 22, 2021

Motion by Councilmember Glover, seconded by Councilmember Fox, and carried unanimously to approve the meeting minutes of February 22, 2021. Councilmember Hansen abstained.

Minutes - March 1, 2021

Motion by Councilmember Fox, seconded by Councilmember Hansen, and carried unanimously to approve the meeting minutes of March 1, 2021.

Citizen Communication (Items 1-6)

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

Consent Agenda (Items 1-6)

Staff requested Item 2 be pulled for separate discussion, as summarized below.

Councilmember Fox explained she had reached out to staff to get more information about the Sewer Connection Incentive Program (SCIP), and asked staff to summarize that information for Council and the public.

Sheryl Hale, Senior Engineering Supervisor, provided a summary of the process, and explained that once Council accepts the construction of the East Vancouver Phase 2 sewer improvements, the City will send letters to property owners in the area to notify them the sewer is now available for residential connections. The City will provide the property owners with the costs for connecting, which typically are lower under the SCIP program, and information about the two-year guarantee for connecting to their property. She explained that typically about one-third of the eligible properties will take advantage of the SCIP program, about one-third will connect to the sewer main because of an eventual failure of a septic tank, and the remaining property owners will connect at the time of the sale of the property.

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

1. **Construction Acceptance - Sewer Pump Station Wet Well Lining**

Staff Report 038-21

Summary

Stettler Supply Company of Salem, Oregon, has completed construction of the Sewer Pump Station Wet Well Lining project. The project repaired deficiencies to the inside walls of the wet wells at 9 existing pump stations using an epoxy-based lining system.

The work was completed satisfactorily in accordance with the plans and specifications. Contract costs are summarized below:

TOTAL CONTRACT COSTS	
<i>Labor, Equipment and Material</i>	<i>\$306,861.60</i>
<i>Sales Tax</i>	<i>\$25,776.37</i>
<i>Total</i>	<i>\$332,637.97</i>
<i>Retainage</i>	<i>\$15,343.08</i>

The original contract amount, including sales tax, was \$312,291.73. The final project cost was \$332,637.97, which was \$20,346.24 (approx. 6.5%) more than the original contracted amount. The difference between original contract amount and final contract amount can be attributed to typical variances in unit prices and/or quantities commonly encountered during construction.

The contract amount fell below the \$500,000 limit and therefore did not trigger the apprenticeship utilization requirement.

Request: On March 15, 2021, accept the new wet well epoxy lining systems as constructed by Stettler Supply Company of Salem, Oregon, and authorize release of the retainage in the amount of \$15,343.08 subject to receipt of all documentation required by law.

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

Motion approved the request.

2. Construction Acceptance - East Vancouver PH2 Sewer Improvements

Staff Report 039-21

Summary

Advanced Excavating Specialists of Longview, Washington, has completed construction of the East Vancouver PH2 Sewer Connection Incentive Program (SCIP) project. The project provided reliable sewer service to 49 parcels by installing 3,771 linear feet of 8-inch gravity sewer mains in the following roadways: NE Rosewood Ave, NE 107th Ave, NE 133rd Ave, NE 134th Ave and NE 71st St.

During the course of the construction it was determined that an existing steel water main had a significant number of leaks and needed to be replaced. This replacement created additional work and cost to the contract.

The work was completed satisfactorily in accordance with the plans and specifications. Contract costs are summarized below:

TOTAL CONTRACT COSTS	
<i>Labor, Equipment and Material</i>	<i>\$695,011.13</i>
<i>Sales Tax</i>	<i>\$58,380.93</i>
<i>Total</i>	<i>\$753,392.06</i>
<i>Retainage</i>	<i>Bond</i>

The original contract amount, including sales tax, was \$594,713.84. The final project cost was \$753,392.06, which was \$158,678.22 (approx. 27%) more than the original contracted amount. The difference between original contract amount and final contract amount can be attributed to

additional unforeseen work to replace an existing deteriorating water main and additional pavement required by Clark County for final restoration, in addition to typical variances in unit prices and/or quantities commonly encountered during construction.

The contract amount fell within the \$500,000 to \$1,500,000 range requiring a minimum 3% apprenticeship utilization. The contractor utilized 636 apprenticeship hours, which equated to 17% to meet and exceed the requirement.

Request: On March 15, 2021, accept the facilities as constructed by Advanced Excavating Specialists of Longview, Washington, and authorize release of the retainage bond subject to receipt of all documentation required by law.

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

Motion approved the request.

3. Third Party Workers Compensation Administration and Related Services Contract C-89940, Contract Increase

Staff Report 040-21

Summary

The City of Vancouver, through its Risk and Safety Department, currently contracts with Gallagher Bassett as its Third Party Administrator (TPA) for the Workers Compensation program. The contract with Gallagher Bassett began on 12/31/17 and ends on 12/31/21. The contract amount (C-89940) has been exhausted by March of this year. Staff is requesting an increase to the authorized amount of the contract for the remainder of the year.

Request: Approve an increase of \$200,000 to the authorized amount of the Contract with Gallagher Bassett Services, Inc. and authorize the City Manager, or his designee, to increase the contract to \$500,000.

Brent Waddle, Risk Analyst, 360-487-8436

Motion approved the request.

4. Bid Award for construction of upgrades to equipment and structures at Industrial Pretreatment Lagoon, per Bid 21-02

Staff Report 041-21

Summary

The IPL has been operating since 1979 with original electrical and mechanical equipment. The aerator grid in the IPL was reconfigured in 1983 to provide better wastewater treatment. Other than the installation of an additional aeration blower in 2000 to provide redundancy, no major construction or replacements have occurred during its 40-plus years of operation. It is currently operating with treatment equipment that is beyond its expected service life.

The proposed project will replace the aging and outdated electrical system with modern equipment that meets current electrical codes for safety and reliability; upgrade mechanical aeration equipment for efficient and better-controlled delivery of air to the IPL; restore process cell walls and slide gates in the IPL; and provide floating walkway docks for operators' safe access to the gates and instrumentation. Another project phase, which will replace additional IPL equipment, is scheduled for 2023.

On February 18, 2021, bids were opened for this project (ITB 21-02). Bids were received from 5 firms:

SUMMARY OF BIDS	
BIDDER	AMOUNT
<i>Tapani, Inc., Battle Ground, WA</i>	<i>\$5,287,752.00</i>
<i>Slayden Constructors, Stayton, OR</i>	<i>\$5,582,600.00</i>
<i>McClure and Sons, Inc., Mill Creek, WA</i>	<i>\$5,597,776.00</i>
<i>Stellar J Corporation, Woodland, WA</i>	<i>\$5,706,826.40</i>
<i>Carlson Testing, Tigard, OR</i>	<i>Non-responsive</i>
<i>Engineer's Estimate</i>	<i>\$6,100,000</i>

The low bidder, Tapani, was found to be responsive and responsible. They also met the minimum requirements listed in the Supplemental Bidder Responsibility Criteria.

The City's apprenticeship policy sets a 5% apprenticeship utilization goal for this project. Tapani has submitted an apprenticeship utilization plan that will deliver apprenticeship hours in excess of the required 5% of total project labor hours..

Request: Authorize the City Manager or his designee to award and execute a contract and any required amendments with Tapani, Inc., of Battle Ground, Washington, to purchase equipment and construct upgrades to the Industrial Pretreatment Lagoon at their bid price of \$5,287,752.00, which includes Washington State sales tax; and authorize the City Manager to approve any legal action necessary to enforce the terms of the same.

Motion approved the request.

5. Amendment to Professional services agreement C-90662 with engineering firm Brown and Caldwell to include construction management services during construction associated with upgrades to Vancouver's industrial wastewater pretreatment lagoon system (IPL)

Staff Report 042-21

Summary

The 40-plus year old IPL receives food-process wastewater from three industries in Vancouver. The IPL is integral to Vancouver's wastewater treatment strategy, particularly with operations at the Westside Wastewater Treatment Plant. The IPL is currently operating with treatment equipment that is beyond its expected service life.

To date the consultant engineering firm and City staff evaluated a wide range of technology options for upgrades to the lagoon system and determined the existing system, with pertinent upgrades, is the most cost effective. The upgrades will include an electrical system overhaul, rehabilitation of infrastructure structures and equipment, a new high efficiency aeration blower and instrumentation for improved process control. Consultant engineering plans and specifications are complete, and approved by the City's building department.

Construction support services were anticipated and included as an optional Phase 7 in contract C-90662. City Construction Engineering staff reviewed the project scope and schedule, and determined a contract construction manager with specialized relevant experience and committed availability through the construction timeline is needed for this unique project.

Request: Authorize an amendment to contract C-100481 (previously C-90662) with Brown and Caldwell, Inc. to include construction management services for construction of upgrades at Vancouver's industrial wastewater pretreatment lagoon system and authorize the City Manager or his designee to execute the attached professional services agreement with Brown & Caldwell, Inc. of Portland, Oregon, with a not-to-exceed total cost of \$1,630,201.00, and authorize the City Manager or his designee to approve amendments to this contract, as needed.

Motion approved the request.

6. Approval of Claim Vouchers

Request: Approve claim vouchers for March 15, 2021.

Motion approved claim vouchers for March 15, 2021, in the amount of \$2,798,436.32.

Public Hearings (Item 7)

7. Multi-Family Tax Exemption Program Phase 1 Changes

Staff Report 037-21

AN ORDINANCE amending Chapter 3.22 VMC related to the multi-family property tax exemption changing definitions, deleting references to public amenities and expanding the area eligible for the program; and providing for an effective date.

Summary

On December 7, 2020, staff proposed an ordinance for Council approval that would have adjusted the Area Median Income (AMI) used to determine maximum affordable rents by -30% to be more representative of Vancouver's median income. Following a discussion after the public hearing, Council voted to not approve the ordinance, citing concerns about how such a change might inadvertently reduce participation in the MFTE Program and therefore decrease the supply of new units.

Council remains concerned about the disparity between the HUD-based "affordable income" benchmark used by the program and Vancouver-specific incomes, and asked staff to return with a proposal that would balance the desire to base the affordable options on Vancouver median income with a desire for the program to continue to provide an attractive incentive for development of new housing targeted to a range of income levels. The current reference to "affordable" in the MFTE ordinance communicates that the program is designed to deliver housing that is affordable to Vancouver residents when in fact – because of the disparity noted above - it is not. The MFTE is, however, effective at stimulating development of additional multi-family housing available to a range of income levels.

Council discussion suggested that the benefits of the program could be maintained and the ordinance be made more accurate if the term “affordable housing” were replaced throughout the ordinance with some other term that is more accurate. While it will take some time to develop an alternative to the current “affordable” option that balances the above goals, staff could return to Council on a fairly short time frame with an ordinance that replaces “affordable housing” with “below market,” “work force,” or “income-based.”

Based on feedback from Council on December 7, 2020 regarding the proposal to revise the Area Median Income (AMI) benchmark used by the program, staff revised the proposed work program to combine an analysis of the affordable options into more comprehensive look at how the program is working, areas where it might be expanded, and how the program can be further refined to address specific policy goals in each area. At the January 4, 2021, Council workshop, staff provided more data on how the MFTE program has been used since 2001, and proposed a revised work program for addressing the above issues in a more holistic manner.

At the January workshop, Council acknowledged more time would be needed to develop a more comprehensive set of revisions to the program, and confirmed their interest in more quickly advancing changes to the MFTE ordinance that address: 1) the lack of clarity in the public benefit requirement for market rate housing, and 2) elimination of the use of the term “affordable” in the ordinance when the maximum rents under the “affordable” options have been found to not be affordable to families earning below the Vancouver-specific median income level. These are seen as potentially being interim changes until a set of more comprehensive changes can be considered later this year.

The proposed ordinance would provide for the following phase 1 program revisions:

- 1. Replacement of the term “affordable” with the term “income-based,” as an interim solution to the discrepancy between Vancouver incomes and the income benchmark used by the program.*
- 2. Refine the public benefit requirements regarding type of qualifying amenity/infrastructure under the market rate option, such as deleting enhanced design, enhanced landscaping, energy efficiency, and consistency with the subarea plan, the relative value of which have been found to be difficult to quantify, or have been difficult to administer.*
- 3. A proposed revision to the downtown MFTE boundary to bring in a 2-acre property that is adjacent to the downtown VCCV area, which would facilitate a major mixed use redevelopment proposal.*

At the February 22, 2021, workshop, City Council asked staff to return with several changes to the public benefit requirements, which have been incorporated into the draft ordinance, as follows:

- 1. For parking to be considered a "public benefit," Council requested that the ordinance require a minimum number or percentage of additional spaces above the minimum parking requirement. Staff is proposing that the developer provide 10% more parking spaces than the minimum requirement in order for this to qualify as a benefit;*
- 2. Additionally in regard to parking as a public benefit, Council requested that only spaces within a parking structure, versus surface parking, be eligible as a public benefit and this change has been incorporated into the ordinance.*
- 3. Council requested that a minimum size of any proposed public plaza be established, and that any public plaza used to qualify for the incentive be accessible to the public after the tax exemption period expires. Staff is recommending that public plazas be at least 1,000 square feet in size and permanently accessible to the public (which can be formalized through an easement or covenant);*
- 4. Lastly, Council asked that staff propose a minimum value/cost of the features so that collectively the public benefit is something substantial. Staff is proposing that the cost of the features, which would be "up front" be no less than 25% of the estimated tax benefit over the abatement period.*

The second phase, which would likely take most of 2021 to complete, would consist of a more comprehensive evaluation of how the MFTE Program is working and ways that it should be adjusted to be a more effective tool in furthering city goals. The second phase would include:

- 1. Additional analysis regarding the use of the MFTE program for affordable housing, in order to base maximum rent on Vancouver median incomes while maintaining participation in the program;*
- 2. Consideration of an expansion of geographic boundaries of program to include Mill Plain Corridor to include the Heights District, broaden Fourth Plain Corridor, and potentially other areas where multi-family housing is desired; and*
- 3. Analysis of the overall efficacy of the program to review and refine policy goals and adjust the incentive by area as needed to accomplish policy goals.*

Request: On Monday, March 15, 2021, subject to second reading and

public hearing, approve ordinance.

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

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

Chad Eiken, Community and Economic Development Director, provided an overview of the proposed amendments to the MFTE program, noting that staff would be returning to Council with recommendations for further program changes following a more complete evaluation of the program.

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

- Terence Ibert, Vancouver, expressed concerns about the proposal to change the term "affordable" to "income-based" as the change would not address housing stock available at a truly affordable level to Vancouver residents, and about expanding the MFTE boundary as part of this package of amendments.
- Teresa Hardy, Vancouver, expressed concerns that the change to terminology does not address equity issues pertaining to providing affordable housing; she also urged the Council to include some language in the ordinance that would incentivize a developer building alternative energy infrastructure as a public benefit.
- Glen Yung, Vancouver, stated the MFTE program is a great tool available to the City to catalyze development and some changes to Vancouver's program are needed.

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

Mr. Eiken, responding to public testimony, explained that the change to the terminology from "affordable" housing to "income-based" housing has been proposed in an effort to be more accurate and transparent that those levels of rent are not truly affordable for all Vancouver residents, but Council has directed staff to conduct a thorough analysis of the MFTE program and recommend comprehensive updates. The change to the terminology would be an immediate and interim measure to increasing transparency while that analysis is conducted.

Regarding expansion of the MFTE boundary to the two-acre parcel adjacent to downtown, Mr. Eiken agreed it is not a "fix" to the MFTE program, like the other proposed provisions, but made sense because the subject property is a small parcel with the same zoning as and is adjacent to the downtown area.

Regarding language pertaining to providing energy efficiency as a public

benefit, Mr. Eiken explained staff is recommending striking that specific language at this time because it is difficult to quantify what would qualify as a public benefit, and excluding it from the specific list of public benefits does not preclude a developer from proposing energy efficiency or alternative energy infrastructure as a potential public benefit, which staff could review at that time. He noted the list of public benefits in the ordinance is not an all-inclusive list.

Councilmember Hansen noted a developer could propose alternative energy infrastructure investments as a portion of the public benefits required to meet the 25 percent value of the overall estimated tax exemption.

Councilmember Fox expressed concerns about expanding the MFTE boundary while the Council continues to discuss what types of public benefits are acceptable and should be allowed to qualify a project for an exemption. She also stated that during the comprehensive review of the program, the Council may want to customize portions of the program depending on unique areas of the city, and it does not feel like the program is ripe for boundary expansion until that more complete picture is understood.

Motion by Councilmember Fox to approve the portions of the ordinance that do not involve expanding the MFTE program boundaries failed for lack of a second.

Motion by Councilmember Paulsen, seconded by Councilmember Glover, and carried 6-1 to approve Ordinance M-4332. Councilmember Fox voted No.

Communications

A. From the Council

B. From the Mayor

C. From the City Manager

- a. Fort Vancouver Regional Library Headquarters Update
- b. State Legislative Session Update
- c. Staff Introduction - Alicia Sojourner, Director of Diversity, Equity and Inclusion
- d. Community Task Force on Policing Update

Adjournment

8:32 p.m.

Anne McEnery-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.

March 22, 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.

4:00-5:00 p.m. Renaissance Boardwalk (Kirkland East) Development Agreement

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

Summary

Staff and the project developers provided Council with an update on the proposed Renaissance Boardwalk development project and draft development agreement.

5:00-6:00 p.m. Vancouver Climate Roadmap

Aaron Lande, Program and Policy Manager, 360-487-8612; P. J. Tillmann and Tristan Smit, Cascadia Consulting Group

Summary

Consultants from Cascadia Consulting Group provided Council with an update

on the climate strategy development process and presented options for potential strategies moving forward.

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 Citizen 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: Eric Holmes, City Manager; Jonathan Young, City Attorney; Amanda Delapena, Assistant to the City Council; Brian Carlson, Deputy City Manager; Chad Eiken, Community and Economic Development Director; Charles Fell, Senior Civil Engineer; Aaron Lande, Program and Policy Manager; James McElvain, Vancouver Police Chief; Natasha Ramras, Chief Financial Officer; Cara Rene, Communications Director; Peggy Sheehan, Community Development Programs Manager; Chris Sneider, Senior Civil Engineer; and members of the public.

Citizen Communication (Items 1-6)

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

Consent Agenda (Items 1-6)

Motion by Councilmember Paulsen, seconded by Councilmember Glover, and carried unanimously to approve the Consent Agenda.

1. 2021 West Curb Ramps

Summary

The City is issuing two separate curb ramp contracts this year as part of its 2021 pavement management program. These contracts include the "2021 West Curb Ramps" and the "2021 East Curb Ramps." The purpose of splitting the work into two contracts is to reduce each contract to a manageable size, which helps expedite ramp construction. From a construction sequencing standpoint, it is far more efficient to construct the new curb ramps in advance of the on-street pavement management resurfacing work.

This staff report and recommended action is to award the 2021 West Curb Ramps contract only. Recommendations for the the other curb ramp projects will be made in the future.

On March 2, 2021, the City received 3 bids for the subject project. The bids ranged between \$875,442.00 to \$910,242.00 dollars. The low bidder was responsive. The bids are as follows:

SUMMARY OF BIDS	
BIDDER	AMOUNT
<i>Advanced Excavating Specialists (AES), LLC, Longview, WA</i>	<i>\$875,442.00</i>
<i>NW Construction GC Inc., Battle Ground, WA</i>	<i>\$899,950.00</i>
<i>Clark and Sons Excavating, Inc., Battle Ground, WA</i>	<i>\$910,242.00</i>
<i>Engineers Estimate</i>	<i>\$900,000.00 to \$1,000,000.00</i>

There is a minimum apprenticeship goal of 3% of the utilized labor hours for this project. AES of Longview, Washington, has submitted an Apprenticeship Utilization Plan to meet or exceed this goal by using approximately 220 hours of apprentice time of the estimated total of 6,375 applicable labor hours for the project.

Request: On March 22, 2021, award a construction contract for the 2021 West Curb Ramps project to the lowest responsive and responsible bidder, and authorize the City Manager or his designee to sign a contract with Advanced Excavating Specialists (AES), LLC from Longview, Washington, at their bid price of \$875,442.00, which includes Washington State sales tax.

Chris Sneider, Senior Civil Engineer, 360-487-8239

Motion approve the request.

2. **LED Streetlight Retrofit Project, construction acceptance and release of retainage**

Staff Report 044-21

Summary

The project upgraded 11,889 of the City's street lights from HPS to LED fixtures.

The original construction contract bid amount was \$1,112,656.88. Change orders and quantity adjustments during construction increased the contract amount by 21% to \$1,351,132.41. The largest change was \$192,272 for a change in the required labor category for the workers performing the work. When the project was about 20% complete, the Washington Department of Labor and Industries (L&I) notified the City that much of the work had to be performed by electricians instead of the lineworkers employed by Magnum Power. The project specifications require the use of lineworkers because that is the labor category recently used by Clark Public Utilities for a similar project. City staff reviewed L&I's notification and determined that in Washington electrical utilities can use lineworkers in instances where other agencies have to use electricians. Staff determined that the most expedient, and least expensive path to project completion was to have Magnum Power hire a subcontractor that employed electricians for portion of the work that required electricians.

Magnum Power of Kelso, Washington, Washington, has satisfactorily completed the subject improvements in accordance with the plans and specifications.

Request: On March 22, 2021, accept the LED Streetlight Retrofit Project as constructed by Magnum Power of Kelso, Washington, Washington, and authorize release of the retainage of \$67,556.62, subject to receipt of all documentation required by law.

Charles Fell, Senior Civil Engineer, 360-487-7790

Motion approve the request.

3. **Professional Services Agreements between the City and Lynn K. Wittwer, M.D., PC.**

Staff Report 045-21

Summary

Lynn K. Wittwer, M.D., PC is the medical program director for Clark County, Washington. Under the authority granted to him by the Washington State Department of Health, he provides mandatory medical oversight, consultation, training and quality assurance services for all Clark County, Washington, emergency medical services personnel. The attached Professional Services Agreements outline the terms and conditions of the MPD providing those services.

The attached contract covers both, services provided to the AMR, Inc. and the City of Vancouver Fire Department. The Medical Program Director provides general oversight services, quality assurance services and training of the medical emergency response personnel. The contract is one year in duration and will renew annually.

The total contract amount for the next full year is \$253,754. The amount will be adjusted annually by an inflationary index for Seattle-Tacoma-Bellevue.

Request: Authorize the City Manager or designee to sign the Professional Services Agreements between the City of Vancouver and Lynn K. Wittwer, M.D., PC for the provision of emergency medical services oversight.

Natasha Ramras, Chief Financial Officer, 360-487-8484

Motion approve the request.

4. Creating a refund process for business license surcharge fees for eligible businesses for 4/1/2021 – 3/31/2022

Staff Report 046-21

AN ORDINANCE regarding the Business License Fee Surcharge (VMC 5.04.095) program; providing for refunds of the business license fee surcharge for new business license applications and annual license renewals for eligible businesses; providing for implementation of such refund program; defining eligibility criteria; providing for an immediate effective date; and providing for a sunset date on March 31, 2022.

Summary

The City generates approximately \$5.5 million annually from the business license fee and surcharge (BLS) program. The revenue is dedicated to funding existing police officer positions and funding the increased level of street pavement management program.

Effective 4/1/2021, all businesses will be required to continue registration and payment of City business license fees through Washington State

Department of Licensing.

From 4/1/2021 through 3/31/2022, businesses in several eligible categories will receive a refund from the City for 2021 fees and surcharges already paid. Eligible businesses will be required to complete a City of Vancouver BLS Refund application form to receive the refund. The State of Washington's application processing system has limited flexibility and cannot accommodate significant deviations from the current program. Refund applications will, therefore, be processed manually by the City of Vancouver Business License division in the Finance department.

The eligibility for this program targets businesses that have traditionally served large numbers of consumers indoors, simultaneously. Specifically:

- Restaurants, Taverns, Breweries, Wineries and Distilleries;*
- Fitness and Training Facilities;*
- Movie Theatres, Theaters & Performing Arts; and*
- Bowling Facilities.*

Specific Washington State Guidance documents that identify which businesses are included in the above categories are identified in attachments A-E to the attached Ordinance.

These businesses are among those most severely impacted by the pandemic, are likely to remain subject to some of the longest restrictions and are particularly well-situated to utilize BLS savings to support increased consumer safety.

Request: On Monday, March 22, 2021, approve the ordinance on first reading, setting date of second reading and public hearing for Monday, April 5, 2021.

Natasha Ramras, Chief Financial Officer, 360-487-8484

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

Motion approve the request.

5. Approval of Council Retreat Summary Report

Request: Approve the summary report for the January 2021 City Council retreat and March 15 follow-up work session.

Eric Holmes, City Manager

Motion approve the request.

6. Approval of Claim Vouchers

Request: Approve the claim vouchers for March 22, 2021.

Motion approve claim vouchers for March 22, 2021, in the amount of \$8,750,151.17.

Citizen Forum

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

- Glen Yung, Vancouver, stated he was excited about the potential of the Kirkland East (Renaissance Boardwalk) development project; he also stated it seems like affordable housing has been missing from the climate strategy discussions and urged the City to ensure it is considered to prevent any unintended consequences to housing costs.
- Colton Barton, Vancouver, representing Livit Mobile, LLC, expressed concerns about the siting of a future Vancouver Housing Authority homeless shelter at the former Howard Johnson hotel near the Vancouver Mall.
- Ryan Steinbarg, Vancouver, expressed concerns about the siting of a future Vancouver Housing Authority homeless shelter at the former Howard Johnson hotel near the Vancouver Mall.
- Armand Resto-Spotts, representing Centennial Real Estate Company, which owns and operates the Vancouver Mall, expressed concerns about the siting of a future Vancouver Housing Authority homeless shelter at the former Howard Johnson hotel near the Vancouver Mall. He referenced a letter submitted to the City (attached) requesting a formal interpretation of the zoning code that permits the shelter to be located at this site. He requested the City prevent this project from moving forward until a decision is made by the Hearings Examiner on this appeal.
- Cathryn Chudy, Vancouver, urged the City to ensure a clean energy framework with its climate strategy and take steps as soon as possible to eliminate the use of fossil fuels, including natural gas.
- Alona Steinke, Vancouver, urged the City to aim high in its climate strategy goals and work toward the reduction of emissions from motor vehicles.
- Don Steinke, Vancouver, urged Council to enact regulations that clear pathways for new building and development to invest in clean energy

infrastructure first.

- Den Mark Wichar, Vancouver, urged the Council to adopt the most aggressive and idealistic goals in its climate strategy.
- Peter Fels, Vancouver, urged the City to be more ambitious with its climate goals and enact building regulations that encourage use of green energy.
- Heidi Cody, Vancouver, urged the Council to adopt the bold levels for its climate strategy and consider how to incorporate leading edge goals where possible.
- Caroline Ceravolo, Ridgefield, Washington, urged the Council to adopt the bold goals for its climate strategy.
- Caleb Ceravolo, Ridgefield, Washington, urged the Council to adopt the bold goals for its climate strategy.
- Tracy Ceravolo, Ridgefield, Washington, urged the Council to adopt the bold goals for its climate strategy and act as quickly as possible.
- Monica Zazueta, Vancouver, urged community members to focus attention on how to help other members of the community who are experiencing homelessness feel like they are a part of this community. She also urged the Council to adopt the boldest goals possible for its climate strategy.
- Ben Bierman, Vancouver, spoke in strong support of the Council adopting the boldest plan possible for its climate strategy and the quickest phase-out of natural gas.
- Jonah Kropp, Vancouver, urged the Council to be stringent on climate goals, and pursue the most advanced goals possible.
- Jean Avery, Vancouver, congratulated the City on undertaking a comprehensive climate strategy. She read a statement (attached) from Susan Saul, Conservation Chair of the Vancouver Audubon Society, and also urged the City to ensure connected greenspaces through the community and adopt the boldest climate goals possible.
- Teresa Hardy, Vancouver, urged the City to require developers to reach the highest building efficiency standards available, and put leading edge climate goals on the table for consideration.
- Nate Stokes, Vancouver, representing IUOE Local 701, urged the City to work with the energy and building trades to determine how best to invest in renewable energy sources while also diversifying the electrical system.

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

Executive Session re: Labor Negotiations Strategy (1 hour)

Mayor McEnery-Ogle announced the Council would be entering into executive session at 7:30 for one hour to discuss Labor Negotiations Strategy. No action would be taken.

Mayor McEnery-Ogle reconvened the public session at 8:06 p.m. to adjourn the Council meeting.

Adjournment

8:06 p.m.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

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1499 SE Tech Center Place, Ste. 380
Vancouver, WA 98683
Tel. (360) 567-3900
Fax (360) 567-3901
www.jordanramis.com

Armand Resto-Spotts

Direct Dial: [REDACTED]

March 19, 2021

City Council
City of Vancouver
415 West 6th Street
Vancouver, WA 98668-1995

Re: ***Proposed Homeless Shelter at Former Howard Johnson Motel***
Vancouver Mall Issues With Zoning and Use Classification
Tenant Letters of Support

Dear City Council:

This letter is submitted on behalf of Centennial Real Estate Company, owner and manager of the Vancouver Mall (the "Mall"). This letter regards the Vancouver Housing Authority (VHA), Clark County, and City of Vancouver's Interlocal Agreement regarding acquisition of the Howard Johnson hotel for operation of a homeless shelter. The Mall is deeply concerned that the VHA and the City continue to move forward on operation of this homeless shelter, despite the existence of a critical legal zoning question on the site and the practical concerns of the Mall and businesses in the area about operation of a homeless shelter in this location.

Request for Interpretation of Zoning Code / Appeal of Decision

Through its legal counsel, the Mall previously appeared at the City's February 8, 2021 City Council meeting when it approved the Interlocal Agreement. At that time, the Mall notified the Council of its formal Request for Code Interpretation (VMC 20.255), which the City recently issued on March 12. In that Request, the Mall has questioned the permitted uses within the General Commercial zone, and specifically, whether "homeless shelters" are permitted, under any level of review, at this particular site. In the Mall's view, the City has not adequately demonstrated how this homeless shelter is in fact permitted at this particular property. In fact, as we have noted and presented for the Planning Official's review in our Request for Code Interpretation, City Code does not clearly permit this type of use at the site at all.

The Mall has reviewed the City's final decision and has since appealed that determination to the Hearings Examiner. The Mall remains troubled with the City's interpretation of its code and deeply concerned that the VHA and the City continue to move forward with this proposal while this fundamental legal issue continues to be reviewed. We hope this letter draws the Council's attention to this critical zoning question, and we would respectfully ask that the Councilors consider pausing further movement on the proposed shelter until the legal issues are analyzed, reviewed, and ultimately, settled.

55348-78945 4816-9271-4719.3

Practical Concerns – The Mall and Tenants

Beyond that present legal issue, the Mall, and its tenants and surrounding businesses, continue to have serious practical concerns about the operation of a homeless shelter in this location. Many of these tenants and businesses have raised those concerns with the VHA during its neighborhood sessions several weeks ago. Since that time, however, there has been no further community engagement on the proposed shelter—from the VHA or the City.

The lack of clarity and transparency on this land use process is alarming. All of these business owners have chosen to make long-term financial commitments to this particular location. The Mall, along with these business owners, simply seeks clarity and certainty going into the future knowing what potential operations may exist next door, down the street, or in the same street loop as their business.

From the Mall and tenants' perspective, the City has completely failed to demonstrate not just the permissibility of this use at the location, but the practical and economic impacts on the businesses in the Mall and wider area. Given that there has been no opportunity for public discussion on the proposal, the Mall hopes this letter can shed some additional light on the extent of concern from the Mall's business owners. Additionally, the Mall hopes that other tenants and businesses independently submit comment to the City for its consideration and awareness of these very real, very immediate issues.

For nearly 43 years, the Vancouver Mall has served as a regional hub for shopping and entertainment, and most importantly, from a municipal perspective, an established foundation and marker of economic growth and stability for the greater Clark County region. The Mall houses over 140 businesses and in 2019 alone, the Mall generated over \$11 Million in sales revenue for the city and state. The economic vitality and success of the Mall is not just significant for the tenants, but represents an invaluable economic base for the City and County. We hope this letter begins to emphasize to the Council how serious and significant this proposed homeless shelter is to the Mall and its community.

Respectfully,

JORDAN RAMIS PC

Armand Resto-Spotts
Jamie D. Howsley

VANCOUVER AUDUBON SOCIETY

P.O. Box 1966 Vancouver, WA 98668-1966
www.vancouveraudubon.org



March 21, 2021

Dear Mayor and Council Members:

Re: Vancouver Climate Roadmap

The Vancouver Audubon Society thanks you for your work on climate action planning and the transition to a clean energy economy. As a stakeholder in the process, we appreciate the efforts to gather public input.

Action is essential at all levels of society to stop greenhouse gas emissions and slow climate change. Audubon's own science shows that climate change is by far the biggest threat to the birds that we love. That's why Audubon works for solutions to counteract the effects of climate change and achieve net-zero emissions by 2050. This means not only dramatically reducing carbon emissions, but offsetting what we cannot eliminate.

Thanks to major advances in technology, renewable energy has become increasingly more affordable and obtainable for both businesses and individual homes. That's good news for people and birds, since adopting renewable energy is critical to reducing pollution, lowering global temperatures, and preserving the places that birds need to survive.

We urge the city to ensure that fossil fuels are not being designed into new developments, make the moratorium on large scale fossil fuels facilities a permanent ban, and remove any preference for fossil fuels from the policies and targets associated with the Vancouver Climate Roadmap. Scaling up energy efficiency and renewable energy while eliminating fossil fuels is the best pathway to meaningful emissions reductions and meeting the Bold Target of carbon neutrality by 2040.

We are particularly interested in the Connected, Carbon-Rich Natural Systems Strategy since it also offers concurrent opportunities for making Vancouver a city with abundant and healthy populations of birds. We urge you to view the city as a place *of* nature, not apart from it, by maximizing connections with natural landscapes and biodiversity.

We particularly support the strategy to "optimize management of the City's natural lands and tree canopy to increase carbon sequestration and support resilience to extreme events." Nothing we currently know of works better than allowing trees to suck carbon from the atmosphere when they are living, and store it in their branches, roots and the forest soil for centuries after their death. Trees — especially mature forests — are the cheapest, fastest, most reliable form of carbon storage.

We support the Natural Systems strategy that “parks, trails and green spaces will store carbon and connect neighborhoods, enabling more residents to walk, bike, and spend time in nature as part of their daily commute or routine.”

We look forward to implementation plans that include targets for access to nature (such as a park or green space within a five-minute walk for all residents), for habitat restoration and annual tree planting, and for tree canopy, among others – all specific actions that also help birds and conserve local biodiversity. We urge implementation plans that may include rewilding parks and open spaces and reimagining the many smaller spaces, like turfgrass lawns and spaces adjacent to urban buildings and development, as opportunities for bird habitat. Finally, we also urge that these implementation plans place priority on the use of native plants since they best support native birds.

Thank you for your continued commitment to addressing the challenge of climate change in a way that ensures a livable and sustainable city for the future.

Sincerely,

Susan Saul
Conservation Chair
conservation@vancouveraudubon.org

Public Health COVID-19 update

Alan Melnick, MD, MPH, CPH

Vancouver City Council

April 5, 2021



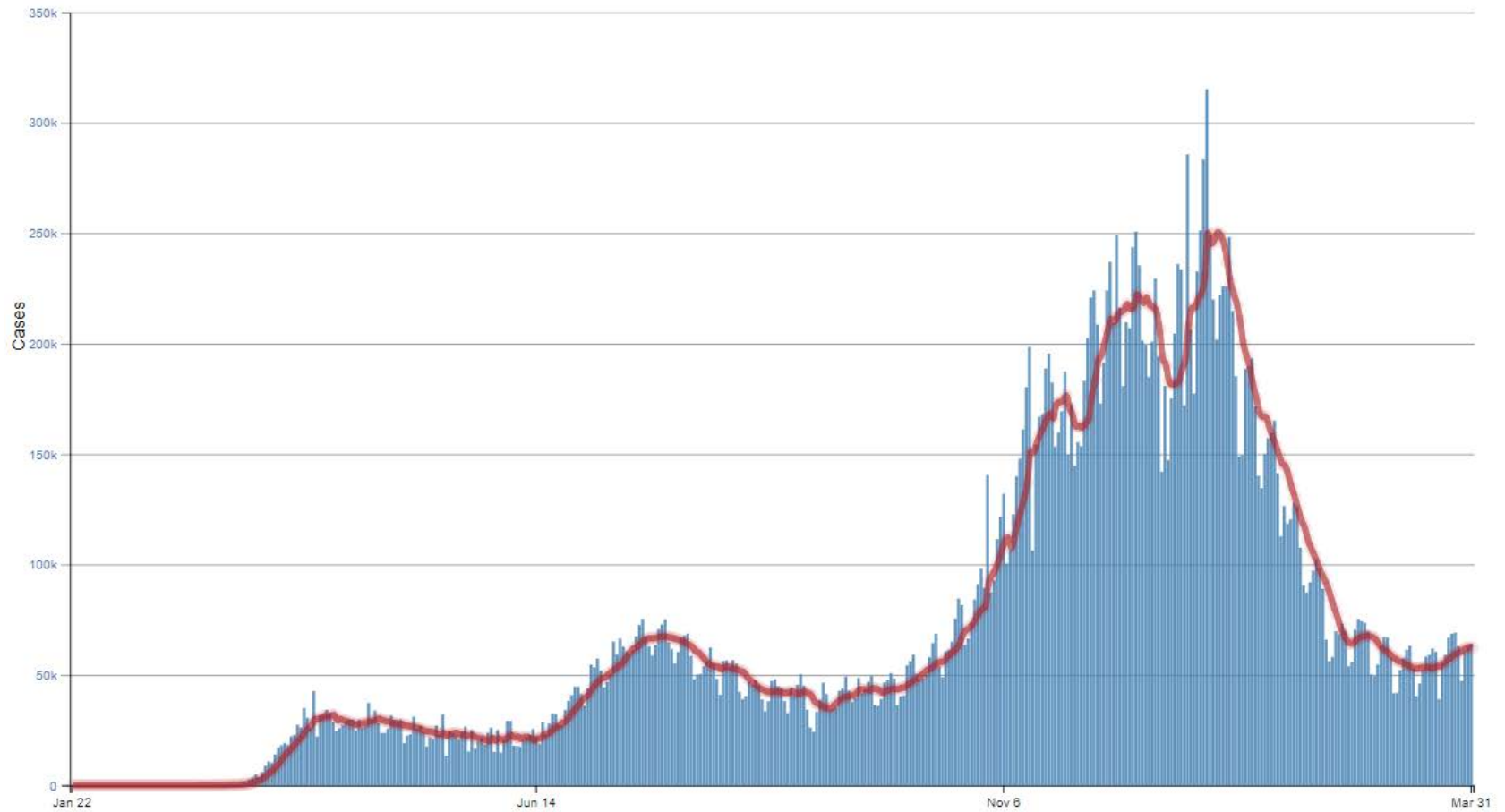
US

- Starting to see case numbers increase again nationally.
 - Concerns about the possibility of a fourth wave.
- Latest data from the CDC:
 - 11.9% increase in COVID-19 cases since last week
 - 6.1% increase in COVID-19 hospitalizations
 - 3% decrease in COVID-19 deaths



US

Daily Trends in Number of COVID-19 Cases in the United States Reported to CDC



Washington

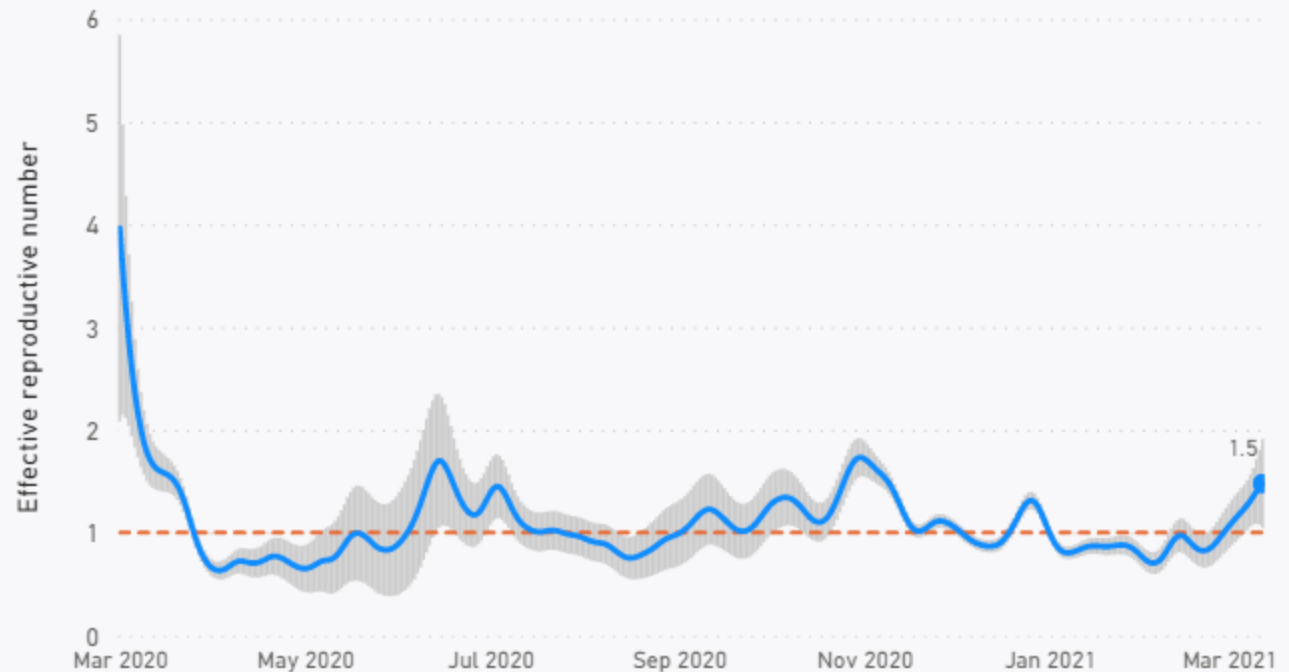
- Transmission in Washington may be increasing.
 - Reproductive number is around 1, with more uncertainty in recent weeks than the last few months.
- Statewide case numbers have plateaued at a high level.
 - Many counties seeing plateaus, but variation from county to county.
 - 23 counties with rate of less than 100 cases per 100k over 14 days.
 - 13 counties with rate of 100-200 cases per 100k over 14 days.
 - 2 counties with rate of 200-300 cases per 100k over 14 days.
 - 1 county with rate higher than 400 cases per 100 over 14 days.
- The number of hospital beds occupied by confirmed and suspected COVID-19 patients began increasing in mid-March after steady declines since January.
- Cases among people over 60 years old are declining more rapidly as the proportion of vaccinated people in this age group grows.



Western Washington – reproductive number

R estimate	1.5
Lower confidence interval	1.0
Upper confidence interval	1.9

R estimates over time



Sources: Washington State Department of Health and the Institute for Disease Modeling (IDM) and the Microsoft AI for Health program



Washington – COVID activity rate

Washington State

7 Day ☒ 14 Day

Rate per 100K of newly diagnosed confirmed and probable cases during the prior two weeks

132.0

Meeting goal of fewer than 25 cases (confirmed and probable) per 100,000 people

No

Supporting detail

Population

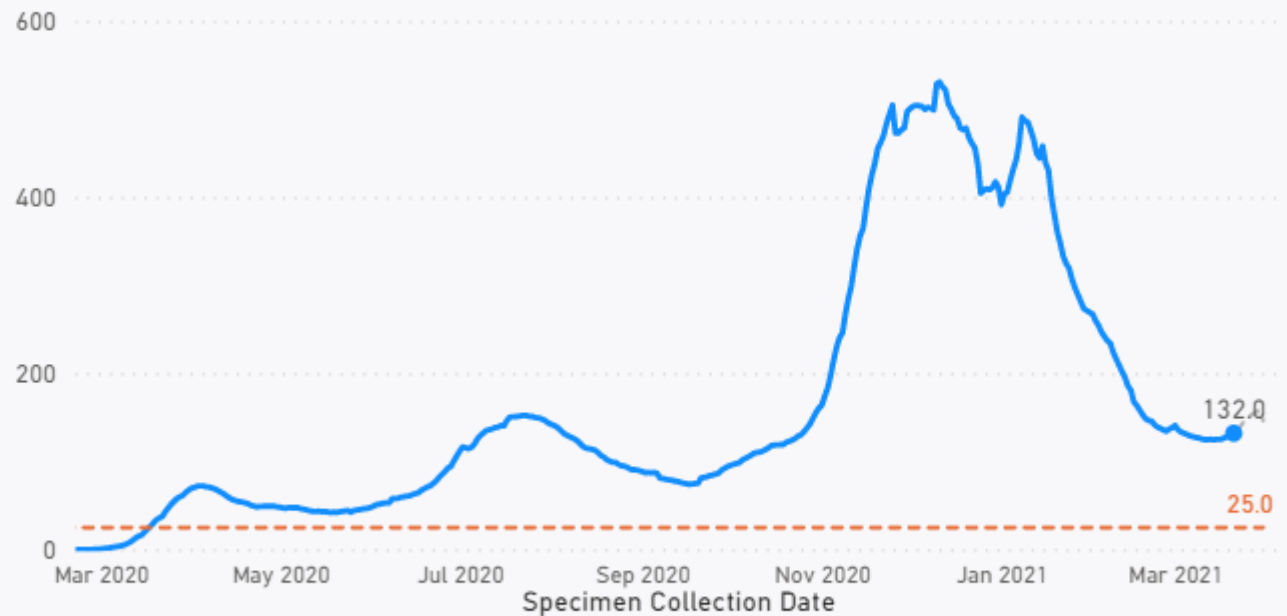
7.55M

Confirmed and probable cases in the prior two weeks

9,965

Rate per 100K of newly diagnosed confirmed and probable cases during the prior two weeks

— Case rate • Latest case rate - - - Case rate incomplete - - - Goal <25 case rate



Sources: Washington State Department of Health and the Washington State Office of Financial Management



Clark County

- Case numbers are beginning to increase.
 - Three weeks ago, averaged 34 cases per day.
 - Two weeks ago, averaged 37 cases per day.
 - Last week, averaged 45 cases per day.
- COVID-19 activity rate was declining but has begun increasing.
 - COVID-19 activity rate reached its highest point in mid-January: 473.7 cases per 100,000.
 - Decreased for eight consecutive weeks after that peak.
 - But the rate has increased each of the last three weeks:
 - 88.8 cases per 100,000 (March 15)
 - 90.5 cases per 100,000 (March 22)
 - 105.6 cases per 100,000 (March 29)
 - Expected to increase again this week.
- Hospitalizations for COVID-19 cases remain around 5%.



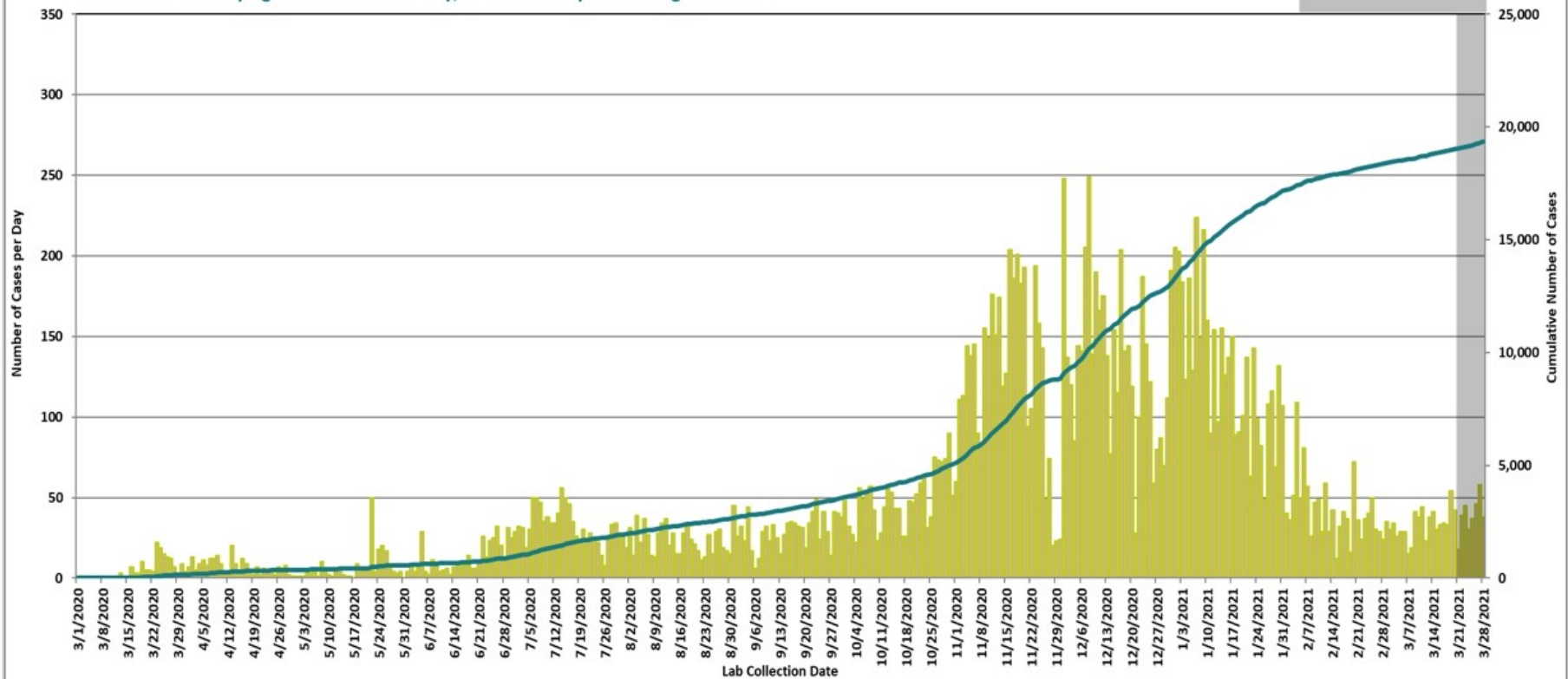
Clark County

Clark County Confirmed COVID-19 Cases, by Lab Collection Date

The "cumulative" line gives us an indication of how fast we are identifying new cases; the sharper the upward slope, the more new cases are being reported. A plateau or more gradual slope in this line shows that we are identifying fewer cases each day, or successfully "flattening the curve".

Number of Cases
Cumulative Confirmed Cases

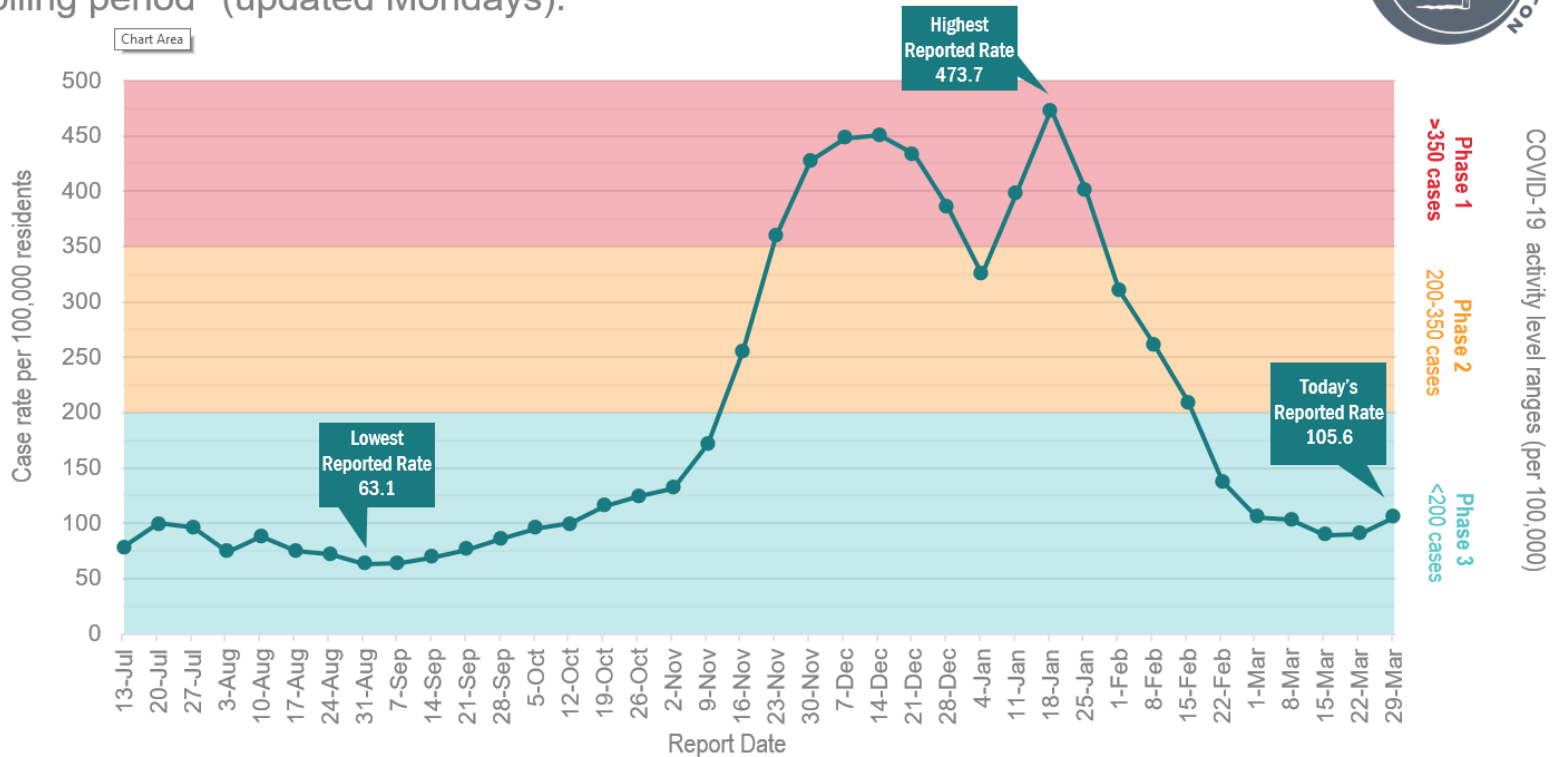
Data in the past week may change due to delays in confirming test results



Clark County

COVID-19 ACTIVITY LEVEL

Clark County COVID-19 **case rate per 100,000 residents** for 14-day rolling period* (updated Mondays).



*The 14-day period starts six days prior to the report date to account for the lag in reporting. Last updated March 29, 2021.



SARS-CoV-2 variants

- Increasing virus activity is particularly concerning because we know there are variants present in our community, including variants known to spread more easily.
- Multiple variants of SARS-CoV-2, the virus that causes COVID-19, have been documented.
 - Five variants of concern and three variants of interest

Variants of concern

- B.1.1.7 (UK):
 - Spreads more easily and quickly than other variants.
 - Recent study of 55,000 UK patients considered to be relatively low-risk diagnosed with SARS-CoV-2 in the UK between October 2020 to January 2021 showed an overall 1.6-fold increase in risk of death compared with infection with previous strains.
 - So far, studies suggest the COVID-19 vaccines currently authorized for use are effective against the B.1.1.7 variant.



SARS-CoV-2 variants

Variants of concern continued

- B.1.351 (South Africa):
 - Variant is not known to cause more severe illness; unclear whether it spreads more easily.
 - This strain can reduce the effectiveness of some vaccines.
- P.1 (Brazil)
 - 17 unique mutations
 - Evidence suggests some mutations may affect the ability of antibodies (natural and from vaccine) to recognize and neutralize the virus.
- B.1.427 and B.1.429 (California):
 - Evidence they are slightly more contagious
 - Some COVID-19 antibody treatments may be less effective against the strains.



SARS-CoV-2 variants

Variants of interest

- P.2 (Brazil):
 - Possible that some COVID-19 antibody treatments may be less effective against the strains.
- B.1.526 and B.1.525 (New York):
 - Possible that some COVID-19 antibody treatments may be less effective against the strains.



SARS-CoV-2 variants

- Washington variants cases detected:
 - B.1.1.7 (UK): **221**
 - B.1.351 (S. Africa): **17**
 - P.1 (Brazil): **13**
 - B.1.427 (Cali): **141**
 - B.1.429 (Cali): **745**
 - B.1.526 (NY): **5**
 - B.1.525 (NY): **4**
 - P.2 (Brazil): **13**
- Clark County variant cases detected:
 - B.1.1.7 (UK): **3**
 - B.1.427 (Cali): **1**
 - B.1.429 (Cali): **3**



Clark County vaccine allocation

- State Department of Health COVID-19 vaccine allocation to Clark County increased considerably after Public Health shared the data comparing allocation per capita among 15 counties in the state.
- Allocation data from DOH doesn't include the vaccine coming into Clark County through the Federal Retail Pharmacy Program.
 - Some pharmacies receive state and federal vaccine allocation.
 - Tower Mall vaccination site also utilizes federal vaccine program through Safeway.
 - Recently, federal allocation has been well over 10,000 doses per week.



Clark County vaccine allocation

- Through the first 11 weeks, Clark County received an average of 4,175 first doses of COVID-19 vaccine from the Washington State Department of Health.
- Allocation to Clark County since then:

Week	# of first doses	# second doses
Week 12 (3/1-3/7)	14,140	8,780
Week 13 (3/8-3/14)	14,970	5,540
Week 14 (3/15-3/21)	17,710	6,950
Week 15 (3/22-3/28)	6,950	12,100
Week 16 (3/29-4/4)	14,330	12,700

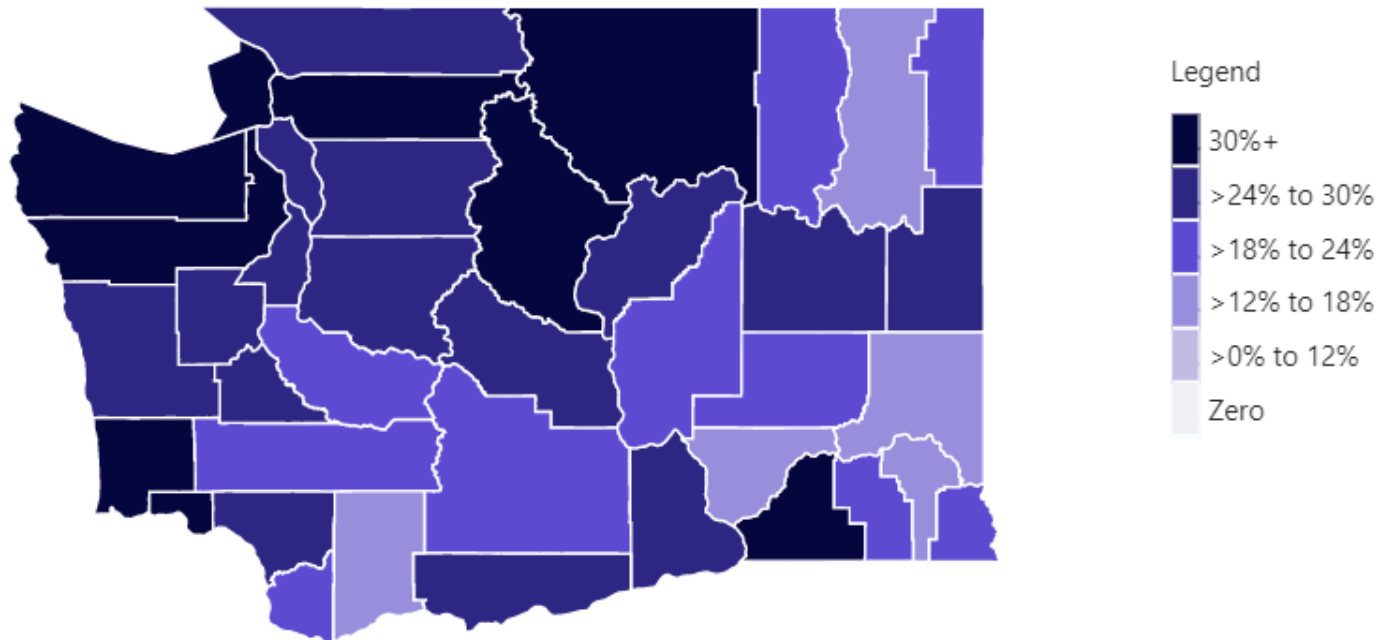


COVID-19 vaccine administered

as of Monday, March 29

- **152,934** doses administered in Clark County
- **114,082** Clark County residents (23.4%) have received their first dose
- **62,447** Clark County residents (11.8%) are fully vaccinated

PEOPLE INITIATING VACCINATION (RECEIVING AT LEAST 1 DOSE)



Tower Mall vaccination site

- Public Health continues to partner with city of Vancouver and Safeway to operate the Tower Mall vaccination site.
 - Site operates Friday, Saturday, Monday and Tuesday
 - Capacity for 1,000 doses per day
- In the first three weeks, about 8,900 people received their first doses of Pfizer at the Tower Mall site.
- We are now in our fifth week of operations at Tower Mall.
 - Administering second doses for those who received their first doses at Tower Mall.
 - Also offering first doses, where capacity allows (100-400 appointments per day).



Public Health vaccination efforts

- Public Health has also been working to increase access to vaccine through mobile and short-term fixed-location vaccination sites.
- Public Health deployed mobile teams to vaccinate:
 - More than 1,000 residents and staff at about 150 adult family homes, several other long-term care facilities.
 - About 260 residents at 8 Vancouver Housing Authority facilities.
 - Eligible people at the jail and a local shelter
- On March 13, Public Health hosted a one-day vaccination clinic at Woodland High School and vaccinated 500 people in about 5 hours.
- We're now working with local food processing facilities to plan on-site vaccination clinics.
 - Prioritizing facilities that have had COVID-19 outbreaks and have diverse workforces.
 - Have so far vaccinated more than 300 people at two facilities; three more clinics planned.



Guidance for people fully vaccinated

- Centers for Disease Control and Prevention recently issued guidance for people who are fully vaccinated.
- A person is considered fully vaccinated:
 - Two weeks after their second dose in a two-dose series (Pfizer or Moderna vaccines)
 - Two weeks after receiving a single-dose vaccine (Johnson & Johnson)
- If it has been less than two weeks or if the second dose is still needed, they are NOT fully protected.
 - They should continue taking all preventive steps until fully vaccinated.



Guidance for people fully vaccinated

- Those who are fully vaccinated can:
 - gather indoors with fully vaccinated people without wearing a mask.
 - gather indoors with unvaccinated people from one other household without masks, unless any of those people or anyone they live with has an increased risk for severe illness from COVID-19.
- Those who are fully vaccinated and have been around someone who has COVID-19 do not need to quarantine or get tested unless they develop symptoms.
 - Except those who live in a group setting. They should quarantine for 14 days and get tested.



Guidance for people fully vaccinated

- Even people who are fully vaccinated should continue to take preventive measures in many situations, including:
 - When in public
 - When gathering with unvaccinated people from more than one other household
 - Visiting with an unvaccinated person who is at increased risk of severe illness from COVID-19 or who lives with a person at increased risk.
- Fully vaccinated people should also continue to:
 - Avoid medium and large gatherings
 - Follow workplace guidance
 - Get tested if they develop COVID-19 symptoms
- These recommendations may change as more people get vaccinated and our communities have more widespread protection.



Challenges we face

- While vaccine supply and the number of people being vaccinated continues to increase, we still face challenges:
 - Vaccinating the BIPOC communities
 - BIPOC communities, particularly the Hispanic/Latino community, are being vaccinated at lower rates
 - Vaccine hesitancy
 - Across racial/ethnic groups
 - Can impact our ability to reach herd immunity



● **Initiated***
COVID-19
vaccination

● **Completed**
COVID-19
Vaccination

● **Percent of Clark**
County
Population

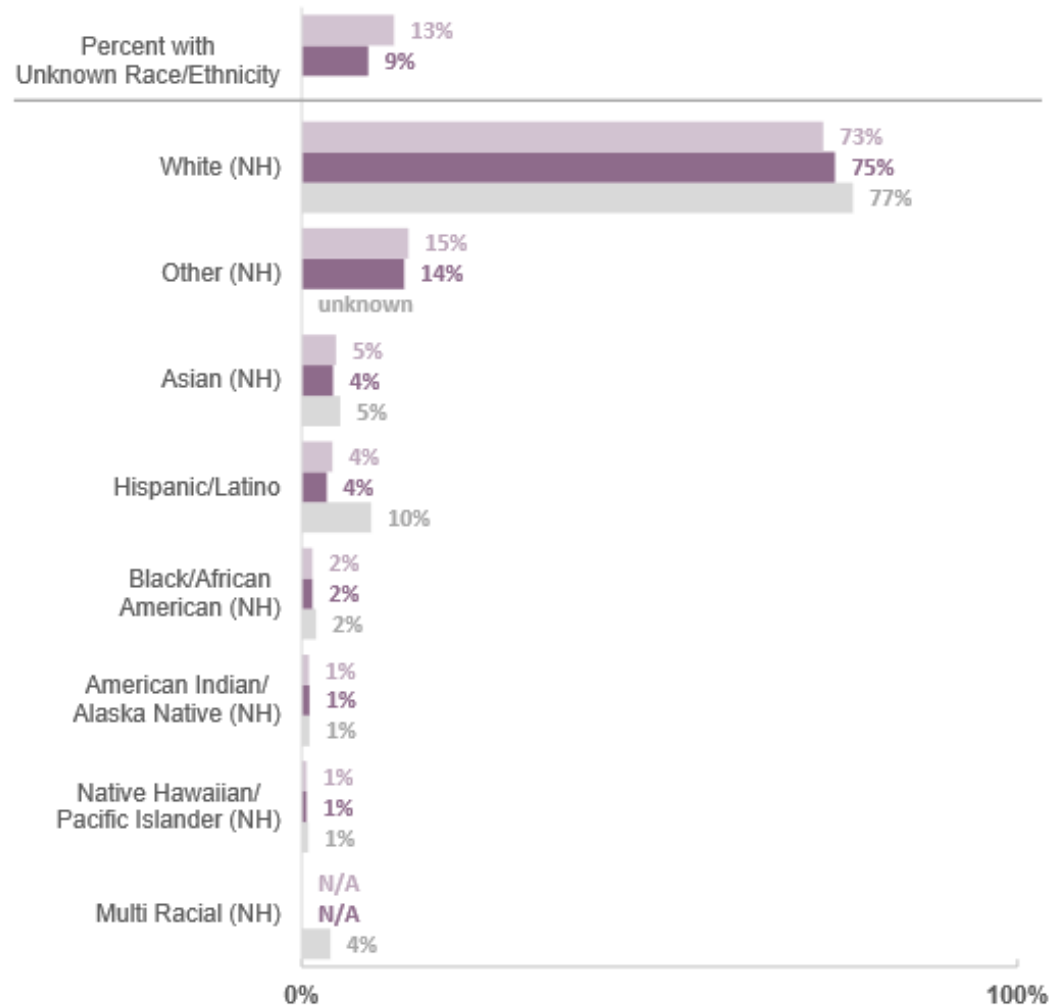
Notes:

Data as of 3/28/2021

*Data source: Washington
Immunization Information
System (WA IIS).
(Washington State age
group estimates are from
the [DOH COVID-19](#)
[Dashboard](#)—accessed
3/30/21)*

**Initiated vaccination
means they have
completed one dose of
any COVID-19 vaccine.*

Racial/ethnic breakdown of people in Clark County who are vaccinated against COVID-19 (among those with a known race/ethnicity)



Unknowns

- There are many unknowns that may impact how and when return to “normal”:
 - Virus activity is beginning to increase, and variants known to spread more easily are in our community.
 - How the variants will impact vaccines.
 - Vaccines appear to be effective against B.1.1.7 variant but are less effective against B.1.351.
 - Less is known about other variants
 - How low long vaccine immunity lasts, and whether boosters will be needed.
- Given what we know and what we don’t know, optimistic our community will be opening up more by mid- to late-summer.



Thank you!





Metro



Metro Update

Spring 2021

What Metro does

- Metro helps support our region in five key areas
- Visitor Venues
- Garbage & Recycling
- Long Range Planning
- Affordable Housing
- Parks & Nature



Oregon Zoo

- The Oregon Zoo features our 6-acre elephant lands habitat
- And soon we will open the new Polar Passage and welcome home Nora
- A national leader in condor conservation



Portland's Centers for the Arts

- Arlene Schnitzer Concert Hall
- Keller Auditorium
- Newmark Theatre
- Brunish Theatre
- Winningstad Theatre



Expo & Convention Center

- Expo Center hosted Red Cross staging during the wildfires
- Oregon Convention Center was an emergency shelter for fire evacuees
- Both Expo and OCC hosted COVID-19 testing
- OCC now hosts COVID-19 vaccination



Garbage and recycling

- Recycling
- System Investments
- Food scraps



Long range planning

- UGB
- Transportation planning
- Working on limiting pollution from freeways



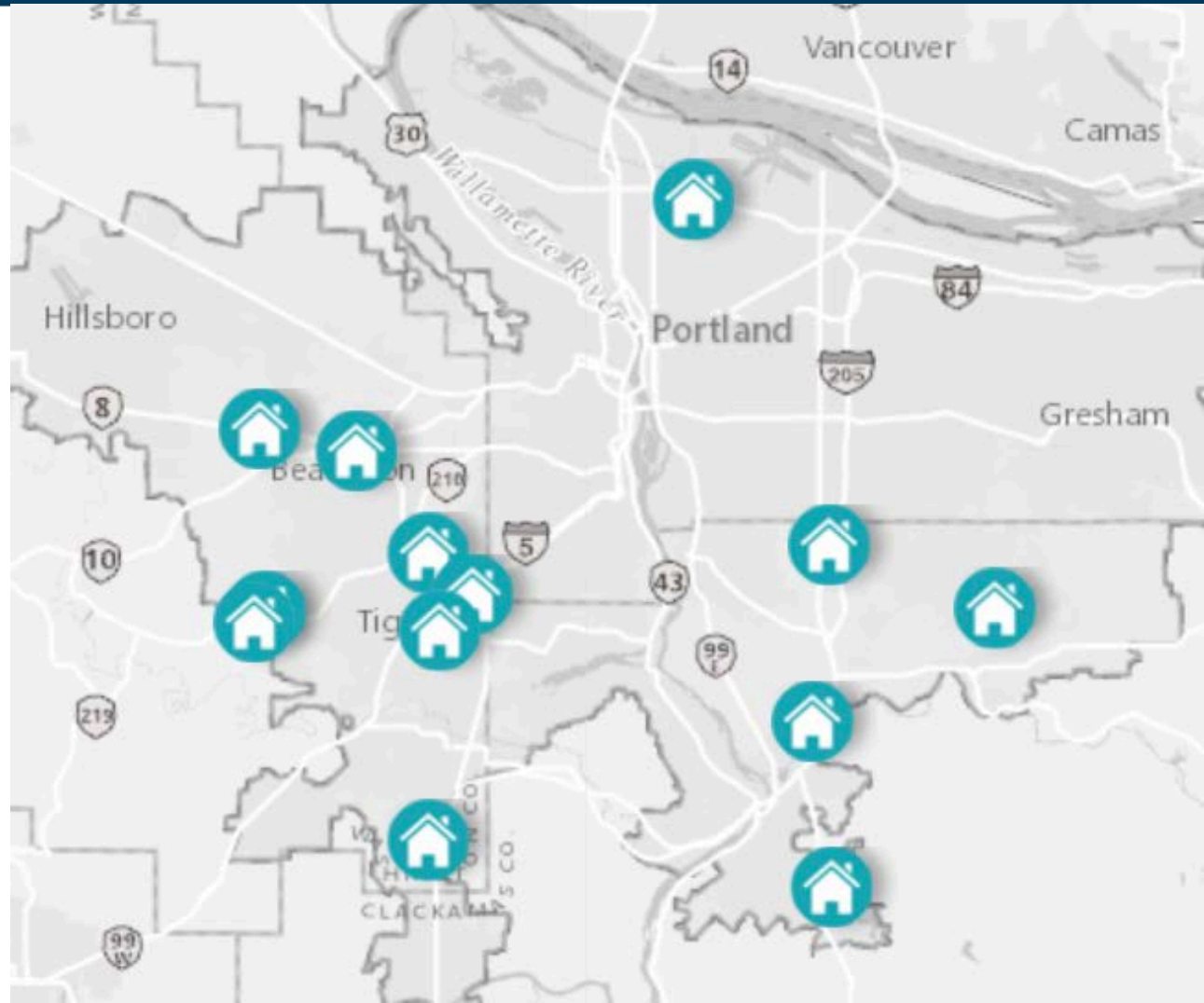
Economic development

- Investing in working families
- Support for vulnerable businesses
- Ensuring justice and dignity for workers
- Our economy will recover



Affordable Housing

- Delivering on the promises of the November 2018 housing bond
- 34% of resources committed
- 54% of goals met



Supportive Housing

- Our goal: Functionally end chronic homelessness in greater Portland by 2030



Parks and Nature

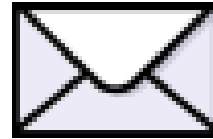
- Protecting more than 17,000 acres of open space around greater Portland
- Places we love like Canemah Bluff, Scouter's Mountain and Graham Oaks
- Newell Creek Canyon Nature Park opening soon



Your questions

Lynn Peterson
Metro Council President

Lynn.Peterson@oregonmetro.gov



www.oregonmetro.gov/connect



Arts and conference centers

Garbage and recycling

Land and transportation

Oregon Zoo

Parks and nature

oregonmetro.gov



Staff Report 047-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 4/5/2021

SUBJECT Bid Award for the 2021 East Curb Ramps project, per Bid #21-10

Key Points

- Under the City's 2021 Street Preservation and Resurfacing contracts, the City is resurfacing streets with hot mix asphalt (HMA) overlay treatments and preserving streets with microsurfacing and cape seal treatments.
- Per the Federal Highway Administration (FHWA), streets receiving treatments that are considered an alteration are required to be upgraded so that existing curb ramps meet current ADA requirements. Alterations include HMA overlay treatments, cape seals and microsurfacing.
- Project includes construction of curb ramps at 52 locations. Approximate curb ramp locations are shown on the attached map.
- City maintenance crews do not have the available labor or equipment to do the type of work being done as part of this project.

Strategic Plan Alignment

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

Present Situation

The City is issuing two separate curb ramp contracts this year as part of its 2021 pavement management program. These contracts include the "2021 East Curb Ramps" and the "2021 West Curb Ramps." The purpose of splitting the work into two contracts is to reduce each contract to a manageable size, which helps expedite ramp construction. From a construction sequencing standpoint, it is far more efficient to construct the new curb ramps in advance of the on-street pavement management resurfacing work.

This staff report and recommended action is to award the 2021 East Curb Ramps contract only. A

recommendation for the the west curb ramp project was presented to and awarded by City Council on March 22, 2021.

On March 16, 2021, the City received five bids for the subject project. The bids ranged between \$509,325.00 to \$574,965.00 dollars. The low bidder was responsive. The bids are as follows:

SUMMARY OF BIDS	
BIDDER	AMOUNT
Lee Contractors LLC, Battle Ground, WA	\$509,325.00
Advanced Excavating Specialists (AES), LLC, Longview, WA	\$524,000.00
Clark and Sons Excavating, Inc., Battle Ground, WA	\$532,016.00
Halme Excavating, Inc., Battle Ground, WA	\$537,865.00
NW Construction GC Inc., Battle Ground, WA	\$574,965.00
Engineer's Estimate	\$590,000.00

There is a minimum apprenticeship goal of 3% of the utilized labor hours for this project. Lee Contractors LLC of Battleground, Washington has submitted an Apprenticeship Utilization Plan to meet or exceed this goal by using approximately 100 hours of apprentice time of the estimated total of 2,140 applicable labor hours for the project.

Advantage(s)

1. Will construct curb ramps in advance of the annual paving contract, which will allow the paving to be done much faster and more efficiently.
2. Will ensure that cuts in the street from ramp construction will be completed before the final paving, which will prolong the life of the new pavement.
3. Will install ADA compliant curb ramps at intersections with sidewalks but without ramps.

Disadvantage(s)

1. Neighborhood residents, businesses and local traffic will be inconvenienced during the construction period at the various locations; however, the construction duration at each location is short, with traffic able to drive through construction zones, which will minimize the temporary inconvenience.
2. Construction will generate noise in the area; however, the contractor will not be working in one spot the entire time with all work expected to be complete within a few days at each location.

Budget Impact

The project is currently funded through the Pavement Management Program in the Street Fund (\$590,000.00). No additional budget appropriation is required.

Prior Council Review

None

Action Requested

Award a construction contract for the 2021 East Curb Ramps project to the lowest responsive and responsible bidder, and authorize the City Manager or his designee to sign a contract with Lee Contractors LLC from Battle Ground, WA, at their bid price of \$509,325.00, which includes Washington State sales tax.

Chris Sneider, Senior Civil Engineer, 360-487-8239

ATTACHMENTS:

- ▣ Contract
- ▣ 2021 East Curb Ramp Vicinity Map



CONTRACT # C-100586
BID #21-10: 2021 East Burb Ramps

THIS CONTRACT is entered into by and between the City of Vancouver, a municipal corporation under the laws of the State of Washington, hereinafter referred to as "City," and Lee Contractors LLC hereinafter referred to as "Contractor," whose address is 20907 NE 72nd Ave Battle Ground WA 98604, hereinafter referred to "Parties."

WHEREAS, the City desires to engage the Contractor to provide public work and other related services for 2021 East Curb Ramps. Contractor has agreed to offer its services to perform said work per the City issued Invitation to Bid (ITB) No. 21-10 and all addenda thereto, Contractor's bid to said ITB, the Project Plans and Special Provisions, and City Council's approval on _____ per Staff Report No. _____; and

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

- 1. STATEMENT OF WORK:** The Contractor hereby agrees to furnish all materials, labor, tools, machinery and implements of every description necessary to complete the work in a professional manner within the time limits stated in this Contract for the construction and installation of the following improvements and will make all necessary arrangements for the obtaining of permits from the United States, State of Washington, and/or any of its agencies as may be necessary to do the work required and covered by this Contract.

This contract provides for the improvement of the improvement of curbs, sidewalks, excavation, minor paving and other work, all in accordance with the attached Contract Plans, these Contract Provisions, and the Standard Specifications, hereafter referred to as "Work."

The Work shall be fully complete within 60 working days from the Notice to Proceed (NTP) date.

- 2. EFFECTIVE DATE:** This Contract is effective as of the last signature dated below.
- 3. E-VERIFY PROGRAM:** 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.
- 4. CONTRACTOR RESPONSIBILITIES FOR SUBCONTRACTORS:** The Contractor shall include the language of this section in all tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary

the terms used for the contracting parties. The requirements of this section apply to all subcontractors regardless of tier. The Contractor shall require all subcontractors to comply with all relevant federal, state and municipal laws, rules and regulations whatsoever.

At the time of subcontract execution, the Contractor shall verify that all tier subcontractors meet the following bidder responsibility criteria:

1. Have a current certificate of registration in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;
 2. Have a current Washington Unified Business Identifier (UBI) number;
 3. Have received training on the requirements related to public works and prevailing wage as required by RCW 39.04.350;
 4. Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW.
 5. If applicable, have:
 - i. Have Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW;
 - ii. A Washington Employment Security Department reference number, as required in Title 50 RCW;
 - iii. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;
 - iv. An electrical contractor license, if required by Chapter 19.28 RCW;
 - v. An elevator contractor license, if required by Chapter 70.87 RCW.
 6. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).
5. **DELINQUENT STATE TAXES:** The Contractor shall not owe delinquent taxes to the Washington State Department of Revenue without a payment plan approved by the Department of Revenue.
6. **COMPENSATION AND SCHEDULE OF PAYMENTS:** In consideration of the promises and agreements of the Contractor as set forth herein, and in consideration of the faithful performance and furnishing of the work and materials required by this Contract to the satisfaction of the City, the City agrees to pay to the Contractor in the manner and at the times provided hereinafter and in the Contract Documents, and in accordance with the ordinances of the City of Vancouver and the laws of the State of Washington, the following sum as indicated, which amount does includes 8.4% Washington State Sales Tax (if applicable) \$509,325.00.

The amount finally to be paid is, however, variable upon the work actually performed and final payment will be made upon the basis of the amount of work performed and the materials furnished, and at the lump sum or unit prices fixed in the Contractor's Proposal and as modified by any and all approved Change Orders.

7. **CONTRACTOR'S INSURANCE:** The Contractor agrees to procure insurance coverage as required below:

COVERAGE	LIMITS OF LIABILITY
I. Commercial General Liability:	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	\$1,000,000
General Aggregate Per Occurrence	\$2,000,000
Products & Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability	\$1,000,000
II. Commercial Automobile Liability	
Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or Non-owned vehicles used in the operation, installation and maintenance of facilities under this agreement.	
Combined Single Limit	\$1,000,000
III. Workers' Compensation (applicable to the State of Washington)	
Per Occurrence	Statutory
Employer's Liability	\$1,000,000
Disease Each Employee	\$1,000,000
Disease Policy Limit	\$1,000,000
Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000
IV. Pollution Legal Liability	
Each Claim	\$3,000,000
Annual Aggregate	\$6,000,000
V. Builders Risk	
Builder's "All Risk" Property Insurance	Contract Value
a. Coverage to include personal property of others in the care, custody and control of the contractor. Coverage should be written for 100% of the completed value.	
b. For additions or repairs of existing building structures, coverage to include contractor's interest in improvements, repairs, additions, alterations to completed buildings and subject to items described in "a".	

8. **CONTRACTOR'S BOND:** The Contractor agrees that before it undertakes performance of this Contract, it will file with the City of Vancouver a Performance Bond and Payment Bond, in the forms prescribed by the City of Vancouver, in the full amount of the Contract price with a company authorized to do business in the State of Washington as a surety. The bonds shall comply with the laws of the State of Washington, and especially with the provisions of Chapter 39.08 RCW.
9. **DISPUTE RESOLUTION:** In the event of a dispute between the Parties which cannot be resolved by the contract managers, the Contractor and the City shall review such dispute and may attempt to resolve the dispute. Any controversy or claim arising out of or relating to this Contract or the alleged breach of this Contract that cannot be resolved by the Parties within 30 days of receipt of

written notice may be submitted to mediation. If the dispute is not resolved through mediation, it shall be submitted to binding arbitration in accordance with the rules and procedures set forth in Chapter 7.04A RCW. The Parties agree to pay their own attorneys' fees and expenses.

10. EMPLOYMENT OF LABOR: The Contractor agrees that all persons employed by Contractor and by any of its subcontractors and any of their lower tier contractors in work performed pursuant to this Contract shall not be employed in excess of eight (8) hours in any one day, except as provided or allowed by Chapter 49.28 RCW and WAC 296-127 and any amendment thereto.

11. PAYMENT OF LABOR: The Contractor agrees that all laborers, workers, or mechanics employed by it or by any subcontractor in the performance of this Contract will be paid not less than the prevailing rate of wage for an hours work, in accordance with the provisions of the Chapter 39.12 RCW, and all rules and regulations promulgated pursuant thereto. The State of Washington prevailing wage rates applicable for this public works project, which is located in Clark County, may be found at the following website address of the Department of Labor and Industries: <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>. The prevailing wage rates in effect at the time of the bid submittal deadline shall apply for the duration of the project, no matter how long it lasts. However, if the Contract is awarded more than six months after the bids were due, the prevailing wage rates in effect on the award date shall apply.

In case any dispute arises as to what the prevailing rates of wages for work of a similar nature are and such dispute cannot be adjusted by the parties involved, the matter shall be referred to the director of the Department of Labor and Industries of the State of Washington for arbitration, and the director's decision shall be final, conclusive and binding on all parties involved in the dispute.

12. PAYMENT TO THE CONTRACTOR: Progress payments to the Contractor shall be made within 30 days of a fully executed Pay Estimate and are in compliance with all contractual requirements. A sum equal to 5% may be reserved and retained from monies earned by the Contractor in accordance with Chapter 60.28 RCW. The City reserves the right to require Contractor to correct any submitted or paid erroneous invoices according to the rates set forth herein. City and Contractor agree that any amount paid in error by City does not constitute a change in the agreed upon amount; Contractor agrees to issue a refund of any overages paid in error by the City.

Release of the retained percentage or the retainage bond shall be in accordance with Chapter 60.28 RCW. Every person performing labor or furnishing supplies toward the completion of said improvement of work shall have a lien upon said monies so reserved; provided, that such notice of the lien of such claimant shall be given in the manner provided in RCW 39.08.030 and within the time provided in Chapter 60.28 RCW as now existing and in accordance with any amendments that may hereafter be made thereto.

No payment shall be made to the Contractor, however, until the Contractor and all subcontractors who have performed work shall have filed and received approval of a Statement of Intent to Pay Prevailing Wage as required by RCW 39.12.040 from the Washington State Department a Labor and Industries. Said Contractor and all subcontractors shall also keep accurate payroll records for three years from the date of acceptance as described in RCW 39.12.120. A Contractor and all subcontractors shall, file a copy of its certified payroll records using the Department of Labor and Industries online system on a monthly basis. A Contractor's noncompliance with this section shall constitute a violation of RCW 39.12.050.

- 13. INDEMNIFICATION:** Contractor agrees to indemnify, defend, save and hold harmless the City, its officials, employees and agents from any and all liability, including but not limited to demands, claims, causes of action, suits or judgments, claims of copyright or patent infringement, including costs, attorney fees and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance of services by Contractor pursuant to this Contract.

In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against the Contractor, the City retains the right to participate in said suit.

This indemnity and hold harmless shall include any claim made against the City by an employee of Contractor or subcontractor or agent of the Contractor, even if Contractor is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW. 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. This indemnity and hold harmless shall NOT apply in the case where liability arises from the sole negligence of the City. Contractor specifically acknowledges that the provisions contained herein have been mutually negotiated by the Parties and it is the intent of the Parties that Contractor provide the broadest scope of indemnity permitted by RCW 4.24.115.

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

- 15. PUBLIC DISCLOSURE COMPLIANCE:** The parties acknowledge that the City is an "agency" within the meaning of the Washington Public Records Act, Chapter 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 Chapter 42.17 RCW for withholding or delaying public disclosure of such information.

- 16. AMENDMENTS:** All changes to this Contract, including changes to the statement of work and compensation, must be made by written Change Order and/or Amendment and signed by all parties to this Contract.

- 17. AUTHORIZATION AND COMPLIANCE WITH THE LAW:** The Contractor certifies that the person signing the Contract is legally authorized to enter into this binding Contract and that the

Contractor shall fully comply with all relevant, federal, state and municipal laws, rules, regulations and policies.

18. RELATION OF PARTIES: The Contractor, its subcontractors, agents and employees are independent contractors performing services for The City and are not employees of City; shall not, as a result of this Contract, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees; and, shall not have the authority to bind the City in any way except as may be specifically provided in the Statement of Work.

19. JURISDICTION/VENUE: In the event that any litigation should arise concerning the construction or interpretation of the terms and/or conditions of this Contract, the venue of such action of litigation shall be in the Superior Court of the State of Washington in and for the County of Clark. This Contract shall be governed by the law of the State of Washington.

20. COOPERATIVE PURCHASING: The Washington State Inter-local Cooperation Act, Chapter 39.34 RCW, authorizes public agencies to cooperatively purchase goods and services if all parties agree. By having executed this Contract, 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.

21. ASSIGNMENT: This Contract is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstances, be assigned or transferred by either party without the other party's express written authorization.

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

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

23. TERMINATION FOR CAUSE: In the event the Contractor is, or has been, in violation of the terms of this Contract, including the solicitation, the City reserves the right, upon written notice to the Contractor, to cancel, terminate, or suspend this contract in whole or in part for default. Termination shall be effected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for services performed in accordance with the manner of performance set forth in the Contract.

If it is later determined by the City that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, or events which are not the fault of or are beyond the control of the Contractor, the City after setting up a new delivery or performance schedule, may allow the Contractor to continue work or treat the termination as a termination for convenience.

- 24. OPPORTUNITY TO CURE:** The City at its sole discretion may in lieu of a termination allow the Contractor to cure the defect(s), by providing a "Notice to Cure" to Contractor setting forth the remedies sought by City and the deadline to accomplish the remedies. If the Contractor fails to remedy to the City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within the time stated time, the City shall have the right to terminate the Contract without any further obligation to the Contractor. Any such termination for default shall not in any way operate to preclude the City from also pursuing all available remedies against the Contractor and its sureties for said breach or default, including but not limited to termination of this Contract for convenience.
- 25. WAIVER AND REMEDIES:** City's failure to enforce the terms or conditions herein or to exercise any right or privilege, or the City's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type. Remedies under this Contract are cumulative; the use of one remedy shall not be taken to exclude or waive the right to use another.
- 26. ENTIRETY OF CONTRACT:** This Contract incorporates all the agreements, covenants and understanding between the parties hereto and are merged into this written Contract. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Contract.
- 27. USE OF CITY'S NAME:** Contractor may not use any of City's name, trademark, service marks, or logo in connection with the services contemplated by this Contract or otherwise without the prior written permission of City, which permission may be withheld for any or no reason and may be subject to certain conditions.
- 28. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY:** During the term of this Contract, Contractor will not discriminate against any employee or applicant for employment in accordance with RCW Chapter 49.60, including, but not limited to creed, religion, race, color, age, sex, marital status, sexual orientation, sexual identity, pregnancy, military status, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical disability, unless based upon a bona fide occupational qualification. The Contractor will take affirmative action to ensure that applicants and employees are treated fairly, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical disability. Such action shall include all terms and conditions of employment, compensation, and benefits, including apprenticeship.
- 29. BINDING EFFECT:** The provisions, covenants and conditions in this Contract bind the parties, their legal heirs, representatives, successors, and assigns.
- 30. RATIFICATION:** Acts taken pursuant to this Contract but prior to its effective date are hereby ratified and confirmed.
- 31. INCORPORATED CONTRACT DOCUMENTS AND ORDER OF PRECEDENCE:** The complete Contract includes these parts listed in this section below, which are incorporated by this reference as if fully as set forth herein. Any inconsistency in the parts of the contract shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 2 over 3, 3 over 4, and so forth):
1. Amendments to the Contract,

2. This Contract,
3. Addenda to the Solicitation,
4. The Solicitation,
5. Contractor's Proposal,
6. Special Provisions,
7. Contract Plan Set,
8. City of Vancouver Amendments to the specified WSDOT Standard Specifications,
9. General Conditions for Facility Construction,
10. City of Vancouver Standard Plans,
11. WSDOT Amendments to the WSDOT Standard Specifications,
12. WSDOT Standard Specifications,
13. WSDOT Standard Plans.

a.

32. NOTICES: Whenever in this written Contract written notices are to be given or made, they may be sent by certified mail to the following people at the addresses as shown herein unless a different address is designated in writing or delivered to the respective party hereto.

Anna Vogel
City of Vancouver
415 W 6th St.
PO Box 1995
Vancouver WA 98668-1995

Randy Lee
Lee Contractors LLC
20907 NE 72nd Ave
Battle Ground WA 98604

By signing below, Contractor accepts the terms and conditions of this Contract and specifically acknowledges and agrees that the provisions contained herein have been mutually negotiated by the Parties.

CITY OF VANCOUVER

CONTRACTOR:

A municipal corporation

Lee Contractors LLC

Eric Holmes, City Manager

Signature

Date

Printed Name /Title

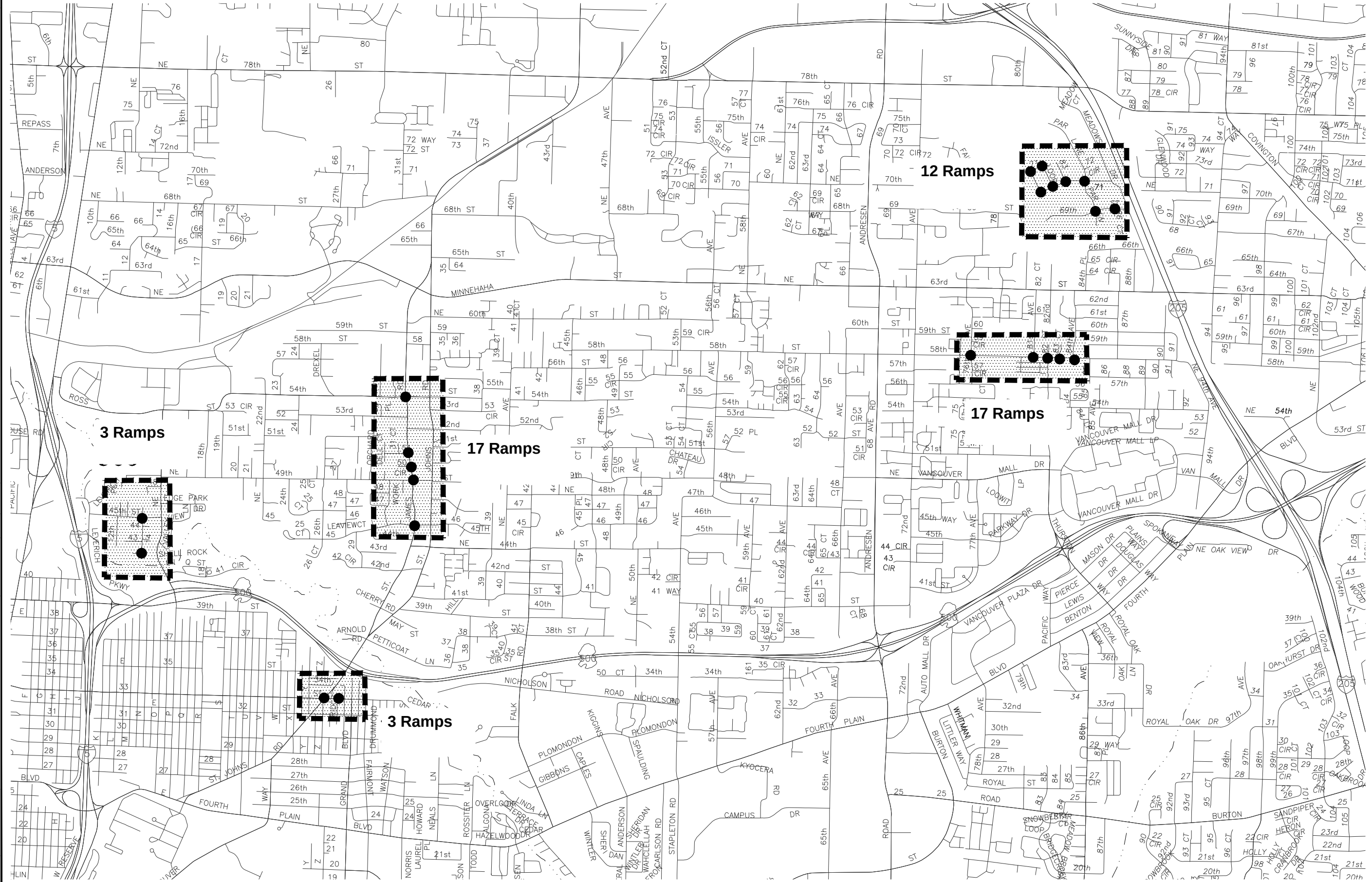
Attest:

Date

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney



TRANSPORTATION
P.O. BOX 1995
VANCOUVER, WA
98668-1995
360-487-7750
FAX: 360-487-4781

SCALE		DESIGNED BY: JWB
HORIZONTAL: 1:5		DRAWN BY: JRB
VERTICAL:		CHECKED BY: CAS
		APPROVED BY: CAS
		REVISIONS
DATE	No.	

VICINITY MAP

PROJECT NUMBER	72821
ACTIVITY CODE	ACT00587



Staff Report 048-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 4/5/2021

SUBJECT Bid Award for the 2021 Pavement Repairs, per Bid #21-11

Key Points

- The City maintains approximately 1,900 lane miles of streets in its system.
- The purpose of this contract is to repair areas of failed pavement on streets that are getting treated in the annual pavement preservation program.
- City maintenance crews do not have the capacity to do this amount of pavement repair before the annual pavement preservation program begins.

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 2021 Pavement Repairs Project is being constructed as part of the pavement management program. This project involves repairing failed pavement on streets that will receive a preservation treatment in 2021. Preservation treatments include microsurfacing, slurry sealing, chip sealing, and cape sealing. Most of the pavement, on the streets selected for preservation, is in fair condition and is ready for a preservation treatment. However, areas of failed pavement need to be repaired before a preservation treatment may be placed on them. This is work that has been done every year to prepare the streets for preservation.

This project also includes streets that are not receiving a preservation treatment this year. Because of the poor pavement condition, the City is incurring excessive maintenance costs for City crews to do maintenance repairs such as filling potholes and ruts on those streets. It will be more cost effective to do pavement repairs than to continue doing maintenance repairs on them.

The attached vicinity map shows where streets will receive pavement repairs. Corridors include W

16th St, Columbia St, Grand Blvd, Falk Rd, Main St, St James Rd, NE 58th St, NE 94th Ave, NE 98th Ave, NE 112th Ave, NE 59th St, NE 137th Ave and various streets in the Green Meadows Neighborhood Association.

On March 16, 2021, the City received five bids for the subject project. The bids ranged from \$668,754.00 to \$833,833.00 dollars. The low bidder was responsive. The bids are as follows:

SUMMARY OF BIDS	
BIDDER	AMOUNT
Lakeside Industries Inc., Vancouver, WA	\$ 668,754.00
Brix Paving NW, Tualatin, OR	\$ 716,820.00
Central Paving, LLC, Ellensburg, WA	\$ 735,500.00
Clark and Sons Excavating, Battle Ground, WA	\$ 808,738.00
Granite Construction, Vancouver, WA	\$ 833,833.00
Engineer's Estimate	\$ 800,000.00

There is a minimum apprenticeship goal of 3% of the utilized labor hours for this project. Lakeside Industries, Inc. of Vancouver, Washington has submitted an Apprenticeship Utilization Plan to meet or exceed this goal by using approximately 82 hours of apprentice time of the estimating a total of 2,733 applicable labor hours for the project.

Advantage(s)

1. Will result in preparing the streets for the upcoming Preservation Project on arterials and within neighborhoods protecting the City's investment in its street network.
2. Will reduce higher future maintenance costs on City streets.
3. Will follow through on commitments and improve neighborhood livability.

Disadvantage(s)

1. Neighborhood residents, businesses and local traffic will be inconvenienced during the construction period along the corridors; however, the construction duration is short and lane closures will be limited, which will minimize the temporary inconvenience.
2. Construction will generate noise and dust in the work areas. To mitigate for noise, the contractor will be required to comply with a noise variance for night time work. The contractor will also be required to implement a dust control and erosion control strategy at all locations.

Budget Impact

The project is currently funded through the Pavement Management Program (\$800,000.00). Sufficient funds are budgeted to construct the project.

Prior Council Review

None

Action Requested

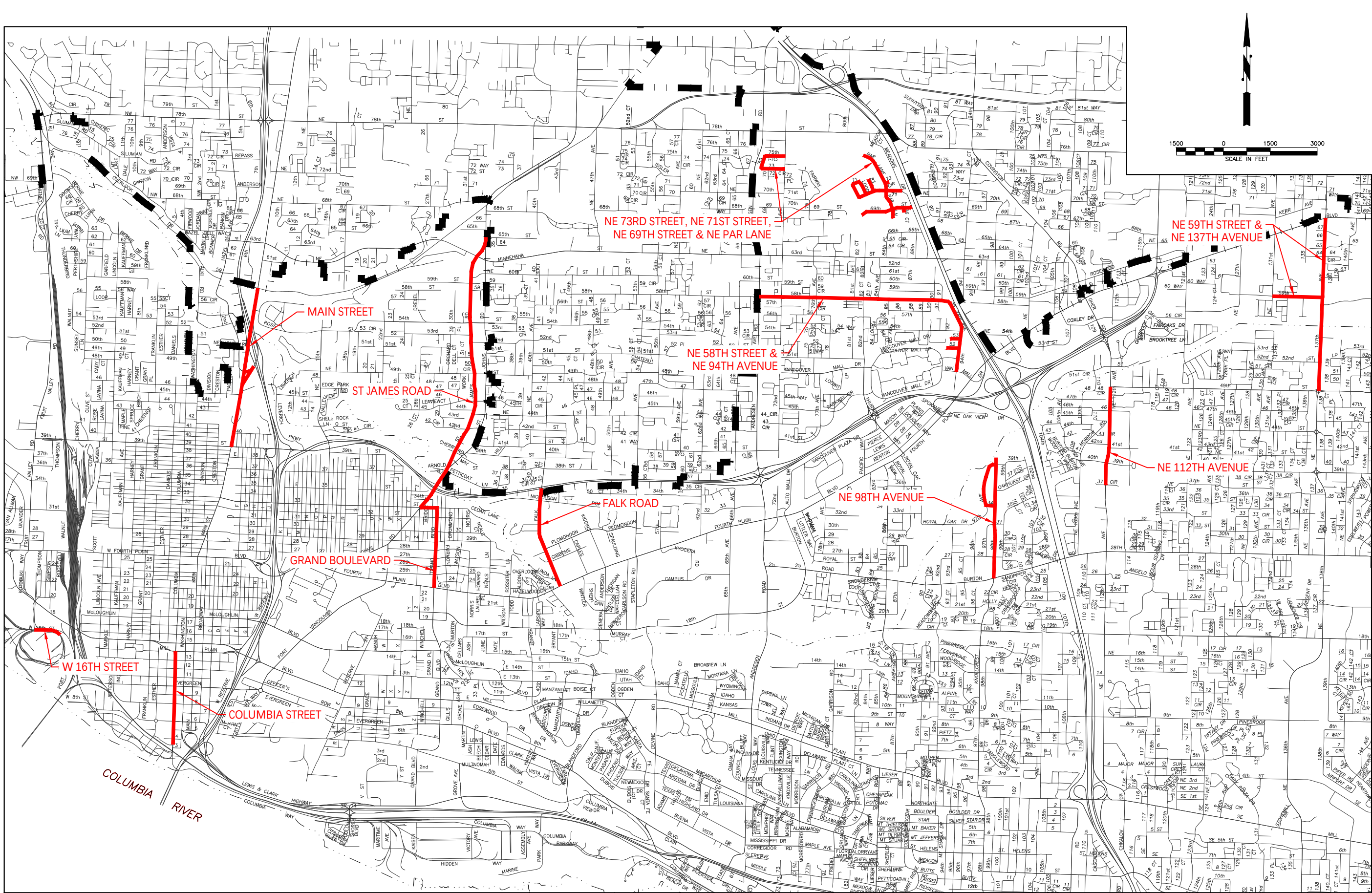
Award a construction contract for the 2021 Pavement Repairs Project to the lowest responsive and responsible bidder, Lakeside Industries Inc., of Vancouver, Washington, at their bid price of

\$668,754.00, which includes Washington State sales tax, and authorize the City Manager or designee to execute the same.

Chris Sneider, Senior Civil Engineer, 360-487-8239

ATTACHMENTS:

- ▣ 2021 Pavement Repairs Vicinity Map
- ▣ Contract



VICINITY MAP



PUBLIC WORKS
TRANSPORTATION
P.O. BOX 1995
VANCOUVER, WA
98668-1995
360-487-7750
FAX: 360-487-4781

CALL
2 BUSINESS DAYS
BEFORE YOU DIG
1-800-424-5555
"It's the Law"
CLARK COUNTY UTILITIES COORDINATING COUNCIL

DATE: MARCH 2021	DESIGNED BY: CAS
SCALE	DRAWN BY: DUM
HORIZONTAL:	CHECKED BY: CAS
VERTICAL:	APPROVED BY:
DATE	NO.
REVISIONS	

2021 PAVEMENT REPAIRS

VICINITY MAP

PROJECT NUMBER
072821

ACTIVITY CODE
ACT00890

SHEET OF



CONTRACT # C-100585
BID 21-11: 2021 Pavement Repairs

THIS CONTRACT is entered into by and between the City of Vancouver, a municipal corporation under the laws of the State of Washington, hereinafter referred to as "City," and Lakeside Industries hereinafter referred to as "Contractor," whose address is PO Box 820465 Vancouver WA 98682, hereinafter referred to "Parties."

WHEREAS, the City desires to engage the Contractor to provide public work and other related services for 2021 Pavement Repairs. Contractor has agreed to offer its services to perform said work per the City issued Invitation to Bid (ITB) No. 21-11 and all addenda thereto, Contractor's bid to said ITB, the Project Plans and Special Provisions, and City Council's approval on _____ per Staff Report No. _____; and

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

1. **STATEMENT OF WORK:** The Contractor hereby agrees to furnish all materials, labor, tools, machinery and implements of every description necessary to complete the work in a professional manner within the time limits stated in this Contract for the construction and installation of the following improvements and will make all necessary arrangements for the obtaining of permits from the United States, State of Washington, and/or any of its agencies as may be necessary to do the work required and covered by this Contract.

This contract provides for the improvement of streets within the City of Vancouver including pavement repairs, planing of roadways, paving of existing roads, minor utility adjustments, temporary striping, and other work, all in accordance with the attached Contract Plans, these Contract Provisions, and the Standard Specifications, hereafter referred to as "Work."

The Work shall be fully complete within 25 working days from the Notice to Proceed (NTP) date.

2. **EFFECTIVE DATE:** This Contract is effective as of the last signature dated below.
3. **E-VERIFY PROGRAM:** 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.

- 4. CONTRACTOR RESPONSIBILITIES FOR SUBCONTRACTORS:** The Contractor shall include the language of this section in all tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. The requirements of this section apply to all subcontractors regardless of tier. The Contractor shall require all subcontractors to comply with all relevant federal, state and municipal laws, rules and regulations whatsoever.

At the time of subcontract execution, the Contractor shall verify that all tier subcontractors meet the following bidder responsibility criteria:

1. Have a current certificate of registration in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;
 2. Have a current Washington Unified Business Identifier (UBI) number;
 3. Have received training on the requirements related to public works and prevailing wage as required by RCW 39.04.350;
 4. Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW.
 5. If applicable, have:
 - i. Have Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW;
 - ii. A Washington Employment Security Department reference number, as required in Title 50 RCW;
 - iii. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;
 - iv. An electrical contractor license, if required by Chapter 19.28 RCW;
 - v. An elevator contractor license, if required by Chapter 70.87 RCW.
 6. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).
- 5. DELINQUENT STATE TAXES:** The Contractor shall not owe delinquent taxes to the Washington State Department of Revenue without a payment plan approved by the Department of Revenue.
- 6. COMPENSATION AND SCHEDULE OF PAYMENTS:** In consideration of the promises and agreements of the Contractor as set forth herein, and in consideration of the faithful performance and furnishing of the work and materials required by this Contract to the satisfaction of the City, the City agrees to pay to the Contractor in the manner and at the times provided hereinafter and in the Contract Documents, and in accordance with the ordinances of the City of Vancouver and the laws of the State of Washington, the following sum as indicated, which amount does includes 8.4% Washington State Sales Tax (if applicable) \$668,754.00 .

The amount finally to be paid is, however, variable upon the work actually performed and final payment will be made upon the basis of the amount of work performed and the materials furnished, and at the lump sum or unit prices fixed in the Contractor's Proposal and as modified by any and all approved Change Orders.

- 7. CONTRACTOR'S INSURANCE:** The Contractor agrees to procure insurance coverage as required below:

COVERAGE	LIMITS OF LIABILITY
I. Commercial General Liability:	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	\$1,000,000
General Aggregate Per Occurrence	\$2,000,000
Products & Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability	\$1,000,000
II. Commercial Automobile Liability	
Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or Non-owned vehicles used in the operation, installation and maintenance of facilities under this agreement.	
Combined Single Limit	\$1,000,000
III. Workers' Compensation (applicable to the State of Washington)	
Per Occurrence	Statutory
Employer's Liability	\$1,000,000
Disease Each Employee	\$1,000,000
Disease Policy Limit	\$1,000,000
Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000
IV. Pollution Legal Liability	
Each Claim	\$3,000,000
Annual Aggregate	\$6,000,000
V. Builders Risk	
Builder's "All Risk" Property Insurance	Contract Value
a. Coverage to include personal property of others in the care, custody and control of the contractor. Coverage should be written for 100% of the completed value. b. For additions or repairs of existing building structures, coverage to include contractor's interest in improvements, repairs, additions, alterations to completed buildings and subject to items described in "a".	

8. **CONTRACTOR'S BOND:** The Contractor agrees that before it undertakes performance of this Contract, it will file with the City of Vancouver a Performance Bond and Payment Bond, in the forms prescribed by the City of Vancouver, in the full amount of the Contract price with a company authorized to do business in the State of Washington as a surety. The bonds shall comply with the laws of the State of Washington, and especially with the provisions of Chapter 39.08 RCW.
9. **DISPUTE RESOLUTION:** In the event of a dispute between the Parties which cannot be resolved by the contract managers, the Contractor and the City shall review such dispute and may attempt to resolve the dispute. Any controversy or claim arising out of or relating to this Contract or the

alleged breach of this Contract that cannot be resolved by the Parties within 30 days of receipt of written notice may be submitted to mediation. If the dispute is not resolved through mediation, it shall be submitted to binding arbitration in accordance with the rules and procedures set forth in Chapter 7.04A RCW. The Parties agree to pay their own attorneys' fees and expenses.

10. EMPLOYMENT OF LABOR: The Contractor agrees that all persons employed by Contractor and by any of its subcontractors and any of their lower tier contractors in work performed pursuant to this Contract shall not be employed in excess of eight (8) hours in any one day, except as provided or allowed by Chapter 49.28 RCW and WAC 296-127 and any amendment thereto.

11. PAYMENT OF LABOR: The Contractor agrees that all laborers, workers, or mechanics employed by it or by any subcontractor in the performance of this Contract will be paid not less than the prevailing rate of wage for an hours work, in accordance with the provisions of the Chapter 39.12 RCW, and all rules and regulations promulgated pursuant thereto. The State of Washington prevailing wage rates applicable for this public works project, which is located in Clark County, may be found at the following website address of the Department of Labor and Industries: <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>. The prevailing wage rates in effect at the time of the bid submittal deadline shall apply for the duration of the project, no matter how long it lasts. However, if the Contract is awarded more than six months after the bids were due, the prevailing wage rates in effect on the award date shall apply.

In case any dispute arises as to what the prevailing rates of wages for work of a similar nature are and such dispute cannot be adjusted by the parties involved, the matter shall be referred to the director of the Department of Labor and Industries of the State of Washington for arbitration, and the director's decision shall be final, conclusive and binding on all parties involved in the dispute.

12. PAYMENT TO THE CONTRACTOR: Progress payments to the Contractor shall be made within 30 days of a fully executed Pay Estimate and are in compliance with all contractual requirements. A sum equal to 5% may be reserved and retained from monies earned by the Contractor in accordance with Chapter 60.28 RCW. The City reserves the right to require Contractor to correct any submitted or paid erroneous invoices according to the rates set forth herein. City and Contractor agree that any amount paid in error by City does not constitute a change in the agreed upon amount; Contractor agrees to issue a refund of any overages paid in error by the City.

Release of the retained percentage or the retainage bond shall be in accordance with Chapter 60.28 RCW. Every person performing labor or furnishing supplies toward the completion of said improvement of work shall have a lien upon said monies so reserved; provided, that such notice of the lien of such claimant shall be given in the manner provided in RCW 39.08.030 and within the time provided in Chapter 60.28 RCW as now existing and in accordance with any amendments that may hereafter be made thereto.

No payment shall be made to the Contractor, however, until the Contractor and all subcontractors who have performed work shall have filed and received approval of a Statement of Intent to Pay Prevailing Wage as required by RCW 39.12.040 from the Washington State Department a Labor and Industries. Said Contractor and all subcontractors shall also keep accurate payroll records for three years from the date of acceptance as described in RCW 39.12.120. A Contractor and all subcontractors shall, file a copy of its certified payroll records using the Department of Labor and

Industries online system on a monthly basis. A Contractor's noncompliance with this section shall constitute a violation of RCW 39.12.050.

- 13. INDEMNIFICATION:** Contractor agrees to indemnify, defend, save and hold harmless the City, its officials, employees and agents from any and all liability, including but not limited to demands, claims, causes of action, suits or judgments, claims of copyright or patent infringement, including costs, attorney fees and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance of services by Contractor pursuant to this Contract.

In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against the Contractor, the City retains the right to participate in said suit.

This indemnity and hold harmless shall include any claim made against the City by an employee of Contractor or subcontractor or agent of the Contractor, even if Contractor is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW. 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. This indemnity and hold harmless shall NOT apply in the case where liability arises from the sole negligence of the City. Contractor specifically acknowledges that the provisions contained herein have been mutually negotiated by the Parties and it is the intent of the Parties that Contractor provide the broadest scope of indemnity permitted by RCW 4.24.115.

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

- 15. PUBLIC DISCLOSURE COMPLIANCE:** The parties acknowledge that the City is an "agency" within the meaning of the Washington Public Records Act, Chapter 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 Chapter 42.17 RCW for withholding or delaying public disclosure of such information.

- 16. AMENDMENTS:** All changes to this Contract, including changes to the statement of work and compensation, must be made by written Change Order and/or Amendment and signed by all parties to this Contract.

17. AUTHORIZATION AND COMPLIANCE WITH THE LAW: The Contractor certifies that the person signing the Contract is legally authorized to enter into this binding Contract and that the Contractor shall fully comply with all relevant, federal, state and municipal laws, rules, regulations and policies.

18. RELATION OF PARTIES: The Contractor, its subcontractors, agents and employees are independent contractors performing services for The City and are not employees of City; shall not, as a result of this Contract, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees; and, shall not have the authority to bind the City in any way except as may be specifically provided in the Statement of Work.

19. JURISDICTION/VENUE: In the event that any litigation should arise concerning the construction or interpretation of the terms and/or conditions of this Contract, the venue of such action of litigation shall be in the Superior Court of the State of Washington in and for the County of Clark. This Contract shall be governed by the law of the State of Washington.

20. COOPERATIVE PURCHASING: The Washington State Inter-local Cooperation Act, Chapter 39.34 RCW, authorizes public agencies to cooperatively purchase goods and services if all parties agree. By having executed this Contract, 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.

21. ASSIGNMENT: This Contract is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstances, be assigned or transferred by either party without the other party's express written authorization.

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

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

23. TERMINATION FOR CAUSE: In the event the Contractor is, or has been, in violation of the terms of this Contract, including the solicitation, the City reserves the right, upon written notice to the Contractor, to cancel, terminate, or suspend this contract in whole or in part for default. Termination shall be effected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for services performed in accordance with the manner of performance set forth in the Contract.

If it is later determined by the City that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, or events which are not the fault of or are beyond the

control of the Contractor, the City after setting up a new delivery or performance schedule, may allow the Contractor to continue work or treat the termination as a termination for convenience.

- 24. OPPORTUNITY TO CURE:** The City at its sole discretion may in lieu of a termination allow the Contractor to cure the defect(s), by providing a "Notice to Cure" to Contractor setting forth the remedies sought by City and the deadline to accomplish the remedies. If the Contractor fails to remedy to the City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within the time stated time, the City shall have the right to terminate the Contract without any further obligation to the Contractor. Any such termination for default shall not in any way operate to preclude the City from also pursuing all available remedies against the Contractor and its sureties for said breach or default, including but not limited to termination of this Contract for convenience.
- 25. WAIVER AND REMEDIES:** City's failure to enforce the terms or conditions herein or to exercise any right or privilege, or the City's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type. Remedies under this Contract are cumulative; the use of one remedy shall not be taken to exclude or waive the right to use another.
- 26. ENTIRETY OF CONTRACT:** This Contract incorporates all the agreements, covenants and understanding between the parties hereto and are merged into this written Contract. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Contract.
- 27. USE OF CITY'S NAME:** Contractor may not use any of City's name, trademark, service marks, or logo in connection with the services contemplated by this Contract or otherwise without the prior written permission of City, which permission may be withheld for any or no reason and may be subject to certain conditions.
- 28. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY:** During the term of this Contract, Contractor will not discriminate against any employee or applicant for employment in accordance with RCW Chapter 49.60, including, but not limited to creed, religion, race, color, age, sex, marital status, sexual orientation, sexual identity, pregnancy, military status, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical disability, unless based upon a bona fide occupational qualification. The Contractor will take affirmative action to ensure that applicants and employees are treated fairly, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical disability. Such action shall include all terms and conditions of employment, compensation, and benefits, including apprenticeship.
- 29. BINDING EFFECT:** The provisions, covenants and conditions in this Contract bind the parties, their legal heirs, representatives, successors, and assigns.
- 30. RATIFICATION:** Acts taken pursuant to this Contract but prior to its effective date are hereby ratified and confirmed.
- 31. INCORPORATED CONTRACT DOCUMENTS AND ORDER OF PRECEDENCE:** The complete Contract includes these parts listed in this section below, which are incorporated by this reference as if

fully as set forth herein. Any inconsistency in the parts of the contract shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 2 over 3, 3 over 4, and so forth):

1. Amendments to the Contract,
2. This Contract,
3. Addenda to the Solicitation,
4. The Solicitation,
5. Contractor's Proposal,
6. Special Provisions,
7. Contract Plan Set,
8. City of Vancouver Amendments to the specified WSDOT Standard Specifications,
9. General Conditions for Facility Construction,
10. City of Vancouver Standard Plans,
11. WSDOT Amendments to the WSDOT Standard Specifications,
12. WSDOT Standard Specifications,
13. WSDOT Standard Plans

32. NOTICES: Whenever in this written Contract written notices are to be given or made, they may be sent by certified mail to the following people at the addresses as shown herein unless a different address is designated in writing or delivered to the respective party hereto.

Anna Vogel
City of Vancouver
415 W 6th St.
PO Box 1995
Vancouver WA 98668-1995

Johnny Escobedo
Lakeside Industries
PO Box 820465
Vancouver WA 98682

By signing below, Contractor accepts the terms and conditions of this Contract and specifically acknowledges and agrees that the provisions contained herein have been mutually negotiated by the Parties.

CITY OF VANCOUVER

A municipal corporation

CONTRACTOR:

Lakeside Industries

Eric Holmes, City Manager

Signature

Date

Printed Name /Title

Attest:

Date

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney



Staff Report 049-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 4/5/2021

SUBJECT Bid Award - Central Vancouver North PH2 Sewer Improvements, per Bid #21-07

Key Points

- The project will install approximately 2,300 linear feet of 8-inch gravity sewer mains providing 37 parcels with reliable sewer service.
- The City received 6 bids for the project, 2 were non-responsive.
- Staff proposes awarding a contract to the lowest, responsive bidder, Advanced Excavating Specialists of Longview, WA, at the bid price of \$488,333.33.
- The project falls under the \$500,000 City policy threshold that would trigger an apprenticeship requirement

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 Central Vancouver North Phase 2 project is proposed to be constructed under the Sewer Connection Incentive Program (SCIP). This project will provide reliable sewer service to 37 parcels by installing approximately 2,300 linear feet of 8-inch gravity sewer mains in NE 70th St, NE 63rd Ave, NE 62nd Ave, NE 60th Ave and NE 58th Ave.

On March 9, 2021, the City received 6 bids for the subject project. The bids ranged between \$480,000 and \$550,000 with 2 bids determined to be non-responsive. The low bidder was responsive. The bids are as follows:

SUMMARY OF BIDS	
BIDDER	AMOUNT
Advanced Excavating Specialists, LLC, Longview, WA	\$488,333.33

Nutter Corporation, Vancouver, WA	\$502,424.22
NW Construction General Contracting, Battle Ground, WA	\$524,845.70
Halme Battle Ground, WA	\$540,383.11
Clark County Paving, Battle Ground, WA	Non-responsive
Folden Construction, Vancouver, WA	Non-responsive
Engineer's Estimate	\$480,000.00

Based on the amount of the bid, this project falls under the \$500,000 policy threshold, so there are no contractual requirements for the contractor to deliver apprenticeship hours on this project.

Advantage(s)

1. Provide reliable sanitary sewer service to residents.
2. Subsequent decommissioning of septic systems will protect the communities water supply.

Disadvantage(s)

None

Budget Impact

Funds for the sanitary sewer improvements were appropriated in the Sewer Construction Fund, Capital Improvement Program 2021-2022 Budget.

Prior Council Review

Funding previously reviewed by Council as part of the 2021-2022 Sewer Construction Fund Capital Budget.

Action Requested

Award a construction contract for the Central Vancouver North Phase 2 Sanitary Sewer Improvement project to the lowest responsive and responsible bidder, Advanced Excavating Specialists of Longview, WA, at their bid price of \$488,333.33, which includes Washington State sales tax.

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

ATTACHMENTS:

- ▣ Contract - Central Vancouver North PH2
- ▣ Project Boundary Map - Central Vancouver North PH2



CONTRACT # C-100575

BID 21-07: Central North Vancouver Phase 2 Sanitary Sewer Improvements

THIS CONTRACT is entered into by and between the City of Vancouver, a municipal corporation under the laws of the State of Washington, hereinafter referred to as "City," and Advanced Excavating Specialists LLC hereinafter referred to as "Contractor," whose address is 1010 Columbia Blvd Longview WA 98632, hereinafter referred to "Parties."

WHEREAS, the City desires to engage the Contractor to provide public work and other related services for Central North Vancouver Phase 2 Sanitary Sewer Improvements . Contractor has agreed to offer its services to perform said work per the City issued Invitation to Bid (ITB) No. 21-07 and all addenda thereto, Contractor's bid to said ITB, the Project Plans and Special Provisions, and City Council's approval on _____ per Staff Report No. _____; and

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

- 1. STATEMENT OF WORK:** The Contractor hereby agrees to furnish all materials, labor, tools, machinery and implements of every description necessary to complete the work in a professional manner within the time limits stated in this Contract for the construction and installation of the following improvements and will make all necessary arrangements for the obtaining of permits from the United States, State of Washington, and/or any of its agencies as may be necessary to do the work required and covered by this Contract.

The contractor shall furnish and install approximately 2,302 linear feet of 8-inch gravity sewer main. The sewer main will be installed in NE 70th St, NE 63rd Ave, NE 62nd Ave, NE 60th Ave and NE 58th Ave, including laterals, manholes, and all appurtenances as shown on the plans and specified herein. The contractor shall restore the pavement where pipe trenching takes place and protect and/or restore other facilities as shown on the plans and specified herein all in accordance with the attached Contract Plans, these Contract Provisions, and the Standard Specifications, hereafter referred to as "Work."

The Work shall be fully complete within 35 working days from the Notice to Proceed (NTP) date.

- 2. EFFECTIVE DATE:** This Contract is effective as of the last signature dated below.
- 3. E-VERIFY PROGRAM:** 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.

- 4. CONTRACTOR RESPONSIBILITIES FOR SUBCONTRACTORS:** The Contractor shall include the language of this section in all tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. The requirements of this section apply to all subcontractors regardless of tier. The Contractor shall require all subcontractors to comply with all relevant federal, state and municipal laws, rules and regulations whatsoever.

At the time of subcontract execution, the Contractor shall verify that all tier subcontractors meet the following bidder responsibility criteria:

1. Have a current certificate of registration in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;
 2. Have a current Washington Unified Business Identifier (UBI) number;
 3. Have received training on the requirements related to public works and prevailing wage as required by RCW 39.04.350;
 4. Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW.
 5. If applicable, have:
 - i. Have Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW;
 - ii. A Washington Employment Security Department reference number, as required in Title 50 RCW;
 - iii. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;
 - iv. An electrical contractor license, if required by Chapter 19.28 RCW;
 - v. An elevator contractor license, if required by Chapter 70.87 RCW.
 6. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).
- 5. DELINQUENT STATE TAXES:** The Contractor shall not owe delinquent taxes to the Washington State Department of Revenue without a payment plan approved by the Department of Revenue.
- 6. COMPENSATION AND SCHEDULE OF PAYMENTS:** In consideration of the promises and agreements of the Contractor as set forth herein, and in consideration of the faithful performance and furnishing of the work and materials required by this Contract to the satisfaction of the City, the City agrees to pay to the Contractor in the manner and at the times provided hereinafter and in the Contract Documents, and in accordance with the ordinances of the City of Vancouver and the laws of the State of Washington, the following sum as indicated, which amount does includes 8.4% Washington State Sales Tax (if applicable) \$488,333.33 .

The amount finally to be paid is, however, variable upon the work actually performed and final payment will be made upon the basis of the amount of work performed and the materials furnished, and at the lump sum or unit prices fixed in the Contractor's Proposal and as modified by any and all approved Change Orders.

- 7. CONTRACTOR'S INSURANCE:** The Contractor agrees to procure insurance coverage as required below:

COVERAGE	LIMITS OF LIABILITY
I. Commercial General Liability:	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	\$1,000,000
General Aggregate Per Occurrence	\$2,000,000
Products & Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability	\$1,000,000
II. Commercial Automobile Liability	
Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or Non-owned vehicles used in the operation, installation and maintenance of facilities under this agreement.	
Combined Single Limit	\$1,000,000
III. Workers' Compensation (applicable to the State of Washington)	
Per Occurrence	Statutory
Employer's Liability	\$1,000,000
Disease Each Employee	\$1,000,000
Disease Policy Limit	\$1,000,000
Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000
IV. Pollution Legal Liability	
Each Claim	\$3,000,000
Annual Aggregate	\$6,000,000
V. Builders Risk	
Builder's "All Risk" Property Insurance	Contract Value
a. Coverage to include personal property of others in the care, custody and control of the contractor. Coverage should be written for 100% of the completed value. b. For additions or repairs of existing building structures, coverage to include contractor's interest in improvements, repairs, additions, alterations to completed buildings and subject to items described in "a".	

8. **CONTRACTOR'S BOND:** The Contractor agrees that before it undertakes performance of this Contract, it will file with the City of Vancouver a Performance Bond and Payment Bond, in the forms prescribed by the City of Vancouver, in the full amount of the Contract price with a company authorized to do business in the State of Washington as a surety. The bonds shall comply with the laws of the State of Washington, and especially with the provisions of Chapter 39.08 RCW.
9. **DISPUTE RESOLUTION:** In the event of a dispute between the Parties which cannot be resolved by the contract managers, the Contractor and the City shall review such dispute and may attempt to resolve the dispute. Any controversy or claim arising out of or relating to this Contract or the

alleged breach of this Contract that cannot be resolved by the Parties within 30 days of receipt of written notice may be submitted to mediation. If the dispute is not resolved through mediation, it shall be submitted to binding arbitration in accordance with the rules and procedures set forth in Chapter 7.04A RCW. The Parties agree to pay their own attorneys' fees and expenses.

10. EMPLOYMENT OF LABOR: The Contractor agrees that all persons employed by Contractor and by any of its subcontractors and any of their lower tier contractors in work performed pursuant to this Contract shall not be employed in excess of eight (8) hours in any one day, except as provided or allowed by Chapter 49.28 RCW and WAC 296-127 and any amendment thereto.

11. PAYMENT OF LABOR: The Contractor agrees that all laborers, workers, or mechanics employed by it or by any subcontractor in the performance of this Contract will be paid not less than the prevailing rate of wage for an hours work, in accordance with the provisions of the Chapter 39.12 RCW, and all rules and regulations promulgated pursuant thereto. The State of Washington prevailing wage rates applicable for this public works project, which is located in Clark County, may be found at the following website address of the Department of Labor and Industries: <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>. The prevailing wage rates in effect at the time of the bid submittal deadline shall apply for the duration of the project, no matter how long it lasts. However, if the Contract is awarded more than six months after the bids were due, the prevailing wage rates in effect on the award date shall apply.

In case any dispute arises as to what the prevailing rates of wages for work of a similar nature are and such dispute cannot be adjusted by the parties involved, the matter shall be referred to the director of the Department of Labor and Industries of the State of Washington for arbitration, and the director's decision shall be final, conclusive and binding on all parties involved in the dispute.

12. PAYMENT TO THE CONTRACTOR: Progress payments to the Contractor shall be made within 30 days of a fully executed Pay Estimate and are in compliance with all contractual requirements. A sum equal to 5% may be reserved and retained from monies earned by the Contractor in accordance with Chapter 60.28 RCW. The City reserves the right to require Contractor to correct any submitted or paid erroneous invoices according to the rates set forth herein. City and Contractor agree that any amount paid in error by City does not constitute a change in the agreed upon amount; Contractor agrees to issue a refund of any overages paid in error by the City.

Release of the retained percentage or the retainage bond shall be in accordance with Chapter 60.28 RCW. Every person performing labor or furnishing supplies toward the completion of said improvement of work shall have a lien upon said monies so reserved; provided, that such notice of the lien of such claimant shall be given in the manner provided in RCW 39.08.030 and within the time provided in Chapter 60.28 RCW as now existing and in accordance with any amendments that may hereafter be made thereto.

No payment shall be made to the Contractor, however, until the Contractor and all subcontractors who have performed work shall have filed and received approval of a Statement of Intent to Pay Prevailing Wage as required by RCW 39.12.040 from the Washington State Department a Labor and Industries. Said Contractor and all subcontractors shall also keep accurate payroll records for three years from the date of acceptance as described in RCW 39.12.120. A Contractor and all subcontractors shall, file a copy of its certified payroll records using the Department of Labor and

Industries online system on a monthly basis. A Contractor's noncompliance with this section shall constitute a violation of RCW 39.12.050.

- 13. INDEMNIFICATION:** Contractor agrees to indemnify, defend, save and hold harmless the City, its officials, employees and agents from any and all liability, including but not limited to demands, claims, causes of action, suits or judgments, claims of copyright or patent infringement, including costs, attorney fees and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance of services by Contractor pursuant to this Contract.

In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against the Contractor, the City retains the right to participate in said suit.

This indemnity and hold harmless shall include any claim made against the City by an employee of Contractor or subcontractor or agent of the Contractor, even if Contractor is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW. 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. This indemnity and hold harmless shall NOT apply in the case where liability arises from the sole negligence of the City. Contractor specifically acknowledges that the provisions contained herein have been mutually negotiated by the Parties and it is the intent of the Parties that Contractor provide the broadest scope of indemnity permitted by RCW 4.24.115.

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

- 15. PUBLIC DISCLOSURE COMPLIANCE:** The parties acknowledge that the City is an "agency" within the meaning of the Washington Public Records Act, Chapter 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 Chapter 42.17 RCW for withholding or delaying public disclosure of such information.

- 16. AMENDMENTS:** All changes to this Contract, including changes to the statement of work and compensation, must be made by written Change Order and/or Amendment and signed by all parties to this Contract.

17. AUTHORIZATION AND COMPLIANCE WITH THE LAW: The Contractor certifies that the person signing the Contract is legally authorized to enter into this binding Contract and that the Contractor shall fully comply with all relevant, federal, state and municipal laws, rules, regulations and policies.

18. RELATION OF PARTIES: The Contractor, its subcontractors, agents and employees are independent contractors performing services for The City and are not employees of City; shall not, as a result of this Contract, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees; and, shall not have the authority to bind the City in any way except as may be specifically provided in the Statement of Work.

19. JURISDICTION/VENUE: In the event that any litigation should arise concerning the construction or interpretation of the terms and/or conditions of this Contract, the venue of such action of litigation shall be in the Superior Court of the State of Washington in and for the County of Clark. This Contract shall be governed by the law of the State of Washington.

20. COOPERATIVE PURCHASING: The Washington State Inter-local Cooperation Act, Chapter 39.34 RCW, authorizes public agencies to cooperatively purchase goods and services if all parties agree. By having executed this Contract, 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.

21. ASSIGNMENT: This Contract is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstances, be assigned or transferred by either party without the other party's express written authorization.

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

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

23. TERMINATION FOR CAUSE: In the event the Contractor is, or has been, in violation of the terms of this Contract, including the solicitation, the City reserves the right, upon written notice to the Contractor, to cancel, terminate, or suspend this contract in whole or in part for default. Termination shall be effected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for services performed in accordance with the manner of performance set forth in the Contract.

If it is later determined by the City that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, or events which are not the fault of or are beyond the

control of the Contractor, the City after setting up a new delivery or performance schedule, may allow the Contractor to continue work or treat the termination as a termination for convenience.

- 24. OPPORTUNITY TO CURE:** The City at its sole discretion may in lieu of a termination allow the Contractor to cure the defect(s), by providing a "Notice to Cure" to Contractor setting forth the remedies sought by City and the deadline to accomplish the remedies. If the Contractor fails to remedy to the City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within the time stated time, the City shall have the right to terminate the Contract without any further obligation to the Contractor. Any such termination for default shall not in any way operate to preclude the City from also pursuing all available remedies against the Contractor and its sureties for said breach or default, including but not limited to termination of this Contract for convenience.
- 25. WAIVER AND REMEDIES:** City's failure to enforce the terms or conditions herein or to exercise any right or privilege, or the City's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type. Remedies under this Contract are cumulative; the use of one remedy shall not be taken to exclude or waive the right to use another.
- 26. ENTIRETY OF CONTRACT:** This Contract incorporates all the agreements, covenants and understanding between the parties hereto and are merged into this written Contract. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Contract.
- 27. USE OF CITY'S NAME:** Contractor may not use any of City's name, trademark, service marks, or logo in connection with the services contemplated by this Contract or otherwise without the prior written permission of City, which permission may be withheld for any or no reason and may be subject to certain conditions.
- 28. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY:** During the term of this Contract, Contractor will not discriminate against any employee or applicant for employment in accordance with RCW Chapter 49.60, including, but not limited to creed, religion, race, color, age, sex, marital status, sexual orientation, sexual identity, pregnancy, military status, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical disability, unless based upon a bona fide occupational qualification. The Contractor will take affirmative action to ensure that applicants and employees are treated fairly, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical disability. Such action shall include all terms and conditions of employment, compensation, and benefits, including apprenticeship.
- 29. BINDING EFFECT:** The provisions, covenants and conditions in this Contract bind the parties, their legal heirs, representatives, successors, and assigns.
- 30. RATIFICATION:** Acts taken pursuant to this Contract but prior to its effective date are hereby ratified and confirmed.

31. INCORPORATED CONTRACT DOCUMENTS AND ORDER OF PRECEDENCE: The complete Contract includes these parts listed in this section below, which are incorporated by this reference as if fully as set forth herein. Any inconsistency in the parts of the contract shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 2 over 3, 3 over 4, and so forth):

1. Amendments to the Contract,
2. This Contract,
3. Addenda to the Solicitation,
4. The Solicitation,
5. Contractor's Proposal,
6. Special Provisions,
7. Contract Plan Set,
8. City of Vancouver Amendments to the specified WSDOT Standard Specifications,
9. General Conditions for Facility Construction,
10. City of Vancouver Standard Plans,
11. WSDOT Amendments to the WSDOT Standard Specifications,
12. WSDOT Standard Specifications,
13. WSDOT Standard Plans.

32. NOTICES: Whenever in this written Contract written notices are to be given or made, they may be sent by certified mail to the following people at the addresses as shown herein unless a different address is designated in writing or delivered to the respective party hereto.

Anna Vogel
City of Vancouver
415 W 6th St.
PO Box 1995
Vancouver WA 98668-1995

Chad Rorabaugh
Advanced Excavating Specialists LLC
1010 Columbia Blvd
Longview WA 98632

By signing below, Contractor accepts the terms and conditions of this Contract and specifically acknowledges and agrees that the provisions contained herein have been mutually negotiated by the Parties.

CITY OF VANCOUVER

A municipal corporation

CONTRACTOR:

Advanced Excavating Specialists LLC

Eric Holmes, City Manager

Signature

Date

Printed Name /Title

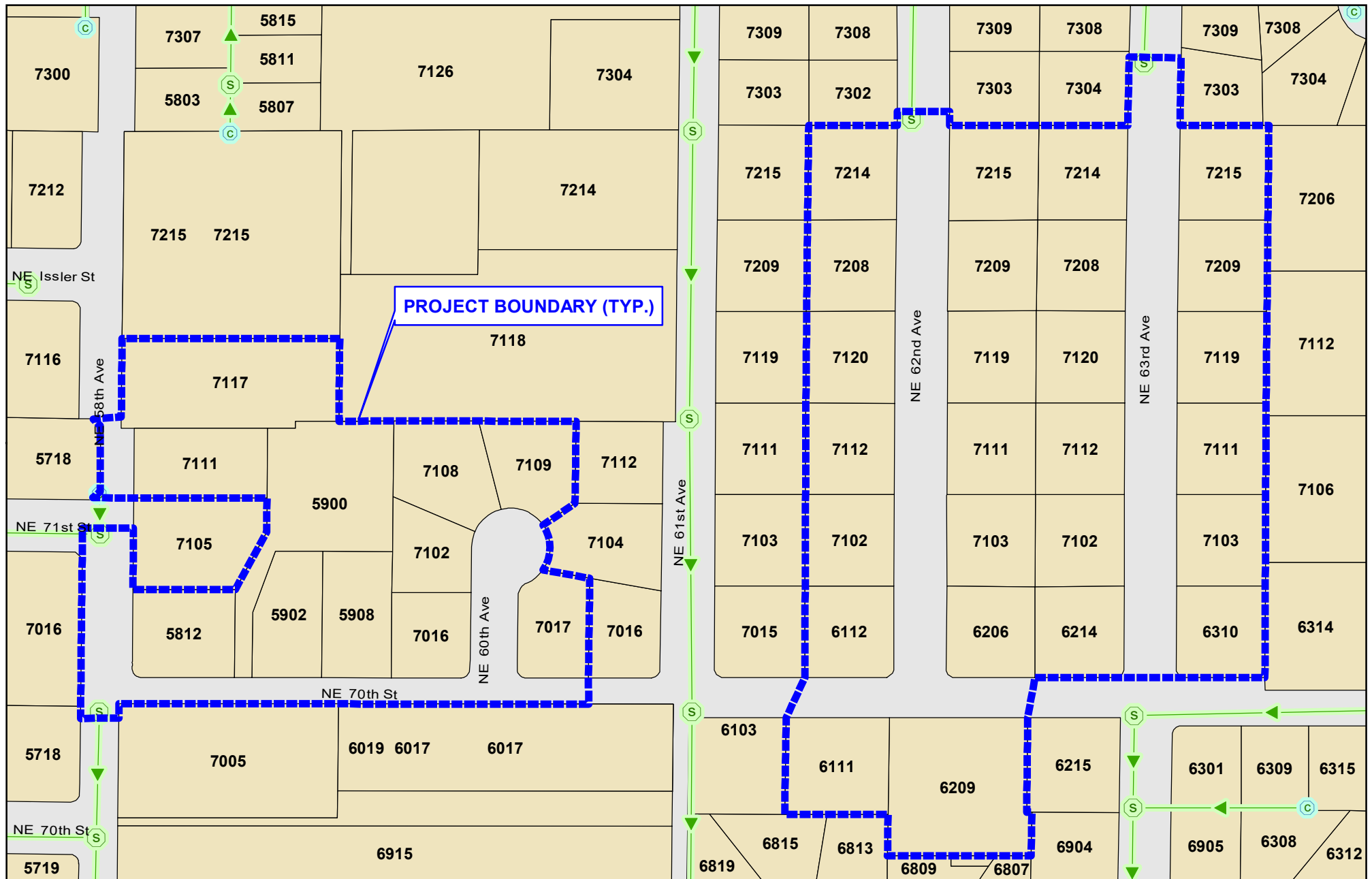
Attest:

Date

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney





Staff Report 050-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 4/5/2021

SUBJECT Award of Contracts for On-Call Traffic Engineering Services

Key Points

- The City currently hires traffic engineering consultants for project design to supplement the services provided by City staff.
- The current on-call contract expires April 17, 2021. The City has historically requested consulting services resulting in approximately \$100,000-\$200,000 of traffic engineering consultant fees per year. There is a large variation year to year due to changing workloads. Recent budget cuts resulted in an unusually small traffic engineering consultant contract use over the last year. Staff anticipates much larger use within the next five years.
- The proposed five year contract will be used for large projects, small projects, and urgent design needs.

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.

Present Situation

The City regularly requires the services of professional traffic engineers who are experts in the field of fiber optic design, traffic signal design and street light design. The City has current on-call contracts with firms that provide these professionals to supplement City staff when needed. The current on-call contract will expire on April 17, 2021. Traffic engineering on-call consultants are used for federally funded projects and locally funded projects. Projects include new traffic signals, new fiber optic network design, and new street light installations. In addition to Traffic Engineering and Operations, the following departments will be using the on-call contract: Community &

Economic Development, Information Technology, Transportation Development Review, Pavement Management, and Transportation.

The City issued a request for proposals for on-call traffic engineering services on February 3, 2021. On February 24, 2021, the City received three proposals for on-call traffic engineering services. The three firms are: DKS Associates (Portland, OR), Kittelson & Associates, Inc., (Portland, OR), and Global Transportation Engineering, (Portland, OR).

After reviewing the proposals, staff recommends moving forward with a contract with all three firms. The City intends to execute each contract for five years. Each contract is proposed to not exceed \$1,000,000.00. This will allow other departments to use the on-call contract as needed for large and small projects.

Advantage(s)

1. Establishing an on-call contract will reduce staff time needed for hiring consultants for each project, lowering costs and improving efficiency.
2. Establishing an on-call contract will provide consistency of design through using the same consultants who have extensive background and expertise implementing the City of Vancouver design standards.

Disadvantage(s)

None

Budget Impact

None at this time. As individual task orders are written, future expenditures will be paid from the applicable project's budget.

Prior Council Review

None

Action Requested

Award contracts to DKS Associates (Portland, OR), Kittelson & Associates, Inc., (Portland, OR), and Global Transportation Engineering, (Portland, OR) for traffic engineering services on an on-call basis. Each contract shall not exceed \$1,000,000.00 for the life of the contract.

Chris Christofferson, City Traffic Engineer, 360-487-7716

ATTACHMENTS:

- ❑ Contract - DKS Associates
- ❑ Contract - Kittelson & Associates, Inc.
- ❑ Contract - Global Transportation Engineering

Local Agency Professional Services Lump Sum Consultant Agreement

Agreement Number:

Does this Require DES filing? ☐ Yes ☐ No

Firm/Organization Legal Name (do not use dba's): DKS Associates, Inc.			
Address 720 SW Washington St, Portland, OR 97205		Federal Aid Number	
UBI Number 601-460-417		Federal TIN 94-2583153	
Execution Date April 16, 2021		Completion Date April 15, 2026	
1099 Form Required ☒ Yes ☐ No		Federal Participation ☐ Yes ☐ No	
Project Title On-Call Traffic Engineering			
Description of Work Traffic engineering/design and other related professional services.			
☐ Yes	%	☒ No DBE Participation	Maximum Amount Payable: \$1,000,000
☐ Yes	%	☒ No MBE Participation	
☐ Yes	%	☒ No WBE Participation	
☐ Yes	%	☒ No SBE Participation	

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Agreement Number:

THIS AGREEMENT, made and entered into as shown in the “Execution Date” box on page one (1) of this AGREEMENT, between the City of Vancouver hereinafter called the “AGENCY,” and the “Firm/Organization Name” referenced on page one (1) of this AGREEMENT, hereinafter called the “CONSULTANT.”

WHEREAS, the AGENCY desires to accomplish the work referenced in “Description of Work” on page one (1) of this AGREEMENT and hereafter called the “SERVICES;” and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit “A” attached hereto and by this reference made a part of this AGREEMENT. The Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days’ notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit “A.”

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Agreement Number:

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26 shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit “B” attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY’s “DBE Program Participation Plan” and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE firms maximum practicable opportunities.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit “C – Preparation and Delivery of Electronic Engineering and other Data.”

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Anna L. Vogel
Agency: City of Vancouver
Address: PO Box 1995
City: Vancouver State: WA Zip: 98684
Email: anna.vogel@cityofvancouver.us
Phone: 360-487-8429
Facsimile:

If to CONSULTANT:

Name: Brian Copeland
Agency: DKS Associates, Inc.
Address: 720 SW Washington Street
City: Portland State: OR Zip: 97205
Email: bkc@dksassociates.com
Phone: 503-972-1240
Facsimile:

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled “Completion Date.”

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, or governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

Agreement Number:

V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov). The estimate in support of the lump sum amount is attached hereto as Exhibits “D” and “E” and by this reference made part of this AGREEMENT.

- A. Lump Sum Agreement: Payment for all consulting SERVICES shall be on the basis of a lump sum amount as shown on page one (1) of this AGREEMENT.
- B. Maximum Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, “Extra Work.” No minimum amount payable is guaranteed under this AGREEMENT.
- C. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of costs on a monthly basis. To provide a means of verifying the billed salary costs for the CONSULTANT’s employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent, if applicable, upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT’s “Audit Guide for Consultants,” Chapter 23 “Resolution Procedures,” the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

- E. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

A post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT’s Internal Audit Office and /or at the request of the AGENCY’s Project Manager .

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VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit “A” attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit “E” attached hereto and by this reference made part of this AGREEMENT.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V “Payment Provisions” herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE’s Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from the AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen’s Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT’s employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit “F” attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit “F” in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT which, when added to any payments previously made, shall total the same percentage of the Lump Sum Amount as the work completed at the time of termination is to the total work required for the SERVICES. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

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to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and or the AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and or the AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE's and/or the AGENCY's, their agents', officers' and employees' failure to comply with specific written instructions regarding use provided to STATE and/or the AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

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Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Anna Vogel
Agency: City of Vancouver
Address: PO Box 1995
City: Vancouver State: WA Zip: 98684
Email: anna.vogel@cityofvancouver.us
Phone: 360-487-8429
Facsimile:

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

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XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any “request for equitable adjustment,” hereafter referred to as “CLAIM,” under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI “Disputes” clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the AGENCY

Attached hereto as Exhibit “G-1(a and b)” are the Certifications of the CONSULTANT and the AGENCY, Exhibit “G-2” Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit “G-3” Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit “G-4” Certificate of Current Cost or Pricing Data. Exhibit “G-3” is required only in AGREEMENT’s over one hundred thousand dollars (\$100,000.00) and Exhibit “G-4” is required only in AGREEMENT’s over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III “General Requirements” prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

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XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

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The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbings, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

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For purposes of this AGREEMENT, “ESI” means any and all computer data or electronic recorded media of any kind, including “Native Files”, that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

“Native files” are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX “Records Maintenance” in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the “Execution Date” box on page one (1) of this AGREEMENT.

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

Agreement Number:

CITY OF VANCOUVER
A municipal corporation

CONTRACTOR:
DKS Associates, Inc.

Eric Holmes, City Manager

Signature

Date

Printed Name /Title

Attest:

Date

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

Exhibit A Scope of Work

Federal Aid No. N/A

The Consultant is to provide on-call traffic engineering/design and other related professional services per Request for Qualifications #10-21(RFQ) and respondents response to said RFQ on file in the City of Vancouver Procurement Services and by reference hereto made a part of this agreement.

Agreement Number:

N/A

Agreement Number:

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

TBD

B. Roadway Design Files

TBD

C. Computer Aided Drafting Files

TBD

Agreement Number:

D. Specify the Agency's Right to Review Product with the Consultant

TBD

E. Specify the Electronic Deliverables to Be Provided to the Agency

TBD

F. Specify What Agency Furnished Services and Information Is to Be Provided

TBD

Agreement Number:

II. Any Other Electronic Files to Be Provided

TBD

III. Methods to Electronically Exchange Data

TBD

A. Agency Software Suite

TBD

B. Electronic Messaging System

TBD

C. File Transfers Format

TBD

Exhibit D

Prime Consultant Cost Computations

See attached.

Agreement Number:

Consultant Fee Determination - Summary Sheet

DKS

Standard DKS Billing Grades	Maximum Direct Salary	Overhead	Fixed Fee	Maximum Billing Rate
Tech Level A	\$ 9.36	185.79%	30.0%	\$ 29.55
Tech Level B	\$ 9.50	185.79%	30.0%	\$ 30.00
Tech Level C	\$ 11.08	185.79%	30.0%	\$ 35.00
Tech Level D/Grade 1	\$ 12.67	185.79%	30.0%	\$ 40.00
Tech Level E/Grade 2	\$ 14.25	185.79%	30.0%	\$ 45.00
Tech Level F/Grade 3	\$ 15.83	185.79%	30.0%	\$ 50.00
Tech Level G/Grade 4	\$ 17.42	185.79%	30.0%	\$ 55.00
Tech Level H/Grade 5	\$ 19.00	185.79%	30.0%	\$ 60.00
Tech Level I/Grade 6	\$ 20.58	185.79%	30.0%	\$ 65.00
Tech Level J/Grade 7	\$ 22.17	185.79%	30.0%	\$ 70.00
Tech Level K/Grade 8	\$ 23.75	185.79%	30.0%	\$ 75.00
Tech Level L/Grade 9	\$ 25.33	185.79%	30.0%	\$ 80.00
Tech Level M/Grade 10	\$ 26.92	185.79%	30.0%	\$ 85.00
Tech Level N/Grade 11	\$ 28.50	185.79%	30.0%	\$ 90.00
Tech Level O/Grade 12	\$ 30.08	185.79%	30.0%	\$ 95.00
Tech Level P/Grade 13	\$ 31.67	185.79%	30.0%	\$ 100.00
Tech Level Q/Grade 14	\$ 33.25	185.79%	30.0%	\$ 105.00
Tech Level R/Grade 15	\$ 34.83	185.79%	30.0%	\$ 110.00
Tech Level S/Grade 16	\$ 36.42	185.79%	30.0%	\$ 115.00
Tech Level T/Grade 17	\$ 38.00	185.79%	30.0%	\$ 120.00
Tech Level U/Grade 18	\$ 39.58	185.79%	30.0%	\$ 125.00
Tech Level V/Grade 19	\$ 41.17	185.79%	30.0%	\$ 130.00
Tech Level W/Grade 20	\$ 42.75	185.79%	30.0%	\$ 135.00
Tech Level X/Grade 21	\$ 44.33	185.79%	30.0%	\$ 140.00
Tech Level Y/Grade 22	\$ 45.92	185.79%	30.0%	\$ 145.00
Tech Level Z/Grade 23	\$ 47.50	185.79%	30.0%	\$ 150.00
Grade 24	\$ 49.08	185.79%	30.0%	\$ 155.00
Grade 25	\$ 50.67	185.79%	30.0%	\$ 160.00
Grade 26	\$ 52.25	185.79%	30.0%	\$ 165.00
Grade 27	\$ 53.83	185.79%	30.0%	\$ 170.00
Grade 28	\$ 55.42	185.79%	30.0%	\$ 175.00
Grade 29	\$ 57.00	185.79%	30.0%	\$ 180.00
Grade 30	\$ 58.58	185.79%	30.0%	\$ 185.00
Grade 31	\$ 60.17	185.79%	30.0%	\$ 190.00
Grade 32	\$ 61.75	185.79%	30.0%	\$ 195.00
Grade 33	\$ 63.33	185.79%	30.0%	\$ 200.00
Grade 34	\$ 64.92	185.79%	30.0%	\$ 205.00
Grade 35	\$ 66.50	185.79%	30.0%	\$ 210.00
Grade 36	\$ 68.08	185.79%	30.0%	\$ 215.00
Grade 37	\$ 69.67	185.79%	30.0%	\$ 220.00
Grade 38	\$ 71.25	185.79%	30.0%	\$ 225.00

Grade 39	\$	72.83	185.79%	30.0%	\$	230.00
Grade 40	\$	74.42	185.79%	30.0%	\$	235.00
Grade 41	\$	76.00	185.79%	30.0%	\$	240.00
Grade 42	\$	77.58	185.79%	30.0%	\$	245.00
Grade 43	\$	79.17	185.79%	30.0%	\$	250.00

Rates CAPPED at \$250/Grade 43

Project expenses will be billed at *cost* for service and handling. Project expenses include project-related costs such as reproduction through outside services, transportation, subsistence, delivery/postage and subcontractor services.

Reimbursable costs are billed as follows:

- 8-1/2 x 11 B/W, at cost, up to \$0.10 per page
- 11 x 17 B/W bond, at cost, up to \$0.50 per page
- 24 x 36 B/W bond, at cost, up to \$1.00 per page
- 11 x 17 B/W mylar, at cost, up to \$ 3.50 per page
- 24 x 36 B/W mylar, at cost, up to \$ 7.00 per page
- 8-1/2 x 11 color, at cost, up to \$ 0.90 per page
- 11 x 17 color, at cost, up to \$ 1.75 per page



**Washington State
Department of Transportation**

Development Division
Contract Services Office
PO Box 47408
Olympia, WA 98504-7408
7345 Linderson Way SW
Tumwater, WA 98501-6504

TTY: 1-800-833-6388
www.wsdot.wa.gov

August 11, 2020

DKS Associates
720 SW Washington Street, Suite 500
Portland, OR 97205

Subject: Acceptance FYE 2020 ICR – CPA Report

Dear Mike Thomas:

We have accepted your firms FYE 2020 Indirect Cost Rate (ICR) of 185.79% of direct labor (rate includes 0.29% Facilities Capital Cost of Money) based on the “Independent CPA Report,” prepared by Moss Adams, LLP. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at **(360) 705-7019** or via email consultantrates@wsdot.wa.gov.

Regards;

ERIK K. JONSON
Contract Services Manager

EKJ:ah

Exhibit E

Sub-consultant Cost Computations

The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI “Sub-Contracting” of this AGREEMENT.

N/A

Agreement Number:

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number:

Exhibit G Certification Documents

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of _____
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters -
Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number: C-100588

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
DKS Associates, Inc.
whose address is
720 SW Washington St, Portland, OR 97205
and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the
and the Federal Highway Administration, U.S. Department of Transportation in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

DKS Associates, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: C-100588

Exhibit G-1(b) Certification of Agency Official

I hereby certify that I am the:

- ☐ Agency Official of the Local Agency
- ☐ Other

of the City of Vancouver, and DKS Associates, Inc.
or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; or
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the
and the Federal Highway Administration, U.S. Department of Transportation, in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

Signature

Date

Agreement Number: C-100588

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

DKS Associates, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

DKS Associates, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: C-100588

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 2.101 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of on-call traffic engineering * are accurate, complete, and current as of April 16, 2021

Firm: DKS Associates, Inc.

Title

Date of Execution***:

***Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Agreement Number:

Exhibit H

Liability Insurance Increase

To Be Used Only If Insurance Requirements Are Increased

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XII, Legal Relations and Insurance of this Agreement is amended to \$ 1,000,000

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ 1,000,000

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance.
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$

- Include all costs, fee increase, premiums.
- This cost shall not be billed against an FHWA funded project.
- For final contracts, include this exhibit.

Agreement Number:

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number:

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Agreement Number:

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action in needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number:

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Agreement Number:

Local Agency Professional Services Lump Sum Consultant Agreement

Agreement Number:

Does this Require DES filing? ☐ Yes ☐ No

Firm/Organization Legal Name (do not use dba's): Kittelson & Associates			
Address 851 W 6th Ave, Suite 600, Portland, OR 97204		Federal Aid Number	
UBI Number 602-304-272		Federal TIN 93-0964447	
Execution Date April 16, 2021		Completion Date April 15, 2026	
1099 Form Required ☒ Yes ☐ No		Federal Participation ☐ Yes ☐ No	
Project Title On-Call Traffic Engineering			
Description of Work Traffic engineering/design and other related professional services.			
☐ Yes	%	☒ No DBE Participation	Maximum Amount Payable: \$1,000,000
☐ Yes	%	☒ No MBE Participation	
☐ Yes	%	☒ No WBE Participation	
☐ Yes	%	☒ No SBE Participation	

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
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Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Agreement Number:

THIS AGREEMENT, made and entered into as shown in the “Execution Date” box on page one (1) of this AGREEMENT, between the City of Vancouver hereinafter called the “AGENCY,” and the “Firm/Organization Name” referenced on page one (1) of this AGREEMENT, hereinafter called the “CONSULTANT.”

WHEREAS, the AGENCY desires to accomplish the work referenced in “Description of Work” on page one (1) of this AGREEMENT and hereafter called the “SERVICES;” and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit “A” attached hereto and by this reference made a part of this AGREEMENT. The Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days’ notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit “A.”

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

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Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26 shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit “B” attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY’s “DBE Program Participation Plan” and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE firms maximum practicable opportunities.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit “C – Preparation and Delivery of Electronic Engineering and other Data.”

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Anna L. Vogel
Agency: City of Vancouver
Address: PO Box 1995
City: Vancouver State: WA Zip: 98668
Email: anna.vogel@cityofvancouver.us
Phone: 360-487-8429
Facsimile:

If to CONSULTANT:

Name: Hermanus Steyn
Agency: Kittelson & Associates
Address: 851 SW 6th Ave, Suite 600
City: Portland State: OR Zip: 97204
Email: hsteyn@kittelson.com
Phone: 503-535-7455
Facsimile:

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled “Completion Date.”

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, or governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

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V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov). The estimate in support of the lump sum amount is attached hereto as Exhibits "D" and "E" and by this reference made part of this AGREEMENT.

- A. Lump Sum Agreement: Payment for all consulting SERVICES shall be on the basis of a lump sum amount as shown on page one (1) of this AGREEMENT.
- B. Maximum Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- C. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of costs on a monthly basis. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent, if applicable, upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

- E. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

A post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager .

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VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit “A” attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit “E” attached hereto and by this reference made part of this AGREEMENT.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V “Payment Provisions” herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE’s Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from the AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen’s Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT’s employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit “F” attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit “F” in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT which, when added to any payments previously made, shall total the same percentage of the Lump Sum Amount as the work completed at the time of termination is to the total work required for the SERVICES. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

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to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and or the AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and or the AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE's and/or the AGENCY's, their agents', officers' and employees' failure to comply with specific written instructions regarding use provided to STATE and/or the AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

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Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Anna Vogel
Agency: City of Vancouver
Address: PO Box 1995
City: Vancouver State: WA Zip: 98684
Email: anna.vogel@cityofvancouver.us
Phone: 360-487-8429
Facsimile:

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

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XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any “request for equitable adjustment,” hereafter referred to as “CLAIM,” under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI “Disputes” clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the AGENCY

Attached hereto as Exhibit “G-1(a and b)” are the Certifications of the CONSULTANT and the AGENCY, Exhibit “G-2” Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit “G-3” Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit “G-4” Certificate of Current Cost or Pricing Data. Exhibit “G-3” is required only in AGREEMENT’s over one hundred thousand dollars (\$100,000.00) and Exhibit “G-4” is required only in AGREEMENT’s over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III “General Requirements” prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

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XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

Agreement Number:

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbings, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

Agreement Number:

For purposes of this AGREEMENT, “ESI” means any and all computer data or electronic recorded media of any kind, including “Native Files”, that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

“Native files” are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX “Records Maintenance” in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the “Execution Date” box on page one (1) of this AGREEMENT.

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

Agreement Number:

CITY OF VANCOUVER
A municipal corporation

CONTRACTOR:
Kittelson & Associates

Eric Holmes, City Manager

Signature

Date

Printed Name /Title

Attest:

Date

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

Exhibit A Scope of Work

Federal Aid No. N/A

The Consultant is to provide on-call traffic engineering/design and other related professional services per Request for Qualifications #10-21(RFQ) and respondents response to said RFQ on file in the City of Vancouver Procurement Services and by reference hereto made a part of this agreement.

Agreement Number:

N/A

Agreement Number:

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

TBD

B. Roadway Design Files

TBD

C. Computer Aided Drafting Files

TBD

Agreement Number:

D. Specify the Agency's Right to Review Product with the Consultant

TBD

E. Specify the Electronic Deliverables to Be Provided to the Agency

TBD

F. Specify What Agency Furnished Services and Information Is to Be Provided

TBD

Agreement Number:

II. Any Other Electronic Files to Be Provided

TBD

III. Methods to Electronically Exchange Data

TBD

A. Agency Software Suite

TBD

B. Electronic Messaging System

TBD

C. File Transfers Format

TBD

Exhibit D

Prime Consultant Cost Computations

See attached.

Agreement Number:

City of Vancouver
On-Call Traffic Engineering Rate Schedule
As of March 2021

Classification	Hourly Rate	Overhead @ 203.79%	Operating Margin @ 30%	Hourly Billing Rate*
Senior Principal Engineer/Planner	\$78.12	\$159.21	\$23.44	\$260.77
Principal Engineer/Planner	\$66.82	\$136.18	\$20.05	\$223.05
Associate Engineer/Planner	\$57.45	\$117.07	\$17.23	\$191.75
Senior Engineer/Planner	\$48.78	\$99.42	\$14.64	\$162.83
Engineer/Planner	\$37.52	\$76.45	\$11.25	\$125.22
Transportation Analyst	\$31.02	\$63.21	\$9.31	\$103.53
Technician I	\$26.71	\$54.42	\$8.01	\$89.14
Technician II	\$33.65	\$68.58	\$10.10	\$112.33
Senior Technician	\$39.92	\$81.36	\$11.98	\$133.26
Associate Technician	\$48.29	\$98.41	\$14.49	\$161.19
Office Support	\$18.75	\$38.22	\$5.63	\$62.60
Software Technician	\$22.66	\$46.18	\$6.80	\$75.64
Data Analyst / Software Technician	\$34.05	\$69.39	\$10.22	\$113.66
Data Scientist/Developer	\$45.40	\$92.52	\$13.62	\$151.54
Senior Data Scientist/Developer	\$59.07	\$120.38	\$17.72	\$197.17

** Average classification rates by category are shown above. Actual wage rates will be invoiced, overhead and operating margin will be locked for the duration of the contract.*



**Washington State
Department of Transportation**

Development Division
Contract Services Office
PO Box 47408
Olympia, WA 98504-7408
7345 Linderson Way SW
Tumwater, WA 98501-6504

TTY: 1-800-833-6388
www.wsdot.wa.gov

June 1, 2020

Kittelson & Associates, Inc.
1850 Centennial Park Drive, Suite 130
Reston, VA 20191

Subject: Acceptance FYE 2019 ICR – CPA Report

Dear Liana Hakim:

We have accepted your firms FYE 2019 Indirect Cost Rate (ICR) of 203.79% of direct labor (rate includes 0.44% Facilities Capital Cost of Money) based on the “Independent CPA Report,” prepared by D.L. Purvine, CPA PLLC. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at **(360) 705-7019** or via email consultantrates@wsdot.wa.gov.

Regards;

ERIK K. JONSON
Contract Services Manager

EKJ:ah

Exhibit E

Sub-consultant Cost Computations

The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI “Sub-Contracting” of this AGREEMENT.

N/A

Agreement Number:

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number:

Exhibit G ***Certification Documents***

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of _____
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters -
Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number: C-100587

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Kittelson & Associates
whose address is
851 SW 6th Ave, Ste 600, Portland, OR 97204
and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the
and the Federal Highway Administration, U.S. Department of Transportation in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

Kittelson & Associates

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: C-100587

Exhibit G-1(b) Certification of Agency Official

I hereby certify that I am the:

- ☐ Agency Official of the Local Agency
- ☐ Other

of the City of Vancouver, and Kittelson & Associates
or its representative has not been required, directly or indirectly as an express or implied condition in connection
with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; or
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration
of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the
and the Federal Highway Administration, U.S. Department of Transportation, in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

Signature

Date

Agreement Number: C-100587

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Kittelson & Associates

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: C-100587

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
- 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

Kittelson & Associates

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: C-100587

Exhibit G-4 Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 2.101 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer’s representative in support of on-call traffic engineering * are accurate, complete, and current as of April 16, 2021 **.

This certification includes the cost or pricing data supporting any advance AGREEMENT’s and forward pricing rate AGREEMENT’s between the offer or and the Government that are part of the proposal.

Firm: Kittelson & Associates

Signature Title

Date of Execution***:

*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)
**Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.
***Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Agreement Number:

Exhibit H

Liability Insurance Increase

To Be Used Only If Insurance Requirements Are Increased

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XII, Legal Relations and Insurance of this Agreement is amended to \$ 1,000,000

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ 1,000,000

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance.
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$

- Include all costs, fee increase, premiums.
- This cost shall not be billed against an FHWA funded project.
- For final contracts, include this exhibit.

Agreement Number:

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number:

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Agreement Number:

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number:

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Agreement Number:

Local Agency Professional Services Lump Sum Consultant Agreement

Agreement Number:

Does this Require DES filing? ☐ Yes ☐ No

Firm/Organization Legal Name (do not use dba's): Global Transportaiton Engineering			
Address 227 SW Pine St, Suite 220, Portland, Oregon 97204		Federal Aid Number	
UBI Number 603-523-488		Federal TIN 47-3677580	
Execution Date April 16, 2021		Completion Date April 15, 2026	
1099 Form Required ☒ Yes ☐ No		Federal Participation ☐ Yes ☐ No	
Project Title On-Call Traffic Engineering			
Description of Work Traffic engineering/design and other related professional services.			
☐ Yes	%	☒ No DBE Participation	Maximum Amount Payable: \$1,000,000.00
☐ Yes	%	☒ No MBE Participation	
☐ Yes	%	☒ No WBE Participation	
☐ Yes	%	☒ No SBE Participation	

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Agreement Number:

THIS AGREEMENT, made and entered into as shown in the “Execution Date” box on page one (1) of this AGREEMENT, between the City of Vancouver hereinafter called the “AGENCY,” and the “Firm/Organization Name” referenced on page one (1) of this AGREEMENT, hereinafter called the “CONSULTANT.”

WHEREAS, the AGENCY desires to accomplish the work referenced in “Description of Work” on page one (1) of this AGREEMENT and hereafter called the “SERVICES;” and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit “A” attached hereto and by this reference made a part of this AGREEMENT. The Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days’ notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit “A.”

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Agreement Number:

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26 shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit “B” attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY’s “DBE Program Participation Plan” and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE firms maximum practicable opportunities.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit “C – Preparation and Delivery of Electronic Engineering and other Data.”

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Anna Vogel
Agency: City of Vancouver
Address: PO Box 1995
City: Vancouver State: WA Zip: 98684
Email: anna.vogel@cityofvancouver.us
Phone: 360-487-8429
Facsimile:

If to CONSULTANT:

Name: Dana Beckwith
Agency: Global Transportation Engineering
Address: 227 SW Pine Street, Suite 220
City: Portland State: OR Zip: 97204
Email: dana.beckwith@globaltranseng.com
Phone: 503-488-5736
Facsimile:

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled “Completion Date.”

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, or governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

Agreement Number:

V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov). The estimate in support of the lump sum amount is attached hereto as Exhibits “D” and “E” and by this reference made part of this AGREEMENT.

- A. Lump Sum Agreement: Payment for all consulting SERVICES shall be on the basis of a lump sum amount as shown on page one (1) of this AGREEMENT.
- B. Maximum Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, “Extra Work.” No minimum amount payable is guaranteed under this AGREEMENT.
- C. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of costs on a monthly basis. To provide a means of verifying the billed salary costs for the CONSULTANT’s employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent, if applicable, upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT’s “Audit Guide for Consultants,” Chapter 23 “Resolution Procedures,” the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

- E. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

A post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT’s Internal Audit Office and /or at the request of the AGENCY’s Project Manager .

Agreement Number:

VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit “A” attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit “E” attached hereto and by this reference made part of this AGREEMENT.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V “Payment Provisions” herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE’s Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from the AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen’s Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT’s employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

Agreement Number:

VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit “F” attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit “F” in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT which, when added to any payments previously made, shall total the same percentage of the Lump Sum Amount as the work completed at the time of termination is to the total work required for the SERVICES. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

Agreement Number:

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

Agreement Number:

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and or the AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and or the AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE's and/or the AGENCY's, their agents', officers' and employees' failure to comply with specific written instructions regarding use provided to STATE and/or the AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Agreement Number:

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Anna Vogel
Agency: City of Vancouver
Address: PO Box 1995
City: Vancouver State: WA Zip: 98684
Email: anna.vogel@cityofvancouver.us
Phone: 360-487-8429
Facsimile: 360-487-8433

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

Agreement Number:

XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any “request for equitable adjustment,” hereafter referred to as “CLAIM,” under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI “Disputes” clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the AGENCY

Attached hereto as Exhibit “G-1(a and b)” are the Certifications of the CONSULTANT and the AGENCY, Exhibit “G-2” Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit “G-3” Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit “G-4” Certificate of Current Cost or Pricing Data. Exhibit “G-3” is required only in AGREEMENT’s over one hundred thousand dollars (\$100,000.00) and Exhibit “G-4” is required only in AGREEMENT’s over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III “General Requirements” prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

Agreement Number:

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

Agreement Number:

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbings, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

Agreement Number:

For purposes of this AGREEMENT, “ESI” means any and all computer data or electronic recorded media of any kind, including “Native Files”, that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

“Native files” are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX “Records Maintenance” in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the “Execution Date” box on page one (1) of this AGREEMENT.

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

Agreement Number:

CITY OF VANCOUVER
A municipal corporation

CONTRACTOR:
Global Transportation Engineering

Eric Holmes, City Manager

Signature

Date

Printed Name /Title

Attest:

Date

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

Exhibit A Scope of Work

Federal Aid No. N/A

The Consultant is to provide on-call traffic engineering/design and other related professional services per Request for Qualifications #10-21(RFQ) and respondents response to said RFQ on file in the City of Vancouver Procurement Services and by reference hereto made a part of this agreement.

Agreement Number:

N/A

Agreement Number:

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

TBD

B. Roadway Design Files

TBD

C. Computer Aided Drafting Files

TBD

Agreement Number:

D. Specify the Agency's Right to Review Product with the Consultant

TBD

E. Specify the Electronic Deliverables to Be Provided to the Agency

TBD

F. Specify What Agency Furnished Services and Information Is to Be Provided

TBD

Agreement Number:

II. Any Other Electronic Files to Be Provided

TBD

III. Methods to Electronically Exchange Data

TBD

A. Agency Software Suite

TBD

B. Electronic Messaging System

TBD

C. File Transfers Format

TBD

Exhibit D

Prime Consultant Cost Computations

See attached.

Agreement Number:

Global Transportation Engineering

Safe Harbor Hourly Rate Statement*

Labor Classification	Labor Rate	Indirect Cost		Fixed Fee		Not to Exceed Rate
		Rate	110%	30%	30%	
Engineering Assoc 1	\$ 29.48	\$ 32.43	\$ 8.84	\$ 70.75		
Engineering Assoc 2	\$ 30.85	\$ 33.94	\$ 9.26	\$ 74.04		
Engineering Assoc 2	\$ 31.08	\$ 34.19	\$ 9.32	\$ 74.59		
Engineering Assoc3	\$ 31.98	\$ 35.18	\$ 9.59	\$ 76.75		
Sr Engineering Assoc 3	\$ 43.52	\$ 47.87	\$ 13.06	\$ 104.45		
Sr Project Engineer 3	\$ 50.51	\$ 55.56	\$ 15.15	\$ 121.22		
Tech X	\$ 25.43	\$ 27.97	\$ 7.63	\$ 61.03		
Tech XIV	\$ 34.32	\$ 37.75	\$ 10.30	\$ 82.37		
Principal/Project Manager 3	\$ 50.51	\$ 55.56	\$ 15.15	\$ 121.22		

*March 2021

September 23, 2020

Monica Leal, President
Global Transportation Engineering Corporation
227 SW Pine St, STE 220
Portland, OR 97204-2700

Re: Global Transportation Engineering Corporation
Safe Harbor Indirect Cost Rate Extension

Dear Ms. Leal:

Washington State has received approval from our local Federal Highway Administration (FHWA) Division to continue administering the “safe harbor” indirect cost rate program on engineering and design related service contracts, as well as for Local Public Agency projects.

We completed our risk assessment for Global Transportation Engineering Corporation in March 2016. Our assessment was conducted based on the documentation provided by the firm. The reviewed data included, but was not limited to, a description of the company, basis of accounting, accounting system and the basis of indirect costs. Based on our review, we found the firm eligible to use the Safe Harbor rate. Global Transportation Engineering Corporation opted to use the Safe Harbor rate, rather than provide a FAR-compliant rate.

Based on further review and discussion with the firm, we are issuing an extension of the Safe Harbor Indirect Cost Rate of 110% of direct labor with a field rate, where applicable, of 80% of direct labor for Global Transportation Engineering Corporation.

Global Transportation Engineering Corporation agreed to improve Internal Controls and timekeeping processes in order to be able to develop an Indirect Cost Rate Schedule in the future in accordance with the Federal Acquisition Regulations (FAR), Subpart 31. The WSDOT Internal Audit Office has provided guidance and information related to FARs and the AASHTO Audit Guide. You may use the Safe Harbor Rate of 110%, or 80% for field office situations, for agreements entered into prior to June 30, 2021. For agreements entered into after this date, please contact the WSDOT Consultant Services Office (CSO) or our office for guidance.

The Safe Harbor Rate will not be subject to audit. Please coordinate with CSO or your Local Programs contact if you have questions about when to apply the Safe Harbor rate to your agreement.

If you have any questions, please contact Steve McKerney or me at (360)705-7003.

Sincerely,



Schatzie Harvey, CPA
Agreement Compliance Audit Manager

cc: Steve McKerney, Director of Internal Audit
Larry Schofield, MS 47323
File

Exhibit E

Sub-consultant Cost Computations

The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI “Sub-Contracting” of this AGREEMENT.

See attached.

Agreement Number:



Actuals Not To Exceed Table (ANTE)

[illegible]

May 4, 2020

Rajiv Ali, Owner
Rhino One, LLC
12308 NE 56th St, STE 1107
Vancouver, WA 98682

Re: Rhino One, LLC
Safe Harbor Indirect Cost Rate Extension

Dear Mr. Ali:

Washington State has received approval from our local Federal Highway Administration (FHWA) Division to continue administering the “safe harbor” indirect cost rate program on engineering and design related service contracts, as well as for Local Public Agency projects.

We completed our risk assessment for Rhino One in October 2016. Our assessment was conducted based on the documentation provided by the firm. The reviewed data included, but was not limited to, a description of the company, basis of accounting, accounting system and the basis of indirect costs. Based on our review, we found the firm eligible to use the Safe Harbor rate. Rhino One opted to use the Safe Harbor rate, rather than provide a FAR-compliant rate.

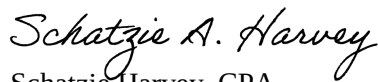
Based on further review and discussion with the firm, we are issuing an extension of the Safe Harbor Indirect Cost Rate of 110% of direct labor with a field rate, where applicable, of 80% of direct labor for Rhino One.

Rhino One has agreed to improve Internal Controls and timekeeping processes in order to be able to develop an Indirect Cost Rate Schedule in the future in accordance with the Federal Acquisition Regulations (FAR), Subpart 31. The WSDOT Internal Audit Office has provided guidance and information related to FARs and the AASHTO Audit Guide. You may use the Safe Harbor Rate of 110%, or 80% for field office situations, for agreements entered into prior to June 30, 2021. For agreements entered into after this date, please contact the WSDOT Consultant Services Office (CSO) or our office for guidance.

The Safe Harbor Rate will not be subject to audit. Please coordinate with CSO or your Local Programs contact if you have questions about when to apply the Safe Harbor rate to your agreement.

If you have any questions, please contact Steve McKerney or me at (360)705-7003.

Sincerely,



Schatzie Harvey, CPA
Agreement Compliance Audit Manager

cc: Steve McKerney, Director of Internal Audit
Larry Schofield, MS 47323
File

**Consultant Fee Determination - Summary Sheet
Fee Schedule**

City of Vancouver On-Call Traffic Engineering Services

Harper Houf Peterson Righellis Inc.

March 16, 2021

Discipline or Job Title	AVG Hourly Rate \$	Overhead @ %	Labor + Overhead \$	Profit (% of AVG Hr Rate) @ %	Profit \$	Billing Rate Per Hour \$
Project Manager	\$69.25	164.50%	\$183.17	30.00%	\$20.78	\$203.94
Project Engineer	\$61.16	164.50%	\$161.78	30.00%	\$18.35	\$180.13
Civil Engineer	\$47.09	164.50%	\$124.55	30.00%	\$14.13	\$138.68
Civil Designer	\$35.62	164.50%	\$94.20	30.00%	\$10.68	\$104.89
CAD Technician	\$35.20	164.50%	\$93.11	30.00%	\$10.56	\$103.67
Structural Manager	\$57.21	164.50%	\$151.32	30.00%	\$17.16	\$168.49
Structural Engineer	\$53.49	164.50%	\$141.47	30.00%	\$16.05	\$157.51
Structural Designer	\$32.59	164.50%	\$86.19	30.00%	\$9.78	\$95.97
BIM Specialist	\$42.31	164.50%	\$111.90	30.00%	\$12.69	\$124.60
Senior Scientist	\$47.87	164.50%	\$126.60	30.00%	\$14.36	\$140.96
Scientist	\$33.65	164.50%	\$89.01	30.00%	\$10.10	\$99.11
Construction Manager	\$61.54	164.50%	\$162.77	30.00%	\$18.46	\$181.23
Landscape Architect	\$38.46	164.50%	\$101.73	30.00%	\$11.54	\$113.27
Senior Planner	\$53.85	164.50%	\$142.42	30.00%	\$16.15	\$158.58
Planner	\$41.35	164.50%	\$109.36	30.00%	\$12.40	\$121.76
Assistant Planner	\$34.13	164.50%	\$90.29	30.00%	\$10.24	\$100.53
Inspector	\$37.87	164.50%	\$100.16	30.00%	\$11.36	\$111.52
Survey Manager	\$57.60	164.50%	\$152.35	30.00%	\$17.28	\$169.63
Project Surveyor	\$47.87	164.50%	\$126.61	30.00%	\$14.36	\$140.97
Survey Technician	\$36.18	164.50%	\$95.69	30.00%	\$10.85	\$106.54
Survey Crew (Crew Chief)	\$32.25	164.50%	\$85.29	30.00%	\$9.67	\$94.97
Survey Crew (Instrument Person)	\$27.82	164.50%	\$73.57	30.00%	\$8.34	\$81.92
Clerical	\$24.56	164.50%	\$64.96	30.00%	\$7.37	\$72.33



**Washington State
Department of Transportation**

Development Division
Contract Services Office
PO Box 47408
Olympia, WA 98504-7408
7345 Linderson Way SW
Tumwater, WA 98501-6504

TTY: 1-800-833-6388
www.wsdot.wa.gov

July 31, 2020

Harper Houf Peterson Righellis, Inc.
205 SE Spokane Street, Suite 200
Portland, OR 97202

Subject: Acceptance FYE 2019 ICR – Risk Assessment Review

Dear Ken Baldwin:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE 2019 ICR of 164.50% of direct labor (rate includes 0.61% Facilities Cost of Capital). This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at **(360) 705-7019** or via email consultantrates@wsdot.wa.gov.

Regards;

ERIK K. JONSON
Contract Services Manager

EKJ:ah

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the “REGULATIONS”), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT’s obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT’s non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number:

Exhibit G Certification Documents

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of _____
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters -
Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number: C-100584

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Global Transportation Engineering
whose address is
227 SW Pine Street, Suite 220, Portland, OR 97313
and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Vancouver
and the Federal Highway Administration, U.S. Department of Transportation in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

Global Transportation Engineering

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: C-100584

Exhibit G-1(b) Certification of Agency Official

I hereby certify that I am the:

- ☐ Agency Official of the Local Agency
- ☐ Other

of the City of Vancouver, and Global Transportation Engineering
or its representative has not been required, directly or indirectly as an express or implied condition in connection
with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; or
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration
of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Washington State Department of Transportation
and the Federal Highway Administration, U.S. Department of Transportation, in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

Signature

Date

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Global Transportation Engineering

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
- 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

Global Transportation Engineering

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: C-100584

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 2.101 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of on-call traffic engineering * are accurate, complete, and current as of April 16, 2021

Firm:

Title

Date of Execution***:

***Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Agreement Number:

Exhibit H

Liability Insurance Increase

To Be Used Only If Insurance Requirements Are Increased

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XII, Legal Relations and Insurance of this Agreement is amended to \$ 1,000,000

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ 1,000,000

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance.
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$

- Include all costs, fee increase, premiums.
- This cost shall not be billed against an FHWA funded project.
- For final contracts, include this exhibit.

Agreement Number:

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number:

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Agreement Number:

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action in needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number:

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Agreement Number:



Staff Report 051-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 4/5/2021

SUBJECT Amendment to the existing professional services agreement for on-call right-of-way acquisition services with Right-of-Way Associates, Inc.

Key Points

- Right of Way Associates, Inc. of Beaverton, Oregon, is currently completing the right-of-way acquisition for the SE 1st Street project under agreement number 77635.
- The State and Federal right-of-way acquisition and certification process has taken more time and effort than originally expected due to the current COVID-19 pandemic situation.
- Staff recommends an amendment to the City's contract to increase the total compensation authorized under the agreement by \$25,750 to a total of \$325,750. If approved, Right of Way Associates, Inc. will complete the work for the State and Federal ROW certification process. This work also includes archiving of files, both electronic and hard copy, and delivering final files to the City for permanent retention.

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.

Present Situation

Under Request for Proposals (RFP) #22-13, City Council approved four on-call right-of-way acquisition agreements, each agreement was approved for not-to-exceed \$300,000.00 (Staff Report 076-13, dated August 19, 2013). Under these on-call agreements, transportation staff have been acquiring rights-of-way for street construction projects, which typically require the

services of experts in the field of right-of-way acquisition and relocation in order to meet all of the requirements established by the State and Federal granting agencies.

By way of the City Council approved on-call right-of-way agreements roster, Right of Way Associates, Inc. of Beaverton, Oregon, was selected to perform the right-of-way acquisition for the SE 1st Street project. The acquisition negotiations are currently 100% complete; however, due to issues related to the COVID-19 pandemic, it has taken more time and effort than originally projected to complete the acquisitions and certification process. As such, an increase in the contract amount is needed to provide for the work needed to complete the ROW certification process, archiving process, and preparing the project to move into the construction phase. If approved, the Agreement amount would be increased by \$25,750 for a new total not-to-exceed amount equal to \$325,750.

Advantage(s)

1. Complete the right-of-way acquisition process by Right of Way Associates for the SE 1st Street project.
2. Establish a timeline to get the project ready for construction in summer 2021.

Disadvantage(s)

None

Budget Impact

The project is funded through the Transportation Capital Fund and federal grant. The additional increase is within the project's right-of-way acquisition budget.

Prior Council Review

1. Approval of the on-call right of way acquisition services agreement with Right of Way Associates. (RFP #22-13, Staff Report # 076-13 on August 19, 2013).
2. Approval of the 2021-2026 Transportation Improvement Program (TIP) – Resolution No. M-4078 (June 15, 2020).

Action Requested

Approve an amendment to the on-call services agreement with Right of Way Associates, Inc. of Beaverton, OR, and authorize the City Manager or his designee to execute the attached amendment to increase the existing contract by \$25,750 for a total not-to-exceed contract amount of \$325,750.

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

ATTACHMENTS:

- Amendment to Professional Services Agreement Number 77635

AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT #77635

This Agreement amends the Professional Services Agreement Contract number 77635, by and between the City of Vancouver, hereinafter referred to as "City", and Right of Way Associates, Incorporated hereinafter referred to as "Contractor", whose address is 3450 SW 108th Avenue, Beaverton, OR 97005 for real estate acquisition & relocation services.

An amendment to said agreement is necessary to continue on-call negotiation services as outlined in the original Request for Proposal #22-13 and approved by City Council per Staff Report #076-13.

1. This amendment amends the original agreement as follows:
 - a. The not to exceed is increased by \$25,750 for a revised contract amount of \$325,750.
2. Ratification: Acts taken pursuant to this Amendment but prior to its effective date are hereby ratified and confirmed.

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

CITY OF VANCOUVER

A municipal corporation

CONTRACTOR:

Right of Way Associates, Incorporated

Eric Holmes, City Manager

Signature

Date

Printed Name /Title

Attest:

Date

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney



Staff Report 052-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 4/5/2021

SUBJECT Interlocal Agreement for Supervisor Offender Labor Services

Key Points

- Clark County by and through its District Court Corrections operates a supervised offender labor crew.
- A full crew consists of one Crew Chief (Clark County employee) and ten work crew offenders.
- A full crew day is billed at a rate of \$500/day and rates are the same as the last contract.
- The City provides scheduling, technical and equipment support, coordination and instructions to the crews to attain efficient and effective operations.
- Crews help maintain an acceptable level of maintenance services for parks, sensitive lands, medians, right-of-ways and special facilities throughout the City of Vancouver.

Strategic Plan Alignment

Goal 4: Ensure that Vancouver's parks and trails system is the highest quality and most complete in the region.

Objective 4.1: Increase maintenance levels and accessibility to parks

Present Situation

The City of Vancouver (Public Works/Operations) has contracted with Clark County Corrections for offender labor maintenance services for more than twenty years. This alternative workforce has provided the City with an additional resource to complete non-skilled maintenance tasks at an affordable price.

The attached Interlocal Agreement provides five crews that can be used for up to 988 crew days over the term of the one-year agreement. Activities include, but are not limited to, general litter removal, landscape maintenance and weeding, road right-of-way and median maintenance,

general park and recreation area maintenance for four full-time crews. A fifth crew will be assigned to the Greenway Sensitive Lands program for removal of non-native plant species, assistance in plantings, and general shrub bed maintenance generally within the Burnt Bridge Creek Greenway and at other sensitive lands within the City of Vancouver.

Advantage(s)

1. The City can make use of an alternative work force that is affordable and cost effective, allowing City FTE and resources to be most effectively managed and scheduled.
2. This work force completes tasks that improve the quality of City landscapes, sensitive lands, medians, and rights-of-way.
3. Many of the tasks completed under this partnership are tasks that may not otherwise be completed due to limited resources.
4. This partnership presents the courts an alternative to incarceration and provides offenders a chance to make restitution without losing their wages and not spending time in an expensive institution.

Disadvantage(s)

None.

Budget Impact

The use of corrections crews is funded through the General Fund, Solid Waste and the Stormwater Utility Fund. The 2021 adopted budget includes a sufficient appropriation to cover this service.

Prior Council Review

In 2018, City Council approved the 2019-2020 Interlocal Agreement, providing the same number of work crews, at the previous rate per crew day of \$500.

Action Requested

Authorize the City Manager or his designee to sign an Interlocal Agreement with Clark County Correction Services for offender crew labor/maintenance services.

Bill Bjerke, Public Works Operations Superintendent, 360-487-8245

ATTACHMENTS:

- ▣ Interlocal Agreement

**INTERLOCAL AGREEMENT FOR SERVICES
BETWEEN**

Clark County

PO Box 9806,
Vancouver, Washington 98666-8806
(360) 397-2436 – Fax (360) 896-9878

AND

The City of Vancouver

PO Box 1995, Vancouver, Washington 98668-1995
(360) 696-8177

Interlocal Agreement Period

Beginning: January 1, 2021
Ending: December 31, 2021

Interlocal Agreement: #2021-COR-101

Offender Work Crew Labor

Services and materials provided

Cost: Not to exceed \$494,000/annual

988 crew days at \$500/day*

*excluding any applicable taxes

Program Contacts:

Primary:
Bill Bjerke 487-8245
Alternate:
Brian Potter 487-8323

Program Contacts:

Program Manager:
Lisa Biffle 397-6045 (1829)
Lead Crew Chief - Dennis David
397-6045 (1801)
Lead Crew Chief - Tom Stillman
397-6045 (1803)

Fiscal: Jeff Crouch 487-7132

Fiscal: Susan Volz
397-2424 (4731)

Contractual: Bradley Alberts
564-397-5643

This Interlocal Agreement consists of the following exhibits:

- Special Terms and Conditions
- Standard & Special Tool List

Clark County and the City of Vancouver agree to the terms and conditions of this Interlocal Agreement and its exhibits as listed above by signing below.

DATED this ____ day of _____, 2021.

FOR CLARK COUNTY, WASHINGTON,
a political subdivision of the State of Washington

CITY OF VANCOUVER, a municipal
corporation and charter city of the first class in
the State of Washington

Kathleen Otto, County Manager

Eric J. Holmes, City Manager

Attested:

Natasha Ramras, City Clerk

Carrie Lewellen, Deputy City Clerk

Approved as to form:

Approved as to form:

Deputy Prosecuting Attorney

City Attorney

SPECIAL TERMS AND CONDITIONS

I. PURPOSE AND BACKGROUND

- A. This is an Interlocal Agreement entered into under the authority of the Interlocal Cooperation Act, RCW 39.34, between Clark County, Washington, a political subdivision of the State of Washington, and the City of Vancouver, a municipal corporation and charter city of the first class in the State of Washington.
- B. Pursuant to RCW 39.34, the purpose of this Interlocal Agreement is as set forth in Article I (Purpose and Background). Its duration is as specified in Article II. (Duration of Agreement). Its method of termination is set forth in Article III (Termination of Agreement). Its manner of financing and of establishing and maintaining a budget therefore is described in Article VI (Compensation) and Article VII (Billing Method and Process). No property shall be acquired pursuant to this Agreement which will need to be disposed of upon partial or complete termination of this Agreement.
- C. **Clark County by and through its District Court Community Restitution Program** operates a supervised offender labor crew, designated as and hereinafter referred to as “work crew.”
- D. **The City of Vancouver** (hereinafter “City”) desires to utilize the available services of District Court’s Community Restitution work crews.
- E. The purpose of this Agreement is to provide for the utilization of Community Restitution work crews by the City.
- F. District Court and the City desire to reduce to writing their understanding related to the provision and utilization of the Community Restitution Program.
- G. The City requests the assistance of District Court’s Community Restitution Program in order to provide services including but not limited to the following:
 - General litter pick and removal
 - Landscape maintenance and weeding
 - Roadway median maintenance
 - General Park and recreation area maintenance
 - Storm water facilities and stream cleanups
- H. Both parties hereby agree to communicate and cooperate to the fullest extent possible in order to achieve the desired results and avoid incurring excessive or unnecessary costs to either party.

II. DURATION OF AGREEMENT

The term of this Agreement is for the period from **January 1, 2021** through **December 31, 2021**.

III. TERMINATION OF AGREEMENT

Either party may choose to terminate this Agreement by notifying the other party in writing 90 days prior to termination. The City agrees to reimburse District Court for the cost of services provided through the date of termination of the Agreement.

IV. DISTRICT COURT AGREES TO:

- A. Allow the City to utilize work crews. To the greatest extent practicable endeavor to maintain the daily crew size of past practice. However, during a regular weekday (weekends and holidays excluded) if the daily crew size for a specific work crew falls below five (5), then Community Restitution staff will notify the City's primary Program Contact listed on the first page of this Agreement (phone calls will suffice) for the purpose of obtaining a keep or cancel dispatch decision. If at the time of dispatch the primary Program Contact listed is not readily available, then Community Restitution will make contact with an alternate Program Contact from the list to obtain a binding decision as to dispatch of that crew. If it is necessary to deploy crews with three or four crew members, the charge per day for crews that do not meet the minimum size of five members will be reduced by \$50.
- B. Assign only offenders that have been authorized to participate in Community Restitution by a judge of the Superior or District Courts.
- C. Provide all labor, transportation, and equipment necessary for work crew availability. District Court will provide work crew availability on a year-round basis subject to the exception of official holidays recognized by Clark County. Currently, under normal weather conditions, excluding travel time, crews are available for actual duty between the hours of 0830 to 1530, Monday through Sunday.
- D. Provide the tentative work hour schedule(s) to be performed by work crews on a monthly basis.
- E. Provide accident insurance coverage for work crew members assigned to City projects. Such coverage shall be equal to any such coverage presently provided for work crew members assigned to any other county-sponsored Community Restitution project.
- F. Provide Community Restitution staff and work crew members with any personal protection items required under the Washington Industrial Safety and Health Act (WISHA).
- G. Cooperate fully with the City to achieve satisfactory performance from the Crew Chief(s) and work crew(s) in the accomplishment of City projects. District Court will devote sufficient supervisory attention to all concerns raised pursuant to Article V section H (below) to resolve them in a manner that satisfies the City's performance expectations.

V. THE CITY AGREES TO:

- A. Provide a schedule of projects to be completed by work crews on a weekly basis.
- B. The schedule of projects will include: 1) Duties; 2) Locations; and, 3) Priorities of jobs to be completed.

- C. Provide technical staff support, equipment support, coordination and instructions on any new, comprehensive, or special projects as deemed necessary for attaining efficient and effective operations.
- D. In consideration of the need for timely dispatch and deployment decisions, upon receiving notice regarding crew size pursuant to Article IV Section E, the City will communicate to Community Restitution staff a timely decision to dispatch or cancel that crew followed by a written concurrence (e-mail will suffice). In situations where the primary Program Contact is not readily available at the time of dispatch, then an alternate Program Contact listed on the front of this Agreement will issue a binding decision as to deployment of that crew on behalf of the designated Program Contact.
- E. Provide at least one day advance notice to Community Restitution when non-standard tools or equipment from the Special Tool List will be necessary for a project.
- F. When work crews are unable to accomplish an assigned project with the standard tool compliment or with the special tools available, the City, at its option, will either provide Community Restitution with the specialized tools and/or supplies necessary or the City may elect to carry out the unaccomplished duties with City personnel. District Court and the City will cooperate in a conscious effort to respect any tool, equipment, or task restrictions placed upon the City by collective bargaining agreement(s) between the City and City employee labor organizations.
- G. In the accomplishment of City projects, both Community Restitution and the City share a mutual concern about achieving satisfactory performance from the Crew Chief(s) and work crew(s). To that end, the City will utilize the procedure outlined Article V section H below to resolve issues relating to performance.
- H. If there are performance concerns relating to Crew Chief(s) or Work Crew(s) that cannot be resolved directly and immediately with the Crew Chief, then the City's next step in resolving the issue, is to direct that concern in a timely fashion to the Lead Crew Chief in charge of Work Crew operations (at present the incumbents are **Dennis David** and **Tom Stillman**). The Lead Crew Chief is empowered to resolve issues relating to Crew Chief or Work Crew performance. If performance concerns are not resolved to the City's satisfaction after working in direct cooperation with the Lead Crew Chief, then the City's next step in resolving the issue is to relate their understanding of the situation to the Program Manager responsible for Community Restitution operations (at present the incumbent is **Lisa Biffle**). Prior to pursuing an alternate means of problem resolution relating to Crew Chief or work crew performance, the City will make a reasonable effort to follow the procedure outlined above.
- I. Provide equipment, supplies, and cost responsibility for disposal of all project materials as necessary. The City will provide for the mechanized loading or moving of excessively heavy or bulky items when and where it is appropriate.
- J. Where applicable, the City will provide for traffic control consistent with the Washington Industrial Safety and Health Act (WISHA) standards and the manual on uniform traffic control devices (MUTCD).

- K. Provide for timely and adequate review of Community Restitution project activities and work cooperatively with District Court to ensure that project activities are consistent with the City's quality standards.
- L. The City may not require Community Restitution services at all times during the term of the Agreement. When that situation occurs, the City will provide no less than fifteen (15) calendar days prior written notice when services are not required. If and when there has been a cessation of services for the City, the City will provide sufficient advance written notice as to when the resumption of Community Restitution services are to begin.

VI. COMPENSATION

- A. District Court will be compensated for Community Restitution services at the rate of **\$500.00** per crew day exclusive of any applicable taxes. Expenditures may not exceed the aforementioned not to exceed limitation without executing amendment to this Agreement pursuant to Article XVI below.
- B. In the event that the tax rate increases over the term of this Agreement, the remaining work crew days available under this Agreement will be reduced to comply with the not to exceed amount of **\$494,000.**
- C. In the event there is an increase in the work crew daily rate within the term of this Agreement, the new rate shall apply to work performed as of the effective date of the approval. In such event, the parties shall execute an amendment to this Agreement providing for either (i) a reduction in the number of crew days so that original budget of **\$494,000** is not exceeded or (ii) maintaining the number of crew days and increasing the amount of the compensation to account for the increase in the work crew daily rate. District Court will process a contract modification according to the procedural requirements outlined in Article XVI below.
- D. The City will pay properly documented invoices for all earned services within forty-five (45) days of the receipt of the invoice.
- E. The City has provided budgetary authority to compensate District Court at or within the aforementioned dollar limits. If the City's budgetary authority relating to this Agreement changes over the term, the City may adjust the dollar limits set forth above through the Agreement amendment process as outlined in Article XVI below.

VII. BILLING METHOD AND PROCESS

- A. District Court will bill the City for Community Restitution charges on a monthly basis.
- B. The billing invoice with backup documentation will identify the dates when work was accomplished; resources used, and include the amount due for that billing period.
- C. The monthly billing invoice from District Court to the City will include sufficient backup documentation to verify the actual work performed for the billing period. This information will be reviewed by District Court prior to billing.
- D. District Court will provide timely processing of billing invoices. District Court processes its billing invoices internally, and then forwards invoices to the Accounts

Receivable section of the County Auditor's office. The Clark County Auditor Accounts Receivable department will send the billing invoice to the City's Contract Manager for payment. Inquiries regarding a billing should be directed to the District Court fiscal contact as indicated on the contract face sheet.

VIII. AGREEMENT ADMINISTRATION AND COMMUNICATIONS

District Court and the City contract managers shall administer this Agreement. Contract managers shall monitor service level and budget provisions of this Agreement. Each month, Community Restitution and City contract managers shall review service levels, service delivery, and costs. During the term of this Agreement, the respective contract managers will communicate via telephone or e-mail to relay information, answer questions, or raise concerns.

IX. DISPUTE RESOLUTION

In the event of a dispute between District Court and the City regarding the delivery of services under this Agreement, which cannot be resolved by their respective designated contract managers, the District Court Presiding Judge and the Vancouver City Manager or their designated representatives shall review such dispute and options for resolution. Any dispute not resolved by the representatives shall be referred to the Clark County Manager and City Manager. The decision of the County Manager and the City Manager regarding the dispute shall be final as between the parties.

X. INDEPENDENT CONTRACTOR

District Court is and shall at all times be deemed to be an independent contractor in the provision of the services set forth in this Agreement. Nothing herein shall be construed as creating the relationship of employer and employee, or principal and agent, between District Court and the City or between any of District Court's or City's employees. District Court shall retain all authority for provision of services, standards of performance, discipline, and control of personnel, and other matters incident to the performance of services by Community Restitution pursuant to this Agreement. Nothing in this Agreement shall make any employee of District Court an employee of the City or any employee of the City an employee of District Court for any purpose, including but not limited to, for withholding of taxes, payment of benefits, workers' compensation pursuant to Title 51 RCW, or any other rights or privileges accorded their respective employees by virtue of their employment.

XI. HOLD HARMLESS/INDEMNIFICATION

A. DISTRICT COURT RESPONSIBILITY. District Court 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, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance of services by Community Restitution pursuant to this Agreement.

1. In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against District Court, the City retains the right to participate in said suit if any principal of public law is involved.
 2. This indemnity and hold harmless shall include any claim made against the City by an employee of District Court or subcontractor or agent of District Court, even if District Court 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 sole negligence of the City. District Court specifically acknowledges that the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that District Court shall provide the broadest scope of indemnity permitted by RCW 4.24.115.
- B. CITY RESPONSIBILITY. The City agrees to indemnify, defend, save and hold harmless District Court, 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, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the conduct of the City pursuant to this Agreement.
1. In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against the City, District Court retains the right to participate in said suit if any principal of public law is involved.
 2. This indemnity and hold harmless shall include any claim made against District Court by an employee of the City or subcontractor or agent of the City, even if the City 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 sole negligence of District Court. The City specifically acknowledges that the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that the City shall provide the broadest scope of indemnity permitted by RCW 4.24.115.
- C. CONCURRENT NEGLIGENCE. Notwithstanding the foregoing, to the extent that liability arises from the concurrent negligence of both the City and District Court's Community Restitution Program, the costs, fees and expenses in connection therewith shall be shared between the City and District Court in proportion to their relative degrees of negligence.
- D. ATTORNEY FEES/COSTS. With regard to attorney's fees and costs, all parties shall bear their own costs of enforcing the rights and responsibilities under this Agreement.

XII. ASSIGNMENT/SUBCONTRACTING

Neither party shall transfer or assign, in whole or in part, any or all of its respective rights or obligations under this Agreement without the prior written consent of the other. District Court shall not subcontract for the provision of any services it is to provide the City under this Agreement without the prior written consent of the City.

XIII. NO THIRD PARTY BENEFICIARY

District Court does not intend by this Agreement to assume any contractual obligations to anyone other than the City. The City does not intend by this Agreement to assume any contractual obligations to anyone other than District Court. District Court and the City do not intend that there be any third-party beneficiary to this Agreement.

XIV. NOTICE

Any notices to be given under this Agreement shall at minimum be delivered, postage prepaid and addressed to:

To the City:

CONTRACTUAL ISSUES

Anna Vogel
Procurement Services Manager
City of Vancouver
415 W 6th Street
P O Box 1995
Vancouver WA 98668-1995
Phone: 360.487.8429
Fax: 360.487-1029
e-mail: anna.vogel@cityofvancouver.us

OPERATIONAL ISSUES

Bill Bjerke
Operations Superintendent
City of Vancouver
4711 E Fourth Plain Blvd
PO Box 1995
Vancouver WA 98668-1995
Phone: 360.487.8245
Fax: 360.696.8002
e-mail: brian.potter@cityofvancouver.us

To District Court:

CONTRACTUAL ISSUES

Clark County District Court
Attention: Bradley Alberts
P.O. BOX 9806
Vancouver, Washington 98666-8806
Phone: 564-397-5643
Fax: 360.759.6876
e-mail: Bradley.Alberts@clark.wa.gov

OPERATIONAL ISSUES

Clark County District Court
Attention: Lisa Biffle
8101 N.E. 117th Ave.
Vancouver, WA 98682
Phone: 360.397.6045 x1829
Fax: 360.896.9878
e-mail: lisa.biffle@clark.wa.gov

The name and address to which notices shall be directed may be changed by either District Court or the City by giving the other party notice of such change as provided in this section.

XV. WAIVER

No waiver by either party of any term or condition of this Agreement incorporated in this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or different provision.

XVI. AMENDMENT

The provisions of this Agreement may be amended with the mutual consent of the parties. No additions to, or alterations of, the terms of this Agreement shall be valid unless made

in writing and formally approved and executed by the duly authorized agents of both parties.

XVII. DOCUMENT EXECUTION AND CHAPTER 39.34 RCW COMPLIANCE

Community Restitution, a division of District Court, and the City agree that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility. Upon execution, the Vancouver City Clerk shall cause a copy of this Agreement to be posted on the City website pursuant to Chapter 32, Laws of Washington 2006 (RCW 39.34.040).

XVIII. SEVERABILITY

If any section or part of this Agreement is held by a court to be invalid, such action shall not affect the validity of any other part of this Agreement.

XIX. RATIFICATION

Acts taken in conformity with this Agreement prior to its execution are hereby ratified and affirmed.

XX. ENTIRE AGREEMENT

This Agreement contains all of the agreements of the parties with respect to the subject matter covered or mentioned therein, and no prior agreements shall be effective to the contrary.

STANDARD & SPECIAL TOOL LIST

STANDARD EQUIPMENT:

The table below contains the types of standard tools that are available from a Work Crew trailer on a regular basis.

TOOLS	
BROOM, Push	RAKE, Leaf
HOE, Garden	SHOVEL, Flat Tip
HOE, Hula	SHOVEL, Round Tip
RAKE, Garden	SHOVEL, Scoop

SPECIAL EQUIPMENT:

The table below lists the types of special equipment/tools that are only available on a request basis. In the event additional standard tools or other equipment/tools from the table below are required for a particular project, Community Restitution should normally receive the request for equipment/tools at least one day in advance of the need. When the requests for special equipment/tools exceed the equipment/tools available, the equipment/tools requested will be distributed equally among those agencies making the special equipment/tools requests. Community Restitution does not carry the special equipment/tools listed below on its trailers without prior request.

HAND TOOLS/ POWER TOOLS	
Loppers	Lawn Mowers
Pruning saws	Weedeaters
Pick / Mattocks	Edgers
Pitchfork, Hay	Blowers
Wheelbarrows	Hedgers



Staff Report 053-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 4/5/2021
4/19/2021

SUBJECT Periodic review and update to the Vancouver Shoreline Master Program, as required by the Washington State Shoreline Management Act under RCW 90.58.080(4)

Key Points

- Vancouver is conducting a periodic review of the City's Shoreline Master Program (SMP) as required by the Washington State Shoreline Management Act (SMA), RCW 90.58.080(4).
- The SMA requires that each SMP be reviewed and revised, if needed, on an eight-year schedule established by the Legislature.
- The periodic review ensures the SMP stays current with changes in state laws and rules, remains consistent with other city plans and development regulations, and is responsive to changed circumstances, new information, and improved data.
- In alignment with Ecology guidance on the periodic review process, project staff reviewed the existing SMP and identified proposed amendments, which were presented at a July 14, 2020 Planning Commission workshop, August 3, 2020 City Council workshop, and September 16, 2020 public open house held virtually due to COVID-19 limitations.
- Project staff drafted language for the proposed amendments to the SMP which was reviewed by the Planning Commission and City Council at workshops on December 8, 2020 and January 4, 2021, respectively. The draft amended SMP includes proposed text changes in strikethrough/underline format, associated proposed map changes, and the updated Summary of Proposed Amendments in the format of the Periodic Review Checklist provided by Ecology, which are included as attachments to this staff report.
- Following the February 9, 2021 Planning Commission public hearing, project staff submitted the draft amended SMP and all required supporting documentation to the Washington State Department of Ecology for their initial determination of consistency, which provides findings related to the City's periodic review process and initial determination of the proposed amendments to the SMP.

- On March 5, 2021, project staff received notice about the results of the initial determination, stating that the City's periodic review proposal is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines. Ecology also provided four non-substantive recommended changes that have been reflected in the proposed text changes. Ecology's Initial Determination of Consistency, including Attachment 1 itemizing the four recommended changes, are provided as an attachment to this staff report.

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.

Present Situation

The periodic review proposal includes text changes in strikethrough/underline format and associated map changes to ensure the SMP stays current with changes in laws and rules, remains consistent with other city plans and development regulations, and is responsive to changed circumstances, new information, and improved data. The proposed amendments are summarized below, and the full detailed list can be found in the Summary of Proposed Amendments provided as an attachment to this staff report:

State Legislative Amendments

- Revise cost thresholds for shoreline permit exemptions.
- Add new shoreline permit exemption to comply with the Americans with Disabilities Act and state law.
- Clarify process, definitions, and/or references to comply with state law.
- Update wetlands regulations to align with Ecology's most recent critical areas guidance.

Additional Amendments

- Fix errors and address issues of clarity, consistency, redundant or inaccurate language and/or process and relevancy of regulations.
- Expand sections of the SMP related to mitigation for adverse impacts to shallow-water habitat to include creation, enhancement, and/or payment of mitigation bank credits.
- Replace existing terms of "extreme edge or bank" with specific and defined terms to clarify under what circumstances revetments can be located partially below the Ordinary High Water Mark (OHWM), that they are not considered fill, and when and how adverse impacts to shallow-water habitat require mitigation.
- Remove provisions from the frequently flooded areas section not required to be included in the SMP, and include a soft reference to the Title 20 critical areas regulations.
- Update SMP Chapter 5A to be consistent with VMC Title 20 Critical Areas Protection code updates since 2012, and amend for applicability and permitting in shoreline jurisdiction.
- For all other shorelines within City limits not included in the area along the Columbia River from Wintler Park to the Vancouver Flushing Channel, maintain the full extent of the 100-year floodplain in shoreline jurisdiction for conservancy designations, and apply minimum jurisdiction (200 feet from ordinary high water mark) in High Intensity and Medium Intensity designations to allow for reasonable use of land and development where intended. Update Shoreline Designation Maps to reflect this proposed change to shoreline jurisdiction.

- Change structural shoreline stabilizations to a permitted use in High Intensity designations (currently a conditional use) to eliminate undue process on properties that already have developed shorelines.
- Allow a signage master plan or sign program to be developed through a Special Sign District Process in order to supersede SMP requirements, where appropriate.
- Clarify the relationship between critical areas regulations and their applicability in shoreline jurisdiction for ease of use by both applicants and planning officials.
- Only require mailings for shoreline statement of exemptions that require a federal permit.
- Make height limitation 35' for non-water-oriented commercial uses in Medium and High Intensity designations to be consistent with the allowance for other uses.
- Change non-water oriented institutional uses in High and Medium Intensity designations to a permitted use to reduce undue process while maintaining provisions that encourage water-oriented uses, where feasible.
- Include allowances for non-water-oriented commercial uses per state law to provide flexibility where appropriate or where water-oriented uses are not feasible.
- Defer to the review and approval under federal requirements for disposal of dredging material and encourage environmentally sound beneficial uses, when feasible.
- Make amendments to address non-substantive items that will improve readability and usability for both applicants and planning officials.

On February 9, 2021, the Planning Commission held a public hearing on the SMP periodic review and, by a vote of 5-1, forwarded a recommendation to Council to approve the periodic review and proposed amendments to the Vancouver Shoreline Master Program as outlined in this staff report. They requested that staff, in forwarding their recommendation, notify Council about a challenge they have identified with the way shoreline regulations are currently applied to unauthorized camping in shoreline jurisdiction. In summary, they feel that it is difficult to support regulations that are not universally applied to all members of the population, and some Commissioners stated that it is bad policy to enact laws and regulations that are not applied evenly. The Commission acknowledged that the issue of houselessness is not easily resolved, and additionally wished to convey to Council that this note does not dilute the recommendation to approve the proposed amendments or the overall quality of the periodic review process. More detail on Commission deliberation can be referenced in the meeting minutes.

On the issue of unauthorized camping along shorelines, provisions exist in the SMP that give the Shoreline Administrator some enforcement authority for violations in shoreline jurisdiction, and this is generally understood to apply to uses or activities that require a permit under a jurisdiction's Shoreline Master Program. The City has consulted with the Washington State Department of Ecology on this issue, and while they recognize that unauthorized camping is an issue that impacts shoreline health, their guidance is that this is a larger social issue that impacts more than just shorelines and the Shoreline Management Act is not intended to nor is it the appropriate place to address it. In addition, the City Attorney's Office has determined that local jurisdictions are constrained in their ability to address these activities in the same way as other code enforcement issues. The City of Vancouver is bound by the Ninth Circuit *Martin v. City of Boise* case which restricts clearing houseless encampment sites where the individuals do not have a meaningful alternative, such as a shelter space or legal place to camp. Although project staff have found that the SMP is not the appropriate forum to address this issue, community concerns about adverse environmental impacts caused by unauthorized camping have been raised during the periodic review process.

Advantage(s)

1. Ensures compliance with the Revised Code of Washington (RCW) Chapter 90.58 and Washington Administrative Code (WAC) Chapter 173.26 governing the SMP.
2. Improves readability and usability by addressing issues of consistency and clarity, redundant or inaccurate language or process, and relevancy of regulations.

Disadvantage(s)

None

Budget Impact

No direct impacts.

Prior Council Review

- January 30, 2020 memo in lieu of a workshop
- August 3, 2020 workshop
- January 4, 2021 workshop

Action Requested

On Monday, April 5, 2021, approve ordinance on first reading, setting date of second reading and public hearing for Monday, April 19, 2021.

Cayla Cothron, Associate Planner, 360-487-7899

ATTACHMENTS:

- ▢ Proposed Text Changes
- ▢ Proposed Map Changes
- ▢ Summary of Proposed Changes
- ▢ February 9 Planning Commission Public Hearing Staff Report
- ▢ Washington State Department of Ecology Initial Determination of Consistency
- ▢ Ordinance
- ▢ Ordinance Exhibit 1

CHAPTER 2 APPLICABILITY, SHORELINE PERMITS AND EXEMPTIONS

To be authorized, all uses and development activities in shorelines shall be planned and carried out in a manner consistent with this Program and the policy of the Act as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use is required.

2.1 Applicability

1. This Program shall apply to all of the shorelands and waters within the City limits that fall under the jurisdiction of RCW 90.58 as follows:

- a. ~~On the Columbia River from the eastern boundary of Wintler Park downstream to the eastern boundary of Parcel #153105000 (also referred to as "Port Parcel 3")~~ Shorelands shall include those lands extending two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM); floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to the provisions of this Program, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58 only;

- i. On all lands along the Columbia River from the eastern boundary of Wintler Park downstream to the Vancouver Lake Flushing Channel, and;

- ii. On shorelines designated Medium or High Intensity.

On all other shorelines regulated by this Program, shoreline jurisdiction includes those areas described in 2.1.1(a) and the full extent of the 100-year floodplain. shorelands shall include those lands extending two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM); floodways; the full extent of the floodplain; and all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to the provisions of this Program, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58.

- b. In addition to lands identified in Section 2.1(1)(a) and (b), shorelands shall include land necessary for buffers for critical areas that occur within shorelines of the state.
 - c. In accordance with RCW 35.21.160, where the City is bounded by a river, lake, or other navigable water, the City's shoreline jurisdiction extends to the middle of that river, lake, or navigable water.

- d. The City is pre-designating shorelines within its adopted Urban Growth Area (UGA). Until annexation, development in these areas will continue to be regulated by the Clark County Shoreline Master Program (SMP). The City's SMP will apply upon annexation and no additional procedures will be required by Ecology at the time of annexation (WAC 173-26-150) unless a re-designation is occurring per Section 4.4.5 and Table 4-1.
 - e. An unofficial copy (see Section 4.4.2) of the Shoreline Map for the City and its UGA is shown in Appendix A.
 - f. Shorelines of Statewide Significance:
 - i. Columbia River
 - ii. Vancouver Lake
 - g. Shorelines of the State:
 - i. Burnt Bridge Creek
 - ii. Fifth Plain Creek
 - iii. Lacamas Creek
 - iv. Salmon Creek
 - v. Mill Creek
 - vi. Curtin (Glenwood) Creek
 - vii. Lake River
 - viii. Unnamed Lake 02
2. Maps indicating the extent of shoreline jurisdiction and shoreline designations are guidance only. They are to be used in conjunction with best available science, field investigations and on-site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed. All areas meeting the definition of a shoreline of the state or a shoreline of statewide significance, whether mapped or not are subject to the provisions of this Program.
3. This Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity that develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act; and within the external boundaries of federally owned lands (including but not limited to, private in-holdings in national wildlife refuges).

4. Non-federal agency actions undertaken on federal lands must comply with this Program and the Act.
5. Shoreline development occurring in or over navigable waters may require a shoreline permit in addition to other approvals required from state and federal agencies.
6. This Program shall apply whether the proposed development or activity is exempt from a shoreline permit or not.
7. Native American Tribes' actions on tribal lands and federal agencies' actions on federal lands are not required, but are encouraged, to comply with the provisions of this Program and the Act. Nothing in this Program shall affect any rights established by treaty to which the United States is a party.

2.1.1 Developments Not Subject to the Shoreline Management Act Required to Obtain Shoreline Permits or Local Reviews

1. Native American Tribes' actions on tribal lands and federal agencies' actions on federal lands are not required, but are encouraged, to comply with the provisions of this Program and the Act. Nothing in this Program shall affect any rights established by treaty to which the United States is a party.
2. Environmental excellence program agreements entered into under RCW [43.21K](#) (RCW [90.58.045](#)).

Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review conducted by a local government to implement this Program do not apply to the following:

1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issues pursuant to chapter 70.105D RCW, or to Ecology when it conducts a remedial action under chapter 70.105D RCW.
2. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.
4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

2.2 Shoreline Substantial Development Permit Required

1. Substantial development as defined by this program and RCW 90.58.030 shall not be undertaken by any person on the shorelines of the state without first obtaining a substantial development permit from the Shoreline Administrator, unless the use or development is specifically identified as exempt from a substantial development permit, in which case a letter of exemption is required.
2. The Shoreline Administrator may grant a substantial development permit only when the development proposed is consistent with the policies and procedures of RCW 90.58, the provisions of WAC 173-27, and this Program.

2.3 Exemptions from a Shoreline Substantial Development Permit

2.3.1 General Requirements

1. Except as specifically ~~exempted~~ excepted by statute (Section 2.1.1), all proposed uses and development occurring within shoreline jurisdiction must conform to the Act and this Program.
2. Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e), WAC 173-27-040, and Section 2.3.2 of this Program shall not require a substantial development permit but shall conform to the policies and regulations of this Program and the Act and shall obtain a Statement of Exemption (Sections 2.3.3 and 7.2.7-4.2).
3. A use or development that is listed as a conditional use pursuant to this Program or is an unclassified use or development must obtain a conditional use permit (Section 2.7 and 7.2.94.4) even if the development or use does not require a substantial development permit.
4. When a development or use is proposed that does not meet the bulk, dimensional, and/or performance standards of this Program, such development or use shall only be authorized by approval of a shoreline variance (Section 2.6 and 7.2.104.5) even if the development or use does not require a substantial development permit.
5. If a shoreline substantial development permit is required for any part of a proposed development, then a shoreline substantial development permit is required for the entire proposed development project.
6. Exemptions from the requirement to obtain a shoreline substantial development permit shall be construed narrowly. Only those developments that meet the

precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.

7. The burden of proof that a development or use is exempt from the requirement to obtain a shoreline substantial development permit is on the applicant for the development action.

2.3.2 List of Exemptions

The following activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit but shall obtain a statement of exemption, as provided for in Section 2.3.3.

1. Any development of which the total cost or fair market value does not exceed ~~seven~~ **five** thousand, seven hundred, eighteen dollars ~~forty-seven~~ **(5,7187,047.00)** or as adjusted by the State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 ~~(32)(ee)~~. The total cost or fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment or materials.
2. Normal maintenance or repair of existing legally-established structures or developments, including damage by accident, fire, or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location, and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.
3. Construction of a normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an

- existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the State Department of Fish and Wildlife.
4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit that would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or this Program, shall be obtained. All emergency construction shall be consistent with the policies and requirements of this chapter 90.58 RCW and this Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.
 5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities.
 6. Construction or modification of navigational aids such as channel markers and anchor buoys.
 7. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence or appurtenance for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above average grade level, and which meets all requirements of the City, other than requirements imposed pursuant to chapter 90.58 RCW. Construction authorized under this exemption shall be located landward of the ordinary high water mark.
 8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private non-commercial use of the owner, lessee, or contract

purchaser of a single-family or multiple-family residence. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies in fresh waters when the fair market value of the dock does not exceed:

- a. Twenty-two thousand five hundred ten thousand dollars (\$22,500 10,000.00); or as adjusted by the State Office of Financial Management for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or
- b. Eleven thousand two hundred dollars (\$11,200) or as adjusted by the State Office of Financial Management for all other docks constructed in fresh waters.

but However, if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500.00) occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

9. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands.
10. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.
11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, that were created, developed or utilized primarily as a part of an agricultural drainage or diking system.
12. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - a. The activity does not interfere with the normal public use of surface waters;
 - b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity; and
 - d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial

responsibility to the local jurisdiction to assure that the site is restored to pre-existing conditions.

13. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control published by the Departments of Agriculture or Ecology jointly with other state agencies under RCW 43.21C.
14. Watershed restoration projects as defined in RCW 89.08.460. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.
15. A substantial development permit is not required on land within urban growth areas as defined in RCW 36.70A.030 that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark (RCW 90.58.580(3)).
16. Other than conversions to non-forest land use, forest practices regulated under RCW 76.09 are not subject to additional regulations under the Act or this Program (90.58.030(2)(d)(ii)).
17. The holder of a certification from the governor pursuant to chapter 80.50 RCW (certification from the State Energy Facility Site Evaluation Council) shall not be required to obtain a permit under this Program (90.58.140(9)).
15. 18. A public or private project that is designed to improve fish or wildlife habitat or fish passage when all of the following apply:
 - a. The project has been approved by WDFW;
 - b. The project has received hydraulic project approval (HPA) by WDFW pursuant to RCW 77.55; and
 - c. The City has determined that the project is substantially consistent with the local shoreline master program. The City shall make such determination in a timely manner and provide it by letter to the project applicant.

Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with this Program.

19. Hazardous substance remedial actions pursuant to a consent decree, order, or agreed order issued under RCW 70.105(D) and 90.58.355 are exempt from the requirement to obtain a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance under this Program.

16. The external or internal retrofitting of an existing structure for the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities (RCW 90.58.030).

2.3.3 Statements of Exemption

1. Any person claiming exemption from the substantial development permit requirements shall make an application to the Shoreline Administrator for such an exemption in the manner prescribed by the Shoreline Administrator. A written statement of exemption is required for emergency development after the emergency has been abated. The property owner, person, or agency undertaking the emergency action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to shoreline ecological functions resulting from the emergency action. Restoration and/or mitigation activities must be initiated within three months of the date of ~~ent the~~ emergency or as otherwise determined by the Shoreline Administrator, and completed in a timely manner.
2. The Shoreline Administrator is authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in Section 2.3.2. The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the Shoreline Administrator's analysis of the consistency of the project with this Program and the Act. ~~The letter shall be sent to the applicant and maintained on file in the offices of the Shoreline Administrator.~~
3. Statements of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of this Program and Act.
4. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial.
5. ~~The letter shall be sent per section 7.4.2.~~
6. ~~5.~~ The Shoreline Administrator's decision on a statement of exemption may be appealed in accordance with the procedures in Section 7.4.8.
7. ~~6.~~ Exempt activities shall not be conducted until a statement of exemption has been obtained from the Shoreline Administrator.

2.4 Prohibited Uses

The following modifications and uses are prohibited in all shoreline designations and are not eligible for review as a shoreline conditional use or shoreline variance. See Chapter 8 or VMC 14.26 110 (indicated) for definitions of the following modifications and uses:

1. Uses not otherwise allowed in the underlying zoning district;
2. Parking as a primary use;
3. Discharge of potentially harmful materials, including but not limited to solid wastes, liquid wastes, and untreated effluents;
4. Solid waste, radioactive waste or hazardous material disposal sites (VMC 14.26.110);
5. Sewage disposal cesspools (VMC 14.26.110);
6. Chemical lagoons and pits (VMC 14.26.110);
7. Outdoor wood preservation operations (VMC 14.26.110);
8. Hard chrome plating operations (VMC 14.26.110);
9. Speculative fill;
10. Dredging or dredge material disposal in wetlands or to construct land canals or small basins for boat moorage or launching, water ski landings, swimming holes or other recreational activities;

2.5 Nonconforming Uses and Development

2.5.1 Existing Uses and Development

Existing uses, structures and lots legally established prior to the effective date of this Program are allowed to continue. Where lawful uses, structures and lots exist that could not be established under the terms of this Program, such uses, structures and lots are deemed nonconforming and are subject to the provisions of this section, unless specific exceptions are provided for in Sections 2.5.2, 2.5.3, or 2.5.4.

2.5.2 Nonconforming Uses

1. Additional development of any property on which a nonconforming use exists shall require that all new uses conform to this Program and the Act.
2. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, provided that the use does not change or intensify.
3. If a nonconforming use is converted to a conforming use, a nonconforming use may not be resumed.
4. When the operation of a nonconforming use is vacated or abandoned for a period of twelve (12) consecutive months, the nonconforming use rights shall be deemed

extinguished and the future use of such property shall be in accordance with the permitted and conditional use regulations of this Program.

5. If a conforming building housing a nonconforming use is damaged by fire, flood, explosion, or other natural disaster and the damage is less than sixty percent (60%) of the replacement cost of the structure or development, such use may be resumed at the time the building is repaired; provided, such restoration shall be undertaken within twelve (12) months following said damage.
6. Normal maintenance and repair of a structure housing a nonconforming use may be permitted provided all work is consistent with the provisions of this Program.
7. Floating homes legally established prior to January 1, 2011 are considered conforming preferred uses, subject to RCW 90.58.270 and the requirements in Section 6.3.11.

2.5.3 Nonconforming Structures

1. A nonconforming building or structure may be maintained or repaired, provided such improvements do not extend or expand the nonconformity of such building or structure and are consistent with the provisions of this Program, unless required by other law or ordinance.
2. If a nonconforming structure or development is damaged by fire, flood, explosion, or other natural disaster and the damage is less than sixty percent (60%) of the replacement cost of the structure or development, it may be restored or reconstructed to those configurations existing at the time of such damage, provided:
 - a. The reconstructed or restored structure will not cause additional adverse effects to adjacent properties or to the shoreline environment;
 - b. The rebuilt structure or portion of structure shall not expand the original footprint or height of the damaged structure;
 - c. No degree of relocation shall occur, except to increase conformity or to increase ecological function, in which case the structure shall be located in the least environmentally damaging location possible;
 - d. The submittal of applications for permits necessary to restore the development is initiated within twelve (12) months of the damage. The Shoreline Administrator may waive this requirement in situations with extenuating circumstances;
 - e. The reconstruction is commenced within one (1) year of the issuance of permit;

- f. The Shoreline Administrator may allow a one (1) year extension provided consistent and substantial progress is being made; and
 - g. Any residential structures, including multifamily structures, may be reconstructed up to the size, placement and density that existed prior to the damage, so long as other provisions of this Program are met.
3. Notwithstanding the foregoing, on the Columbia River shoreline from the eastern boundary of Wintler Park downstream to the railroad bridge, structures existing or for which shoreline substantial development permits or shoreline conditional use permits were formally approved and construction was not yet begun or completed as of the effective date of this Program are considered conforming.
4. Legally established residences and appurtenant structures located landward of the OHWM which are used for a conforming use, but do not meet the standards of the Program are considered conforming structures, subject to RCW 90.58.620 and the requirements in section 6.3.11.

2.5.4 Nonconforming Lots

Legally established, nonconforming, undeveloped lots located landward of the ordinary high water mark are buildable, provided that all new structures or additions to structures on any nonconforming lot must meet all setback, height and other construction requirements of the Program and the Act.

2.6 Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Program would impose unnecessary hardships on the applicant or thwart the policies set forth in the Act and this Program.
2. When a shoreline variance is requested, the City Hearing Examiner shall be the final approval authority for the City (Section 7.4.5). However, shoreline variances must have approval from Ecology, which shall have final approval authority. (Section 7.4.10(2)) Shoreline variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in the SMA (RCW 90.58.020). In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
3. The Shoreline Administrator is authorized to recommend a variance from the performance standards of this Program only when all of the following criteria are met (WAC 173-27-170):
 - a. That the strict application of the bulk, dimensional or performance standards set forth in this Program precludes, or significantly interferes with, reasonable use of the property;

- b. That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this Program, and not, for example, from deed restrictions or the applicant's own actions;
 - c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this Program and will not cause adverse impacts to the shoreline environment;
 - d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - e. That the variance requested is the minimum necessary to afford relief; and
 - f. That the public interest will suffer no substantial detrimental effect.
4. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:
- a. That the strict application of the bulk, dimensional or performance standards set forth in this Program precludes all reasonable use of the property;
 - b. That the proposal is consistent with the criteria established under subsection (3)(b) through (f) of this section; and
 - c. That the public rights of navigation and use of the shorelines will not be adversely affected.
5. The burden of proving that a proposed shoreline variance meets the criteria of this program shall be on the applicant. Absence of such proof shall be grounds for denial of the application.
6. In the granting of all shoreline variances, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area.
7. Before making a recommendation to grant a shoreline variance, the City shall consider issues related to the conservation of valuable natural resources, and the protection of views from nearby public roads, surrounding properties and public areas.
8. A variance from City development code requirements shall not be construed to mean a shoreline variance from use regulations in this Program, and vice versa.
9. Shoreline variances may not be used to permit a use or development that is specifically prohibited in a shoreline designation.

2.7 Shoreline Conditional Use Permit

1. The purpose of the conditional use permit is to provide greater flexibility in varying the application of the use regulations of this Program in a manner that will be consistent with the policies of the Act and this Program, particularly where denial of the application would thwart the policies of the Act.
2. When a conditional use is requested, the City Hearing Examiner shall be the final approval authority for the City (Section 7.4.4). However, shoreline conditional uses must have approval from Ecology, which shall have final approval authority under WAC 173-27-200 (Section 7.4.10(2)).
3. Conditional use permits shall be authorized only when they are consistent with the following criteria:
 - a. The proposed use is consistent with the policies of RCW 90.58.020, WAC 173-27-160 and all provisions of this Program;
 - b. The use will not interfere with normal public use of public shorelines;
 - c. The proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this Program;
 - d. The proposed use will cause no significant adverse effects to the shoreline designation in which it is to be located; and
 - e. The public interest will suffer no substantial detrimental effect; and
 - f. Consideration has been given to cumulative impact of additional requests for like actions in the area.
4. Other uses not specifically identified in this Program are considered “unclassified uses” and may be authorized through a conditional use permit if the applicant can demonstrate that the proposed use is consistent with the purpose of the shoreline designation and compatible with existing shoreline improvements.
5. Uses specifically prohibited by this Program shall not be authorized through a shoreline conditional use permit.
6. The burden of proving that a proposed shoreline conditional use meets the criteria of this Program and WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.
7. The City is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.

CHAPTER 3 SHORELINE MASTER PROGRAM GOALS AND POLICIES

This chapter describes overall Program goals and policies. The general regulations in Chapters 5 and 5A and the specific use regulations in Chapter 6 are the means by which these goals and policies are implemented.

3.1 General Shoreline Goals

The general goals of this Program are to:

1. Use the full potential of shorelines in accordance with the opportunities presented by their relationship to the surrounding area, their natural resource values, and their unique aesthetic qualities offered by water, topography, and views; and
2. Develop a physical environment that is both ordered and diversified and which integrates water and shoreline uses while achieving a net gain of ecological function.

3.2 Shorelines of Statewide Significance

Within the City of Vancouver, the Columbia River and Vancouver Lake are designated shorelines of statewide significance (SSWS). Shorelines of statewide significance are of value to the entire state. In accordance with RCW 90.58.020, SSWS will be managed as follows:

1. Preference shall be given to the uses that are consistent with the statewide interest in such shorelines. These are uses that:
 - a. Recognize and protect the statewide interest over local interest;
 - b. Preserve the natural character of the shoreline;
 - c. Result in long term over short term benefit;
 - d. Protect the resources and ecological function of the shoreline;
 - e. Increase public access to publicly-owned areas of the shorelines;
 - f. Increase recreational opportunities for the public in the shoreline; and
 - g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.
2. Uses that are not consistent with these policies should not be permitted on SSWS.
3. Those limited shorelines containing unique, scarce and/or sensitive resources should be protected.

4. Implementation of restoration projects on shorelines of statewide significance should take precedence over implementation of restoration projects on other shorelines of the state.
5. Development should be focused in already developed shoreline areas to reduce adverse environmental impacts and to preserve undeveloped shoreline areas. In general, SSWS should be preserved for future generations by 1) restricting or prohibiting development that would irretrievably damage shoreline resources, and 2) evaluating the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.

3.3 Archaeological, Historic, and Cultural Resources

3.3.1 Goal

The goal for archaeological, historic, and cultural resources is to preserve and prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value. Such sites include those identified by affected Indian tribes, the Department of Archaeology and Historic Preservation, Clark County Historic Preservation Commission, and other appropriate authorities.

3.3.2 Policies

1. Identify, protect, preserve, and restore important archaeological, historic, and cultural sites located in shorelands of the state for educational, scientific, and enjoyment of the general public.
2. Where appropriate, make access to such sites available to parties of interest, provided that access to such sites be designed and managed in a manner that protects the resource.
3. Historical and cultural sites should be acquired so as to ensure their protection and preservation.
4. Encourage projects and programs that foster a greater appreciation of shoreline management, local history, maritime activities, environmental conservation, and maritime history.
5. Continue to contribute to the state and local inventory of archaeological sites enhancing knowledge of local history and understanding of human activities.

3.4 Conservation

3.4.1 Goal

The goal of conservation is to protect shoreline resources, vegetation, important shoreline features, shoreline ecological functions and the processes that sustain them to the maximum extent practicable.

3.4.2 Policies

1. Shorelines that support high value habitat or high quality associated wetlands should be considered for the highest level of protection to remain in an unaltered condition.
2. Impacts to critical areas should first be avoided, and where unavoidable, minimized and mitigated to result in no net loss of watershed processes and shorelines functions.
3. Management practices for natural resources (including agriculture, timber and mining) in shoreline areas should be developed and implemented to ensure the preservation of non-renewable resources, including unique, scenic and ecologically sensitive features, wetlands, and wildlife habitat.
4. Priority should be given to proposals to create, restore or enhance habitat for priority species in terms of administrative and regulatory assistance.
5. Regulatory, non-regulatory, and incentive programs should all be used for the protection and conservation of wildlife habitat areas. Emphasize policies and standards to protect and conserve critical areas as larger blocks, corridors or interconnected areas rather than in isolated parcels.
6. Encourage the retention of existing vegetation along shorelines and where removal is unavoidable for physical or visual access to the shoreline, limit alteration such that habitat connectivity is maintained, degraded areas are restored, and the health of remaining vegetation is not compromised.

3.5 Economic Development

3.5.1 Goal

The goal for economic development is to create and maintain an economic environment that is balanced with the natural and human environment.

3.5.2 Policies

1. Current economic activity that is consistent with the policies of this SMP should continue to be supported.

2. Healthy economic growth is allowed and encouraged through those economic activities that will be an asset to the local economy and which will result in the least possible adverse effect on the quality of the shoreline and downstream environments.
3. New water-oriented industrial, commercial, and resource-based activities that will not harm the quality of the site's environment, adjacent shorelands, or water quality are encouraged along the shoreline.
4. As an economic asset, the recreation industry should be encouraged along shorelines in a manner that will enhance the public enjoyment of shorelines, consistent with protection of critical areas and cultural resources.
5. Existing non-water-oriented commercial, industrial, and resource-based activities located in the shoreline jurisdiction are encouraged to protect watershed processes and shoreline ecological functions.

3.6 Flood Prevention and Flood Damage Minimization

3.6.1 Goal

The goal for flood hazards is to promote public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas.

3.6.2 Policies

1. All shoreline development should be located, designed, and constructed to prevent flood damage and to the extent possible be located outside of shoreline jurisdiction.
2. **1.** Flood management works should be located, designed, constructed and maintained to protect:
 - a. The physical integrity and other properties of the shoreline and other properties that may be damaged by alterations of the geo-hydraulic system;
 - b. Water quality and natural ground water movement;
 - c. Fish, vegetation, and other life forms and their habitat vital to the aquatic food chain; and
 - d. Recreation resources and aesthetic values such as point and channel bars, islands, and other shore features and scenery.
3. **2.** Non-structural flood hazard reduction measures are preferred to structural measures. Flood hazard reduction measures should be accomplished in a manner that ensures no net loss of shoreline ecological functions and ecosystem-wide processes.

4. ~~3.~~ Flood protection measures that result in channelization and/or reduction in shoreline ecological function should be avoided.
5. ~~4.~~ Proposals for shoreline protection should clearly demonstrate that life, property, and natural resource values within the stream system will not be endangered.
6. ~~5.~~ When evaluating alternate flood control measures, consider the removal or relocation of structures in flood-prone areas.
7. ~~6.~~ New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

3.7 Public Access and Recreation

3.7.1 Goal

The goal of public access and recreation is to increase the ability of the general public to enjoy the water's edge, travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

3.7.2 Policies

1. Provide, protect, and enhance a public access system that is both physical and visual; utilizes both private and public lands; increases the amount and diversity of public access to the State's shorelines and adjacent areas; and is consistent with the shoreline character and functions, private rights, and public safety.
2. Increase and diversify recreational opportunities by promoting the continued public acquisition of appropriate shoreline areas for public use, and develop recreation facilities so that they are distributed throughout the community to foster convenient access.
3. Locate public access and recreational facilities in a manner that encourages variety, accessibility, and connectivity in a manner that will preserve the natural characteristics and functions of the shoreline.
4. Encourage public access provisions consistent with adopted City and County trails plans.
5. Encourage public access as part of each development project by a public entity, and for all private development (except residential development of less than four parcels), unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

6. Discourage shoreline uses that curtail or reduce public access unless such restriction is in the interest of the environment, public health, and safety, or is necessary to a proposed beneficial use.
7. Consider private rights, public safety, and protection of shoreline ecological functions and processes when providing public access and recreational opportunities.

3.8 Restoration

3.8.1 Goal

The goal of restoration is to re-establish, rehabilitate and/or otherwise improve impaired shoreline ecological functions and/or processes through voluntary and incentive-based public and private programs and actions that are consistent with the Shoreline Restoration Plan and other approved restoration plans.

3.8.2 Policies

1. Shorelines that are biologically degraded should be reclaimed and restored to the greatest extent feasible. Implementation of restoration projects identified in the Shoreline Restoration Plan that are focused on restoring degraded habitat in shoreline jurisdiction take precedence over other restoration projects. Implementation of restoration projects on shorelines of statewide significance take precedence over implementation of restoration projects on other shorelines of the state.
2. Restoration strategies should be developed and implemented such that ecosystem processes are sustainable in the long-term.
3. Restoration of shoreline ecological functions should be encouraged during redevelopment.
4. Restoration efforts should include retrofitting existing stormwater control facilities to improve water quality.
5. Restoration efforts should consider a focus on floodplain and channel migration zone reconnection where rivers are confined by levees.
6. Restoration projects should have adaptive management techniques including adjusting the project design, correcting problems (barriers to success), and implementing contingency measures.
7. Eradication of invasive species, including noxious weeds and non-native species, should be undertaken as needed.
8. Planting of vegetation that enhances shoreline ecological function should be encouraged.

9. Education programs should be developed for:
 - a. Property owners about proper vegetation/landscape maintenance and the impacts of shore armoring and over-water structures; and
 - b. Boaters about proper waste disposal methods, anchoring techniques, best boating practices, and the State's invasive species inspection program pursuant to RCW 77.15.290.
10. Cooperative restoration actions involving local, state, and federal agencies, Native American tribes, non-government organizations, and landowners should be encouraged.

3.9 Shoreline Modification and Stabilization

3.9.1 Goal

The goal for shoreline modification and stabilization is to avoid or minimize the need for shoreline armoring along shorelines of the state, and when it is necessary, achieve it in a way that best protects ecosystem processes, shoreline ecological functions, and downstream properties.

3.9.2 Policies

1. New developments should be located in such a manner as to not require shoreline stabilization measures.
2. When necessary, natural, non-structural shoreline stabilization measures are preferred over structural stabilization measures. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:
 - a. No action;
 - b. Flexible stabilization works constructed of natural materials, including soft shore protection, bioengineering, beach nourishment, protective berms, or vegetative stabilization;
 - c. Rigid works constructed of structural materials such as riprap or concrete.
3. Allow new or expanded structural shore stabilization, including bulkheads, only where it is demonstrated to be necessary to protect an existing primary structure that is in danger of loss or substantial damage, and where such structures and structural stabilization would not cause a net loss of shoreline ecological functions and processes.
4. Shoreline stabilization should be located and designed to accommodate the physical character and hydraulic energy potential of a specific shoreline reach, which may differ substantially from adjacent reaches.

5. Provisions for multiple use, restoration, and/or public shore access should be incorporated into the location, design and maintenance of shore stabilization for public or quasi-public developments whenever safely compatible with the primary purpose. Shoreline stabilization on publicly owned shorelines should not be allowed to decrease long-term public use of the shoreline.
6. Shoreline stabilization projects should be developed in a coordinated manner among affected property owners and public agencies within a reach where feasible, particularly those that cross jurisdictional boundaries, to address ecological and geo-hydraulic processes and sediment conveyance.
7. Failing, harmful, unnecessary, or ineffective shoreline stabilization structures should be removed or replaced to restore shoreline ecological functions and processes.
8. Larger works such as jetties, breakwaters, weirs, or groin systems should be permitted only for water-dependent uses and where mitigated to provide no net loss of shoreline ecological functions and processes.
9. Lower impact structures, including floating, portable or submerged breakwater structures, or several smaller discontinuous structures, are preferred over higher impact structures.
10. Encourage and facilitate levee setback (including but not limited to, pulling back an existing levee to allow for a larger floodplain area contiguous to a water body), levee removal, and other shoreline enhancement projects.
11. Materials used for construction of shoreline stabilization should be selected for durability, ease of maintenance, and compatibility with local shoreline features.
12. Development and shoreline modifications that would result in interference with the process of channel migration that may cause significant adverse impacts to property or public improvements and/or result in a net loss of shoreline ecological functions within the rivers and streams should be limited.

3.10 Shoreline Use and Development

3.10.1 Goal

The goal for shoreline use and development is to balance the preservation and development of shorelines in a manner that allows for mutually compatible uses. Resulting land use patterns will be compatible with shoreline designations and sensitive to and compatible with ecological systems and other shoreline resources. To help with this balance, shoreline and water areas with unique attributes for specific long term uses such as commercial, residential, industrial, water, wildlife, fisheries, recreational and open space shall be identified and reserved.

3.10.2 Policies

1. Uses in shorelines and water areas shall be allowed in the following priority order:
 - a. Water-dependent uses;
 - b. Water-related uses; and
 - c. Water-enjoyment uses.
2. Uses, activities, and facilities should be located on shorelines in such a manner as to:
 - a. Retain or improve the quality of shoreline ecological function;
 - b. Respect the property rights of others;
 - c. Ensure that proposed shoreline uses do not create risk or harm to neighboring or downstream properties; and
 - d. Preserve and/or restore, to the maximum reasonable extent, the shoreline's natural features and functions in conjunction with any redevelopment or revitalization project.
3. The following are encouraged in shoreline areas:
 - a. Uses that enhance their specific areas or employ innovative features for purposes consistent with this program;
 - b. The redevelopment of any area not suitable for preservation of natural features, based on its shoreline designation, with an emphasis on public access;
 - c. Master planning for large sites or projects;
 - d. Shared uses and joint use facilities in shoreline developments;
 - e. Uses that allow for or incorporate restoration of shoreline areas that are degraded as a result of past activities or events; and
4. Uses proposed on lands adjacent to but outside of immediate shoreline jurisdiction should be consistent with the intent of this Program and should not adversely impact shoreline ecological functions.

3.11 Transportation, Utilities, and Institutional Facilities

3.11.1 Goal

The goal for transportation, utilities, and institutional facilities is to provide for these facilities in shoreline areas without adverse effects on existing shoreline use and development or shoreline ecological functions and/or processes.

3.11.2 Policies

1. Locate institutional facilities, utilities and circulation systems that are not shoreline-dependent outside of the shoreline jurisdiction to the maximum extent possible to reduce interference with either natural shoreline ecological functions or other appropriate shoreline uses.
2. Provide safe, reasonable, and adequate circulation systems to shorelines where routes will have the least possible adverse effect on shoreline ecological function and existing ecological systems, while contributing to the visual enhancement of the shoreline.
3. Protect, manage, and enhance those characteristics of shoreline transportation corridors that are unique or have historic significance or aesthetic quality for the benefit and enjoyment of the public.
4. Devote roads within the shoreline jurisdiction to low volume local access routes and shoreline public access.
5. Encourage alternate modes of travel and provide multiple-use transportation corridors where compatible if shoreline transportation development is necessary.
6. Locate utility and transportation corridors to avoid creating barriers between adjacent uplands and the shoreline and to harmonize with the topography and other natural characteristics of the shoreline.
7. When new utility and transportation facilities are developed in the shoreline jurisdiction, protect, enhance, and encourage development of physical and visual shoreline public access.
8. Where feasible, relocate existing utility and transportation facilities, such as transmission lines, rail lines, or freeways that limit public shoreline access or other shoreline uses and convert such rights-of-way to new public access routes.
9. Utilities and transportation facilities should be installed and facilities designed and located in a coordinated manner that protects the shorelands and water from contamination and degradation.

3.12 Views and Aesthetics

3.12.1 Goal

The goal for views and aesthetics is to assure that the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water, is protected to the greatest extent feasible.

3.12.2 Policies

1. Identify and encourage the protection of scenic vistas and areas where the shoreline has high aesthetic value.
2. Encourage development within the shoreline area that, provides visual and physical linkage to the shoreline, and enhances the waterfront.
3. Encourage development design that minimizes adverse impacts on views enjoyed by a substantial number of residences.
4. Maintaining vegetated riparian areas to protect shoreline stability and shoreline ecological functions takes precedence over vegetation clearing to preserve or create views.

3.13 Water Quality and Quantity

3.13.1 Goal

The goal for water quality and quantity is to maintain or enhance shoreline ecological functions and to protect and enhance the quality and quantity of the region's water resources to ensure there is safe, clean water for the public's needs and enjoyment.

3.13.2 Policies

1. Encourage the location, construction, operation, and maintenance of shoreline uses, developments, and activities to be focused on maintaining or improving the quality and quantity of surface and ground water over the long term.
2. Minimize, through effective education, site planning, and best management practices, the inadvertent release of chemicals, activities that cause erosion, stormwater runoff, and faulty on-site sewage systems that could contaminate or cause adverse effects on water quality.
3. Encourage the maintenance and restoration of appropriate vegetative buffers along surface waters to improve water temperature and reduce the adverse effects of erosion and runoff.

CHAPTER 4 SHORELINE DESIGNATIONS

4.1 Introduction

The intent of assigning shoreline designations to specific geographies is to encourage development that will enhance the present or desired character of the shoreline. To accomplish this, segments of shoreline are given a shoreline designation based on existing development patterns, natural capabilities and limitations, and the vision of the City. The shoreline designations are intended to work in conjunction with the comprehensive plan and zoning.

Management policies are an integral part of the shoreline designations and are used for determining uses and activities that can be permitted in each shoreline designation. Development regulations specify how and where permitted development can take place within each shoreline designation and govern height and setback.

4.2 Authority

1. Local governments are required under the State Shoreline Management Act of 1971 (RCW 90.58) and the Shoreline Master Program Guidelines (WAC 173-26) to develop and assign a land use categorization system known as “shoreline environment designations” for shoreline areas as a basis for effective shoreline master programs. For purposes of this Program “shoreline designation” is used in place of the term “shoreline environment designation” referred to in WAC 173-26.
2. The method for local government to account for different shoreline conditions is to assign a shoreline designation to each distinct shoreline section in its jurisdiction. The shoreline designation assignments provide the framework for implementing shoreline policies and regulatory measures for environmental protection, use provisions, and other regulatory measures specific to each shoreline designation.

4.3 Shoreline Designations

The City classification system consists of shoreline designations that are consistent with and implement the Act (RCW 90.58), the Shoreline Master Program Guidelines (WAC 173-26) and the City of Vancouver Comprehensive Plan. These designations have been assigned consistent with the corresponding criteria provided for each shoreline designation. In delineating shoreline designations, the City aims to ensure that existing shoreline ecological functions are protected with the proposed pattern and intensity of development. Such designations should be consistent with the policies for restoration of degraded shorelines. All the shoreline designations, even if they are not applied within the City limits or urban growth area are listed here to maintain consistency countywide (See Sections 4.4.5 and 6.2), and are defined in the following sections:

1. Aquatic;

2. Natural;
3. Urban Conservancy;
4. Medium Intensity;
5. High Intensity;

The following shoreline designations are not applied within City limits or the urban growth area:

6. Rural Conservancy – Residential; and
7. Rural Conservancy – Resource Lands.

4.3.1 Aquatic Shoreline Designation

4.3.1.1 Purpose

The purpose of the “Aquatic” shoreline designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark (OHWM).

4.3.1.2 Designation Criteria

An Aquatic shoreline designation is assigned to lands and waters waterward of the ordinary high-water mark.

4.3.1.3 Areas Designated

The Aquatic shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.1.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. New over-water structures should be allowed only for water-dependent uses, public access, recreation, or ecological restoration.
2. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and natural hydrographic conditions.
3. In-water uses should be allowed where impacts can be mitigated to ensure no net loss of shoreline ecological functions. Permitted in-water uses must be managed to avoid impacts to shoreline ecological functions. Unavoidable impacts must be minimized and mitigated.

4. On navigable waters or their beds, all uses and developments should be located and designed to:
 - a. Minimize interference with surface navigation;
 - b. Consider impacts to public views; and
 - c. Allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.
5. Multiple or shared use of over-water and water access facilities should be encouraged to reduce the impacts of shoreline development and increase effective use of water resources.
6. Structures and activities permitted should be related in size, form, design, and intensity of use to those permitted in the immediately adjacent upland area. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
7. Natural light should be allowed to penetrate to the extent necessary to discourage salmonid predation and to support nearshore habitat unless other illumination is required by state or federal agencies.
8. Aquaculture practices should be encouraged in those waters and beds most suitable for such use. Aquaculture should be discouraged where it would adversely affect the strength or viability of native stocks or unreasonably interfere with navigation.
9. When shoreline uses, development, activities, and modifications in the Aquatic shoreline designation require use of adjacent landward property, that landward property should be in a shoreline designation that allows that use, development, activity or modification.
10. Over-water structures constructed prior to the adoption of this Program and located from the Interstate 5 Bridge downstream to the railroad bridge (a portion of the Columbia River Shoreline Enhancement Plan District) may be used for water-dependent, water related and/or water enjoyment commercial uses.
 - a. Permitted development should include designs that are reflective of the local history and/or prior structures on the site.
 - b. Shoreline uses and modifications should be consistent with the policies set forth in the Vancouver City Center Vision (VCCV) Subarea Plan, including providing public access to the shoreline.

4.3.2 Natural Shoreline Designation

4.3.2.1 Purpose

The purpose of the “Natural” shoreline designation is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline ecological functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, restoration of degraded shorelines within this environment is appropriate.

4.3.2.2 Designation Criteria

The following criteria should be considered in assigning a Natural shoreline designation:

1. The shoreline’s ecological functions are substantially intact and have a high opportunity for preservation and low opportunity for restoration;
2. The shoreline is generally in public or conservancy ownership or under covenant, easement, or a conservation tax program.
3. The shoreline contains little or no development, or is planned for development that would have minimal adverse impacts to ecological functions or risk to human safety;
4. There are low-intensity agricultural uses, and no active forestry or mining uses;
5. The shoreline has a high potential for low-impact or passive or public recreation and is planned for park or open space uses as part of the comprehensive plan; or
6. The shoreline is considered to represent ecosystems and geologic types that have high scientific and educational value.

4.3.2.3 Areas Designated

The Natural shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.2.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Any use that would substantially degrade the shoreline ecological functions or natural character of the shoreline area should not be allowed.
2. Scientific, historical, cultural, educational research uses, and low-impact, passive recreational uses may be allowed provided that ecological functions remain intact.

3. Vegetation should remain undisturbed except for removal of noxious vegetation and invasive species. Proposed subdivision or lot line adjustments, new development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed.
4. Uses that would deplete physical or biological resources or impair views to or from the shoreline over time should be prohibited.
5. Only physical alterations that serve to protect a significant or unique physical, biological or visual shoreline feature that might otherwise be degraded or destroyed; or those alterations that are the minimum necessary to support a permitted use should be allowed.
6. Only the following types of signs should be considered for location in the shorelines: interpretive, directional, navigational, regulatory, and public safety.

4.3.3 Urban Conservancy Shoreline Designation

4.3.3.1 Purpose

The purpose of the “Urban Conservancy” shoreline designation is to protect and restore shoreline ecological functions of open space, floodplains, and other sensitive lands, where they exist in urban and developed settings, while allowing a variety of compatible uses.

4.3.3.2 Designation Criteria

The following criteria are used to consider an Urban Conservancy shoreline designation:

1. The shoreline is located within incorporated municipalities and designated urban growth areas;
2. The shoreline has moderate to high ecological function with moderate to high opportunity for preservation and low to moderate opportunity for restoration, or low to moderate ecological function with moderate to high opportunity for restoration;
3. The shoreline has open space or critical areas that should not be more intensively developed;
4. The shoreline is not highly developed and is likely in recreational use. The shoreline has the potential for development that is compatible with ecological restoration. The shoreline is planned for a park, as open space, or for a Master Planned Resort;
5. The shoreline has moderate to high potential for low-impact, passive or active water-oriented recreation where shoreline ecological functions can be maintained or restored.

4.3.3.3 Areas Designated

The Urban Conservancy shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.3.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Uses that preserve the natural character of the area or promote preservation of open space or critical areas either directly or over the long term should be the primary allowed uses. Uses that result in restoration of shoreline ecological functions should be allowed if the use is otherwise compatible with the purpose of the Urban Conservancy shoreline designation and the setting.
2. Single family residential development shall ensure no net loss of shoreline ecological functions and preserve the existing character of the shoreline consistent with the purpose of this designation.
3. Encourage regulations that limit lot coverage, provide adequate setbacks from the shoreline, promote vegetation conservation, reduce the need for shoreline stabilization and maintain or improve water quality to ensure no net loss of shoreline ecological functions.
4. Public access and public recreation objectives should be implemented whenever feasible and when significant ecological impacts can be mitigated.
5. Thinning or removal of vegetation should be limited to that necessary to
 - a. Remove noxious vegetation and invasive species;
 - b. Provide physical or visual access to the shoreline; or
 - c. Maintain or enhance an existing use consistent with critical areas protection and maintenance or enhancement of shoreline ecological functions.
6. Public access and public recreation facilities are a preferred use if they will not cause substantial ecological impacts and when restoration of ecological functions is incorporated.
7. Low intensity water-oriented commercial uses may be permitted if compatible with surrounding uses.

4.3.4 Medium Intensity Shoreline Designation

4.3.4.1 Purpose

The purpose of the “Medium Intensity” shoreline designation is to accommodate primarily residential development and appurtenant structures, but to also allow other types of development that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

4.3.4.2 Designation Criteria

The following criteria are used to consider a Medium Intensity shoreline:

1. The shoreline is located within incorporated municipalities and designated urban growth areas.
2. The shoreline has low to moderate ecological function with low to moderate opportunity for restoration;
3. The shoreline contains mostly residential development at urban densities and does not contain resource industries (agriculture, forestry, mining);
4. The shoreline is planned or platted for residential uses in the comprehensive plan; or
5. The shoreline has low to moderate potential for low-impact, passive or active water-oriented recreation where ecological functions can be restored.

4.3.4.3 Areas Designated

The Medium Intensity shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.4.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Encourage regulations that ensure no net loss of shoreline ecological functions as a result of new development such as limiting lot coverage, providing adequate setbacks from the shoreline, promoting vegetation conservation, reducing the need for shoreline stabilization and maintaining or improving water quality to ensure no net loss of ecological functions.
2. The scale and density of new uses and development should be compatible with sustaining shoreline ecological functions and processes, and the existing residential character of the area.

3. Public access and joint use (rather than individual) of recreational facilities should be promoted.
4. Access, utilities, and public services to serve proposed development within shorelines should be constructed outside shorelines to the extent feasible, and be the minimum necessary to adequately serve existing needs and planned future development.
5. Public or private outdoor recreation facilities should be provided with proposals for subdivision development and encouraged with all shoreline development if compatible with the character of the area. Priority should be given first to water-dependent and then to water-enjoyment recreation facilities.
6. Commercial development should be limited to water-oriented uses. Non-water-oriented commercial uses should only be allowed as part of mixed use developments where the primary use is residential and where there is a substantial public benefit with respect to the goals and policies of this Program such as providing public access or restoring degraded shorelines. Commercial development should be limited to water-oriented uses. Non-water-oriented commercial uses should only be allowed:
 - a. As part of mixed-use developments where the primary use is residential and where there is a substantial public benefit with respect to the goals and policies of this Program such as providing public access or restoring degraded shorelines;
 - b. Where navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Act's objectives such as providing public access and ecological restoration; or
 - c. If the site is physically separated from the shoreline by another property or public right-of-way.

4.3.5 High Intensity Shoreline Designation

4.3.5.1 Purpose

The purpose of the “High Intensity” shoreline designation is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing shoreline ecological functions and restoring ecological functions in areas that have been previously degraded.

4.3.5.2 Designation Criteria

The following criteria are used to consider a High Intensity shoreline designation:

1. The shoreline is located within incorporated municipalities and designated urban growth areas;

2. The shoreline has low to moderate ecological function with low to moderate opportunity for ecological restoration or preservation;
3. The shoreline contains mostly industrial, commercial, port facility, mixed-use, or multi-family residential development at high urban densities and may contain industries that are not designated agriculture, forestry, or mineral resource lands in the comprehensive plan;
4. The shoreline may be or have been identified as part of a state or federal environmental remediation program;
5. The shoreline is planned or platted for high intensity uses in the comprehensive plan; or
6. The shoreline may support public passive or active water-oriented recreation where ecological functions can be restored.

4.3.5.3 Areas Designated

The High Intensity shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.5.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Encourage regulations that ensure no net loss of shoreline ecological functions as a result of new development.
2. Promote infill and redevelopment in developed shoreline areas and encourage environmental remediation and restoration of the shoreline, where applicable with the goal of achieving full utilization of designated high-intensity shorelines.
3. Encourage the transition of uses from non-water-oriented to water-oriented uses.
4. Water-oriented uses are encouraged, however new non-water oriented uses may be allowed if that use has limited access to the shoreline **or and** when included in a master plan or part of a mixed-use development.

The following shoreline designations are not applied within City limits or the urban growth area:

4.3.6 Rural Conservancy – Residential Shoreline Designation

4.3.6.1 Purpose

The purpose of the “Rural Conservancy – Residential” shoreline designation is to protect shoreline ecological functions, conserve existing natural resources and valuable historic

and cultural areas in order to provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities. Examples of uses that are appropriate in a Rural Conservancy - Residential shoreline designation include low-impact, passive recreation uses, water-oriented commercial development, and low-intensity residential development.

4.3.6.2 Designation Criteria

The following criteria are used to consider a Rural Conservancy – Residential shoreline designation:

1. The shoreline is located outside of incorporated municipalities and designated urban growth areas;
2. The shoreline has moderate to high ecological function with moderate to high opportunity for preservation and low to moderate opportunity for restoration or low to moderate ecological function with moderate to high opportunity for restoration;
3. The shoreline is not highly developed and most development is low-density residential;
4. The shoreline is planned or platted Rural Center, Rural, or Master Planned Resort;
5. The shoreline has moderate to high potential for public, water-oriented recreation where ecological functions can be maintained or restored; or
6. The shoreline has high scientific or educational value or unique historic or cultural resources value.

4.3.6.3 Areas Designated

The Rural Conservancy – Residential shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.6.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Uses in the Rural Conservancy – Residential shoreline designation should be limited to those that sustain the shoreline area's physical and biological resources and do not substantially degrade shoreline ecological functions or the rural or natural character of the shoreline area.
2. Residential development shall ensure no net loss of shoreline ecological functions and preserve the existing character of the shoreline consistent with the purpose of this designation.

3. Encourage regulations that limit lot coverage, provide adequate setbacks from the shoreline, promote vegetation conservation, reduce the need for shoreline stabilization and maintain or improve water quality to ensure no net loss of shoreline ecological functions.
4. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time are preferred uses, provided significant adverse impacts to the shoreline are avoided and unavoidable impacts are minimized and mitigated.
5. Water-oriented commercial uses should be allowed in rural centers and Master Planned Resorts only.
6. Developments and uses that would substantially degrade or permanently deplete the biological resources of the area should not be allowed.

4.3.7 Rural Conservancy – Resource Lands Shoreline Designation

4.3.7.1 Purpose

The purpose of the “Rural Conservancy – Resource Lands” shoreline designation is to protect shoreline ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities. Examples of uses that are appropriate in a Rural Conservancy – Resource Lands shoreline designation include low-impact outdoor recreation uses, timber harvesting on a sustained-yield basis, agricultural uses, and other natural resource-based uses.

4.3.7.2 Designation Criteria

The following criteria are used to consider a Rural Conservancy – Resource Lands shoreline designation:

1. The shoreline is located outside of incorporated municipalities and designated urban growth areas;
2. The shoreline has moderate to high ecological function with moderate to high opportunity for preservation and low to moderate opportunity for restoration or low to moderate ecological function with moderate to high opportunity for restoration;
3. The shoreline is not highly developed, but consists primarily of resource operations (agriculture, forestry, mining) and recreation, but may contain Master Planned Resorts;
4. The shoreline is planned or platted Rural Industrial, Forest, Agriculture, Agri-Wildlife, or has a surface mining overlay;

5. The shoreline has a moderate to high potential for low-intensity, passive water-oriented recreation where resource industry-related safety concerns are minimal or mitigated and ecological functions can be maintained or restored; or
6. The shoreline has moderate to high scientific or educational value or unique historic or cultural resources value.

4.3.7.3 Areas Designated

The Rural Conservancy – Resource Lands shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.7.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Agriculture, commercial forestry, and mining should be allowed in Rural Conservancy – Resource Lands provided they are allowed in the underlying zoning designation, and adverse impacts to the shoreline are avoided and unavoidable impacts are minimized and mitigated.
2. Encourage regulations that ensure new shoreline uses, development, and activities to sustain the shoreline area's physical and biological resources, do not substantially degrade shoreline ecological functions or the rural or natural character of the shoreline area, and achieve no net loss of shoreline ecological functions.
3. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time are preferred uses, provided adverse impacts to the shoreline are avoided and unavoidable impacts are minimized and mitigated.
4. Allow open space and recreational uses consistent with protection of shoreline ecological functions and personal safety considerations.
5. Only water-oriented commercial uses that support permitted uses should be allowed.
6. Residential development shall ensure no net loss of shoreline ecological functions and preserve the existing character of the shoreline consistent with the purpose of this designation.

4.4 Official Shoreline Map

4.4.1 Map Established

1. The location and extent of areas under the jurisdiction of this Program, and the boundaries of various shoreline designations affecting the lands and waters of the

City shall be as shown on the maps entitled, “Official Shoreline Designation Map (East), City of Vancouver, Washington” and “Official Shoreline Designation Map (West), City of Vancouver, Washington” which together comprise the “Official Shoreline Designation Map” for the City of Vancouver, Washington. All the notations, references, amendments, and other information shown on the “Official Shoreline Designation Map” are hereby made a part of this Program, as if such information set forth on the map were fully described herein.

2. In the event that new shoreline areas are discovered (including but not limited to, associated wetlands) that are not mapped and/or designated on the Official Shoreline Designation Map, these areas are automatically assigned an Urban Conservancy designation for lands within City limits and urban growth areas, or Rural Conservancy – Residential if on lands outside urban growth areas until the shoreline can be re-designated through a Program amendment.
3. In the event of a mapping error, the City will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and WAC 173-22 pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.

4.4.2 File Copies

The Official Shoreline Designation Map is in electronic format and shall be kept on file in the office of the City Clerk, on the City website (www.cityofvancouver.us), and at Ecology. Unofficial copies of the Map may be prepared for administrative purposes. To facilitate use of this Program an “unofficial copy” of the Map has been attached in Appendix A.

4.4.3 Map Amendments

The Official Shoreline Designation Map is an integral part of this Program and may not be amended except upon approval by the City and Ecology, as provided under the Act.

4.4.4 Boundary Interpretation

If disagreement develops as to the exact location of a shoreline designation boundary line shown on the Official Shoreline Designation Map, the following rules shall apply:

1. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed;
2. Boundaries indicated as approximately following roads or railways shall be respectively construed to follow their centerlines;
3. Boundaries indicated as approximately parallel to or extensions of features indicated in (1) or (2) above shall be so construed;

4. Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the Shoreline Administrator shall interpret the boundaries with deference to actual conditions. Appeals of such interpretation may be filed according to the applicable appeal procedures described in Chapter 7, Administration and Enforcement.

4.4.5 Shoreline Designation Changes and Urban Growth Boundary Revisions

When a portion of shoreline jurisdiction is brought into or removed from an urban growth area, a new shoreline designation may need to be assigned. Shoreline designations shall be assigned in accordance with Table 4-1, Shoreline Designations for Urban/Rural Boundary Revisions. Where more than one designation could be appropriate according to Table 4-1, the shoreline designation criteria in this chapter shall be applied and the best-fitting shoreline designation assigned. Shoreline designation assignments shall occur concurrently with the annexation or other legislative action to remove a portion of shoreline jurisdiction from a City or urban growth area and to amend the Official Shoreline Designation Map and shall be effective upon approval by Ecology (see Section 4.4.3).

Table 4-1. Shoreline Designations for Urban1/Rural2 Boundary Revisions

SENDING Jurisdiction Shoreline Designation	Transfer From/To	RECEIVING Jurisdiction Shoreline Designation(s)
Aquatic	Rural/Urban Urban/Rural	Aquatic Aquatic
Natural	Rural/Urban Urban/Rural	Natural Natural
Rural Conservancy – Residential	Rural/Urban	Urban Conservancy Medium Intensity
Rural Conservancy – Resource Lands	Rural/Urban	Urban Conservancy Medium Intensity High Intensity
Urban Conservancy	Urban/Rural	Rural Conservancy – Residential Rural Conservancy – Resource Lands
Medium Intensity	Urban/Rural	Rural Conservancy – Residential
High Intensity	Urban/Rural	Rural Conservancy – Resource Lands

¹Urban = City or Urban Growth Area

²Rural = Unincorporated Clark County outside Urban Growth Areas

CHAPTER 5 GENERAL SHORELINE USE AND DEVELOPMENT REGULATIONS

All uses and development activities in shoreline jurisdiction shall be subject to the following general regulations and those in Chapter 5A in addition to the applicable use-specific regulations in Chapter 6.

5.1 General Shoreline Use and Development Regulations

5.1.1 Shoreline Use

1. Shoreline uses and developments that are wWater-dependent uses shall be given priority.
2. Non-water-oriented uses shall not adversely impact or displace water-oriented shoreline uses.
3. Single family residential uses shall be allowed on all shorelands not subject to a preference for commercial or industrial water-dependent uses, and shall be located, designed and used in accordance with applicable policies and regulations of this Program. However, single family residences are prohibited in the Natural shoreline designation, and new floating homes and floating on-water residences are prohibited in the Aquatic shoreline designation.
4. Shoreline uses and developments shall not cause impacts that require remedial action or loss of shoreline ecological functions on other properties.
5. Shoreline uses and developments shall be located and designed in a manner such that shoreline stabilization is not necessary at the time of development and will not be necessary in the future for the subject property or other nearby shoreline properties unless it can be demonstrated that stabilization is the only alternative that allows a reasonable and appropriate water-dependent use to become established or expand or protects public safety and existing primary structures.
6. Land shall not be cleared, graded, filled, excavated or otherwise altered prior to issuance of the necessary permits and approvals including a statement of exemption for a proposed shoreline use or development to determine if environmental impacts have been avoided, minimized and mitigated to result in no net loss of ecological functions.
7. On navigable waters or their beds, all uses and developments should be located and designed to:
 - a. Minimize interference with surface navigation;
 - b. Consider impacts to public views; and

- c. Allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.
- 8. Hazardous materials shall be disposed of and other steps be taken to protect the ecological integrity of the shoreline area in accordance with the other policies and regulations of this Program as amended and all other applicable federal, state, and local statutes, codes, and ordinances.
- 9. Previous approvals of master plans for projects in shoreline jurisdiction should be accepted. New phases of projects for which no master plan has yet been approved, or for which major changes are being proposed, or new projects for which master plans are being submitted shall be subject to the policies and regulations of this Program.

5.1.2 Adverse Impacts and Mitigation

- 1. ~~2.~~ The applicant shall demonstrate all reasonable efforts have been taken to avoid and where unavoidable, minimize and mitigate impacts such that no net loss of critical area and shoreline ecological function is achieved. Mitigation shall occur in the following order of priority:
 - a. Avoiding the impact altogether by not taking a certain action or parts of an action. This may necessitate a redesign of the proposal.
 - b. Minimizing unavoidable impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts. The applicant shall seek to minimize fragmentation of the resource to the greatest extent possible.
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations;
 - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments. The compensatory mitigation shall be designed to achieve the functions as soon as practicable.
 - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
- 2. ~~3.~~ In addition to compensatory mitigation, unavoidable adverse impacts may be addressed through voluntary restoration efforts.

~~4. Shoreline uses and developments shall not cause impacts that require remedial action or loss of shoreline ecological functions on other properties.~~

5. Shoreline uses and developments shall be located and designed in a manner such that shoreline stabilization is not necessary at the time of development and will not be necessary in the future for the subject property or other nearby shoreline properties unless it can be demonstrated that stabilization is the only alternative that allows a reasonable and appropriate water-dependent use to become established or expand or protects public safety and existing primary structures.
6. Land shall not be cleared, graded, filled, excavated or otherwise altered prior to issuance of the necessary permits and approvals including a statement of exemption for a proposed shoreline use or development to determine if environmental impacts have been avoided, minimized and mitigated to result in no net loss of ecological functions.
7. Non-water-oriented uses shall not adversely impact or displace water-oriented shoreline uses.
8. Single family residential uses shall be allowed on all shorelands not subject to a preference for commercial or industrial water-dependent uses, and shall be located, designed and used in accordance with applicable policies and regulations of this Program. However, single family residences are prohibited in the Natural shoreline designation, and new floating homes are prohibited in the Aquatic shoreline designation.
9. On navigable waters or their beds, all uses and developments should be located and designed to:
 - a. Minimize interference with surface navigation;
 - b. Consider impacts to public views; and
 - c. Allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.
10. Hazardous materials shall be disposed of and other steps be taken to protect the ecological integrity of the shoreline area in accordance with the other policies and regulations of this Program as amended and all other applicable federal, state, and local statutes, codes, and ordinances.
3. 11. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity). In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.
4. 12. The effect of proposed in-stream structures on bank margin habitat, channel migration, and floodplain processes should be evaluated during permit review.
13. Previous approvals of master plans for projects in shoreline jurisdiction should be accepted. New phases of projects for which no master plan has yet been approved, or

for which major changes are being proposed, or new projects for which master plans are being submitted shall be subject to the policies and regulations of this Program.

5. 14. Within urban growth areas (RCW 36.70A.110), the Department of Ecology may grant relief from use and development regulations of this program On land within urban growth areas as defined in RCW 36.70A.030 that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark (RCW 90.58.580(3)), relief may be granted when:
 - a. A shoreline restoration project causes or would cause a landward shift in the OHWM creating a hardship meeting specific criteria in RCW 90.58.580;
 - b. The proposed relief meets specific criteria in RCW 90.58.580; and
 - c. The application for relief is submitted to Ecology in writing requesting approval or disapproval as part of a normal review of a shoreline substantial development permit, conditional use permit, or variance. If the proposal is not connected to a shoreline permit review, the City may provide a copy of a complete application to Ecology along with the applicant's request for relief.

A substantial development permit is not required on land within urban growth areas as defined in RCW 36.70A.030 that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark (RCW 90.58.580(3)).

6. 15. Developments permitted in the Aquatic Shoreline Designation along the Columbia River shall be sited waterward of -15 feet CRD unless adverse impacts to shallow water habitat will be created as is addressed through mitigation to ensure no net loss. Mitigation can include, enhancement, creation and/or payment of mitigation bank credits and comply with Section 6.4.4.

5.2 Archeological, Cultural and Historic Resources

1. All shoreline uses and development shall comply with the applicable requirements of VMC 20.710, Archaeological Resource Protection.
2. When a shoreline use or development is in an area known or likely to contain archaeological artifacts and data, the applicant shall provide for a site inspection and evaluation by a professional archaeologist prior to issuance of any shoreline permit or approval including a statement of exemption. Work may not begin until the inspection and evaluation have been completed and the City has issued its permit or approval.
3. If any item of possible archaeological interest (including human skeletal remains) is discovered on site, all work shall immediately stop, and the City, State Department of Archaeology and Historic Preservation (DAHP), and affected Native American Tribes shall be notified of the discovery. A stop-work order will

be issued. The shoreline permit will be temporarily suspended. All applicable state and federal permits shall be secured prior to commencement of the activities they regulate and as a condition for resumption of development activities. Development activities may resume only upon receipt of City approval.

4. If the discovery includes human skeletal remains, the find must be secured and protected from further disturbance; the Clark County Medical Examiner and local law enforcement shall be notified in the most expeditious manner possible. The County Medical Examiner will assume jurisdiction over the site and the human skeletal remains, and will make a determination of whether they are crime-related. If they are not, DAHP will take jurisdiction over the remains and report them to the appropriate parties. The State Physical Anthropologist will make a determination of whether the remains are Native American and report that finding to the affected parties. DAHP will handle all consultation with the affected parties as to the preservation, excavation, and disposition of the remains.

5.3 Critical Areas Protection

1. Applicable Critical Areas Regulations

Critical areas and the buffers necessary to protect critical areas shall be regulated in accordance with the provisions of Chapter 5A of this SMP.

Terms stated in Chapter 5A can be clarified by definitions provided in both the VMC or SMP.

2. Review Process

The City will not issue a 'Critical Areas Permit' within shoreline jurisdiction as is done outside shoreline jurisdiction under VMC Chapter 20.740. Instead, the City shall consolidate and integrate the review and processing of the critical areas aspects of the proposal within the shoreline permit decision or review required for the proposed activity as applicable or required by this SMP.

Any decision criteria and submittal requirements within Chapter 5A shall be considered supplemental to the shoreline permit or review required for the proposed activity. In cases where required by Chapter 5A, the applicant shall submit a critical areas report prepared by a qualified professional.

3. Critical Areas Exemptions

Critical Areas exemptions do not apply. Exemptions are limited to those listed in section 2.3.2 and must comply with the standards of the SMP, including Chapter 5A.

4. Conflicting Provisions

Unless otherwise stated, no development shall be constructed, located, extended,

modified, converted, or altered, or land divided without full compliance with the Chapter 5A and this Shoreline Master Program. Chapter 5A shall be liberally construed together with the all other chapters of the Shoreline Master Program to give full effect to the objectives and purposes of the provisions of the Shoreline Master Program and the Shoreline Management Act. If there is a conflict or inconsistency between any of the adopted provisions in Chapter 5A and the Shoreline Master Program, the most restrictive provisions shall prevail.

5. Appeals

All appeals shall be processed per Chapter 7 of the SMP.

5.3.1 General Provisions

1. In addition to the provisions of this section, critical areas (fish and wildlife habitat conservation areas, frequently flooded areas, geologic hazard areas, and wetlands) located within shoreline jurisdiction and their buffers are regulated and protected by Chapter 5A, VMC 20.740, Critical Areas Protection as modified for consistency with the Act and this Program. All shoreline development shall comply with VMC 14.26, Water Resources Protection.
2. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered or land divided without full compliance with this Program whether or not a shoreline permit or written statement of exemption is required.
3. Any allowed use, development, or activity affecting a critical area proposed on a parcel located in the shoreline jurisdiction, whether or not exempt from obtaining a shoreline substantial development permit, shoreline conditional use, or shoreline variance, shall be regulated under the provisions of this Program.
4. Shoreline uses and developments and their associated structures and equipment shall be located, designed and operated using best management practices to protect critical areas.
5. The applicant shall demonstrate all reasonable efforts have been taken to avoid and where unavoidable, minimize and mitigate impacts such that no net loss of critical area and shoreline ecological function is achieved. Mitigation shall occur in the following order of priority:
 - a. Avoiding the impact altogether by not taking a certain action or parts of an action. This may necessitate a redesign of the proposal.
 - b. Minimizing unavoidable impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts. The applicant shall seek to minimize fragmentation of the resource to the greatest extent possible.

- ~~e. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;~~
 - ~~d. Reducing or eliminating the impact over time by preservation and maintenance operations;~~
 - ~~e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments. The compensatory mitigation shall be designed to achieve the functions as soon as practicable.~~
 - ~~f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.~~
6. In addition to compensatory mitigation, unavoidable adverse impacts may be addressed through restoration efforts.

5.4 Public Access

1. Provisions for adequate public access shall be incorporated into all shoreline development proposals that involve public funding unless the applicant demonstrates public access is not feasible due to one or more of the provisions of Section 5.4.2 (a-e). Where feasible, such projects shall incorporate ecological restoration.
2. Consistent with constitutional limitations, provisions for adequate public access shall be incorporated into all land divisions and other shoreline development proposals (except residential development of less than five (5) parcels), unless this requirement is clearly inappropriate to the total proposal. Public access will not be required where the applicant demonstrates one or more of the following:
 - a. Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;
 - b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
 - c. The cost of providing the access, easement, alternative amenity, or mitigating the impacts of public access are unreasonably disproportionate to the total proposed development;
 - d. Significant environmental impacts that cannot be mitigated will result from the public access; or
 - e. Significant undue and unavoidable conflict between public access requirements and the proposed use and/or adjacent uses would occur, provided that the applicant has first demonstrated and the City determines that all reasonable alternatives have been evaluated and found infeasible, including but not limited to:

- i. Regulating access by such means as maintaining a gate and/or limiting hours of use;
 - ii. Designing separation of uses and activities (including but not limited to, fences, terracing, use of one-way glazings, hedges, landscaping); and
 - iii. Provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.
3. Public access sites shall be connected to barrier free route of travel and shall include facilities based on criteria ~~within the~~ within the Americans with Disabilities Act Accessibility guidelines.
4. Public access shall include provisions for protecting adjacent properties from trespass and other possible adverse impacts to neighboring properties.
5. Signs indicating the public's right of access to shoreline areas shall be installed and maintained in conspicuous locations.
6. Required public access shall be fully developed and available for public use at the time of occupancy of the use or activity.
7. Public access shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat launching ramp, dock or pier area, or other area serving as a means of view and/or physical approach to public waters and may include interpretive centers and displays.
8. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, as a minimum. Said recording with the County Auditor's Office shall occur at the time of permit approval.
9. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.
10. Maintenance of the public access facility shall be the responsibility of the owner unless otherwise accepted by a public or non-profit agency through a formal agreement approved by the Shoreline Administrator and recorded with the County Auditor's Office.

5.5 Restoration

1. Restoration of shoreline ecological functions and processes shall be encouraged and allowed on all shorelines and shall be located, designed and implemented in accordance with applicable policies and regulations of this Program and consistent with other City programs (see Section 6.4.4). Implementation of

- restoration projects on shorelines of statewide significance take precedence over implementation of restoration projects on other shorelines of the state.
2. Impacts to shoreline ecological functions shall be fully mitigated. Such mitigation may include elements from the Shoreline Restoration Plan, where appropriate.
 3. Elements of the Shoreline Restoration Plan may also be implemented in any shoreline designation to improve shoreline ecological function.
 4. Implementation of restoration projects identified in the Shoreline Restoration Plan that are focused on restoring degraded habitat in shoreline jurisdiction take precedence over other restoration projects.
 5. Restoration efforts shall be developed by a qualified professional, shall be based on federal, state, and local guidance and shall consider the following:
 - a. Riparian soil conditions;
 - b. In-stream fish habitats; and
 - c. Healthy aquatic and terrestrial food webs.

5.6 Site Planning and Development

5.6.1 General

- ~~1. Land disturbing activities such as grading and cut/fill shall be conducted in such a way as to minimize impacts to soils and native vegetation and shall comply with VMC 14.24, Erosion Prevention & Sediment Control and VMC 14.25, Stormwater Control.~~
1. ~~2.~~ Development shall be designed and land disturbing activities conducted to avoid impacts to healthy trees such that they are likely to become hazard trees.
2. ~~3.~~ Impervious surfaces shall be minimized to the extent feasible so as not to jeopardize public safety. Impervious surfacing for parking lot/space areas, trails, and pathways shall be minimized through the use of alternative surfaces where feasible.
3. ~~4.~~ When feasible, existing transportation corridors shall be utilized. Ingress/egress points shall be designed to minimize potential conflicts with and impacts upon vehicular and pedestrian traffic. Pedestrians shall be provided with safe and convenient circulation facilities.
4. ~~5.~~ Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading, alteration of topography and natural features, and designed to accommodate wildlife movement.

5. ~~6.~~ Parking, storage, and non-water dependent accessory and appurtenant structures and areas shall be located landward from the OHWM and landward of the water-oriented portions of the principal use.
6. ~~7.~~ Trails and uses near the shoreline shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas, without blocking visual access to the water.
7. ~~8.~~ Elevated walkways shall be utilized, as appropriate, to cross sensitive areas such as wetlands.
8. ~~9.~~ Fencing, walls, hedges, and similar features shall be designed in a manner that does not significantly interfere with wildlife movement.
9. ~~10.~~ Exterior lighting shall be designed, shielded and operated to:
 - a. Avoid illuminating nearby properties or public areas;
 - b. Prevent glare on adjacent properties, public areas or roadways;
 - c. Prevent land and water traffic hazards; and
 - d. Reduce night sky effects to avoid impacts to fish and wildlife.
10. ~~11.~~ Utilities shall be located within roadway and driveway corridors and rights-of-way wherever feasible.
11. ~~12.~~ A use locating near a legally established aquaculture enterprise, including an authorized experimental project, shall demonstrate that such use would not result in damage to or destruction of the aquaculture enterprise, or compromise its monitoring or data collection.

5.6.2 Clearing, Grading, Fill and Excavation

1. Land disturbing activities such as clearing grading, fill and excavation shall be conducted in such a way as to minimize impacts to soils and native vegetation, and shall comply with VMC 14.24, Erosion Prevention & Sediment Control; 14.25, Stormwater Control; and VMC Chapter 17.12, International Building Code.
2. Clearing, grading, fill, and excavation activities shall be scheduled to minimize adverse impacts, including but not limited to, damage to water quality and aquatic life.
3. Clearing and grading shall not result in changes to surface water drainage patterns that adversely impact adjacent properties.
4. Developments shall comply with the VMC 14.24, Erosion Prevention & Sediment Control during construction and shall ensure preservation of native vegetation for

- bank stability. Disturbed areas shall be stabilized immediately and revegetated with native vegetation.
5. Habitat that cannot be replaced or restored within twenty (20) years shall be preserved. Peat bogs and stands of mature trees are examples of such habitat.
 6. Fills shall be permitted only in conjunction with a permitted use, and shall be of the minimum size necessary to support that use. Speculative fills are prohibited.
 7. Any fill activity shall comply with the fill provisions of VMC Chapter 17.12. Fill shall consist only of clean materials.
 8. Soil, gravel or other substrate transported to the site for fill shall be screened and documented that it is uncontaminated. Use of any contaminated materials as fill is prohibited.
 9. Fills shall be designed and placed to allow surface water penetration into groundwater supplies where such conditions existed prior to filling.
 10. Fills must protect shoreline ecological functions, including channel migration processes.
 11. Fill waterward of OHWM shall only be allowed as a conditional use, and then only when it is necessary:
 - a. To support a water-dependent or public access use;
 - b. For habitat creation or restoration projects;
 - c. For remediation of contaminated sediments as part of an interagency environmental clean-up plan;
 - d. For disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the Washington Department of Natural Resources;
 - e. For expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible;
 - f. For a mitigation action;
 - g. For environmental restoration; or
 - h. For a beach nourishment or enhancement project.
 12. In the Columbia River, fills shall be prohibited between the OHWM and minus fifteen (-15) feet CRD, unless adverse impacts to shallow water habitat are addressed through mitigation to ensure no net loss will be created as mitigation.

Mitigation can include enhancement, creation and/or payment of mitigation bank credits.

13. Excavation below the OHWM is considered dredging and subject to provisions under that section in Chapter 6.
14. Upon completion of construction, remaining cleared areas shall be replanted with native species on the City's Native Plant List available from the Shoreline Administrator. Replanted areas shall be maintained such that within three (3) years' time the vegetation is fully re-established.

5.6.3 Building Design

1. Non-single family structures shall incorporate architectural features that provide compatibility with adjacent properties, enhance views of the landscape from the water, and reduce scale to the extent possible.
2. Building surfaces on or adjacent to the water shall employ materials that minimize reflected light.
3. Façade treatments, mechanical equipment and windows in structures taller than two (2) stories, shall be designed and arranged to prevent bird collisions using the best available technology. Single-family residential structures are exempt from this provision.
4. Interior and exterior structure lighting shall be designed, shielded, and operated to:
 - a. Avoid illuminating nearby properties or public areas;
 - b. Prevent glare on adjacent properties, public areas or roadways;
 - c. Prevent land and water traffic hazards; and
 - d. Reduce night sky effects to avoid impacts to fish and wildlife.
5. Accessory uses, including parking, shall be located as far landward as possible while still serving their intended purposes.

5.7 Vegetation Conservation

1. Existing native vegetation within shoreline jurisdiction shall be retained and allowed to grow naturally in the riparian area.
2. Removal of native vegetation outside the riparian area shall be avoided. Where removal of native vegetation cannot be avoided, it shall be minimized and mitigated to result in no net loss of shoreline ecological functions. Lost functions may be replaced by enhancing other functions provided that no net loss in overall functions is demonstrated and habitat connectivity is maintained. Mitigation shall

- be provided consistent with an approved mitigation plan. See Chapter 5A, **20.740.030(B)(1)(f)** on maintaining fire-defensible space.
3. If non-native vegetation is removed, it shall be replaced with native vegetation within the shoreline jurisdiction.
 4. Development shall be located to avoid clearing and grading impacts to more mature or multi-storied plant communities and to retain habitat connectivity.
 5. Vegetation (such as a mature stand of trees) that cannot be replaced or restored within twenty (20) years shall be preserved.
 6. Maintaining vegetated riparian areas to protect shoreline stability and shoreline ecological functions takes precedence over vegetation clearing to preserve or create views.
 7. Topping trees is prohibited.
 8. Pruning of trees which are not hazard trees is allowed in compliance with the National Arborist Association pruning standards, and is limited to:
 - a. Removal of no more than twenty-five (25) percent of the limbs of any single tree within a given five-year (5-year) period; and
 - b. No more than twenty-five (25) percent of canopy in a single stand of trees may be removed in a given five-year (5-year) period.
 9. Hazard trees are regulated by VMC 20.770 and 17.14.
 10. Natural features such as snags, stumps, logs or uprooted trees, which support fish and other aquatic systems, do not intrude on the navigational channel or threaten public safety, and existing structures and facilities, shall be left undisturbed.
 11. Aquatic weed control shall only occur to protect native plant communities and associated habitats or where an existing water-dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards and shall be done by a qualified professional.
 12. Unless otherwise stated, the vegetation conservation regulations of this Program do not apply to:
 - a. Commercial forest practices as defined by this Program when such activities are covered under the Washington State Forest Practices Act (RCW 76.09), except where such activities are associated with a conversion to other uses or other forest practice activities over which the City has authority; or
 - b. Flood control levees required to be kept free of vegetation that damages their structural integrity.

5.8 Views and Aesthetics

5.8.1 Visual Access

1. Visual access shall be maintained, enhanced, and preserved as appropriate on shoreline street-ends, public utility rights-of-way above and below the ordinary high water mark, and other view corridors.
2. Development on or over the water shall be constructed to avoid interference with views from surrounding properties to the adjoining shoreline and adjoining waters to the extent practical.
3. No permit shall be issued pursuant to this chapter for any new or expanded building or structure of more than thirty-five (35) feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines unless overriding considerations of the public interest will be served. The Shoreline Administrator may require a view analysis including view corridors, view profiles, and vertical profiles from various locations to determine if shoreline views will be obstructed.
4. Maintaining vegetated riparian areas to protect shoreline stability and shoreline ecological functions takes precedence over vegetation clearing to preserve or create views.
5. Clearing or pruning to preserve or create views shall be allowed as follows:
 - a. When shoreline stability and shoreline ecological functions are maintained; and
 - b. The applicable standards in Sections 5.6 and 5.7 are met.

5.9 Water Quality and Quantity

1. The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and ground water adjacent to the site.
2. All shoreline development shall comply with the applicable requirements of the VMC Chapter 14.24, Erosion Prevention & Sedimentation Control; 14.25, Stormwater Control; and 14.26, Water Resources Protection.
3. Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all shoreline development.
4. Potentially harmful materials, including but not limited to oil, chemicals, tires, or hazardous materials, shall not be allowed to enter any body of water or wetland, or to be discharged onto the land except in accordance with VMC 14.26. Potentially harmful materials shall be maintained in safe and leak-proof containers.

5. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-five (25) feet of a waterbody, except by a qualified professional in accordance with state and federal laws. Further, pesticides subject to the final ruling in *Washington Toxics Coalition, et al., v. EPA* shall not be applied within sixty (60) feet for ground applications or within three hundred (300) feet for aerial applications of the subject water bodies and shall be applied by a qualified professional in accordance with state and federal law.
6. Any structure or feature in the Aquatic shoreline designation shall be constructed and/or maintained with materials that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants.
7. Conveyance of any substance not composed entirely of surface and stormwater directly to water resources shall be in accordance with VMC 14.26.

5.10 Septic Systems

1. ~~8.~~ Septic systems should be located as far landward of the shoreline and floodway as possible. Where permitted, new on-site septic systems shall be located, designed, operated, and maintained to meet all applicable water quality, utility, and health standards.

CHAPTER 5A — GENERAL SHORELINE USE AND DEVELOPMENT REGULATIONS CONTINUED:

CRITICAL AREAS REGULATIONS

All uses and development activities in shoreline jurisdiction shall be subject to the following general regulations in addition to the applicable use-specific regulations in Chapter 6. All shoreline development shall comply with VMC 14.26, Water Resources Protection.

~~Vancouver WA Zoning Ordinance~~

Chapter 20.740

CRITICAL AREAS PROTECTION

As Modified for Application in Shoreline Jurisdiction

Sections:

- 20.740.010 — Purpose**
- 20.740.020 — General Provisions**
- 20.740.030 — Applicability and Exemptions from Requirement to Obtain Permit**
- 20.740.040 — Approval Process**
- 20.740.050 — Submittal Requirements**
- 20.740.060 — Approval Criteria**
- 20.740.070 — Minor Exceptions**
- 20.740.080 — Reasonable Use Exceptions**
- 20.740.090 — Unauthorized Critical Areas Alterations and Enforcement**
- 20.740.100 — Habitats of Local Importance**
- 20.740.110 — Fish and Wildlife Habitat Conservation Areas**
- 20.740.120 — Frequently Flooded Areas**
- 20.740.130 — Geologic Hazard Areas**
- 20.740.140 — Wetlands**

Section 20.740.010 — Purpose

A. The purpose of this chapter is to designate and protect ecologically sensitive and hazardous areas (critical areas) and their functions and values, while also allowing for reasonable use of property.

B. As mandated by the Growth Management Act (GMA) (RCW 36.70A), this chapter provides protection for the critical areas of wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, and frequently flooded areas. Critical aquifer recharge areas are covered in VMC 14.26.

C. This chapter implements the goals and policies of the Vancouver Comprehensive Plan, 2003-2023 as amended, under the Washington Growth Management Act and other related state and federal laws.
(M 3692, Added, 02/28/2005, Sec 2)

Section 20.740.020 — General Provisions

Effective January 2019

5A-1

A. No Net Loss of Functions

Activity shall result in no net loss of functions and values in the critical areas. Since values are difficult to measure no net loss of functions and values means no net loss of functions. The beneficial functions provided by critical areas include, but are not limited to water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage; conveyance and attenuation of flood waters; ground water recharge and discharge; erosion control; and wave attenuation. These beneficial functions are not listed in order of priority. This chapter is also intended to protect residents from hazards and minimize risk of injury or property damage.

B. Relationship to Other Regulations

— 1. These critical areas regulations shall apply in addition to zoning and other regulations adopted by the City.

— 2. Any individual critical area that overlaps another type of critical area shall meet the requirements that provide the most protection to the critical areas involved.

— 3. When there is a conflict between any provisions of this chapter or any other regulations, that which provides the most protection to the subject critical area shall apply.

— 4. Conditions of approval of a project affecting critical areas may be supplemented by a review under the State Environmental Policy Act (SEPA), as locally adopted.

— 5. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements (for example, Shoreline Substantial Development Permits, Hydraulic Project Approval [HPA] permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, or National Pollution Discharge Elimination System permits). The applicant is responsible for complying with other state and federal requirements in addition to the requirements of this chapter. Obtaining all applicable state and federal permits shall be made a condition of a Critical Areas Permit. Such permits shall be obtained prior to issuance of permits for development, construction or site disturbance except under the circumstances set forth in VMC 20.740.040(J).

C. Jurisdiction

— 1. All areas within the City meeting the definition of one or more critical areas, whether mapped or not, are hereby designated critical areas and with their buffers are subject to the provisions of this chapter.

— 2. Watersheds (VMC 20.150) are those most recently identified and mapped by Clark County Maps Online (www.clark.wa.gov). Watershed maps are available from the Shoreline Administrator. Burnt Bridge Creek, Columbia Slope, Vancouver Lake/Lake River, and Lacamas Creek are the primary watersheds in Vancouver.

D. Warning and Disclaimer of Liability

The standards established herein are minimum standards. The standards are established for regulatory purposes only. Minimum compliance with these standards may not be sufficient protection from identified or unidentified hazards. City establishment of these minimum standards is not a representation that these standards are sufficient protection from any hazard. Critical areas development should be based on sound scientific and engineering considerations that may be more stringent than this chapter. The City

~~assumes no liability if these established standards prove to be insufficient protection.
(M 3844, Amended, 10/01/2007, Sec 2; M 3692, Added, 02/28/2005, Sec 2)~~

Section 20.740.030 — Applicability and Exemptions from Requirement to Obtain Permit

A. Applicability

~~— 1. Unless listed in VMC 20.740.030(B)(2) the provisions of this chapter shall apply to all lands, all land uses, clearing and development activity, and all structures and facilities in the City located within a critical area or buffer or on a site containing a critical area or buffer including single family residential lots platted prior to 04/29/05 and developments such as play structures that require no other permits.~~

~~— 2. The provisions of this chapter shall apply whether or not a permit or authorization is required.~~

~~— 3. No person, company, agency, or applicant shall alter a critical area or buffer (including removal of downed woody vegetation from or application of chemicals harmful to fish and wildlife within 25 feet of wetlands, ponds, lakes, streams or rivers) except as consistent with the requirements of this chapter.~~

~~— 4. A Critical Areas Permit will not be issued for development affecting critical areas in shoreline jurisdiction. The Critical Areas Permit requirements of this chapter shall be incorporated into a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance, or Shoreline Statement of Exemption as applicable, and the applicable shoreline permit shall be obtained prior to undertaking any activity or development regulated by this chapter unless listed in VMC 20.740.030(C).~~

B. Activities for which a Statement of Exemption is Required

~~— 1. Applicants for the activities listed in VMC 20.740.030(B)(1)(a-f) shall first obtain a written Statement of Exemption from securing a Critical Areas Permit, prior to undertaking any development activity. This process verifies that the action is exempt from the permitting process of the Critical Areas Ordinance. However, all exempt activities are still subject to the policies and regulations of this Chapter. The Shoreline Administrator shall attach Critical Areas Ordinance conditions to the building permits and other permits and approval as necessary to enforce the policies and regulations of this chapter.~~

~~-Stricken items are either shoreline exemptions (SMP Sections 2.1.1 and 2.3.2) or require a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance.~~

~~— The request for the Statement of Exemption shall be in writing, on forms required by the Shoreline Administrator, and include the information required by the Shoreline Administrator.~~

~~— The Shoreline Administrator shall issue a decision on a request for a Statement of Exemption in accordance with the procedures of VMC 20.210.040, Type I Applications.~~

~~— The following activities shall obtain a Statement of Exemption:~~

~~— a. Development or clearing, outside areas of special flood hazards and other than tree removal, as minimally necessary to remodel an existing single family residence, provided:~~

~~— 1. The activity will increase the footprint of structures including impervious surfaces by less than 500 square feet from the footprint size at the time of the adoption of this chapter; and~~

~~2. If the structure or impervious surface is within a critical area or buffer, the distance from the nearest structure or impervious surface to lakes, streams, rivers, wetlands or geological hazards is not decreased; and~~

~~3. All vegetation disturbed as a result of the development shall be replaced one to one, except trees shall be replaced using tree units derived from VMC 20.770, Tree Conservation. Native vegetation shall be used where feasible.~~

~~4. Impacts to critical areas and buffers shall be minimized and mitigated.~~

~~a. A fence may be installed in a critical area buffer (not in a critical area) where:~~

~~1. The fence is necessary for safety and security;~~

~~2. The property was developed prior to the effective date of VMC 20.740 (April 29, 2005);~~

~~3. The fence is designed and installed in a manner that protects the critical area and buffer functions and blends with the critical area environment.~~

~~b. Maintaining fire defensible space around a structure to reduce fire hazards, involving regular maintenance of existing trees at least 6" diameter at breast height, grasses, and underbrush, not tree removal or other ground disturbing or soil destabilizing activities. Creating fire defensible space (see VMC 20.740.040(I)) or undertaking other development requires a Critical Areas Permit under VMC 20.740.040(B)(1)(f) and could require other permits as well.~~

~~1. Pruning trees, grasses, and brush within a critical area or buffer to maintain fire defensible space around a structure may be permitted when one or more of the following criteria is met:~~

~~a. The structure nearest the property line is within 30' of a slope of at least 25% (also designated as a landslide hazard area under this chapter);~~

~~b. The nearest structure is within 30' of a forested area;~~

~~c. The vegetation within 30' of the structure is comprised of less than 50% native species;~~

~~d. The vegetation within 30' of the structure is higher than 12";~~

~~e. Trees are crowded within 30' of the structure or overhanging the structure's roof;~~

~~f. The structure is located in an area designated by the Fire Marshal as a "Wildfire Safety Area."~~

~~2. When maintenance of a fire defensible space is permitted, the following standards shall apply:~~

~~a. Trees may be pruned or limbed up to mitigate a hazard, but trees may not be removed without a Critical Areas Permit and any other necessary permit(s) (See VMC 20.740.040(B)(1)(f) and .040(I) on creating fire defensible space).~~

~~b. Grasses and underbrush shall be maintained between 8" and 12" in height.~~

~~c. Topping trees is prohibited.~~

~~d. Any debris from pruning shall be disposed of promptly and properly.~~

~~2. Activities Allowed without a Permit.~~

~~Reasonable methods shall be used to avoid potential impacts to critical areas. Any damage to, or alteration of, a critical area that is not a necessary outcome of the exempt activity shall be corrected at the property owner's expense.~~

~~a. Any development proposed on property pursuant to a currently valid Critical Areas Permit, provided all conditions and requirements of the Critical Areas Permit are met and the proposed activity is within the scope of the original permit.~~

~~b. Landscape maintenance (other than tree removal or use of pesticides, herbicides, fungicides or fertilizers applied into or within 25 feet of water bodies) consistent with accepted horticultural practices, such as those recommended by the Washington State University Extension Service, within the boundaries of an existing lawn, garden or landscaped area and not associated with development.~~

~~c. Clearing of noxious or invasive plants using hand held equipment such as a weed whacker, provided (1) fueling and maintenance take place outside the critical area and buffer; (2) all cleared vegetation is taken away and disposed of properly; and (3) denuded soils are stabilized with native vegetation. The City of Vancouver's Noxious or Invasive Plants List and Native Plant Species List are available from the Shoreline Administrator.~~

~~d. Application of pesticides, herbicides, fungicides or fertilizers farther than 25 feet from any wetland, pond, lake, stream or river or in a manner specified in a valid permit.~~

~~e. State or federally approved conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing critical area or buffer.~~

~~f. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops or other native vegetation and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the critical area or buffer by changing existing topography, water conditions or water sources.~~

~~g. Passive outdoor recreation, education, and scientific research activities such as fishing, hiking, and bird watching that do not degrade the critical area or buffer.~~

~~h. Existing and ongoing agricultural activities protected under the federal Food Security Act occurring in wetland areas.~~

~~i. Existing and ongoing agriculture within fish and wildlife habitat conservation areas so long as livestock and application of pesticides, herbicides, fungicides and fertilizers are kept 25 feet from any water body.~~

~~j. Implementation of a state or federally approved restoration or enhancement project not related to any development project.~~

—— j. In areas with only ground shaking or liquidation hazards, repair or construction of roads, sidewalks or trails (except where there are structures), or water, sewer, stormwater, gas, power, cable, or fiber optic facilities shall be exempt from the ground shaking and liquidation permitting requirements.

k. Maintenance, repair, and in-kind replacement of existing fences.

(M 3931, Amended, 11/02/2009, Sec 22 Effective 12/2/2009; M 3922, Amended, 07/06/2009, Sec 36; M 3844, Amended, 10/01/2007, Sec 2; M 3692, Added, 02/28/2005, Sec 2)

Section 20.740.040 — Approval Process

A. Initial Critical Areas Determination Process

—— 1. Pre-application Conference Required. Unless waived pursuant to VMC 20.210.080(B), prior to the City's consideration of any proposed activity not listed under [VMC 20.740.030(B), the applicant shall submit to the department a Pre-application Request Form and other required information pursuant to VMC 20.210.080. Provided, pre-application conferences shall not be required for proposed activities within only ground shaking or liquefaction areas.

The Shoreline Administrator shall review the submitted information, conduct a site inspection, review other information available pertaining to the site and the proposal, and make a determination as to whether a Critical Areas Permit is required.

—— a. Decision Indicators. The Shoreline Administrator shall use the following indicators whenever available, to assist in determining the need for a Critical Areas Permit:

—— 1. Indication by the City's critical area location information of a critical area or buffer that may be impacted by the proposed activity;

—— 2. Information and scientific opinions from appropriate agencies, including but not limited to the Washington Departments of Fish and Wildlife, Natural Resources, and Ecology;

—— 3. Documentation, from a scientific or other reasonable source, of the possible presence of a critical area or buffer.

—— b. Interpretation of Critical Area Boundaries. The Shoreline Administrator shall be authorized to interpret the exact location of the critical area boundary. Final designations shall be based on site conditions and other available data or information. A person who disagrees with the interpretation may appeal the interpretation pursuant to Section 20.255.020(D).

—— 2. Pre-application Waiver. In the event that the Shoreline Administrator grants a pre-application waiver pursuant to VMC 20.210.080(B) the Shoreline Administrator shall either attach a Statement of Exemption, if applicable, or document in the pre-application waiver letter that a Critical Areas Permit is required.

—— 3. Decision on Pre-application. The Shoreline Administrator shall make one of the following decisions in the pre-application staff report:

—— a. Critical Areas Permit Not Required. If the Shoreline Administrator's analysis indicates that there is no critical area or buffer on the subject property, then the Shoreline Administrator shall determine that the initial critical area review is complete and that no further review is required. The Shoreline Administrator shall issue a Statement of Exemption and include it with the Pre-application report.

~~—— b. Critical Areas Permit Required. If the Shoreline Administrator determines that a critical area or its buffer may be located on the subject property, the Shoreline Administrator shall determine that a Critical Areas Permit is required, and shall indicate each of the critical area types to be addressed in the critical areas report.~~

~~—— 4. Reconsideration of Shoreline Administrator's Initial Critical Area Determination. A determination may be reconsidered by the Shoreline Administrator if new information is received. If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.~~

B. Final Critical Areas Determination Process

~~—— 1. Type I Application. The following activities shall be processed as a Type I permit pursuant to VMC 20.210.040 except a pre-application conference shall be required unless waived pursuant to VMC 20.210.080(B) or the activity is proposed within only a ground shaking or liquefaction hazard area:~~

~~—— a. New single family and duplex residences, alterations to existing single family and duplex residences, or new accessory structures located within a critical area or buffer, or on a property containing a critical area or buffer.~~

~~—— b. Application of pesticides, herbicides, fungicides or fertilizers within 25 feet of ponds, lakes, streams, rivers or wetlands.~~

~~—— c. Approval of agricultural activities within 25 feet of ponds, lakes, streams or rivers.~~

~~—— d. Critical Area restoration or enhancement projects not related to any development project; and establishment of mitigation banks.~~

~~—— e. Public improvement projects located entirely within the previously improved portion of the right of way.~~

~~—— f. Clearing vegetation within a critical area or buffer, including: (1) grading, uprooting or other activities that impair the soil stabilization function of vegetation in landslide hazard areas (VMC 20.740.130(C)(1)(c)); (2) removal of downed woody vegetation from wetlands, lakes, streams or rivers; and (3) removal of trees, grasses, or brush to create fire defensible space (VMC 20.740.040(I))~~

~~—— g. Approval of recurring activity permits (VMC 20.740.040(H)) for activities within critical areas or buffers.~~

~~—— 2. Other Application Types. All other activities proposed within any critical area or buffer shall be reviewed according to the procedures of the underlying land use application.~~

~~—— 3. Review Procedure. The Shoreline Administrator shall make a determination as to whether the proposed activity and mitigation, if any, are consistent with the provisions of Title 20. The Shoreline Administrator's determination shall be based on the approval criteria of VMC 20.740.060. The Critical Areas Permit shall be valid for as long as the underlying land use permit or as otherwise specified by the Shoreline Administrator.~~

C. Notice on Title Covenant and Tracts

~~1. Covenants. This section applies to all non-exempt projects that involve critical areas and buffers.~~

~~a. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is approved shall file a covenant with the county records and elections division according to the direction of the City. The covenant shall state the presence of the critical area or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The covenant shall “run with the land.”~~

~~b. The applicant shall submit proof that the covenant has been filed for public record before the City approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, planned unit developments, binding site plans, and other developments that involve platting, at or before recording of the plat.~~

~~2. Tracts. This section applies in addition to VMC 20.740.040(C)(1) to projects that involve platting on properties containing fish and wildlife habitat conservation areas, wetlands, and their buffers. The Shoreline Administrator may also apply this section to developments that involve platting on properties containing geologic hazard areas and their buffers. The location of the tract, critical area(s), and buffer(s) shall be shown on the face of the plat. See VMC 20.740.040(C)(2)(b) for exceptions.~~

~~a. The property owner shall place the subject critical areas and buffers in one or more non-developable tracts except when:~~

~~1. Creation of a nonbuildable tract would result in violation of minimum lot depth standards;~~
~~or~~

~~2. The responsible official determines a tract is impractical.~~

~~b. When an exception in VMC 20.740.040(C)(2)(a) applies, residential lots may extend into the critical area(s) or buffer(s) provided:~~

~~1. The location of the outer perimeter of the critical area(s) and buffer(s) are marked in the field and approved by the Shoreline Administrator prior to the commencement of permitted activities and maintained throughout the duration of the permit.~~

~~2. A permanent physical demarcation along the outer/upland boundary of the critical area buffer(s) is installed and thereafter maintained. Such demarcation may consist of fencing, hedging or other prominent physical marking that allows wildlife passage, blends with the critical area environment, and is approved by the Shoreline Administrator.~~

~~3. Permanent signs are posted at an interval of one per lot for single family residential uses or at a maximum interval of 200', or as otherwise determined by the Shoreline Administrator, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the Shoreline Administrator: “The area beyond this sign is a critical area or critical area buffer. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information.”~~

D. Financial Assurances

~~1. When mitigation required pursuant to a development proposal is not completed prior to the City final permit approval, such as final plat approval or final building inspection, the City shall require the~~

applicant to provide security in a form and amount deemed acceptable by the City. If the development proposal is subject to mitigation, the applicant shall provide security in a form and amount deemed acceptable by the City to ensure mitigation is fully functional (including but not limited to construction, maintenance, and monitoring).

— 2. The security shall be in the amount of 125% of the estimated cost of restoring the functions of the critical area that are at risk.

— 3. The security authorized by this section shall remain in effect until the City determines, in writing, that the standards for which the security is required for have been met. Bonds or other security shall be held by the City for a minimum of five (5) years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

— 4. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

— 5. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed in the project budget or capital improvement budget for mitigation, maintenance, monitoring, or restoration.

— 6. Failure to satisfy any critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the City may demand payment of any financial guarantees or require other action authorized by the City code or any other law.

— 7. Any funds recovered pursuant to this section shall be used to complete the required mitigation. Excess funds shall be returned to the applicant.

E. Critical Area Inspections. Reasonable access to the site shall be provided to the City, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

F. Reconsideration of Shoreline Administrator's determination. If, within five (5) days following the date of mailing of a Critical Areas Permit, new information relevant to the decision is made available, any party may request that the decision be reconsidered. If the new information is found to be substantial and relevant to the critical area review, the Shoreline Administrator may reopen the critical area review and make a new determination based on the revised report. The Critical Areas Permit shall not be considered final and subject to appeal until the decision on the request for reconsideration, if applied for, has been issued.

G. Appeals. Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to VMC 20.110.130.

H. Recurring Activity Permits. The purpose of a recurring activity permit is to provide for on-going, routine maintenance, operation, or repair activities on sites containing critical areas or buffers (1) so as not to impair an agency's or business's ability to operate effectively and efficiently; and (2) at the same time protect critical areas and buffers in accordance with this chapter.

— 1. — In addition to the submittal requirements in VMC 20.740.050, applicants for a recurring activity permit shall submit a proposed management plan. The management plan shall contain:

- ~~_____ a. _____ A narrative explaining the need for the recurring activity permit.~~
- ~~_____ b. _____ A list of the on-going, routine, maintenance, operation, or repair activities that impact or potentially impact critical areas and buffers.~~
- ~~_____ c. _____ A description of the potentially impacted critical area and buffer functions.~~
- ~~_____ d. _____ Proposed measures and standards for avoiding impacts to critical area and buffer functions and where unavoidable, minimizing and mitigating those impacts to achieve no net loss of functions.~~
- ~~_____ e. _____ A training program ensuring that all employees, contractors, and individuals under the supervision of the applicant who are involved in permitted activities understand and perform in accordance with the terms of the permit.~~
- ~~_____ 2. _____ A recurring activity permit may be approved for up to seven years. The permit duration may be tied to other permits or processes.~~
- ~~_____ 3. _____ Every 2 years within 30 days of the anniversary of permit issuance for the duration of the permit, the applicant shall submit a report to the Shoreline Administrator summarizing activities undertaken under the recurring activity permit including any issues to be resolved. The report shall also document the training provided in accordance with VMC Section 20.740.040H(1)(e).~~
- ~~_____ 4. _____ The applicant or the City may initiate an amendment to the recurring activity permit to respond to permit performance issues. An amendment shall be considered through a Type 1 process following a pre-application conference.~~
- ~~_____ 5. _____ An application for reauthorization of a recurring activity permit shall be submitted at least 90 days prior to the date the current permit expires. Recurring activity permits may be reauthorized through a Type 1 process following a required pre-application conference. Permit standards and conditions may be modified to conform to the current codes, policies, and standards or based on past performance. Where the review of the reauthorization application will extend beyond the expiration date of the current recurring activity permit, the Shoreline Administrator may extend the duration of the current permit for 30 days at a time, not to exceed 180 days.~~
- ~~I. Trees, grasses, and brush in a critical area or buffer may be pruned or removed to create fire-defensible space around a structure (see VMC 20.740.040(B)(1)(f)) when one or more of the criteria in VMC 20.740.030(B)(1)(f)(1)(a-f) is met. When creating fire-defensible space is permitted, the following standards shall apply:~~
 - ~~_____ 1. _____ Grasses and underbrush shall be maintained between 8" and 12" in height.~~
 - ~~_____ 2. _____ Trees may be pruned, limbed-up, or removed. Topping trees is prohibited.~~
 - ~~_____ 3. _____ Removal of vegetation in a landslide hazard area is prohibited during the wet season (November 1st to May 1st). The area must be immediately replanted to ensure soil stability. The property owner shall maintain the newly planted vegetation to ensure its survival.~~
 - ~~_____ 4. _____ Any debris from vegetation removal shall be disposed of promptly and properly.~~
 - ~~_____ 5. _____ Required replantings shall be of native, fire-resistant species. A list of native, fire-~~

resistant species is available from the Shoreline Administrator.

J. Development may be permitted on a site containing a critical area(s) or buffer(s) which may also be subject to state or federal permits prior to all necessary state or federal permits being obtained when all of the following criteria are met:

_____ 1. _____ A phased master plan is submitted under VMC 20.260 or .268 as appropriate, demonstrating:

_____ a. _____ how the maximum critical area(s) and maximum buffer(s) will be clearly avoided until all local, state, or federal permits are obtained. "Clearly avoided" means:

_____ 1. The Shoreline Administrator has visited the site;

_____ 2. The critical area(s) and buffer(s) has/have been identified in the field and clearly mapped by a qualified professional through an approved, limited scope Critical Areas Report (for example, a wetland boundary delineation without categorization or functional assessment, but with the minimum documentation necessary to justify the boundary location); except that for a single family or duplex residential development on a property with a stream not regulated under the state Shoreline Management Act, its Riparian Management Area or Riparian Buffer, the Shoreline Administrator may accept an aerial photo overlain with 2' contour lines from the Clark County Digital Atlas with the required information drawn to scale by someone other than a qualified professional;

_____ 3. The site plan and final plat show a development envelope within which all development activity will take place, and a note identifying the development envelope and its purpose is placed on the face of the site plan and the final plat;

_____ 4. The boundaries of the development envelope are clearly outside of all maximum critical areas and all maximum buffers. The maximum critical area and maximum buffer are the greatest that may be applied under any circumstances. (For example, under this chapter, the maximum wetland buffer that could be applied under any circumstance is 300'; the maximum Riparian Management Area is 100', and the maximum Riparian Buffer is 75' from the outer boundary of the Riparian Management Area);

_____ b. _____ how each phase could be permitted as an individual project not relying on development of any other phases in any way;

_____ c. _____ how each phase could be developed regardless of whether any or all of the pending state or federal permits are ever obtained;

_____ d. _____ no net loss of critical area functions for each phase and for the project as a whole, regardless of whether any or all of the pending state or federal permits are ever obtained.

_____ 2. _____ Development is permitted only in the area that clearly avoids (VMC 20.740.040(J)(1)(a)(1-4)) the maximum critical area(s) and buffer(s).

(M 3959, Amended, 07/19/2010, Sec 37 Effective 8/19/2010; M 3931, Amended, 11/02/2009, Sec 23 Effective 12/2/2009; M 3844, Amended, 10/01/2007, Sec 2; M 3692, Added, 02/28/2005, Sec 2)

Section 20.740.050 — Submittal Requirements

A. Preparation by Qualified Professional. Any required Critical Areas Report shall be prepared by a

qualified professional as defined herein.

B. General Critical Areas Report Contents. At a minimum, the Critical Areas Report shall contain the following:

- 1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
- 2. A copy of the site plan for the development proposal including:
 - a. A map to scale depicting critical areas, buffers, the channel migration zone if applicable, the development proposal, and any areas to be cleared; and
 - b. Proposed stormwater management and sediment control plan for the development including a description of any impacts to drainage alterations; and
 - c. A digital map of the geographic information required pursuant to the applicable provisions of this chapter for each critical area and buffer on site and the channel migration zone if applicable. The digital map(s) must be based on the same coordinate system as the Clark County GIS database: state plane coordinates using the NAD 1983 datum and the Washington South zone (also referred to as the FIPS Zone 4602). The digital map(s) must also conform to other Clark County GIS digital mapping standards and specifications available from the Shoreline Administrator or directly from Clark County's Department of Assessment and GIS. —
- 3. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
- 4. Identification and scientific characterization of all critical areas and buffers. The scientific characterization shall include a detailed assessment of the functional characteristics of the critical areas;
- 5. An assessment of the probable impacts to critical areas and buffers and risk of injury or property damage including permanent, temporary, temporal, and indirect impacts resulting from development of the site and the operations of the proposed development;
- 6. A written response to each of the approval criteria in VMC 20.740.060;
- 7. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with VMC 20.740.050(F) Mitigation Plan Requirements.

C. Additional Information. Any additional information required for the specific critical areas and buffers as specified in VMC 20.740.110 Fish and Wildlife Habitat Conservation Area, VMC 20.740.120 Frequently Flooded Areas, VMC 20.740.130 Geologic Hazard Areas, and VMC 20.740.140 Wetlands.

D. Other Reports or Studies. Unless otherwise provided, a Critical Areas Report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Shoreline Administrator. Provided, the site conditions shall not have changed since the earlier report or study was completed.

E. Critical Areas Report Modifications to Requirements

~~Modifications to Required Contents. The applicant may consult with the Shoreline Administrator prior to or during preparation of the Critical Areas Report to obtain City approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential impacts to any critical areas or buffers and the required mitigation. The Shoreline Administrator may also initiate a modification to the required report contents by requiring either additional or less information, when determined to be necessary to the review of the proposed activity in accordance with this chapter.~~

~~F. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit a mitigation plan as part of the Critical Areas Report. The mitigation plan shall include:~~

~~— 1. Detailed Construction Plans. The mitigation plan shall include descriptions of the mitigation proposed, such as:~~

- ~~-a. The proposed construction sequence, timing, and duration;~~
- ~~-b. Grading and excavation details;~~
- ~~-c. Erosion and sediment control features;~~
- ~~-d. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and~~
- ~~-e. Measures to protect and maintain plants until established; and~~

~~f. A functional assessment of the proposed mitigation to ensure no net loss of shoreline ecological functions.~~

~~These written descriptions shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.~~

~~— 2. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the mitigation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years. For example, ten (10) years or more of monitoring are typically needed for forested wetlands or scrub shrub communities.~~

~~When the applicant believes that the conditions of the monitoring plan are met, the applicant shall contact the City and request that the City verify and certify so in writing. The City shall conduct an on-site assessment as part of the verification process. The applicant shall provide reasonable access to the property as necessary for verification and certification.~~

~~When the City has verified and certified that the conditions of the monitoring plan have been met, the critical area shall no longer be considered as mitigation, but as a naturally occurring critical area when processing a future development permit application(s).~~

~~— 3. Adaptive Management. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance~~

standards are not being met.

(M 3931, Amended, 11/02/2009, Sec 24 Effective 12/2/2009; M 3844, Amended, 10/01/2007, Sec 2; M 3692, Added, 02/28/2005, Sec 2)

Section 20.740.060 — Approval Criteria

Any activity or development subject to this chapter, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria. The City may condition the proposed activity as necessary to mitigate impacts to critical areas and their buffers and to conform to the standards required by this chapter. Activities shall protect the functions of the critical areas and buffers on the site. Mitigation shall occur in the following order of priority:

A. Avoid Impacts. The Applicant shall first avoid all impacts that degrade the functions and values of (a) critical area(s) by not taking a certain action or parts of an action. This may necessitate a redesign of the proposal.

B. Minimize Impacts. The applicant shall minimize the impacts of the activity by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts. The applicant shall seek to minimize the fragmentation of the resource to the greatest extent possible.

C. Rectify Impacts. The applicant shall rectify the impacts by repairing, rehabilitating, or restoring the affected environment.

D. Reduce Impacts. The applicant shall reduce or eliminate the impacts over time by preservation and maintenance operations;

E. Compensatory Mitigation. The applicant shall compensate for the impacts by replacing, enhancing, or providing substitute resources or environments. The compensatory mitigation shall be designed to achieve the functions as soon as practicable.

F. Monitor Impacts and Mitigation. The applicant shall monitor the impacts and the compensation projects and take appropriate corrective measures.

G. Type and Location of Mitigation. Compensatory mitigation shall be in-kind and on-site, when feasible, and sufficient to maintain the functions of the critical area, and to prevent risk from a hazard posed by a critical area to a development or by a development to a critical area.

H. In addition to mitigation, unavoidable adverse impacts may be addressed through restoration efforts.

I. No Net Loss. The proposal protects the critical area functions and values and results in no net loss of critical area functions and values.

J. Consistency with General Purposes. The proposal is consistent with the general purposes of this chapter and does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;

K. Performance Standards. The proposal meets the specific performance standards of Fish and Wildlife Habitat Conservation Areas VMC 20.740.110, Frequently Flooded Areas VMC 20.740.120, Geologic Hazard Areas VMC 20.740.130, and Wetlands VMC 20.740.140, as applicable.

(M-3692, Added, 02/28/2005, Sec 2)

Section 20.740.070 — Minor Exceptions

~~A. Minor Exceptions Authorized. Minor exceptions shall be processed in accordance with the Shoreline Variance provisions of SMP Sections 2.6 and 7.4.5. Minor exceptions from the NFIP development standards of VMC 20.740.120, Frequently Flooded Areas are prohibited (VMC 20.740.120(D)).~~

Section 20.740.080 — Reasonable Use Exceptions

~~A. Exception Request and Review Process.~~

~~If the application of this chapter would deny all reasonable economic use of the subject property, the applicant may request a Shoreline Variance in accordance with Sections 2.6 and 7.4.5.~~

Section 20.740.090 — Unauthorized Critical Areas Alterations and Enforcement

~~A. Enforcement.~~

~~— 1. It shall be unlawful to violate the provisions of VMC Chapter 20.740. SMP Chapter 7 shall provide the enforcement provisions for Chapter 5A, VMC Chapter 20.740.~~

~~B. Requirement for Restoration Plan. In the event the City initiates enforcement action or files a complaint in court, the City may require a restoration plan consistent with the requirements of this chapter and Chapter 7. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in VMC 20.740.090(C). The Shoreline Administrator shall, at the violator's expense, seek expert advice in determining whether the plan restores the affected area to its pre-existing condition or, where that is not possible, restores the functions of the affected area. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.~~

~~C. Minimum Performance Standards for Restoration.~~

~~— 1. For alterations to frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:~~

~~—— a. The structure and functions of the critical area or buffer prior to violation shall be restored, including water quality and habitat functions;~~

~~—— b. The soil types and configuration prior to violation shall be replicated;~~

~~—— c. The critical area and buffers shall be replanted with native vegetation (a list of native species is available from the Shoreline Administrator). If the critical area or buffer is on a site that meets the criteria of VMC 20.740.030(B)(1), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the Shoreline Administrator; and~~

~~——— d. Information demonstrating compliance with the requirements in VMC 20.740.050(F) Mitigation Plan Requirements shall be submitted to the Shoreline Administrator.~~

~~—— 2. For alterations to frequently flooded and geologic hazard areas, the following minimum performance standards shall be met for the restoration of a critical area or buffer, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:~~

~~——— a. The hazard shall be reduced to a level equal to, or less than, the pre-violation hazard;~~

~~——— b. The risk of personal injury resulting from the alteration shall be eliminated or minimized;~~

~~——— c. Drainage patterns shall be restored to those existing before the alteration; and~~

~~——— d. The hazard area and buffers shall be replanted consistent with pre-violation conditions with native vegetation sufficient to minimize the hazard. If the critical area or buffer is on a site that meets the criteria of VMC 20.740.030(B)(1), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the Shoreline Administrator.~~

~~D. Site Investigations. The Shoreline Administrator is authorized to make site inspections and take such actions as are necessary to enforce this chapter. As a condition of the restoration plan, the applicant shall grant reasonable access to the property.~~

~~(M 3844, Amended, 10/01/2007, Sec 2; M 3692, Added, 02/28/2005, Sec 2)~~

Section 20.740.100 — Habitats of Local Importance

~~A. Eligibility and Approval Criteria. Habitats of Local Importance are Fish and Wildlife Habitat Conservation Areas which are not designated as Priority Habitats and Species by the state but are designated as locally significant by the City. Criteria for designation include all of the following:~~

~~—— 1. A need for protection exists due to a high diversity of fish or wildlife species, declining populations, scarcity of the habitat type, sensitivity to disturbance from human activity or development, or other unique local habitat functions.~~

~~—— 2. The area is sufficient in size to support the species or habitat functions for which it is designated.~~

~~—— 3. The designation will not compromise the ability of the City to achieve the goals of the Comprehensive Plan.~~

~~—— 4. There is a proposed management strategy describing how the functions of the habitat will be protected after designation.——~~

~~B. Designation Process. Habitats of Local Importance may be proposed by the property owner or the City and shall be designated according to a Type IV legislative procedure (VMC 20.210.070).~~

~~(M 3692, Added, 02/28/2005, Sec 2)~~

Section 20.740.110 — Fish and Wildlife Habitat Conservation Areas

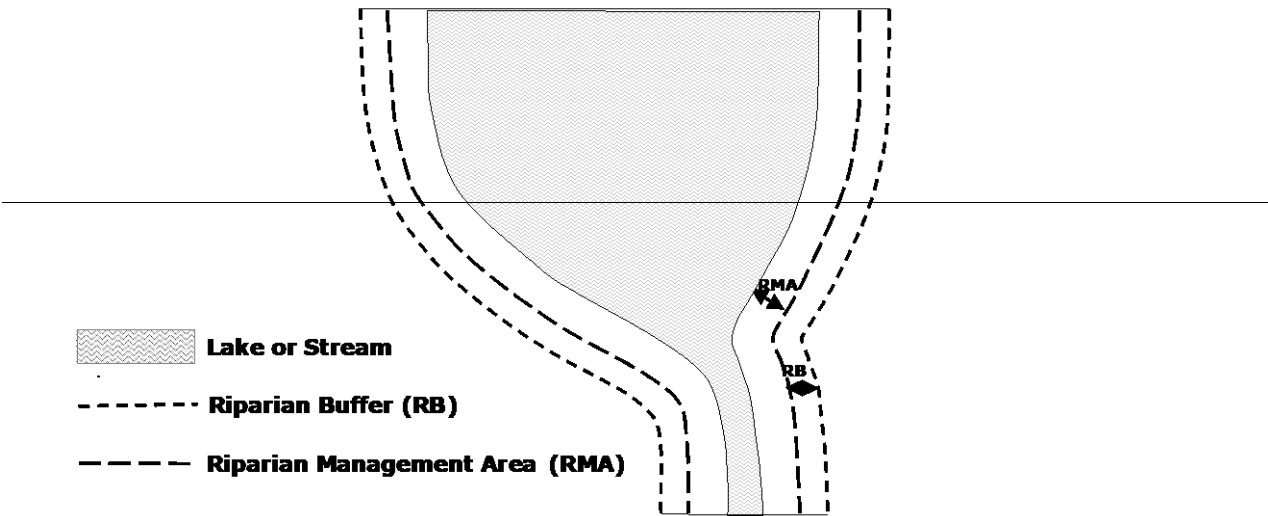
~~A. Designation.~~

~~—— 1. Final designations shall be based on site conditions and other available data or information (See~~

VMC 20.740.020(C)(1). There are established in the City the following identified Fish and Wildlife Habitat Conservation Areas:

- ~~_____ a. Habitat used by any life stage of state or federally designated endangered, threatened, and sensitive fish or wildlife species. A current list of federally and state identified species is available from the Shoreline Administrator.~~
- ~~_____ b. Priority Habitats and areas associated with Priority Species. Current lists of Priority Habitats and Species and applicable Management Recommendations promulgated by the Washington Department of Fish and Wildlife are available from the Shoreline Administrator.~~
- ~~_____ c. Water bodies including lakes, streams, rivers, and naturally occurring ponds.~~
- ~~_____ d. Habitats of Local Importance. Fish and Wildlife Habitat Conservation Areas which are not designated as Priority Habitats and Species by the state but are designated as locally significant by the City in accordance with VMC 20.740.100.~~
- ~~_____ e. Riparian Management Areas and Riparian Buffers. The regulated areas include the land from the ordinary high water mark to a specified distance as measured horizontally in each direction. The Riparian Management Area is adjacent to the lake, stream or river, and the Riparian Buffer is adjacent to the Riparian Management Area.~~

**Figure 20.740.110-1
Riparian Management Area and Riparian Buffer**



~~(1) The Riparian Management Areas and Riparian Buffers are as follows:~~

TABLE 20.740.110-1

RIPARIAN MANAGEMENT AREAS & BUFFERS

DNR /Vancouver Stream Type	Description	Land Use Intensity ¹	RMA	RB ²
S	Shorelines of the State	High/Moderate/Low	100'	75'
F	Lakes, streams, and rivers that contain fish habitat	High/Moderate/Low	100'	75'
Np or Ns, large	Streams and rivers that: (1) are not shorelines of the state; (2) do not contain fish habitat; (3) are wider than 5' between the ordinary high water marks on the banks.	High/Moderate/Low	100'	75'
Np, small, connected	Streams and rivers that: (1) are not shorelines of the state; (2) do not contain fish habitat; (3) are not more than 5' wide; (4) do connect via surface water to another stream or river (whether perennial or seasonal) even if the connection traverses a culvert, wetland, or other feature; and (5) are perennial	High/Moderate Low	100' 100'	50' 25'
Ns, small, connected	Streams and rivers that: (1) are not shorelines of the state; (2) do not contain fish habitat; (3) are not more than 5' wide; (4) do connect via surface water to another stream or river (whether perennial or seasonal) even if the connection traverses a culvert, wetland, or other feature; and (5) are seasonal	High/Moderate Low	100' 100'	25' 0'
Np or Ns, small, not connected	Streams and rivers that: (1) are not shorelines of the state; (2) do not contain fish habitat; (3) are not more than 5' wide; (4) do not connect via surface water to another stream or river; and (5) are either perennial or seasonal	High/Moderate/Low	25'	0'

¹Refer to Table 20.740.140-1.²The RB is the distance shown or the full extent of the 100-year floodplain, whichever is farther

landward.

____ (A) When impervious surfaces from previous development completely functionally isolate the Riparian Management Area or the Riparian Buffer from the waterbody, the regulated riparian area shall extend from the ordinary high water mark to the impervious surfaces. If the waterbody is not completely physically isolated, but is completely functionally isolated, the Shoreline Administrator may adjust the regulated riparian area to reflect site conditions and sound science.

2. ~~Habitat Location Information. Information on the approximate location and extent of Habitat Conservation Areas is available from the Shoreline Administrator.~~

The habitat location information is based on:

- ____ a. Washington Department of Fish and Wildlife Priority Habitat and Species Maps;
- ____ b. Washington Department of Fish and Wildlife Anadromous and Resident Salmonid Distribution Maps in the Salmon and Steelhead Habitat Inventory Assessment Program (SSHAP);
- ____ c. Washington Department of Natural Resources Official Water Type Reference Maps;
- ____ d. City designated Habitats of Local Importance;
- ____ e. Other information acquired by the City.

B. ~~Additional Critical Areas Report Requirements~~

____ 1. A Critical Areas Report for a Riparian Management Area or Riparian Buffer shall include evaluation of the habitat functions using the Clark County Habitat Conservation Ordinance Riparian Habitat Field Rating Form or another habitat evaluation tool approved by the Washington Department of Fish and Wildlife.

____ a. In addition to the standards of (VMC 20.740.050F), where a mitigation plan is required as part of the Critical Areas Report for a fish and wildlife habitat conservation area that involves a water body, Riparian Management Area or Riparian Buffer, the monitoring program protocol shall include where relevant to the impacted functions:

- ____ 1. Observations and measurements of riparian integrity and quality (buffer width, riparian corridor continuity or fragmentation, species diversity, stand age, plant survival rates)
- ____ 2. Large woody debris surveys
- ____ 3. Streamflow monitoring
- ____ 4. Water quality monitoring to detect pollution impacts
- ____ 5. Biological monitoring (including fish surveys and benthic macroinvertebrate sampling)

____ 2. If the clearing or development activity is in the Riparian Management Area, the Critical Areas Report shall contain the following information, if applicable, in addition to the general Critical Areas Report requirements of VMC 20.740.050:

~~_____ a. How the clearing or development activity constitutes a water dependent, water related or water enjoyment use; or~~

~~_____ b. How the clearing or development activity cannot feasibly be located on the site outside of the Riparian Management Area; and~~

~~_____ c. How the proposal meets the Riparian Management Area width averaging standard (VMC 20.740.110(C)(2)(c)); and~~

~~_____ d. How the proposal will not adversely affect the connectivity of habitat functions.~~

C. Performance Standards

~~_____ 1. General.~~

~~_____ a. Development or clearing activities shall protect the functions of the Habitat Conservation Areas on the site. The activity shall result in no net loss of functions. Protection can be provided by avoiding (the preferred protection) or minimizing and mitigating as described in the general critical areas approval criteria (VMC 20.740.060). Functions include:~~

~~_____ 1. Providing habitat for breeding, rearing, foraging, protection and escape, migration, and over-wintering; and~~

~~_____ 2. Providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, removing pollutants from water, and maintaining appropriate temperatures.~~

~~_____ b. An applicant shall replace any lost functions preferably by restoring or if not, then by enhancing other habitat functions, so long as the applicant demonstrates that enhancement of the other functions provides no net loss in overall functions and maintains habitat connectivity. An example of unavoidable loss of function would be interruption of a travel corridor in a Riparian Management Area or Buffer. To the maximum extent feasible, enhancement shall be undertaken on-site.~~

~~_____ c. If development or clearing activity is within a Priority Habitat and Species area the applicant shall follow Washington Department of Fish and Wildlife Management Guidelines, Management Recommendations or other standards approved by the Washington Department of Fish and Wildlife. Where there are no guidelines, recommendations or other standards, development or clearing may occur provided that:~~

~~_____ 1. The development or clearing results in no net loss of habitat function on the site; and~~

~~_____ 2. Functionally significant habitat, defined as habitat that cannot be replaced or restored within 20 years, shall be preserved.~~

~~_____ d. Signs for Fish and Wildlife Conservation Areas~~

~~_____ 1. Temporary markers. The location of the outer perimeter of the fish and wildlife habitat conservation area shall be marked in the field, and such marking shall be approved by the Shoreline Administrator prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.~~

2. Permanent signs. Permanent signs shall be posted on public and private properties at an interval of one per lot for single family residential uses or at a maximum interval of 200 feet or as otherwise determined by the Shoreline Administrator, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the Shoreline Administrator: "The area beyond this sign is a fish and wildlife habitat conservation area. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information."

2. Riparian Management Areas and Riparian Buffers.

In addition to the standards in VMC 20.740.060 and VMC 20.740.110(C)(1) the standards in this section shall apply in Riparian Management Areas and Buffers.

a. Riparian Buffer. Development or clearing activity may occur in the Riparian Buffer, providing that:

1. The planned mitigation results in no net loss of riparian habitat functions on the site, and

2. Functionally significant habitat, defined as habitat that cannot be replaced or restored within 20 years, shall be preserved unless the activity meets the conditions of VMC 20.740.110(C)(2)(b). An example of habitat that cannot be replaced within 20 years would be a stand of mature trees or a peat bog.

b. Riparian Management Area. No development or clearing activity is allowed within the Riparian Management Area unless such activity is:

1. A water dependent, water related or water enjoyment activity where there are no feasible alternatives that would have a less adverse impact on the Riparian Management Area or Riparian Buffer. The applicant shall minimize the impact and mitigate for any unavoidable impact to functions; Cost may be considered, but shall not be overriding; or

2. A road, railroad, trail, dike, or levee or a water, sewer, stormwater conveyance, gas, power, cable, fiber optic, or telephone facility that cannot feasibly be located outside of the Riparian Management Area, that minimizes impacts, and that mitigates for any unavoidable impact to functions. Cost may be considered, but shall not be overriding; or

3. Mitigation for activities allowed by this chapter, providing the activity provides no net loss of riparian habitat functions on the site.

c. Modification of the Riparian Management Area Width. The width of the Riparian Management Area may be modified (See VMC 20.170.080(B)(1)) if all the following are met:

1. The square footage of the area meeting the performance standards of the Riparian Management Area (VMC 20.740.110(C)(2)(b)) is not reduced; and

2. There is no net loss of functions as a result of the averaging; and

3. Notwithstanding any other provision, the reduction of the Riparian Management Area width at any location may be no greater than 25%.

d. Owners of developed properties within the Riparian Management Area or Riparian Buffer are encouraged to enhance the area by planting native plants and to apply integrated pest management.

~~—c. Agricultural activities in the Riparian Management Area or Riparian Buffer are encouraged to develop farm conservation plans.~~

~~(M 3931, Amended, 11/02/2009, Sec 25 Effective 12/2/2009; M 3844, Amended, 10/01/2007, Sec 2; M3692, Added, 02/28/2005, Sec 2)~~

Section 20.740.120 — Frequently Flooded Areas

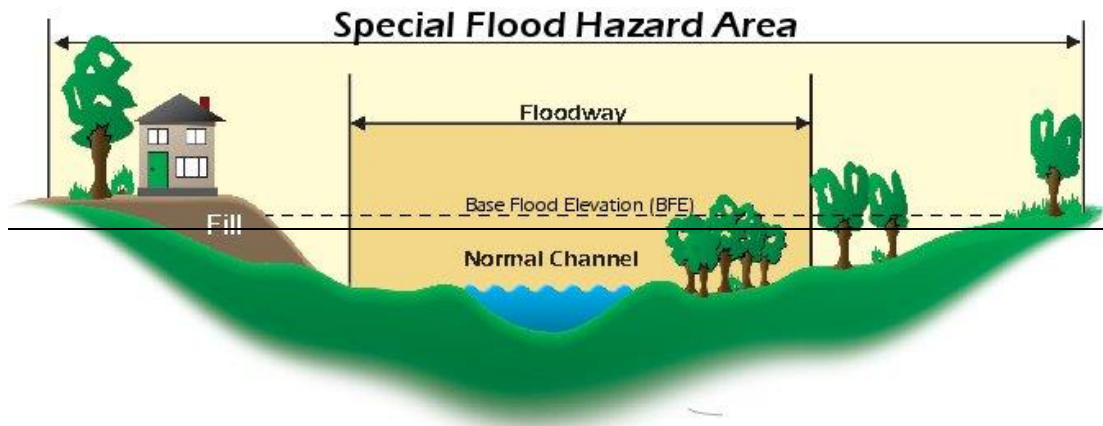
A. Designation.

Frequently Flooded Areas are the *Areas of Special Flood Hazards* identified by the Federal Insurance Administration and the Federal Emergency Management Agency (FEMA), respectively, in scientific and engineering reports entitled, *Flood Insurance Study: Clark County, Washington and Incorporated Areas, Volumes 1 and 2 (Numbers 53011CV001A and 53011CV002A, respectively)*, effective September 5, 2012 with accompanying Flood Insurance Rate Maps (FIRMs and their digital version, DFIRMs). The Flood Insurance Study (FIS), FIRMs and DFIRMs are available from the Shoreline Administrator, 415 West 6th Street, Vancouver, WA 98660. (See VMC 20.150.040 Meanings of Specific Words and Terms for definitions for *Areas of Special Flood Hazards*, *Floodplain*, *Floodway*, and *Frequently Flooded Areas*.)

Portions of channel migration zones located outside areas of special flood hazards are not designated as frequently flooded areas.

When base flood elevation (BFE) data has not been provided in frequently flooded areas (Zone A), the Shoreline Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source in order to administer the provisions of this chapter. This best available information for flood hazard area identification shall be the basis for regulation until a new FIRM/DFIRM is issued.

Figure 20.740.120-1
Frequently Flooded Areas/Areas of Special Flood Hazards



Adapted from Floodplain Management: A Local Administrator's Guide to the National Flood Insurance Program, Fifth Edition, FEMA Region 10.

B. Additional Critical Areas Report Requirements.

In addition to the Critical Areas Report requirements in VMC 20.740.050, the following information shall be submitted. Elevation data shall reference the NAVD 1988 Datum.

- 1. Base (100 year) flood elevation in relation to mean sea level. When base flood elevation has not been provided or is not available from an authoritative source, it shall be generated by the applicant for developments which contain at least 50 lots or 5 acres, whichever is less.
- 2. Elevation in relation to mean sea level, of the lowest floor (including basement) of all existing and proposed structures.
- 3. Elevation in relation to mean sea level to which any structure's lowest floor (including basement) is raised to be at least 1 foot above the base flood elevation or for non-residential flood-proofed structures, the elevation in relation to mean sea level to which any structure is flood-proofed.
- 4. Location of the channel migration zone. See the Clark County Shoreline Inventory & Characterization Report, Volume 1, Lewis and Salmon Washougal Watersheds and Rural Areas, Map 27, Potential Channel Migration Zone (CMZ) Areas for general locations of channel migration zones. The actual location of the channel migration zone on site must be identified by a qualified professional and mapped in accordance with the submittal requirements of VMC 20.740.050.
- 5. Description of strategies taken to avoid, minimize, and mitigate unavoidable impacts to public safety. When the base flood elevation has not been provided or is not available from an authorized source (VMC 20.740.120A), the Critical Areas Report shall include a discussion of how and whether the proposed development would be reasonably safe from flooding. Historical data, high water marks, photographs of past flooding and other available information will be used as the basis for this discussion and conclusion.

~~— 6. Certification, documentation, and demonstration by a qualified professional of how the applicable standards of VMC 20.740.120(C) will be met. To support the “no rise” analyses required in VMC 20.740.120(C)(1)(b), the documentation required in the most recently updated or amended FEMA Region 10 publication, *Floodplain Management: A Local Floodplain Administrator’s Guide to the National Flood Insurance Program* shall be submitted.~~

C. Performance Standards.

Except as noted, the following standards apply to all structures and development (including but not limited to the placement of manufactured homes, substantial improvement, roads, railroads, trails, dikes, levees, or water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone facilities) in all areas of special flood hazards and channel migration zones (CMZs). Additional restrictions apply in the floodway.

~~— 1. Encroachments. (See Section 5.6.2.)~~

~~— a. Designated Floodway: Prohibited Encroachments. The following are prohibited in the floodway:~~

~~— 1. Water wells (20.740.120(C)(4)(a)).~~

~~— 2. On site waste disposal systems (20.740.120(C)(5)(a)).~~

~~— 3. Residential structures or other structures for human habitation including but not limited to:~~

~~— a. Building envelopes within subdivisions (20.740.120(C)(9)(a));~~

~~— b. New construction or reconstruction of residential structures (20.740.120(C)(10)(b)(1));~~

~~— c. Placement or replacement of manufactured homes (all types) (20.740.120(C)(10)(b)(2));~~

~~— d. Critical facilities housing vulnerable populations and emergency services (20.740.120(C)(12)(a)); and~~

~~— e. Recreational vehicles (20.740.120(C)(13)(a)).~~

~~— b. Designated Floodway: Allowed Encroachments. In areas where the base flood elevation has been provided and a regulatory floodway has been designated, other encroachments including but not limited to fill, new construction, replacement structures, substantial improvements and other development shall be prohibited unless:~~

~~— 1. Certification by a qualified professional (in this case, a registered professional engineer) is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in base flood elevation (less than 0.00 feet, rounded) or flood velocity during the occurrence of the base flood discharge. At a minimum, such “no rise” analyses shall include a step backwater analysis and a conveyance compensation analysis as required in the most recently updated or amended FEMA Region 10 publication, *Floodplain Management: A Local Floodplain Administrator’s Guide to the National*~~

Flood Insurance Program; and

~~_____ 2. The applicable standards of Chapter 5A, VMC 20.740.120(C)(2-14) are also met.~~

~~_____ c. **No Designated Floodway: Allowed Encroachments.** In areas where the base flood elevation has been provided but a regulatory floodway has not been designated, no encroachments including but not limited to new construction, substantial improvement, or other development (including fill) shall be permitted, unless:~~

~~_____ 1. The applicant has demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point; and~~

~~_____ 2. The applicable standards of Chapter 5A, VMC 20.740.120(C)(2-14) are also met.~~

~~_____ d. **Other Areas of Special Flood Hazards and CMZs.** In areas of special flood hazards except the floodway or where the BFE has not been provided, or in channel migration zones, encroachments, including but not limited to fill, new construction, replacement structures, substantial improvements and other development shall be prohibited, unless:~~

~~_____ 1. A qualified professional provides certification demonstrating that the proposed project would not result in a net loss of flood storage capacity; and~~

~~_____ 2. The applicable standards of Chapter 5A, VMC 20.740.120(C)(2-14) are also met.~~

~~_____ 2. **Property Damage.** Development shall not result in adverse impacts to other properties either upstream or downstream.~~

~~_____ 3. **Drainage.** Drainage paths around structures and on slopes shall be adequate to guide floodwaters around and away from proposed structures and adjacent properties.~~

~~_____ 4. **Water.**~~

~~_____ a. Water wells are prohibited in the floodway.~~

~~_____ b. In areas of special flood hazards except the floodway and in CMZs, water wells shall be constructed to withstand a 100-year flood without adversely impacting groundwater quality (WAC 173-160-171).~~

~~_____ c. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.~~

~~_____ 5. **Waste.**~~

~~_____ a. On-site waste disposal systems are prohibited in the floodway.~~

~~_____ b. In areas of special flood hazards except the floodway and in CMZs, on-site waste disposal systems shall be located to avoid flood damage to them or release of contaminants from them during a base flood event.~~

~~_____ c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate~~

~~infiltration of flood waters into the systems and discharge from the systems into flood waters.~~

~~— 6. Construction Materials and Methods.~~

~~—— a. Construction methods and practices shall minimize flood damage.~~

~~—— b. Construction materials and utility equipment shall be resistant to flood damage. For guidance on flood-resistant materials see the most current FEMA Technical Bulletin 2, *Flood-Resistant Materials Requirements*.~~

~~—— c. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during a base flood event. For guidance on the placement of building utility systems, see the most current FEMA Publication #348, *Protecting Building Utilities from Flood Damage*.~~

~~— 7. Anchoring. All new construction including substantial improvements and all types of manufactured homes shall:~~

~~—— a. Be elevated on a permanent foundation and securely anchored to an adequate foundation system to prevent flotation, collapse, or lateral movement.~~

~~—— b. Be installed or placed using methods and practices that minimize flood damage. Manufactured home placement shall follow the guidance in the most current FEMA P-85, *Protecting Manufactured Homes from Floods and Other Hazards*.~~

~~— 8. Enclosed Areas Below the Base Flood Elevation.~~

~~—— a. Enclosed areas below the base flood elevation shall be used only for vehicle parking, building access, or storage.~~

~~—— b. New or substantially improved enclosed areas below the base flood elevation shall be constructed in accordance with:~~

~~—— 1. VMC 20.740.120(C)(7), Anchoring~~

~~—— 2. VMC 20.740.120(C)(10)(c)(2)(d), Residential Construction~~

~~—— 3. VMC 20.740.120(C)(6)(b-c), Construction Materials and Methods~~

~~—— c. Enclosed areas below the BFE shall not be considered to be the lowest floor when they are not part of a basement and meet the requirements of VMC 20.740.120(C)(10)(d).~~

~~—— d. Crawlspace Construction. Crawlspaces are a type of enclosed area below the BFE. Crawlspaces constructed at or above the lowest adjacent exterior grade are preferred. (Note: Insurance premiums for structures with below-grade crawlspaces will be higher than those with the interior elevation at or above the lowest adjacent exterior grade.) Refer to the most current FEMA Technical Bulletin 11, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas* (available from the Planning Official) for more information. Crawlspaces:~~

~~—— 1. Are prohibited in areas with flood velocities greater than five feet (5') per second~~

~~unless designed by a qualified professional (in this case an architect or professional engineer).~~

~~_____ 2. Shall meet the requirements of VMC 20.740.120(C)(8)(a-c), Enclosed Areas below the BFE.~~

~~_____ 3. Shall not be considered “basements” for the purposes of VMC 20.740.120 when constructed according to the following standards:~~

~~_____ a. The interior grade of a crawlspace below the base flood elevation must not be more than 2’ below the lowest adjacent exterior grade.~~

~~_____ b. The height of the below grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4’ at any point.~~

~~_____ c. The crawlspace must be equipped with a drainage system that removes floodwaters from the interior area of the crawlspace in a reasonable period of time after a base flood event.~~

~~_____ 9. Subdivisions.~~

~~_____ a. All subdivisions shall be designed:~~

~~_____ 1. To ensure that no residential structure or other structures for human habitation are located in the floodway even though lots may extend into the floodway;~~

~~_____ 2. To avoid placement of any structures in areas of special flood hazards and in CMZs;~~

~~_____ 3. Where it is not possible to design a subdivision in a manner to avoid placement of any structures in areas of special flood hazards or CMZs, the subdivision shall be designed to minimize or eliminate potential flood damage.~~

~~_____ b. All subdivisions shall have facilities such as sewer, gas, power, cable, fiber optic, telephone, stormwater and water systems located and constructed to minimize or eliminate flood damage. (See VMC 20.740.120(C)(2), Property Damage; VMC 20.740.120(C)(4), Water; VMC 20.740.120(C)(5), Waste; VMC 20.740.120(C)(6), Construction Materials and Methods; and VMC 20.740.120(C)(7), Anchoring.)~~

~~_____ c. All subdivisions shall have adequate drainage provided to reduce exposure to flood damage. (See VMC 20.740.120(C)(3), Drainage.)~~

~~_____ 10. Residential Construction (including Manufactured Homes).~~

~~_____ a. Residential Construction in the Floodway.~~

~~_____ 1. New construction and reconstruction of residential development including placement and replacement of all types of manufactured homes is prohibited in the floodway.~~

~~_____ 2. Existing residential structures and manufactured homes in the floodway are non-conforming, but may be repaired or improved, provided:~~

~~_____ a. The repair or improvement does not increase the ground floor area of the structure; and~~

~~_____ b. The repair or improvement does not result in adverse impacts to other properties either upstream or downstream; and~~

~~_____ c. The cost of the repair or improvement does not exceed 50% of the market value of the structure either:~~

~~_____ 1. Before the start of repair or improvement where there is no damage to the structure; or~~

~~_____ 2. Before flood or other damage to the structure occurred.~~

~~_____ d. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the Planning Official and which are the minimum necessary to assure safe living conditions may be excluded from the 50%.~~

~~_____ e. Any project for improvement to a structure identified as a historic place may be excluded from the 50%.~~

~~_____ b. Residential Construction in Other Areas of Special Flood Hazards and CMZs. In areas of special flood hazards except the floodway and in channel migration zones:~~

~~_____ 1. New residential construction and reconstruction, including all types of manufactured homes and other structures for human habitation shall meet all the provisions of this chapter, including VMC 20.740.120(C)(8) and (10)(c-d).~~

~~_____ 2. New placement or replacement of all types of manufactured homes shall meet the standards of VMC 20.740.120(C)(7), Anchoring.~~

~~_____ 3. Repair or Substantial Improvement. All provisions of this chapter (including the elevation standards of VMC 20.740.120(C)(8) and (10)(c-d)), all state and local health, sanitary, safety codes, and where applicable, historic preservation codes shall be met when the cost of repair or improvement of an existing residential structure exceeds 50% of the market value of the structure either:~~

~~_____ a. Before the start of repair or improvement where there is no damage to the structure; or~~

~~_____ b. Before flood or other damage to the structure occurred.~~

~~_____ c. Elevation~~

~~_____ 1. BFE Established. The lowest floor (including basement) of new residential structures (including but not limited to reconstruction, substantial improvement, the placement or replacement of all types of manufactured homes) shall be elevated at least 1 foot above base flood elevation. Structures shall be elevated using means other than fill (such as extended foundation or other enclosure walls, piles, or columns) whenever feasible.~~

~~_____ 2. No BFE. In areas where the base flood elevation has not been provided or is not available from an authorized source (VMC 20.740.120(A) and .120(B)(5)) and the Critical Areas Report demonstrates to the satisfaction of the Planning Official that the proposed development would be~~

reasonably safe from flooding, new residential construction (including but not limited to substantial improvement and the placement of manufactured homes) shall be elevated at least 2' above the highest adjacent grade. (Note: Failure to elevate at least 2' above the highest adjacent grade may result in higher insurance rates.)

_____ d. Fully Enclosed Areas Below Lowest Floor. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited unless designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must be certified by a qualified professional (in this case, a registered professional engineer or architect), or must meet or exceed the following minimum criteria:

_____ 1. Contain a minimum of 2 openings having a total net area of not less than 1 square inch for every 1 square foot of enclosed area subject to flooding;

_____ 2. The bottom of all openings are no higher than 1 foot above grade; and

_____ 3. Openings permit the automatic entry and exit of floodwaters even when equipped with screens, louvers, or other coverings or devices.

_____ For guidance on flood openings, see FEMA Technical Bulletin 1-93, *Openings in Foundation Walls*.

_____ 11. Non-Residential Construction. New construction and substantial improvement of any nonresidential structure shall either be elevated (VMC 20.740.120(C)(11)(a or b)) or flood proofed (VMC 20.740.120(C)(11)(c)):

_____ a. Be Elevated: BFE Established.

_____ 1. Have the lowest floor, including basement, elevated at least one foot above the base flood elevation; and

_____ 2. Meet the same standards for space below the lowest floor as described in 20.740.120(C)(8)(d) and VMC 20.740.120(C)(10)(d);

_____ b. Be Elevated: No BFE.

_____ 1. In areas where the base flood elevation has not been provided or is not available from an authorized source (VMC 20.740.120(C)(2A) and (3.120(B)(5)) and the Critical Areas Report demonstrates to the satisfaction of the Planning Official that the proposed development would be reasonably safe from flooding, new non-residential construction shall be elevated at least 2' above the highest adjacent grade. Failure to elevate at least 2' above the highest adjacent grade may result in higher insurance rates; and

_____ 2. Meet the same standards for space below the lowest floor as described in 20.740.120(C)(8)(d) and VMC 20.740.120(C)(10)(d); or

_____ c. Be Flood proofed. Together with attendant utility and sanitary facilities shall:

_____ 1. Be flood proofed so that below one foot (or more) above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water;

~~_____ 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;~~

~~_____ 3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Planning Official as set forth in VMC 20.740.120(E).~~

~~_____ 12. Critical Facilities.~~

~~_____ a. Critical facilities housing vulnerable populations and emergency services shall be prohibited in the floodway.~~

~~_____ b. In areas of special flood hazard except the floodway and in CMZs, construction of new critical facilities shall be prohibited unless the applicant demonstrates that:~~

~~_____ 1. No feasible alternative site is available; and either:~~

~~_____ a. The lowest floor, entrances, egresses, and to the extent feasible access routes are elevated to 3 feet above the base flood elevation or to the elevation of the 500-year flood, whichever is lower; or~~

~~_____ b. The applicant demonstrates that other measures would ensure that in the event of a flood, the facility would remain safe and fully operational and that potentially harmful materials would not be displaced by or released into floodwaters. Such measures shall be conditions of approval of the Critical Areas Permit.~~

~~_____ 13. Recreational Vehicles.~~

~~_____ a. Recreational vehicles shall be located outside the floodway.~~

~~_____ b. Recreational vehicles in areas of special flood hazard except the floodway and in CMZs shall either:~~

~~_____ 1. Be on the site for fewer than 180 consecutive days;~~

~~_____ 2. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type water, sewer, stormwater, gas, power, cable, fiber optic, telephone, and security devices, and have no permanently attached additions; or~~

~~_____ 3. Meet the requirements of VMC 20.740.120(C)(7), Anchoring; VMC 20.740.120(C)(8), Enclosed Areas below the Base Flood Elevation; and VMC 20.740.120 (C)(10)(c), Elevation.~~

~~_____ 14. Alteration of Watercourse.~~

~~_____ a. The Shoreline Administrator shall notify adjacent communities and the state coordinating agency, Washington State Department of Ecology, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.~~

~~_____ b. Alteration or relocation of a watercourse shall be allowed only after:~~

- ~~_____ 1. Certification by a qualified professional that the alteration or relocation:~~
 - ~~_____ a. Is the only feasible alternative or is part of a restoration project approved by the appropriate state or federal agencies;~~
 - ~~_____ b. Will not diminish the flood-carrying capacity of the watercourse;~~
 - ~~_____ c. Will not block side channels;~~
 - ~~_____ d. Will be accomplished using soft armoring techniques wherever possible;~~
 - ~~_____ e. Will avoid to the extent possible and then minimize and mitigate removal of vegetation including downed woody vegetation; and~~
 - ~~_____ f. Will not endanger development in the channel migration zone.~~
- ~~_____ 2. The applicant provides assurance acceptable to the Shoreline Administrator of maintenance of the relocated channel such that the flood-carrying capacity of the watercourse is not diminished.~~

~~D. Variances and Minor Exceptions.~~

~~_____ Variances as interpreted in the National Flood Insurance Program are based on the principle that they pertain to a physical piece of property. They apply to the land and are not personal in nature, do not pertain to the structure, its inhabitants, or economic or financial circumstances. The development standards contained in VMC 20.740.120, Frequently Flooded Areas are required by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program (NFIP) to protect life and property from flood damage.~~

~~_____ Variances from the NFIP standards of VMC 20.740.120 shall meet the approval criteria and other requirements of VMC 20.740.120(D) in addition to any other applicable variance criteria or requirements (e.g., VMC 20.290 or VMC 20.760). Variances from the NFIP standards of VMC 20.740.120 shall be processed as Type I or II variances or shoreline variances as appropriate, not as Minor Exceptions (VMC 20.740.070).~~

~~_____ Variances or minor exceptions from other critical area standards (any standards of VMC 20.740 not in Section VMC 20.740.120) shall meet the applicable criteria and follow the applicable procedures for the relief requested (VMC 20.740.070, VMC 20.290, or VMC 20.760)~~

- ~~_____ 1. NFIP Variances may be allowed:~~
 - ~~_____ a. For Historic Structures. NFIP variances may be issued for the repair, reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, Washington Heritage Register, Washington's Heritage Barn Register, Washington's Historic Property Inventory Database, Clark County Cultural Resources Inventory, or Clark County Heritage Register, provided:~~
 - ~~_____ 1. The proposed development will not preclude the structure's continued designation as a historic structure;~~
 - ~~_____ 2. The variance is the minimum necessary to preserve the historic character and design of the structure; and~~

- 3. NFIP variance approval criteria at VMC 20.740.120(D)(2)(a-d) are met:
 - b. From the Elevation Standard. An NFIP variance from the elevation standard may be issued for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood elevation. As the lot size increases the technical justification required for issuing the variance increases.
 - c. From the Flood proofing Standard for Non-Residential Buildings. NFIP variances may be issued for non-residential buildings to allow a lesser degree of flood proofing than watertight or dry flood proofing where it can be determined that such action:
 - 1. Will have low damage potential;
 - 2. Complies with all other NFIP variance criteria except VMC 20.740.120(D)(1)(a)(2);
 - 3. Complies with VMC 20.740.120(C)(4), Water; VMC 20.740.120(C)(5), Waste; VMC 20.740.120(C)(7), Anchoring; and VMC 20.740.120(C)(9), Subdivisions.
 - d. For Allowed Development within the Floodway. NFIP variances may be issued for development within a floodway only when the requirements of VMC 20.740.120(C)(1)(b) are met.
- 2. NFIP Variance Approval Criteria. NFIP variances from elevation and flood proofing standards, and for development in the floodway (VMC 20.740.120(D)(1)(a)(2-4)) may be granted only if the applicant demonstrates that the requested action conforms to all of the following criteria:
 - a. The NFIP variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. The applicant has demonstrated good and sufficient cause.
 - c. Failure to grant the NFIP variance would result in exceptional hardship to the applicant. (Exceptional hardship for an NFIP variance is described in a FEMA memorandum dated July 22, 1986 entitled *Resource Materials on NFIP Variance Criteria* available from the Planning Official.)
 - d. Granting the variance will not result in increased flood heights or velocities, additional threats to public safety, significantly increased property damage potential, extraordinary public expense, or conflict with existing local laws or ordinances.
 - e. Demonstration that the following factors have been considered:
 - 1. The danger that materials may be swept onto other lands to the injury of others;
 - 2. The danger to life and property due to flooding or erosion damage;
 - 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - 4. The importance of the services provided by the proposed facility to the community;
 - 5. The necessity to the facility of a waterfront location, where applicable;

~~—— 6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~

~~—— 7. The compatibility of the proposed use with existing and anticipated development;~~

~~—— 8. The relationship of the proposed use to the comprehensive plan;~~

~~—— 9. The safety of access to the property in times of flood for ordinary and emergency vehicles;~~

~~—— 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and~~

~~—— 11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of facilities such as sewer, gas, electrical, stormwater, and water systems, and streets and bridges.~~

~~—— 3. Notices Required.~~

~~A notice to the applicant is required whenever a variance is approved, approved with conditions, or denied. Such notice shall include the decision and the reasons for the decision. When a variance from the elevation standard is approved or approved with conditions, such notice shall state that the structure will be permitted to be built with a lowest floor elevation below that normally required with respect to the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.~~

E. Information to be Obtained and Maintained.

~~1. For all new and substantially improved structures and development, the Shoreline Administrator shall complete Section B of a current elevation certificate and obtain and record on that certificate:~~

~~a. For elevated (rather than flood proofed) structures and development, the actual (as built) elevation in relation to mean sea level of the lowest floor (including basement), and whether or not the structure contains a basement.~~

~~b. For non-residential, flood proofed structures, the elevation to which the structure was flood proofed. All flood proofing certifications shall also be maintained.~~

~~c. Maintain all records pertaining to development in frequently flooded areas subject to the provisions of this chapter, VMC 20.740, for public inspection.~~

~~—— 2. Records of Variance Actions. The Shoreline Administrator shall keep records of all variance actions and report any approved variances to the Federal Insurance Administration upon request.~~

~~—— 3. Records of Appeal Actions. The Shoreline Administrator shall keep records of all appeal actions. (M-3844, Amended, 10/01/2007, Sec 2; M-3692, Added, 02/28/2005, Sec 2)~~

Section 20.740.130 — Geologic Hazard Areas

A. Designation. Designated or potential Geologic Hazard Areas include Landslide, Seismic, and Erosion

~~Hazard Areas. With the exception of bank erosion hazard areas and fault rupture hazard areas, their potential locations are shown on maps available from the Shoreline Administrator. Final designations shall be based on site conditions and other available data or information [See VMC 20.740.020(C)(1)].~~

~~1. Landslide Hazard Areas. Potential landslide hazard areas are identified from the sources listed below.~~

~~a. Slopes greater than 25% on the property and adjacent areas within 100 feet, except engineered slopes such as cut and fill slopes along transportation routes (including trails), railroad and other berms, or dikes.~~

~~b. Areas of historic or active landslides, potential instability, or older landslide debris identified on the 1975 map by Allen Fiksdal of the Washington State Department of Natural Resources entitled, *Slope Stability: Clark County Washington* as revised or superseded, or identified from other available data or in the field by a qualified professional and adjacent areas within 100 feet.~~

~~2. Seismic Hazard Areas. Seismic Hazard Areas include Liquefaction or Dynamic Settlement, Ground Shaking Amplification, and Fault Rupture Hazard Areas.~~

~~a. Liquefaction or Dynamic Settlement. The following are designated Liquefaction or Dynamic Settlement Hazard Areas:~~

~~1. Areas with Low to Moderate, Moderate, Moderate to High, or High liquefaction susceptibility or Peat Deposits as indicated on the *Alternative Liquefaction Susceptibility Map of Clark County, Washington based on Swanson's Groundwater Model* by Stephen P. Palmer, Sammantha L. Magsino, James L. Poelstra, and Rebecca A. Niggemann, September, 2004, as revised or superseded.~~

~~2. Areas of fill (Fn) identified by the 1972 USDA Soil Conservation Service Soil Survey of Clark County Washington and by the Shoreline Administrator, based on other reliable evidence.~~

~~b. Ground Shaking Amplification. The following are designated Ground Shaking Amplification Hazard Areas:~~

~~Site Classes C to D, D, D to E, E and F as indicated on the *Site Class Map of Clark County, Washington* by Stephen P. Palmer, Sammantha L. Magsino, James L. Poelstra, and Rebecca A. Niggemann, September, 2004 as revised or superseded.~~

~~c. Fault Rupture Hazard Areas. Potential Fault Rupture Hazard Areas are faults identified on geological maps prepared and maintained by the Washington Department of Natural Resources (DNR), U.S. Geological Survey (USGS), Oregon Department of Geology and Mineral Industries (DOGAMI), Clark County, Washington, or identified from other available data or in the field by a qualified professional and adjacent areas within 100 feet.~~

~~3. Erosion Hazard Areas. Erosion Hazard Areas include Soil Erosion and Bank Erosion Hazard Areas.~~

~~a. Soil Erosion Hazard Areas. The following are designated Soil Erosion Hazard Areas:~~

~~Areas with soils identified as having a severe erosion hazard by the 1972 USDA Soil Conservation Service Soil Survey of Clark County Washington.~~

~~———— b. Bank Erosion Hazard Areas. Bank Erosion Hazard Areas are areas along lakes, streams, and rivers that are subject to regression or retreat due to lacustrine or fluvial processes and adjacent land within 100 feet.~~

~~B. Additional Critical Areas Report Requirements.~~

~~In addition to the requirements of VMC 20.740.050, the following are Critical Areas Report requirements for development proposals in potential geologic hazard areas. These requirements may be adjusted as appropriate by the Shoreline Administrator. The Critical Areas Report will result in a conclusion as to whether the potential geologic hazard area is an actual geologic hazard area (See VMC 20.740.130(B)(6)). If it is, the Critical Areas Report requires additional information, mapping, and analysis (See VMC 20.740.130(B)(7)).~~

~~———— 1. Identification of the site and project area (defined at VMC 20.150), topography in 2-foot contours (or other increment at the discretion of the Shoreline Administrator), gas, power, cable, fiber optic, telephone, sewer, water, and stormwater management facilities, wells, on-site septic systems, dikes, levees, and existing structures on the site plan required by VMC 20.740.050; and~~

~~———— 2. Detailed review of field investigations, published data and references, data and conclusions from past geologic studies or investigations, site-specific measurements, tests, investigations, or studies, and the methods of data analysis and calculations that support the results, conclusions, and recommendations; and~~

~~———— 3. Field investigation and evaluation of the areas on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100 feet of the site for landslide and bank erosion hazards; and~~

~~———— 4. A description of the surface and subsurface geology, hydrology, drainage patterns, soils, and vegetation on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100 feet of the site for landslide and bank erosion hazards; and~~

~~———— 5. Identification of the hazard area indicators that were found (if any) on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100 feet of the site for landslide and bank erosion hazards; and~~

~~———— 6. Conclusion as to whether there is a geologic hazard area on site or for landslide and bank erosion hazards on or within 100 feet of the site; and~~

~~———— 7. If a liquefaction, dynamic settlement, ground shaking amplification, fault rupture, or soil erosion hazard is found to exist on site or if a landslide or bank erosion hazard is found to exist on or within 100 feet of the site:~~

~~———— a. Label and show on the site plan required by VMC 20.740.050:~~

~~———— 1. The location(s), extent, and type(s) of geologic hazard area(s) identified; and~~

~~———— 2. The location(s) and extent of any area(s) that must be left undisturbed to protect the proposed development from damage or destruction and to protect the hazard area(s) from the impacts of the proposed development; and~~

~~———— 3. The boundaries of the area that may be disturbed.~~

_____ 4. The dimension of the closest distance(s) between the geologic hazard area(s) and the project area.

_____ 5. The dimension of the closest distance(s) [See VMC 20.170.030(C)] between any non-disturbance area [VMC 20.740.130(B)(7)(a)(2)] and the project area.

For bank erosion hazard areas, show these areas, boundaries, and dimensions based upon natural processes and, if applicable, proposed bank stabilization measures.

_____ b. Analysis of the erosion processes on site for soil erosion hazard areas and on or within 100 feet of the site for bank erosion hazard areas.

_____ c. Evaluation of the impact of the geologic hazard area(s) on the proposed development, other properties, and other critical areas.

_____ 1. Landslide hazard areas. The impact of the run-out hazard of landslide debris from both upslope and downslope shall be included in the evaluation.

_____ 2. Bank erosion hazard areas. Evaluation of impacts on other properties shall include properties both upstream and downstream of the subject property.

_____ d. Evaluation of the impact of the proposed development on the geologic hazard area(s).

_____ e. Assessments and conclusions regarding geologic hazard(s) for both existing and proposed (post-development) site conditions. The ultimate build-out scenarios must be considered and addressed in cases such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval.

_____ f. Written discussion of:

_____ 1. The risk of damage or destruction from the geologic hazard(s) with respect to human health and safety; infrastructure; the proposed development; other properties (both upstream and downstream for bank erosion hazard areas); and other critical areas; and

_____ 2. Whether and to what degree the proposed development would increase the risk from the geologic hazard(s), such as the occurrence of a landslide or the rate of regression.

_____ g. Recommendations for mitigation of impacts to protect:

_____ 1. Human health and safety;

_____ 2. Infrastructure;

_____ 3. The proposed development;

_____ 4. Other properties (both upstream and downstream for bank erosion hazard areas);

_____ 5. Other critical areas; and

_____ 6. The hazard area during construction and for the anticipated life of the proposed

development. The ultimate build-out scenarios must be considered and addressed in cases such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval.

——— h. A demonstration of how the standards of VMC 20.740.130(C) applicable to each geologic hazard area will be met.

C. Performance Standards.

——— 1. Landslide, Soil Erosion, and Bank Erosion Hazard Areas. Development in non-disturbance areas (VMC 20.740.130(B)(7)(a)(2)) shall be prohibited. In other areas, development in landslide, soil erosion, and bank erosion hazard areas and their buffers [VMC 20.740.130(C)(1)(j)] shall be prohibited except where the applicant has demonstrated compliance with or satisfaction of the following standards or requirements:

——— a. The applicant has demonstrated that during construction and for the anticipated life of the proposed development, the proposed use(s), activity(ies), and structure(s):

——— 1. Will not increase the threat of the geological hazard beyond pre-development conditions; and

——— 2. Will not adversely impact other critical areas wherever feasible given the type of critical areas involved and the characteristics of the site; and

——— 3. Are designed so that the hazard to the proposed project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

——— 4. The life safety risk is minimal or eliminated; and

——— 5. Are certified by a qualified professional as safe as designed and under anticipated conditions.

Landslide hazard areas may be eliminated through grading based on a Critical Areas Report which demonstrates that the slope will be stabilized prepared by a qualified professional (in this case a licensed Engineering Geologist or Professional Engineer). The Critical Areas Permit shall be conditioned on a final inspection approval confirming that the grading and site are stable. At the applicant's expense, after site grading, (a) the qualified professional who prepared the Critical Areas Report shall provide inspection specifications; and (b) an inspector acceptable to the City Building Official shall inspect the grading and the site and submit a report to the City indicating whether the site is stable.

——— b. A plan for revegetation and landscape maintenance to ensure soil stabilization shall be developed and implemented in accordance with the mitigation plan requirements of VMC 20.740.050(F).

——— c. Clearing, grading, uprooting, or otherwise impairing the soil stabilizing function of vegetation shall be prohibited during the wet season (November 1st to May 1st), except as authorized under a valid state or federal permit or a City Type I permit [VMC 20.740.040(B)(1)(f)].

——— d. Drainage patterns shall not be altered such that potential for damage or risk to the proposed project, the geologic hazard area, or other critical areas or buffers is increased.

——— e. The requirements of VMC 14.24, Erosion Control shall be met.

~~_____ f. Trails shall be for pedestrian and non-motorized vehicular use only and shall be the minimum width necessary to meet applicable regulations.~~

~~_____ g. Roads in Landslide and Bank Erosion Hazard Areas. A road through or across a landslide or bank erosion hazard area shall meet the standards of VMC 20.740.130(C)(1)(a)–(f) and shall not be:~~

~~_____ 1. The sole access for a proposed subdivision (not including short subdivision) or critical facility;~~

~~_____ 2. Longer than 200 feet;~~

~~_____ 3. Steeper than a 15% grade.~~

~~_____ h. Markers and Signs in Landslide Hazard Areas.~~

~~_____ 1. The boundary at the outer edge of landslide area tracts and easements shall be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.~~

~~_____ 2. The boundary at the outer edge of the furthest of the landslide hazard area, non-disturbance area [VMC 20.740.130(B)(7)(a)(2)], or buffer shall be identified with temporary signs prior to any site alteration. Such temporary signs shall be replaced with permanent signs prior to occupancy or use of the site.~~

~~_____ 3. These provisions may be modified by the Shoreline Administrator as necessary to ensure protection of sensitive features or wildlife needs.~~

~~_____ i. Bank Stabilization for Existing Development in Bank Erosion Hazard Areas.~~

~~_____ 1. Bank stabilization measures may be employed to protect an existing structure when a Critical Areas Report conclusively demonstrates all of the following:~~

~~_____ a. Bank erosion threatens an established use or existing structure(s); and~~

~~_____ b. The threatened structure(s) cannot be relocated landward of any non-disturbance area [VMC 20.740.130(B)(7)(a)(2)]; and~~

~~_____ c. Where applicable, bank stabilization measures are necessary to the operation and location of water-dependent, water-related, or water enjoyment activities consistent with the City of Vancouver Shoreline Management Master Program; and~~

~~_____ d. Bank stabilization measures will not cause a significant adverse impact on upstream or downstream properties or an impact that cannot be mitigated without developing bank stabilization measures for those properties; and~~

~~_____ e. Bank stabilization measures will not cause a significant adverse impact on fish, wildlife, or their habitats protected by this chapter.~~

~~_____ 2. When bank stabilization is allowed, it shall be accomplished using beach nourishment, bioengineering (soft armoring) techniques, or a combination of the two. Other techniques may be used when an approved Critical Areas Report demonstrates conclusively that beach nourishment,~~

bioengineering (soft armoring) techniques, or a combination of the two will not provide sufficient protection for the remaining useful life of the structure(s) to be protected.

_____. 3. When bank stabilization is allowed, the pertinent policies and regulations of the City of Vancouver Shoreline Management Master Program shall apply in addition to the requirements of this section. The terms and conditions of any other required state or federal permit or approval shall also apply.

_____. j. Buffer. The following regulations apply to landslide and bank erosion hazard area buffers. No buffer is required for soil erosion hazard areas. Buffers may be included in non-disturbance areas [VMC 20.740.130(B)(7)(a)(2)] and required planting and maintenance activities may be undertaken within them.

_____. 1. Buffer width shall be measured on a horizontal plane from a perpendicular line established at all edges of the geologic hazard area [See VMC 20.170.030(B) and (K)].

_____. 2. A vegetated buffer shall be maintained around all landslide and bank erosion hazard areas. No alteration to the buffer shall be undertaken without an erosion control plan approved pursuant to the provisions of VMC 14.24, Erosion Control and this chapter. New plantings shall consist of native vegetation. Maintenance shall be the responsibility of the property owner.

_____. 3. The minimum buffer width for bank erosion hazard areas shall be the distance recommended in an approved Critical Areas Report.

_____. 4. The minimum buffer width for landslide hazard areas shall be the greatest of the following distances:

_____. a. 50 feet from all edges of the landslide hazard area; or

_____. b. A distance of 1/3 the height of the slope at the top of the slope and a distance of 1/2 the height of the slope at the bottom of the slope [See VMC 20.170.030(J)]; or

_____. c. The minimum distance(s) recommended in an approved Critical Areas Report.

_____. 5. A larger buffer width may be required for landslide and bank erosion hazard areas at the discretion of the Shoreline Administrator when:

_____. a. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts; or

_____. b. The area has a severe risk of slope failure or downslope stormwater drainage impacts; or

_____. c. The area is directly adjacent to a riparian management area or wetland; or

_____. d. Recommended in an approved Critical Areas Report.

_____. 6. The buffer width for landslide hazard areas may be reduced to as little as the smallest of the distances identified in VMC 20.740.130(C)(1)(j)(4) at the discretion of the Shoreline Administrator when the dimensions of the landslide hazard area are smaller than those distances.

_____. 2. Seismic Hazard Areas

~~_____ a. Liquefaction or Dynamic Settlement Hazard Areas. All building structures in liquefaction or dynamic settlement hazard areas shall comply with the requirements of VMC Title 17, Building and Construction. No buffer is required for liquefaction or dynamic settlement hazard areas.~~

~~_____ b. Ground Shaking Amplification Hazard Areas. All building structures in ground shaking amplification hazard areas shall comply with the requirements of VMC Title 17, Building and Construction applicable to the NEHRP soil classification of the subject property. No buffer is required for ground shaking amplification hazard areas.~~

~~_____ c. Fault Rupture Hazard Areas.~~

~~_____ 1. A road through or across a fault rupture hazard area shall not be:~~

~~_____ a. The sole access for a proposed subdivision (not including short subdivision) or critical facility;~~

~~_____ b. Longer than 200 feet';~~

~~_____ c. Steeper than a 15% grade.~~

~~_____ 2. Structures for human habitation and critical facilities shall be prohibited within fault rupture hazard areas and buffers.~~

~~_____ 3. Buffer.~~

~~_____ a. Buffer width shall be measured on a horizontal plane from a perpendicular line established at all edges of the geologic hazard area [See VMC 20.170.030(B)].~~

~~_____ b. The buffer width shall be the greater of the following distances:~~

~~_____ i. 50 feet from all edges of a fault rupture hazard area, except where critical facilities are involved, the minimum buffer distance shall be 100 feet [See VMC 20.170.030(L)]; or~~

~~_____ ii. The minimum distance recommended in an approved Critical Areas Report.~~

~~_____ c. A larger buffer width may be required when the Shoreline Administrator determines that the buffer is not adequate to protect the proposed development.~~

~~(M 3844, Amended, 10/01/2007, Sec 2; M 3692, Added, 02/28/2005, Sec 2)~~

Section 20.740.140 — Wetlands

A. Designating and Rating Wetlands

— 1. Designating Wetlands

Wetlands are those areas, designated in accordance with the approved federal wetland delineation manual and applicable regional supplements, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include

swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created (but not as mitigation for impacts to wetlands) from non-wetland sites, including, but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds and landscape amenities or those wetlands created after July 1990 that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands shall include those artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands.

Final designations shall be based on site conditions and other available data or information (See VMC 20.740.020(C)(1)).

— 2. Wetland ratings

Wetlands shall be rated according to the Washington State Department of Ecology (Ecology) wetland rating system Washington State Wetland Rating System for Western Washington 2014 Update, Ecology publication #14-06-029, October 2014 or as revised by Ecology. The rating system document contains the definitions and methods for determining if the criteria below are met. The most recent version of the rating system form must be used:

a. Wetland Rating Categories

— 1. Category I. Category I wetlands are:

- a. Relatively undisturbed estuarine wetlands larger than 1 acre;
- b. Wetlands of high conservation value that are identified by scientists of the Washington natural Heritage Program of the Department of Natural Resources;
- c. Bogs;
- d. Mature and old-growth forested wetland larger than 1 acre;
- e. Wetlands that perform many functions well, scoring 23 points or more. These wetlands are those that:
 - 1) Represent unique or rare wetland types;
 - 2) Are more sensitive to disturbance than most wetlands;
 - 3) Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or
 - 4) Provide a high level of functions.

— 2. Category II. Category II wetlands function at a moderately high function, scoring between 20 and 22 points.

— 3. Category III wetlands are:

- a. Wetlands with a moderate level of functions, scoring between 16 and 19 points; and
- b. Can often be adequately replaced with a well-planned mitigation project.

— 4. Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that should be able to be replaced, or in some cases improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

B. Additional Critical Areas Report Requirements

A Critical Areas Report for wetlands shall be prepared according to the Washington State Wetland Rating

System for Western Washington 2014 Update, Ecology publication #14-06-029, October 2014 (or as revised by Ecology). The Critical Areas Report shall contain an analysis of the wetlands including the following site- and proposal-related information:

— 1. A written assessment, data sheets and accompanying maps of any wetlands or buffers on the site including the following information:

— a. Hydrogeomorphic (HGM) subclassification and Cowardin class;

— b. Wetland category;

— c. Wetland delineation and required buffers;

— d. Existing wetland acreage;

— e. Vegetative, faunal, and hydrologic characteristics;

— f. Soil types and substrate conditions;

— g. Topographic elevations, at 1' contours; and

— h. A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year—drift lines, algal layers, moss lines, and sediment deposits).

— 2. Functional evaluation for the wetland and buffer using Ecology's most current approved method and including the reference of the method and all data sheets.

— 3. Proposed mitigation, if needed, including a discussion of alternatives and trade-offs inherent in the various alternatives (for example, where enhancement for one function would adversely affect another), a written description and accompanying maps of the mitigation area, including the following information:

— a. Existing and proposed wetland acreage;

— b. Existing and proposed vegetative and faunal conditions;

— c. Surface and subsurface hydrological conditions of existing and proposed wetlands and hydrologically associated wetlands including an analysis of existing hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas;

— d. Relationship to lakes, streams and rivers in the watershed;

— e. Soil type and substrate conditions;

— f. Topographic elevations, at 1' contours; and

— g. Required wetland buffers including existing and proposed vegetation.

— h. Identification of the wetland's contributing area; and

~~_____ i. A functional assessment of proposed mitigation to ensure no net loss of shoreline ecological function.~~

C. Performance Standards

~~_____ 1. General Requirements. Development or clearing activities shall protect the functions of wetlands and wetland buffers on the site. Activities shall result in no net loss of wetland or buffer functions. Protection may be provided by avoiding (the preferred protection) or minimizing and mitigating as described in the general critical areas performance standards (VMC 20.740.060).~~

~~_____ a. Wetlands~~

~~_____ 1. In Category I Wetlands only the following activities may be allowed:~~

~~_____ a. A road, railroad, trail, dike, or levee or a water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone facility that cannot feasibly be located outside of the wetland, that minimizes the impact, and that mitigates for any unavoidable impact to functions. Cost may be considered, but shall not be overriding; or~~

~~_____ b. Trails and wildlife viewing structures provided that the trails and structures minimize the impact and are constructed so that they do not interfere with any wetland functions and do not result in increased sediment entering the wetland.~~

~~_____ 2. In Category II Wetlands only the following activities may be allowed:~~

~~_____ a. Activities allowed in Category I wetlands pursuant to VMC 20.740.140(C)(1)(a)(1).~~

~~_____ b. Enhancement and restoration activities aimed at protecting the soil, water, vegetation or wildlife.~~

~~_____ c. Within shoreline jurisdiction (VMC 20.760.020), water dependent, water related or water enjoyment activities where there are no feasible alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.~~

~~_____ d. Where non water dependent, related or enjoyment activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited unless the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impacts on a wetland on another site or sites in the City of Vancouver or Vancouver Urban Growth Area.~~

~~_____ 3. In Category III Wetlands only the following activities may be allowed:~~

~~_____ a. Activities allowed in Category II wetlands pursuant to VMC 20.740.140(C)(1)(a)(2).~~

~~_____ b. Other activities may be allowed if the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and avoid or result in less adverse impacts on a wetland or its buffer than alternative uses or designs (including reduction in the size, scope, configuration or density of the project).~~

~~_____ 4. In Category IV Wetlands activities and uses that result in impacts may be permitted in accordance with an approved Critical Areas Report and mitigation plan if the proposed activity is the only~~

reasonable alternative that will accomplish the applicant's objectives. Full mitigation for the loss of acreage and functions shall be provided under the terms established pursuant to VMC 20.740.140(C)(2).

_____ a. Wetland Buffers

_____ 1. Standard buffer widths. Standard buffer widths are those determined by Ecology and described in Freshwater Wetlands in Washington State, Volume 2: Managing and Protecting Wetlands or as revised by Ecology. Buffer widths are based on wetland category, wetland characteristics and land use intensity.

_____ a. Land use intensities are as follows:

**TABLE 20.740.140—1
LAND USE INTENSITIES**

Land Use Intensity	VMC Title 20 Zoning Districts
High	All Residential, Commercial or Industrial Zones
Moderate	Open Space Park or Open Space Greenway: General
Low	Open Space Greenway: Lettuce Fields or Vancouver Lowlands; or Open Space Natural

_____ b. Level of function for habitat, based on the Washington State Wetland Rating System is as follows:

**TABLE 20.740.140-2
RATING SYSTEM**

Level of Function	Habitat Score In Rating System
High	8—9
Moderate	5—7
Low	3—4

_____ c. Buffer widths are measured horizontally from the edge of the wetland [See VMC 20.170.030(B) and (H)] and are as follows:

_____ i. Category I Wetlands

TABLE 20.740.140-3
CATEGORY I WETLAND BUFFER WIDTHS

Wetland Characteristics	Land Use Intensity	Buffer Width
Wetlands of High Conservation Value	High Moderate Low	250' 190' 125'
Forested Wetlands — High Habitat Function	High Moderate Low	300' 225' 150'
Moderate Habitat Function	High Moderate Low	150' 110' 75'
Low Habitat Function	High Moderate Low	100' 75' 50'
Other Category I Wetlands — High Habitat Function	High Moderate Low	300' 225' 150'
Moderate Habitat Function	High Moderate Low	150' 110' 75'
Low Habitat Function	High Moderate Low	100' 75' 50'

ii. Category II wetlands

TABLE 20.740.140-4
CATEGORY II WETLAND BUFFER WIDTHS

Wetland Characteristics	Land Use Intensity	Buffer Width
High Habitat Function	High Moderate Low	300' 225' 150'
Moderate Habitat Function	High	150'

	Moderate Low	110' 75'
Low Habitat Function	High Moderate Low	100' 75' 50'

iii. Category III wetlands

**TABLE 20.740.140-5
CATEGORY III WETLAND BUFFER WIDTHS**

Wetland Characteristics	Land Use Intensity	Buffer Width
Moderate Habitat Function	High Moderate Low	150' 110' 75'
Low Habitat Function	High Moderate Low	80' 60' 40'

iv. Category IV wetlands

**TABLE 20.740.140-6
CATEGORY IV WETLAND BUFFER WIDTHS**

Wetland Characteristics	Land Use Intensity	Buffer Width
All Category IV Wetlands	High Moderate Low	50' 40' 25'

d. All buffers shall be measured from the wetland boundary as surveyed in the field.

e. Areas which are completely functionally separated from a wetland and do not protect the wetland from adverse impacts may be excluded from buffers otherwise required.

2. Wetland buffer width averaging. The Shoreline Administrator may allow modification of the standard wetland buffer width in accordance with an approved Critical Areas Report on a case-by-case basis by averaging buffer widths. Buffer width averaging shall not be used in combination with buffer width reduction or a minor exception. Averaging of buffer widths (See VMC 20.170.080(B)(2)) may only be allowed where a qualified professional wetland scientist demonstrates that:

a. Such averaging will not reduce wetland functions or functional performance; and

_____ b. The wetland varies in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places; and

_____ c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

_____ d. The buffer width is reduced by no more than 25% of the standard width and at no point to less than 25'.

_____ 3. Buffer width reduction based on reducing the intensity of impacts from land uses. Buffer widths required for high intensity land uses may be reduced to those required for moderate land use intensity under the following conditions:

_____ a. For wetlands with moderate or high habitat function:

_____ i. A relatively undisturbed vegetated corridor at least 100' wide is protected between the wetland and any other Priority Habitats and areas associated with Priority Species (VMC 20.740.110(A)(1)(b)); and

_____ ii. Measures to minimize the impacts of different land uses on wetlands are applied, as approved by the Shoreline Administrator. Such measures include, but are not limited to, the examples summarized below:

TABLE 20.740.140-7
EXAMPLES OF MEASURES TO MINIMIZE LAND USE IMPACTS

Examples of Disturbance	Uses and Activities that Cause the Disturbance	Examples of Measures to Minimize Impacts
Lights	Parking lots, warehouses, manufacturing, residential	Direct lights away from wetland
Noise	Manufacturing, residential, commercial	Locate activity that generates noise away from wetland
Toxic runoff	Parking lots, roads, manufacturing, residential, application of agricultural or landscaping chemicals	Route only treated runoff to a wetland Establish covenants limiting use of toxic chemicals within 150' of wetland Apply integrated pest management
Change in water regime	Impervious surfaces, lawns, tilling	Infiltrate or treat, detain, and disperse new runoff into buffer
Pets	Residential	Plant dense vegetation around buffer, such as rose or hawthorn
Human disturbance	Residential, commercial, industrial	Plant dense vegetation around buffer, such as rose or hawthorn

Dust	Tilled fields	Utilize best management practices to control dust
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~~_____ b. For wetlands with low habitat function measures to minimize the impacts of different land uses on wetlands (VMC 20.740.140(C)(1)(b)(3)(a)(ii) are applied.~~

~~_____ c. Buffer width reduction shall not be used in combination with buffer width averaging (VMC 20.740.140(C)(1)(b)(2)) or a minor exception (20.740.070).~~

~~_____ 4. Buffer maintenance. Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers shall be maintained according to the approved Critical Areas Permit.~~

~~_____ 5. Buffer uses. The following uses may be permitted within a wetland buffer in accordance with the review procedures of this Chapter; provided, they are not prohibited by any other applicable law or regulation and they are conducted in a manner so as to avoid and minimize impacts to the buffer and the wetland:~~

~~_____ a. Activities allowed under the same terms and conditions as in the associated wetlands pursuant to VMC 740.140(C)(1)(a) provided trails shall be located in the outer 25% to 50% of the buffer when feasible and consistent with the public access provisions of this program.~~

~~_____ b. Enhancement and restoration activities aimed at protecting the soil, water, vegetation or wildlife.~~

~~_____ c. Passive recreation facilities including trails and wildlife viewing structures, provided that the trails and structures are constructed with a surface that does not interfere with wetland hydrology.~~

~~_____ d. Stormwater management facilities are not allowed in buffers of Category I or II wetlands. Stormwater management facilities, limited to detention facilities, constructed wetlands, stormwater dispersion outfalls and bioswales, may be constructed in accordance with an approved Critical Areas Report within the buffers of Category III or IV wetlands, provided that:~~

~~_____ i. No other location is feasible; and~~

~~_____ ii. The location of such facilities will not degrade the functions of the wetland or buffer.~~

~~_____ c. Signs and Fencing of Wetlands~~

~~_____ 1. The location of the outer perimeter of the wetland and buffer shall be marked in the field, and such marking shall be approved by the Shoreline Administrator prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.~~

~~_____ 2. A permanent physical demarcation along the upland boundary of the wetland buffer shall be installed and thereafter maintained. Such demarcation may consist of fencing, hedging or other prominent physical marking that allows wildlife passage, blends with the wetland environment, and is approved by the Shoreline Administrator.~~

~~_____ 3. Permanent fencing of the wetland buffer on the outer perimeter shall be erected and thereafter maintained when there is a substantial likelihood of the presence of domestic grazing animals~~

within the property unless the Shoreline Administrator determines that the animals would not degrade the functions of the wetland or buffer.

————— 4. Permanent signs shall be posted at an interval of one per lot for single family residential uses or at a maximum interval of 200', or as otherwise determined by the Shoreline Administrator, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the Shoreline Administrator: "The area beyond this sign is a wetland or wetland buffer. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information."

————— 2. Compensatory Mitigation. Compensatory mitigation for impacts to wetlands shall be provided pursuant to VMC 20.740.060 and shall be consistent with the Department of Ecology *Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance*, Version 1, Ecology publication #06-06-011a March 2006, or as revised by Ecology. Watersheds are defined in VMC 20.740.020(C)(2) and 20.150.

————— a. Mitigation for lost or affected functions. Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement and shall provide similar wetland or buffer functions as those lost, except when:

————— 1. The lost wetland or buffer provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limited within a watershed through a formal Washington state watershed assessment plan or protocol; or

————— 2. Out of kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

————— b. Mitigation actions

————— 1. Creation. The manipulation of the physical, chemical or biological characteristics present to develop a wetland on an upland or deepwater site where a biological wetland did not previously exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, hydric soils, and support the growth of hydrophytic plant species. Creation results in a gain in wetland acres and functions.

————— 2. Re-establishment. The manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches or breaking drain tiles. Re-establishment results in a gain in wetland acres and functions.

————— 3. Rehabilitation. The manipulation of the physical, chemical or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Activities could involve breaching a dike to reconnect wetlands to a floodplain, restoring tidal influence to a wetland, or breaking drain tiles and plugging drainage ditches. Rehabilitation results in a gain in wetland functions but not in wetland acres.

————— 4. Enhancement. The manipulation of the physical, chemical or biological characteristics of a biological wetland to increase or improve specific functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or wildlife habitat. Activities typically consist of planting vegetation, controlling non native or invasive species, modifying site elevations to result in open water ponds, or

some combination of these. Enhancement results in a change in certain wetland functions and can lead to a decline in other wetland functions. It does not result in a gain in wetland acres.

— c. Type and location of mitigation. Compensatory mitigation for ecological functions shall be in-kind. Compensatory mitigation shall be on-site or within the impacted wetland's: (1) contributing area; (2) stream reach; (3) sub-watershed; or (4) watershed. (Sub-watersheds and watersheds are identified on the Clark County Digital Atlas.) The mitigation site shall be where the greatest level of wetland functions can be achieved. Mitigation actions may be conducted in a different watershed when:

—— 1. Based on a determination of the natural capacity of the potential mitigation sites to mitigate for the impacts, there are no reasonable on-site or in-watershed opportunities or those opportunities do not have a high likelihood of success. Consideration shall include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, and potential to impact riparian fish and wildlife habitat including connectivity; or

—— 2. Watershed goals for water quality, flood or conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation at another site; or

—— 3. Credits from a certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.

— d. Mitigation ratios

—— 1. Replacement ratios:

—— a. The replacement ratios shall apply to wetland mitigation that: (i) is for the same hydrogeomorphic subclass (e.g. riverine flow-through, depressional outflow or flats), and Cowardin class (e.g. palustrine emergent, palustrine forested or estuarine wetlands); (ii) is on-site; (iii) is in the same category; (iv) is implemented prior to or concurrent with alteration; and (v) has a high probability of success.

—— b. The replacement ratios are based on replacing the affected wetland with a compensation wetland of the same category, and hydrogeomorphic (HGM) subclass and Cowardin class.

—— c. The replacement ratios do not apply to the use of credits from a state-certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank's certification.

—— d. Mitigation ratios. Mitigation ratios are as follows (see VMC 20.740.140(C)(2)(b) for definitions of mitigation actions):

**TABLE 20.740.140-8
MITIGATION RATIOS**

Wetland Category and Type	Re-Establishment or Creation	Rehabilitation	Re-Establishment or Creation (R/C) plus Rehabilitation	Re-Establishment or Creation (R/C) plus Enhancement	Enhancement Only
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			(RH)	(E)	
Category I Bog	Not Considered Possible	6:1 Rehabilitation of a Bog	R/C Not Considered Possible	R/C Not Considered Possible	Case-by-Case
Category I Natural Heritage Site	Not Considered Possible	6:1 Rehabilitation of a Natural Heritage Site	R/C Not Considered Possible	R/C Not Considered Possible	Case-by-Case
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I Based on Score for Functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1

2. Adjustment of replacement ratios. The Shoreline Administrator may adjust the replacement ratios to compensate for deviations from the requirements under VMC 20.740.140©(2)(d)(1)(a), subject to the following:

a. In most cases, adjustments to the replacement ratios will increase the required amount of mitigation. The required mitigation may be decreased under exceptional circumstances, for example, if programmatic out-of-kind mitigation yields watershed-scale benefits that would not be realized from in-kind mitigation, or if out-of-kind mitigation would protect irreplaceable wetlands.

b. Mitigation timing. The mitigation shall be implemented prior to or concurrent with alterations. If mitigation implemented after alteration is allowed, the planning official may require additional mitigation to compensate for temporal losses of wetland functions.

c. Buffers for mitigation wetlands. Refer to Wetland Buffer tables 20.740.140-3 and 4 and 5 and 6.

d. Wetland mitigation banks.

1. Credits from a wetland mitigation bank may be approved for use as mitigation for unavoidable impacts to wetlands when:

a. The bank is certified under Chapter 173-700 WAC;

b. The Shoreline Administrator determines that the wetland mitigation bank provides appropriate mitigation for the authorized impacts; and

_____ c. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

_____ 2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

_____ 3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.
(M 3844, Amended, 10/01/2007, Sec 2; M 3692, Added, 02/28/2005, Sec 2)

Chapter 20.740 Chapter 5A

SHORELINE CRITICAL AREAS PROTECTION REGULATIONS

All uses and development activities in shoreline jurisdiction shall be subject to the following general regulations in addition to the applicable use-specific regulations in Chapter 6. All shoreline development shall comply with VMC 14.26, Water Resources Protection.

Vancouver WA Zoning Ordinance

Chapter 20.740

CRITICAL AREAS PROTECTION

As Modified for Application in Shoreline Jurisdiction

Sections:

20.740.010	Purpose.
20.740.020	General Provisions.
20.740.030	Applicability and Exemptions from <u>Chapter 5A Requirement to Obtain Permit.</u>
20.740.040	Approval Process.
20.740.050	Submittal Requirements.
20.740.060	Approval Criteria.
20.740.070	Minor Exceptions.
20.740.080	Reasonable Use Exceptions.
20.740.090	Unauthorized Critical Areas Alterations and Enforcement.
20.740.100	Habitats of Local Importance.
20.740.110	Fish and Wildlife Habitat Conservation Areas.
20.740.120	Frequently Flooded Areas.
20.740.130	Geologic Hazard Areas.
20.740.140	Wetlands.

20.740.010 Purpose.

A. The purpose of this chapter is to designate and protect ecologically sensitive and hazardous areas (critical areas) and their functions and values, while also allowing for reasonable use of property.

B. As mandated by the Growth Management Act (GMA) (RCW [36.70A](#)), this chapter provides protection for the critical areas of wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, and frequently flooded areas. Critical aquifer recharge areas are covered in VMC [14.26](#).

C. This chapter implements the goals and policies of the Vancouver Comprehensive Plan, 2003-2023, under the Washington Growth Management Act and other related state and federal laws. (Ord. M 3692 § 2, 2005)

In addition to the purpose as set forth in Chapter 1, the regulations set forth in Chapter 5A designate and protect ecologically sensitive and hazardous areas (critical areas) and their functions and values. This chapter provides protection for wetlands, fish and wildlife habitat conservation areas and geologically hazardous areas.

VMC Chapter 20.740.120 Frequently Flooded Areas regulations apply within shoreline jurisdiction, but are not incorporated into this Shoreline Master Program.

Critical aquifer recharge areas are addressed in VMC Chapter 14.26 Water Resources Protection, but the regulations are not incorporated into this Shoreline Master Program.

20.740.020 General Provisions.

A. *No Net Loss of Functions.* Activity shall result in no net loss of functions and values in the critical areas. Since values are difficult to measure no net loss of functions and values means no net loss of functions. The beneficial functions provided by critical areas include, but are not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage; conveyance and attenuation of flood waters; ground water recharge and discharge; erosion control; and wave attenuation. These beneficial functions are not listed in order of priority. This chapter is also intended to protect residents from hazards and minimize risk of injury or property damage.

B. *Relationship to Other Regulations.*

1. These critical areas regulations shall apply in addition to zoning and other regulations adopted by the city.
2. Any individual critical area that overlaps another type of critical area shall meet the requirements that provide the most protection to the critical areas involved.
3. When there is a conflict between any provisions of this chapter or any other regulations, that which provides the most protection to the subject critical area shall apply.

4. Conditions of approval of a project affecting critical areas may be supplemented by a review under the State Environmental Policy Act (SEPA), as locally adopted.

5. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements (for example, Shoreline Substantial Development Permits, Hydraulic Project Approval [HPA] permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, or National Pollution Discharge Elimination System permits). The applicant is responsible for complying with other state and federal requirements in addition to the requirements of this chapter. Obtaining all applicable state and federal permits shall be made a condition of any shoreline authorization a Critical Areas Permit. Such authorizations permits shall be obtained prior to issuance of permits for development, construction or site disturbance except under the circumstances set forth in VMC 20.740.040(I).

C. *Jurisdiction.*

1. All areas within the city meeting the definition of one or more critical areas, whether mapped or not, are hereby designated critical areas and with their buffers are subject to the provisions of this chapter.

2. Watersheds (Chapter 20.150 VMC) are those most recently identified and mapped by Clark County Public Works. Watershed maps are available from the planning official. Burnt Bridge Creek, Columbia Slope, and Vancouver Lake/Lake River are the primary watersheds in Vancouver.

Chapter 5A shall apply to all critical areas and their buffers within shoreline jurisdiction as defined in Chapter 2 of the SMP.

D. *Warning and Disclaimer of Liability.* The standards established herein are minimum standards. The standards are established for regulatory purposes only. Minimum compliance with these standards may not be sufficient protection from identified or unidentified hazards. City establishment of these minimum standards is not a representation that these standards are sufficient protection from any hazard. Critical areas development should be based on sound scientific and engineering considerations that may be more stringent than this chapter. The city assumes no liability if these established standards prove to be insufficient protection.

E. *Interpretation of Critical Area Boundaries.* The Shoreline Administrator planning official shall be authorized to interpret the exact location of the critical area boundary. Final designations shall be based on site conditions and other available data or information. A person who disagrees with the interpretation may appeal the interpretation pursuant to VMC 20.255.020(D); Chapter 7 of the SMP. (Ord. M 4289 § 4, 2019; Ord. M 4017 § 4, 2012; Ord. M 3844 § 2, 2007; Ord. M 3692 § 2, 2005.

20.740.030 Applicability and Exemptions from Requirement to Obtain Permit

Chapter 5A

A. *Applicability.*

1. ~~Unless listed in VMC 20.740.030(B)(2),~~ The provisions of ~~Chapter 5A, this chapter~~ shall apply to all lands, all land uses, clearing and development activity, and all structures and facilities in the city located within a critical area or buffer or on a site containing a critical area or buffer including single-family residential lots platted prior to April 29, 2005, and developments such as play structures that require no other permits.
2. The provisions of this chapter shall apply whether or not a permit or authorization is required.
3. No person, company, agency, or applicant shall alter a critical area or buffer (including removal of downed woody vegetation or application of chemicals harmful to fish and wildlife within 25 feet of wetlands, ponds, lakes, streams or rivers) except as consistent with the requirements of this chapter.
4. ~~If required by this SMP, a shoreline substantial development permit, shoreline permit statement of exemption, shoreline conditional use or shoreline variance~~ The Critical Areas Permit required pursuant to ~~this chapter~~ shall be obtained prior to undertaking any activity or development regulated by this chapter; ~~unless exempted by this chapter.~~

B. *Statements of Exemption Process.* ~~For exempt activities listed in subsection (C)(1) of this section, a written Statement of Exemption from securing a Critical Areas Permit must be obtained prior to undertaking any development activity. Activities exempt from subsection (C)(2) of this section do not require a statement of exemption.~~

~~Exemptions from the shoreline permit process are only authorized through Chapter 2.3 Exemptions in this SMP. All exempt activities are still subject to the policies and regulations of the SMP including Chapter 5A this chapter. The Shoreline Administrator planning official shall attach Critical Areas Ordinance conditions to the building permits and other permits and approval as necessary to enforce the policies and regulations of this chapter.~~

~~The request for the Statement of Exemption shall be in writing, on forms required by the planning official, and include the information required by the planning official.~~

~~The planning official shall issue a decision on a request for a Statement of Exemption in writing within 21 calendar days of receiving the request.~~

~~The following actions may be authorized, pursuant to the following provisions, provided the applicant demonstrates mitigation sequencing and there is no net loss of shoreline ecological function.~~

C. Exemptions from Requirement to Obtain a Critical Areas Permit.

1. Category I Exemptions ~~Activities for which a Statement of Exemption is required. The following activities shall obtain a Statement of Exemption under subsection B of this section:~~

a. Existing Structure Remodel—Impervious Surface Increase Less than 500 Square Feet.

Development or clearing, outside areas of special flood hazards and other than tree removal, as minimally necessary to remodel an existing structure, provided:

- i. The activity will increase the footprint of structures including impervious surfaces by less than 500 square feet from the footprint size at the time of the adoption of this chapter; and
- ii. If the structure or impervious surface is within a critical area or buffer, the distance from the nearest structure or impervious surface to lakes, streams, rivers, wetlands or geological hazards is not decreased; and
- iii. All vegetation disturbed as a result of the development shall be replaced one-to-one, except trees shall be replaced using tree units derived from Chapter [20.770](#) VMC, Tree, Vegetation, and Soil Conservation. Native vegetation shall be used where feasible.
- iv. Impacts to critical areas and buffers shall be minimized and mitigated.

b. No Impervious Surface Increase in the Riparian Management Area or Riparian Buffer.

Development activity on the portions of sites with existing structures or impervious surfaces which does not increase the impervious surface area within the Riparian Management Area or Riparian Buffer and which is not otherwise exempt under subsection [B](#) of this section shall be exempt from the provisions of VMC Section [20.740.110](#) (Fish and Wildlife Habitat Conservation Areas). The applicant is encouraged to provide enhancement to the extent feasible. Such enhancement activities may include, but are not limited to, landscaping using native plants, additional treatment of stormwater as appropriate, and implementation of best management practices that would enhance habitat functions.

c. Approved Subarea Plan with EIS. Development activity covered by and in compliance with all the conditions of an approved subarea plan that contains:

- i. Baseline information on existing critical areas and their functions at the level of detail required for an Environmental Impact Statement (EIS) under the State Environmental Policy Act (SEPA);
- ii. An analysis of the impacts of full development at the level of detail required for an EIS under SEPA and in keeping with the plan; and
- iii. Mitigation for those impacts consistent with the requirements of this chapter.

d. a. Fence. A fence may be installed in a critical area buffer (not in a critical area) where:

- i. The fence is necessary for safety and security;
- ii. The property was developed prior to the effective date of Chapter [20.740](#) VMC (April 29, 2005);

- iii. The fence is designed and installed in a manner that protects the critical area and buffer functions and blends with the critical area environment.

e.b. *On-site Critical Area will be Avoided.* Development may be permitted on a site containing a critical area or buffer not also subject to state or federal permits where the **Shoreline Administrator Planning Official** determines that the critical areas and buffers will be clearly avoided using the following procedures and criteria:

- i. The **Shoreline Administrator planning official** has visited the site;
- ii. The critical area(s) and buffer(s) has/have been identified in the field and clearly mapped by a qualified professional through an approved, limited-scope Critical Areas Report (for example, a wetland boundary delineation without categorization or functional assessment, but with the minimum documentation necessary to justify the boundary location); except that for a single-family or duplex residential development on a property with a stream not regulated under the state Shoreline Management Act, its Riparian Management Area or Riparian Buffer, the **Shoreline Administrator planning official** may accept an aerial photo overlain with two-foot contour lines from the Clark County Digital Atlas with the required information drawn to scale by someone other than a qualified professional;
- iii. The site plan and final plat show a development envelope within which all development activity will take place, and a note identifying the development envelope and its purpose is placed on the face of the site plan and the final plat;
- iv. The boundaries of the development envelope are clearly outside of all maximum critical areas and all maximum buffers. The maximum critical area and maximum buffer are the greatest that may be applied under any circumstances. (For example, under this chapter, the maximum wetland buffer that could be applied under any circumstance is 300 feet; the maximum Riparian Management Area is 100 feet, and the maximum Riparian Buffer is 75 feet from the outer boundary of the Riparian Management Area.)

f.c. *Fire-Defensible Space.* Maintaining fire-defensible space around a structure to reduce fire hazards, involving regular maintenance of existing trees at least six-inch diameter at breast height, grasses, and underbrush, not tree removal or other ground-disturbing or soil-destabilizing activities; ~~or- Creating or maintaining~~ fire-defensible space **as follows: (see VMC 20.740.040(1)) or undertaking other development requires a Critical Areas Permit under VMC 20.740.040(A)(2)(f) and could require other permits as well.**

- i. Pruning trees, grasses, and brush within a critical area or buffer to maintain fire-defensible space around a structure may be permitted when one or more of the following criteria are met:
 - A. The structure nearest the property line is within 30 feet of a slope of at least 25 percent (also designated as a landslide hazard area under this chapter);

- B. The nearest structure is within 30 feet of a forested area;
 - C. The vegetation within 30 feet of the structure is comprised of less than 50 percent native species;
 - D. The vegetation within 30 feet of the structure is higher than 12 inches;
 - E. Trees are crowded within 30 feet of the structure or overhanging the structure's roof;
 - F. The structure is located in an area designated by the Fire Marshal as a "Wildfire Safety Area."
- ii. When maintenance of a fire-defensible space is permitted, the following standards shall apply:

~~A. Trees may be pruned or limbed up to mitigate a hazard, but trees may not be removed without a Critical Areas Permit and any other necessary permit(s). (See VMC 20.740.040(A)(2)(f) and 20.740.040(H) on creating fire defensible space.)~~

~~B. A.~~ Grasses and underbrush shall be maintained between eight inches and 12 inches in height.

~~C. B.~~ ~~Trees may be pruned, limbed-up, or removed.~~ Topping trees is prohibited.

~~C. Removal of vegetation in a landslide hazard area is prohibited during the wet season (November 1st to May 1st). The area must be immediately replanted to ensure soil stability. The property owner shall maintain the newly planted vegetation to ensure its survival.~~

D. Any debris from pruning shall be disposed of promptly and properly.

~~E. Required replantings shall be of native, fire-resistant species. A list of native, fire-resistant species is available from the Shoreline Administrator.~~

2. ~~Category II Exemptions Activities for which a Statement of Exemption is not required. Reasonable methods shall be used to avoid potential impacts to critical areas. Any damage to, or alteration of, a critical area that is not a necessary outcome of the exempt activity shall be corrected at the property owner's expense.~~

The following activities ~~may be exempt from the need for a shoreline Substantial Development Permit when consistent with the provisions of Chapter 2.3 Exemptions or are determined to not meet the definition of development found in Chapter 8 are exempt from needing a Critical Areas Permit and do not require a statement of exemption:~~

- a. *Emergencies.* ~~See Chapter 2.3 (Exemptions) of the SMP.~~ Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of property damage and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter, so long as all of the following apply:

- i. The emergency action uses reasonable methods to address the emergency.
 - ii. The emergency action must have the minimum possible impact to the critical area or its buffer.
 - iii. The property owner, person or agency undertaking such action shall notify the city within one working day following commencement of the emergency activity.
 - iv. Within 14 days the **Shoreline Administrator planning official** shall determine if the action taken was within the scope of the emergency actions allowed in this section. If the **Shoreline Administrator planning official** determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of VMC [20.740.090](#) shall apply.
 - v. After the emergency, the property owner, person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved Critical Areas Report and mitigation plan. The property owner, person or agency undertaking the action shall apply for review. The alteration, Critical Areas Report, and mitigation plan shall be reviewed by the city in accordance with the review procedures contained in this chapter.
 - vi. Restoration and/or mitigation activities must be initiated within three months of the date of the emergency or as otherwise determined by the **Shoreline Administrator planning official**, and completed in a timely manner.
- b. ~~(Repealed) Valid Critical Areas Permit. Any development proposed on property pursuant to a currently valid Critical Areas Permit, provided all conditions and requirements of the Critical Areas Permit are met and the proposed activity is within the scope of the original permit.~~
- c. *Hazard Tree*. Emergency or hazard tree removal (as defined in Chapter [20.770](#) VMC) conducted so that critical area impacts are minimized.
 - d. *Landscape Maintenance*. **See Chapter 2.3 (Exemptions) of the SMP.** Landscape maintenance (other than tree removal or use of pesticides, herbicides, fungicides or fertilizers applied into or within 25 feet of water bodies) consistent with accepted horticultural practices, such as those recommended by the Washington State University Extension Service, within the boundaries of an existing lawn, garden or landscaped area and not associated with development.
 - e. *Noxious or Invasive Plants*. Clearing of noxious or invasive plants using hand-held equipment such as a weed-whacker, provided (1) fueling and maintenance take place outside the critical area and buffer; (2) all cleared vegetation is taken away and disposed of properly; and (3) denuded soils are stabilized with native vegetation. The city of Vancouver's Noxious or Invasive Plants List and Native Plant Species List are available from the **Shoreline Administrator planning official**.

- f. *Pesticides, Herbicides, Fungicides or Fertilizers 25 feet from Critical Area.* Application of pesticides, herbicides, fungicides or fertilizers farther than 25 feet from any wetland, pond, lake, stream or river or in a manner specified in a valid permit.
- g. *State or Federally Approved Conservation or Preservation.* State or federally approved conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing critical area or buffer.
- h. *Harvesting Wild Crops.* The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops or other native vegetation and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the critical area or buffer by changing existing topography, water conditions or water sources.
- i. *Passive Activities.* Passive outdoor recreation, education, and scientific research activities such as fishing, hiking, and bird watching that do not degrade the critical area or buffer.
- j. *Land surveys, soil sampling, percolation tests, and other related activities.* In every case, impacts to the critical area or buffer shall be minimized and disturbed areas shall be stabilized immediately.
- k. *Navigational Aids and Boundary Markers.* See Chapter 2.3 Exemptions (6) and (10). Construction or modification of navigational aids and boundary markers. Impacts to the critical area or buffer shall be minimized and disturbed areas shall be restored within 72 hours.
- l. *Agricultural Activities.* See Chapter 2.3.2(5) Exemptions. Existing and ongoing agricultural activities protected under the federal Food Security Act occurring in wetland areas.

Existing and ongoing agriculture within fish and wildlife habitat conservation areas so long as livestock and application of pesticides, herbicides, fungicides and fertilizers are kept 25 feet from any water body.
- m. *State or Federally Approved Restoration or Enhancement Project.* See Chapter 2.3 Exemptions. Implementation of a state or federally approved restoration or enhancement project not related to any development project.
- n. *Operation, Repair and Maintenance.* See Chapter 2.3 Exemptions. Operation, repair and maintenance of existing structures, infrastructure, roads, sidewalks, railroads, trails, dikes, or levees or water, sewer, stormwater, power, gas, telephone, cable, or fiber optic facilities if the activity does not further increase the impact to, or encroach farther within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, repair, or maintenance.
- o. *Areas with only ground shaking or liquefaction hazards.* In areas with only ground shaking or liquefaction hazards, repair or construction of roads, sidewalks or trails (except where there are structures), or water, sewer, stormwater, gas, power, cable, or fiber optic facilities shall be exempt from the ground shaking and liquefaction permitting requirements.

p. Public improvement projects located within existing impervious surface areas.

~~q. City, State or Federally Approved Stand-alone “Critical Area” Creation Project. Implementation of a city, state or federally approved stand-alone “critical area” creation project that is not mitigation. A “Critical Area” created under these circumstances that would not otherwise have met the definition of that type of critical area is exempt from the provisions of this chapter. Also see the definition of “Wetlands” at Chapter 20.150 VMC.~~

~~r. q. Clearing in Frequently Flooded Area and/or Seismic Hazard Area Only. Clearing vegetation within the floodplain but outside the Riparian Management Area or Riparian Buffer (see VMC 20.740.040(A)(2)(f)).~~

Clearing vegetation in critical areas that are only seismic hazard areas (see VMC 20.740.040(A)(2)(f)).

~~s. r. Fence Repair. See Chapter 2.3 Exemptions.~~ Maintenance, repair, and in-kind replacement of existing fences.

~~t. s. Seismic Hazard Areas Only. Sites identified as located within only a Seismic Hazard Area (VMC Section 20.740.130 – Geologic Hazard Areas) shall be exempt from needing to provide a seismic hazard critical areas report prior to issuance of a shoreline substantial development permit, shoreline permit statement of exemptions, shoreline conditional use or shoreline variance obtain a critical areas permit.~~ All projects within the Seismic Hazard Area must comply with the Building Code at time of building permit review including providing a geotechnical report. (Ord. M-4289 § 4, 2019; Ord. M-4034 § 23, 2012; Ord. M-4017 § 5, 2012; Ord. M-3931 § 22, 2009; Ord. M-3922 § 36, 2009; Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

20.740.040 Approval Process.

A. ~~Critical Areas Approval Process~~ Approval Process.

The City shall consolidate and integrate the review and processing of the critical areas aspects of the proposal within the shoreline permit decision or review required for the proposed activity as applicable or required by this SMP.

Any additional decision criteria and submittal requirements within Chapter 5A shall be considered supplemental to the shoreline permit or review required for the proposed activity. In cases where required by this Chapter, the applicant shall submit a critical areas report prepared by a qualified professional.

~~1. Pre-application Conference Required. A pre-application meeting or waiver per Chapter 20.210 VMC is required prior to submitting a critical areas permit. Provided, pre-application conferences shall not be required for the following:~~

- a. Proposed activities within only ground shaking and/or liquefaction areas.
- b. Proposals involving only an addition to an existing single family home, including accessory structures.
- c. Other minor improvements determined by the planning official to not warrant a pre-application meeting.

2. *Critical Areas Permit.* All Critical Areas Permits as determined to be necessary under Chapter [20.740](#) VMC and as stated below shall be processed as a Type I permit or, when submitted with another land use application, reviewed according to the procedures of the underlying land use application pursuant to Chapter [20.210](#) VMC.

- a. New single family and duplex residences, alterations to existing single family and duplex residences, or new accessory structures located within a critical area or buffer, or on a property containing a critical area or buffer.
- b. Application of pesticides, herbicides, fungicides or fertilizers within 25 feet of ponds, lakes, streams, rivers or wetlands.
- c. Approval of agricultural activities within 25 feet of ponds, lakes, streams or rivers.
- d. Critical Area restoration or enhancement projects not related to any development project; and establishment of mitigation banks.
- e. Public improvement projects located entirely within the previously improved portion of the right-of-way, not otherwise exempted by this chapter.
- f. Clearing vegetation within a critical area or buffer, including: (i) grading, uprooting or other activities that impair the soil stabilization function of vegetation in landslide hazard areas (VMC [20.740.130](#)); (ii) removal of downed woody vegetation from wetlands, lakes, streams or rivers; and (iii) removal of trees, grasses, or brush to create fire defensible space (subsection [H](#) of this section). However, clearing vegetation within the area of special flood hazard outside of the Riparian Management Area and Buffer and in seismic hazard areas shall not require a permit (see VMC [20.740.030](#)).
- g. Approval of programmatic permits (subsection [C](#) of this section) for activities within critical areas or buffers.

3. *Review Procedure.* The planning official shall make a determination as to whether the proposed activity and mitigation, if any, are consistent with the provisions of VMC Title [20](#). The planning official's determination shall be based on the approval criteria of VMC [20.740.060](#). The Critical Areas Permit shall be valid for as long as the underlying land use permit or as otherwise specified by the planning official.

B. *Notice on Title – Covenant and Tracts.*

1. *Covenants.* This section applies to all nonexempt projects that involve critical areas and buffers.
 - a. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is approved shall file a covenant with the county records and elections division according to the direction of the city. The covenant shall state the presence of the critical area or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The covenant shall “run with the land.”
 - b. The applicant shall submit proof that the covenant has been filed for public record before the city approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, planned unit developments, binding site plans, and other developments that involve platting, at or before recording of the plat.
2. *Tracts.* This section applies in addition to subsection (B)(1) of this section to projects that involve platting on properties containing fish and wildlife habitat conservation areas, wetlands, and their buffers. The **Shoreline Administrator planning official** may also apply this section to developments that involve platting on properties containing geologic hazard areas and their buffers. The location of the tract, critical area(s), and buffer(s) shall be shown on the face of the plat. **See subsection (B)(2)(b) of this section for exceptions.**
 - a. The property owner shall place the subject critical areas and buffers in one or more nondevelopable tracts except when:
 - i. Creation of a nonbuildable tract would result in violation of minimum lot depth standards; or
 - ii. The responsible official determines a tract is impractical.
 - b. When an exception in subsection (B)(2)(a) of this section applies, residential lots may extend into the critical area(s) or buffer(s) provided:
 - i. The location of the outer perimeter of the critical area(s) and buffer(s) is marked in the field and approved by the **Shoreline Administrator planning official** prior to the commencement of permitted activities and maintained throughout the duration of the permit.
 - ii. A permanent physical demarcation along the outer/upland boundary of the critical area buffer(s) is installed and thereafter maintained. Such demarcation may consist of fencing, hedging or other prominent physical marking that allows wildlife passage, blends with the critical area environment, and is approved by the **Shoreline Administrator planning official**.
 - iii. Permanent signs are posted at an interval of one per lot for single-family residential uses or at a maximum interval of 200 feet, or as otherwise determined by the **Shoreline Administrator planning official**, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the **Shoreline Administrator**

planning official: “The area beyond this sign is a critical area or critical area buffer. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information.”

C. Financial Assurances.

1. When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to provide security in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant shall provide security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional (including but not limited to construction, maintenance, and monitoring).
2. The security shall be in the amount of 125 percent of the estimated cost of restoring the functions of the critical area that are at risk.
3. The security authorized by this section shall remain in effect until the city determines, in writing, that the standards for which the security is required have been met. Bonds or other security shall be held by the city for a minimum of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.
4. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
5. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed in the project budget or capital improvement budget for mitigation, maintenance, monitoring, or restoration.
6. Failure to satisfy any critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.
7. Any funds recovered pursuant to this section shall be used to complete the required mitigation. Excess funds shall be returned to the applicant.

D. Critical Area Inspections. Reasonable access to the site shall be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

~~*E. Reconsideration of planning official's determination.* If, within five days following the date of mailing of a Critical Areas Permit, new information relevant to the decision is made available, any party may request that the decision be reconsidered. If the new information is found to be substantial and relevant to the critical area review, the planning official may reopen the critical area review and make a new determination based on the~~

revised report. The Critical Areas Permit shall not be considered final and subject to appeal until the decision on the request for reconsideration, if applied for, has been issued.

F. E. Appeals. Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to VMC [20.210.130](#). Appeals per Chapter 7 of the SMP.

G. F. Programmatic Authorization Permits. The purpose of a programmatic permit authorization is to provide for ongoing, routine maintenance, operation, or repair activities on sites containing critical areas or buffers (1) so as not to impair an agency's or business's ability to operate effectively and efficiently; and (2) at the same time protect critical areas and buffers in accordance with this chapter.

1. In addition to the submittal requirements in VMC [Section 20.740.050](#), applicants for a programmatic permit authorization shall submit a proposed management plan. The management plan shall contain:
 - a. A narrative explaining the need for the authorization programmatic permit.
 - b. A list of the ongoing, routine, maintenance, operation, or repair activities that impact or potentially impact critical areas and buffers.
 - c. A description of the potentially impacted critical area and buffer functions.
 - d. Proposed measures and standards for avoiding impacts to critical area and buffer functions and, where unavoidable, minimizing and mitigating those impacts to achieve no net loss of functions.
 - e. A training program ensuring that all employees, contractors, and individuals under the supervision of the applicant who are involved in permitted activities understand and perform in accordance with the terms of the permit.
2. A programmatic authorization permit may be approved for up to seven years. The permit duration may be tied to other permits or processes.
3. Every two years within 30 days of the anniversary of permit authorization issuance ~~for the duration of the permit~~, the applicant shall submit a report to the ~~planning official~~ Shoreline Administrator summarizing activities undertaken under the authorization programmatic permit including any issues to be resolved. The report shall also document the training provided in accordance with this section ~~subsection (G)(1)(c) of this section~~.
4. The applicant or the city may initiate an amendment to the programmatic authorization permit to respond to permit performance issues. An amendment shall be considered through a Type 1 process following a pre-application conference and may require a new or amended shoreline permit or shoreline permit statement of exemption.
5. An application for reauthorization of a programmatic permit approval shall be submitted at least 90 days prior to the date the current permit approval expires. Programmatic approval permits may be

reauthorized through a Type 1 process following a required pre-application conference. Permit standards and conditions may be modified to conform to the current codes, policies, and standards or based on past performance. Where the review of the reauthorization application will extend beyond the expiration date of the current programmatic approval permit, the planning official Shoreline Administrator may extend the duration of the current approval permit for 30 days at a time, not to exceed 180 days.

H. ~~Trees, grasses, and brush in a critical area or buffer may be pruned or removed to create fire-defensible space around a structure (see subsection (A)(2)(f) of this section) when one or more of the criteria in VMC 20.740.030(C)(1)(f)(i)(A) through (C)(1)(f)(i)(E) are met. When creating fire-defensible space is permitted, the following standards shall apply:~~

- ~~1. Grasses and underbrush shall be maintained between eight inches and 12 inches in height.~~
- ~~2. Trees may be pruned, limbed-up, or removed. Topping trees is prohibited.~~
- ~~3. Removal of vegetation in a landslide hazard area is prohibited during the wet season (November 1st to May 1st). The area must be immediately replanted to ensure soil stability. The property owner shall maintain the newly planted vegetation to ensure its survival.~~
- ~~4. Any debris from vegetation removal shall be disposed of promptly and properly.~~
- ~~5. Required replantings shall be of native, fire-resistant species. A list of native, fire-resistant species is available from the planning official.~~

I. ~~Development may be permitted on a site containing a critical area(s) or buffer(s) which may also be subject to state or federal permits prior to all necessary state or federal permits being obtained when all of the following criteria are met:~~

- ~~1. A phased master plan is submitted under Chapter 20.260 or 20.268 VMC as appropriate, demonstrating:
 - ~~a. How the maximum critical area(s) and maximum buffer(s) will be clearly avoided until all local, state, or federal permits are obtained;~~
 - ~~b. How each phase could be permitted as an individual project not relying on development of any other phases in any way;~~
 - ~~c. How each phase could be developed regardless of whether any or all of the pending state or federal permits are ever obtained;~~
 - ~~d. No net loss of critical area functions for each phase and for the project as a whole, regardless of whether any or all of the pending state or federal permits are ever obtained.~~~~

2. Development is permitted only in the area that clearly avoids (VMC 20.740.030(B)(2)(f)(i)(A)) the maximum critical area(s) and buffer(s). (Ord. M 4289 § 4, 2019; Ord. M 4105 § 3, 2014; Ord. M 4017 § 6, 2012; Ord. M 3959 § 37, 2010; Ord. M 3931 § 23, 2009; Ord. M 3844 § 2, 2007; Ord. M 3692 § 2, 2005)

20.740.050 Submittal Requirements.

A. *Preparation by Qualified Professional.* Any required Critical Areas Report shall be prepared by a qualified professional as defined herein.

B. *General Critical Areas Report Contents.* At a minimum, the Critical Areas Report shall contain the following:

1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
2. A copy of the site plan for the development proposal including:
 - a. A map to scale depicting critical areas, buffers, ordinary high water mark, shoreline jurisdiction extent, the development proposal, and any areas to be cleared; and
 - b. Proposed stormwater management and sediment control plan for the development including a description of any impacts to drainage alterations; and
 - c. A digital map of the geographic information required pursuant to the applicable provisions of this chapter for each critical area and buffer on site. The digital map(s) must be based on the same coordinate system as the Clark County GIS database: state plane coordinates using the NAD 1983 datum and the Washington South zone (also referred to as the FIPS Zone 4602). The digital map(s) must also conform to other Clark County GIS digital mapping standards and specifications available from the Shoreline Administrator Planning Official or directly from Clark County's Department of Assessment and GIS.
3. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
4. *Identification and scientific characterization of all critical areas and buffers.* The scientific characterization shall include a detailed assessment of the functional characteristics of the critical areas;
5. An assessment of the probable impacts to critical areas and buffers and risk of injury or property damage including permanent, temporary, temporal, and indirect impacts resulting from development of the site and the operations of the proposed development;
6. A written response to each of the approval criteria in VMC Section 20.740.060;

7. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with [Section VMC 20.740.050\(P\)](#) Mitigation Plan Requirements.

C. *Additional Information.* Any additional information required for the specific critical areas and buffers as specified in [VMC Section 20.740.110](#) Fish and Wildlife Habitat Conservation Area, [VMC Section 20.740.120](#) Frequently Flooded Areas, [VMC Section 20.740.130](#) Geologic Hazard Areas, and [VMC Section 20.740.140](#) Wetlands.

D. *Other Reports or Studies.* Unless otherwise provided, a Critical Areas Report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the [Shoreline Administrator planning official](#). Provided, the site conditions shall not have changed since the earlier report or study was completed.

E. *Critical Areas Report – Modifications to Requirements.* Modifications to Required Contents. The applicant may consult with the [Shoreline Administrator planning official](#) prior to or during preparation of the Critical Areas Report to obtain city approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential impacts to any critical areas or buffers and the required mitigation. The [Shoreline Administrator planning official](#) may also initiate a modification to the required report contents by requiring either additional or less information, when determined to be necessary to the review of the proposed activity in accordance with this chapter.

F. *Mitigation Plan Requirements.* When mitigation is required, the applicant shall submit a mitigation plan as part of the Critical Areas Report. The mitigation plan shall include:

1. *Detailed Construction Plans.* The mitigation plan shall include descriptions of the mitigation proposed, such as:
 - a. The proposed construction sequence, timing, and duration;
 - b. Grading and excavation details;
 - c. Erosion and sediment control features;
 - d. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
 - e. Measures to protect and maintain plants until established.

These written descriptions shall be accompanied by detailed site diagrams, scaled cross sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

2. *Monitoring Program.* The mitigation plan shall include a program for monitoring construction of the mitigation project and for assessing a completed project. A protocol shall be included outlining the

schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years. For example, ten (10) years or more of monitoring are typically needed for forested wetlands or scrub-shrub communities.

When the applicant believes that the conditions of the monitoring plan are met, the applicant shall contact the City and request that the City verify and certify so in writing. The City shall conduct an on-site assessment as part of the verification process. The applicant shall provide reasonable access to the property as necessary for verification and certification.

When the City has verified and certified that the conditions of the monitoring plan have been met, the critical area shall no longer be considered as mitigation, but as a naturally-occurring critical area when processing a future development permit application(s).

3. *Adaptive Management.* The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met. (Ord. M-3931 § 24, 2009; Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

20.740.060 Approval Criteria.

Any activity or development subject to this chapter, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria. The city may condition the proposed activity as necessary to mitigate impacts to critical areas and their buffers and to conform to the standards required by this chapter. Activities shall protect the functions of the critical areas and buffers on the site.

~~A. *Avoid Impacts.* The Applicant shall first seek to avoid all impacts that degrade the functions and values of (a) critical area(s). This may necessitate a redesign of the proposal.~~

~~B. *Minimize Impacts.* Where avoidance is not feasible, the applicant shall minimize the impact of the activity and mitigate to the extent necessary to achieve the activity's purpose and the purpose of this ordinance. The applicant shall seek to minimize the fragmentation of the resource to the greatest extent possible.~~

~~A. *Mitigation Sequencing.* Before impacting any Critical Area or its buffer, an applicant shall demonstrate that the following actions have been taken. Actions are listed in the order of preference:~~

~~1. *Avoid the impact altogether by not taking a certain action or parts of an action.*~~

~~2. *Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.*~~

3. Rectify the impact by repairing, rehabilitating, or restoring the affected environment.
4. Reduce or eliminate the impact over time by preservation and maintenance operations.
5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.
6. Monitor the required compensation and take remedial or corrective measures when necessary.

BE. *Compensatory Mitigation.* The applicant shall compensate for the unavoidable impacts by replacing each of the affected functions to the extent feasible. The compensatory mitigation shall be designed to achieve the functions as soon as practicable. Compensatory mitigation shall be in-kind and on-site, when feasible, and sufficient to maintain the functions of the critical area, and to prevent risk from a hazard posed by a critical area to a development or by a development to a critical area.

CD. *No Net Loss.* The proposal protects the critical area functions and values and results in no net loss of critical area functions and values.

DE. *Consistency with General Purposes.* The proposal is consistent with the general purposes of this chapter and does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;

EF. *Performance Standards.* The proposal meets the specific performance standards of Fish and Wildlife Habitat Conservation Areas **VMC Section 20.740.110**, Frequently Flooded Areas **VMC Section 20.740.120**, Geologic Hazard Areas **VMC Section 20.740.130**, and Wetlands **VMC Section 20.740.140**, as applicable. (~~Ord. M 4017 § 7, 2012; Ord. M 3692 § 2, 2005~~)

20.740.070 Minor Exceptions.

Minor exceptions do not apply in shoreline jurisdiction. Deviations are allowed through a Shoreline Variance.

A. *Minor Exceptions Authorized.* Minor exceptions of no greater than 10% from the standards of this chapter may be authorized by the city in accordance with the procedures set forth in **VMC 20.210.050**, Type II Applications. Minor exceptions shall not be combined with buffer averaging [~~(20.740.140(C)(1)(b)(ii))~~] or buffer reduction ~~(20.740.140(C)(1)(b)(iii))~~. Minor exceptions from the NFIP development standards of **VMC 20.740.120**, Frequently Flooded Areas are prohibited (~~VMC 20.740.120(D)~~).

B. *Minor Exception Criteria.* A minor exception from the standards of this chapter may be granted only if the applicant demonstrates that the requested action conforms to all of the following criteria:

1. Unusual conditions or circumstances exist that are peculiar to the intended use, the land, the lot, or something inherent in the land, and that are not applicable to all other lands in the same vicinity or district;

2. The unusual conditions or circumstances do not result from the actions of the applicant;
3. Granting the minor exception requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances;
4. The minor exception is necessary for the preservation and enjoyment of a substantial property right of the applicant such as is possessed by the owners of other properties in the same vicinity or district;
5. The minor exception requested is the least necessary and no greater than 10% of the subject standard to relieve the unusual circumstances or conditions identified in Subsection VMC [20.740.070\(B\)\(1\)](#) above;
6. The granting of the minor exception or the cumulative effect of granting more than one minor exception is consistent with the general purpose and intent of the City of Vancouver Comprehensive Plan, this Title, this chapter, and the underlying zoning district;
7. Degradation of the functions (including public health and safety) of the subject critical areas and any other adverse impacts resulting from granting the minor exception will be minimized and mitigated to the extent feasible in accordance with the provision of this chapter;
8. Granting the minor exception will not otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;
9. The proposed development complies with all other applicable standards.

C. Conditions May Be Required. In granting any minor exception, the city may attach such conditions and safeguards as are necessary to secure adequate protection of critical areas and developments from adverse impacts, and to ensure conformity with this chapter.

D. Time Limit. The city shall prescribe a time limit within which the action for which the minor exception is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the minor exception.

E. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application. (Ord. M 4017 § 8, 2012; Ord. M 3844 § 2, 2007; Ord. M 3692 § 2, 2005)

20.740.080 Reasonable Use Exceptions.

Reasonable Use Exceptions do not apply in shoreline jurisdiction. The applicant must apply for a Shoreline Variance.

A. Exception Request and Review Process. If the application of this chapter would deny all reasonable economic use of the subject property, the city shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section. Exceptions from the standards of this

chapter may be authorized by the city in accordance with the procedures set forth in VMC [20.210.060](#), Type III Applications.

An application for a reasonable use exception shall be made to the city and shall include a Critical Areas Report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (RCW [43.21C](#)). The planning official shall prepare a recommendation to the Hearings Examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in VMC [20.740.080\(B\)](#).

B. Reasonable Use Review Criteria. The city shall approve applications for reasonable use exceptions when all of the following criteria are met:

1. The application of this chapter would deny all reasonable economic use of the property;
2. No other reasonable economic use of the property has less impact on the critical area;
3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;
4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this chapter, or its predecessor;
5. The proposal does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;
6. The proposal mitigates for the loss of critical area functions to the greatest extent feasible and contributes to the Critical Areas Restoration Fund for any impacts that cannot be mitigated;
7. The proposal is consistent with other applicable regulations and standards;

C. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. (Ord. M 3692 § 2, 2005)

20.740.090 Unauthorized Critical Areas Alterations and Enforcement.

A. Enforcement.

1. It shall be unlawful to violate the provisions of VMC Chapter [5A 20.740](#). Any violation of this chapter shall constitute a public nuisance. Violations of this Chapter are subject to enforcement under Chapter 7 of this SMP.

2. VMC Title 22 shall provide the enforcement provisions for VMC Chapter 20.740. VMC Title 22 may impose any of the remedies, requirements or corrective actions contained in this chapter. In lieu of or in addition to the enforcement provisions contained in VMC Title 22, the city may also seek injunctive or other relief from any court of competent jurisdiction.

3. The city shall deposit all monetary penalties collected pursuant to VMC Title 22 into the Critical Areas Restoration Fund. Accrued monies in the Critical Areas Restoration Fund shall be used to protect and restore critical areas within the City of Vancouver.

B. *Requirement for Restoration Plan.* In the event the city initiates enforcement action under VMC Title 22 Chapter 7 or files a complaint in court, the city may require a restoration plan consistent with the requirements of this chapter. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in VMC Section 20.740.090(C). The planning official Shoreline Administrator shall, at the violator's expense, seek expert advice in determining whether the plan restores the affected area to its pre-existing condition or, where that is not possible, restores the functions of the affected area. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.

C. *Minimum Performance Standards for Restoration.*

1. For alterations to frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

- a. The structure and functions of the critical area or buffer prior to violation shall be restored, including water quality and habitat functions;
- b. The soil types and configuration prior to violation shall be replicated;
- c. The critical area and buffers shall be replanted with native vegetation (a list of native species is available from the Planning Official Shoreline Administrator). ~~If the critical area or buffer is on a site that meets the criteria of VMC 20.740.030(C)(1)(i), the vegetation for replanting must be not only native but also fire resistant. A list of native, fire-resistant species is available from the Planning Official; and~~
- d. Information demonstrating compliance with the requirements in VMC Section 20.740.050(F) Mitigation Plan Requirements shall be submitted to the Shoreline Administrator planning official.

2. For alterations to frequently flooded and geologic hazard areas, the following minimum performance standards shall be met for the restoration of a critical area or buffer, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

- a. The hazard shall be reduced to a level equal to, or less than, the pre-violation hazard;

- b. The risk of personal injury resulting from the alteration shall be eliminated or minimized;
- c. Drainage patterns shall be restored to those existing before the alteration; and
- d. The hazard area and buffers shall be replanted consistent with pre-violation conditions with native vegetation sufficient to minimize the hazard. **If the critical area or buffer is on a site that meets the criteria of VMC 20.740.030(C)(1)(f)(i), the vegetation for replanting must be not only native but also fire resistant. A list of native, fire resistant species is available from the Planning Official.**

D. *Site Investigations.* The **planning official Shoreline Administrator** is authorized to make site inspections and take such actions as are necessary to enforce this chapter. As a condition of the restoration plan, the applicant shall grant reasonable access to the property. (Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

20.740.100 Habitats of Local Importance.

A. *Eligibility and Approval Criteria.* Habitats of Local Importance are Fish and Wildlife Habitat Conservation Areas which are not designated as Priority Habitats and Species by the state but are designated as locally significant by the city. Criteria for designation include all of the following:

1. A need for protection exists due to a high diversity of fish or wildlife species, declining populations, scarcity of the habitat type, sensitivity to disturbance from human activity or development, or other unique local habitat functions.
2. The area is sufficient in size to support the species or habitat functions for which it is designated.
3. The designation will not compromise the ability of the city to achieve the goals of the Comprehensive Plan.
4. There is a proposed management strategy describing how the functions of the habitat will be protected after designation.

B. *Designation Process.* Habitats of Local Importance may be proposed by the property owner or the city and shall be designated according to a Type IV legislative procedure (VMC [20.210.070](#)). (Ord. M-3692 § 2, 2005)

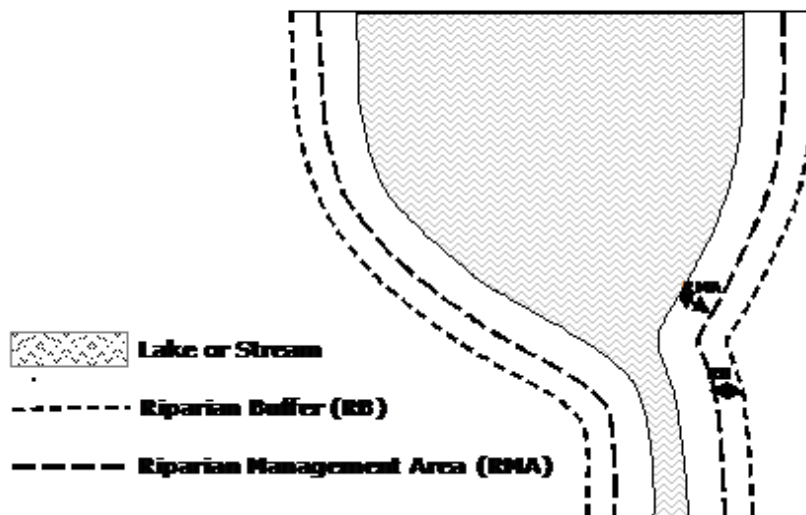
20.740.110 Fish and Wildlife Habitat Conservation Areas.

A. *Designation.*

1. Final designations shall be based on site conditions and other available data or information **(See VMC 20.740.020(C)(1)).** There are established in the city the following identified Fish and Wildlife Habitat Conservation Areas:

- a. Habitat used by any life stage of state or federally designated endangered, threatened, and sensitive fish or wildlife species. A current list of federally and state identified species is available from the **Shoreline Administrator planning official**.
- b. *Priority Habitats and areas associated with Priority Species*. Current lists of Priority Habitats and Species and applicable Management Recommendations promulgated by the Washington Department of Fish and Wildlife are available from the **Shoreline Administrator planning official**.
- c. Water bodies including lakes, streams, rivers, and naturally occurring ponds.
- d. *Habitats of Local Importance*. Fish and Wildlife Habitat Conservation Areas which are not designated as Priority Habitats and Species by the state but are designated as locally significant by the city in accordance with **VMC Section 20.740.100**.
- e. *Riparian Management Areas and Riparian Buffers*. The regulated areas include the land from the ordinary high water mark to a specified distance as measured horizontally in each direction. The Riparian Management Area is adjacent to the lake, stream or river, and the Riparian Buffer is adjacent to the Riparian Management Area.

**Figure 20.740.110-1
Riparian Management Area and Riparian Buffer**



(1) The Riparian Management Areas and Riparian Buffers are as follows:

Table 20.740.110-1. RIPARIAN MANAGEMENT AREAS & BUFFERS

DNR/Vancouver Stream Type	Description	Land Use Intensity ¹	RMA	RB ²
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DNR/Vancouver Stream Type	Description	Land Use Intensity ¹	RMA	RB ²
S	Shorelines-of-the-State	High/Moderate/Low	100'	75'
F	Lakes, streams, and rivers that contain fish habitat	High/Moderate/Low	100'	75'
Np or Ns, large	Streams and rivers that: (1) are not shorelines-of-the-state; (2) do not contain fish habitat; (3) are wider than 5' between the ordinary high water marks on the banks.	High/Moderate/Low	100'	75'
Np, small, connected	Streams and rivers that: (1) are not shorelines-of-the-state; (2) do not contain fish habitat; (3) are not more than 5' wide; (4) do connect via surface water to another stream or river (whether perennial or seasonal) even if the connection traverses a culvert, wetland, or other feature; and (5) are perennial	High/Moderate Low	100' 100'	50' 25'
Ns, small, connected	Streams and rivers that: (1) are not shorelines-of-the-state; (2) do not contain fish habitat; (3) are not more than 5' wide; (4) do connect via surface water to another stream or river (whether perennial or seasonal) even if the connection traverses a culvert, wetland, or other feature; and (5) are seasonal	High/Moderate Low	100' 100'	25' 0'
Np or Ns, small, not connected	Streams and rivers that: (1) are not shorelines-of-the-state; (2) do not contain fish habitat; (3) are not more than 5' wide; (4) do not connect via surface water to another stream or river; and (5) are either perennial or seasonal	High/Moderate/Low	25'	0'

¹ Refer to Table 20.740.140-1.

² The RB is the distance shown or the full extent of the 100-year floodplain, whichever is farther landward.

(A) When impervious surfaces from previous development completely functionally isolate the Riparian Management Area or the Riparian Buffer from the waterbody, the regulated riparian area shall extend from the ordinary high water mark to the impervious surfaces. If the waterbody is not completely physically isolated, but is completely functionally isolated, the **Shoreline Administrator planning official** may adjust the regulated riparian area to reflect site conditions and sound science.

2. *Habitat Location Information.* Information on the approximate location and extent of Habitat Conservation Areas is available from the **Shoreline Administrator planning official**.

The habitat location information is based on:

- a. Washington Department of Fish and Wildlife Priority Habitat and Species Maps;
- b. Washington Department of Fish and Wildlife Anadromous and Resident Salmonid Distribution Maps in the Salmon and Steelhead Habitat Inventory Assessment Program (SSHIAP);
- c. Washington Department of Natural Resources Official Water Type Reference Maps;
- d. City-designated Habitats of Local Importance;
- e. Other information acquired by the city.

B. Additional Critical Areas Report Requirements.

1. A Critical Areas Report for a Riparian Management Area or Riparian Buffer shall include evaluation of the habitat functions using the Clark County Habitat Conservation Ordinance Riparian Habitat Field Rating Form or another habitat evaluation tool approved by the Washington Department of Fish and Wildlife.

a. In addition to the standards of (**VMC Section 20.740.050(F)**), where a mitigation plan is required as part of the Critical Areas Report for a fish and wildlife habitat conservation area that involves a water body, Riparian Management Area or Riparian Buffer, the monitoring program protocol shall include where relevant to the impacted functions:

1. Observations and measurements of riparian integrity and quality (buffer width, riparian corridor continuity or fragmentation, species diversity, stand age, plant survival rates)
2. Large woody debris surveys
3. Streamflow monitoring
4. Water quality monitoring to detect pollution impacts
5. Biological monitoring (including fish surveys and benthic macroinvertebrate sampling)

2. If the clearing or development activity is in the Riparian Management Area, the Critical Areas Report shall contain the following information, if applicable, in addition to the general Critical Areas Report requirements of [VMC Section 20.740.050](#):

- a. How the clearing or development activity constitutes a water-dependent, water-related or water-enjoyment use; or
- b. How the clearing or development activity cannot feasibly be located on the site outside of the Riparian Management Area; and
- c. How the proposal meets the Riparian Management Area width averaging standard ([VMC Section 20.740.110\(C\)\(2\)\(c\)](#)); and
- d. How the proposal will not adversely affect the connectivity of habitat functions.

C. Performance Standards.

1. General.

- a. Development or clearing activities shall protect the functions of the Habitat Conservation Areas on the site. The activity shall result in no net loss of functions. Protection can be provided by avoiding (the preferred protection) or minimizing and mitigating as described in the general critical areas approval criteria ([Section VMC 20.740.060](#)). Functions include:
 1. Providing habitat for breeding, rearing, foraging, protection and escape, migration, and over-wintering; and
 2. Providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, removing pollutants from water, and maintaining appropriate temperatures.
- b. An applicant shall replace any lost functions preferably by restoring or if not, then by enhancing other habitat functions, so long as the applicant demonstrates that enhancement of the other functions provides no net loss in overall functions and maintains habitat connectivity. An example of unavoidable loss of function would be interruption of a travel corridor in a Riparian Management Area or Buffer. To the maximum extent feasible, enhancement shall be undertaken on-site.
- c. If development or clearing activity is within a Priority Habitat and Species area the applicant shall follow Washington Department of Fish and Wildlife Management Guidelines, Management Recommendations or other standards approved by the Washington Department of Fish and Wildlife. Where there are no guidelines, recommendations or other standards, development or clearing may occur provided that:
 1. The development or clearing results in no net loss of habitat function on the site; and

2. Functionally significant habitat, defined as habitat that cannot be replaced or restored within 20 years, shall be preserved.

d. Signs for Fish and Wildlife Conservation Areas

1. *Temporary markers.* The location of the outer perimeter of the fish and wildlife habitat conservation area shall be marked in the field, and such marking shall be approved by the Shoreline Administrator planning official prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.
2. *Permanent signs.* Permanent signs shall be posted on public and private properties at an interval of one per lot for single family residential uses or at a maximum interval of 200 feet or as otherwise determined by the Shoreline Administrator planning official, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the Shoreline Administrator planning official: “The area beyond this sign is a fish and wildlife habitat conservation area. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information.”

2. Riparian Management Areas and Riparian Buffers.

In addition to the standards in VMC Section 20.740.060 and VMC Section 20.740.110(C)(1) the standards in this section shall apply in Riparian Management Areas and Buffers.

- a. *Riparian Buffer.* Development or clearing activity may occur in the Riparian Buffer, providing that:
 1. The planned mitigation results in no net loss of riparian habitat functions on the site, and
 2. Functionally significant habitat, defined as habitat that cannot be replaced or restored within 20 years, shall be preserved unless the activity meets the conditions of VMC Section 20.740.110(C)(2)(b). An example of habitat that cannot be replaced within 20 years would be a stand of mature trees or a peat bog.
- b. *Riparian Management Area.* No development or clearing activity is allowed within the Riparian Management Area unless such activity is:
 1. A water-dependent, water-related or water-enjoyment activity where there are no feasible alternatives that would have a less adverse impact on the Riparian Management Area or Riparian Buffer. The applicant shall minimize the impact and mitigate for any unavoidable impact to functions; Cost may be considered, but shall not be overriding; or
 2. A road, railroad, trail, dike, or levee or a water, sewer, stormwater conveyance, gas, power, cable, fiber optic, or telephone facility that cannot feasibly be located outside of the Riparian

Management Area, that minimizes impacts, and that mitigates for any unavoidable impact to functions. Cost may be considered, but shall not be overriding; or

3. Mitigation for activities allowed by this chapter, providing the activity provides no net loss of riparian habitat functions on the site.

c. *Modification of the Riparian Management Area Width.* The width of the Riparian Management Area may be modified (See VMC [20.170.080\(B\)\(1\)](#)) if all the following are met:

1. The square footage of the area meeting the performance standards of the Riparian Management Area ([VMC Section 20.740.110\(C\)\(2\)\(b\)](#)) is not reduced; and
2. There is no net loss of functions as a result of the averaging; and
3. Notwithstanding any other provision, the reduction of the Riparian Management Area width at any location may be no greater than 25%.

d. Owners of developed properties within the Riparian Management Area or Riparian Buffer are encouraged to enhance the area by planting native plants and to apply integrated pest management.

e. Agricultural activities in the Riparian Management Area or Riparian Buffer are encouraged to develop farm conservation plans. (Ord. M-3931 § 25, 2009; Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

20.740.120 Frequently Flooded Areas.

VMC Chapter 20.740.120 Frequently Flooded Areas regulations apply within shoreline jurisdiction, but are not incorporated as part of this Shoreline Master Program.

A. *Designation.* Frequently Flooded Areas are the Areas of Special Flood Hazards identified by the Federal Insurance Administration and the Federal Emergency Management Agency (FEMA), respectively, in scientific and engineering reports entitled, Flood Insurance Study: Clark County, Washington and Incorporated Areas, Volumes 1 and 2 (Numbers 53011CV001A and 53011CV002A, respectively,) effective September 5, 2012 and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs and their digital version, DFIRMs) and any revisions thereto. The Flood Insurance Study (FIS), FIRMs and DFIRMs are available from the Planning Official, 415 West 6th Street, Vancouver, WA 98660. (See VMC [20.150.040](#) Meanings of Specific Words and Terms for definitions for Areas of Special Flood Hazards, Floodplain, Floodway, and Frequently Flooded Areas.)

Portions of channel migration zones located outside areas of special flood hazards are not designated as frequently flooded areas.

When base flood elevation (BFE) data has not been provided in frequently flooded areas (Zone A), the Planning Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source in order to administer the provisions of this chapter. This best available information for flood hazard area identification shall be the basis for regulation until a new FIRM/DFIRM is issued.

Figure 20.740.120-1. Frequently Flooded Areas/Areas of Special Flood Hazards



Adapted from Floodplain Management: A Local Administrator's Guide to the National Flood Insurance Program, Fifth Edition, FEMA Region 10

B. *Additional Critical Areas Report Requirements.* In addition to the Critical Areas Report requirements in VMC [20.740.050](#), the following information shall be submitted. Elevation data shall reference the NAVD 1988 Datum.

1. Base (100-year) flood elevation in relation to mean sea level. When base flood elevation has not been provided or is not available from an authoritative source, it shall be generated by the applicant for developments which contain at least 50 lots or 5 acres, whichever is less.
2. Elevation in relation to mean sea level, of the lowest floor (including basement) of all existing and proposed structures.
3. Elevation in relation to mean sea level to which any structure's lowest floor (including basement) is raised to be at least 1 foot above the base flood elevation or for nonresidential flood-proofed structures, the elevation in relation to mean sea level to which any structure is flood-proofed.
4. *Location of the channel migration zone.* See the Clark County Shoreline Inventory & Characterization Report, Volume 1, Lewis and Salmon Washougal Watersheds and Rural Areas, Map 27, Potential Channel Migration Zone (CMZ) Areas for general locations of channel migration zones. The actual location of the channel migration zone on site must be identified by a qualified professional and mapped in accordance with the submittal requirements of VMC [20.740.050](#).
5. *Description of strategies taken to avoid, minimize, and mitigate unavoidable impacts to public safety.* When the base flood elevation has not been provided or is not available from an authorized source (VMC [20.740.120\(A\)](#)), the Critical Areas Report shall include a discussion of how and whether the proposed development would be reasonably safe from flooding. Historical data, high water marks, photographs of past flooding and other available information will be used as the basis for this discussion and conclusion.
6. Certification, documentation, and demonstration by a qualified professional of how the applicable standards of VMC [20.740.120\(C\)](#) will be met. To support the "no rise" analyses required in VMC [20.740.120\(C\)\(1\)](#), the documentation required in the most recently updated or amended FEMA Region 10 publication, Floodplain Management: A Local Floodplain Administrator's Guide to the National Flood Insurance Program shall be submitted.

C. *Performance Standards.* Except as noted, the following standards apply to all structures and development (including but not limited to the placement of manufactured homes, substantial improvement, roads, railroads, trails, dikes, levees, or water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone

facilities) in all areas of special flood hazards and channel migration zones (CMZs). Additional restrictions apply in the floodway.

1. ~~Encroachments.~~

a. ~~Designated Floodway: Prohibited Encroachments.~~ The following are prohibited in the floodway:

1. ~~Water wells (20.740.120(C)(4)(a)).~~

2. ~~On-site waste disposal systems (20.740.120(C)(5)(a)).~~

3. ~~Residential structures or other structures for human habitation including but not limited to:~~

a. ~~Building envelopes within subdivisions(20.740.120(C)(9)(a));~~

b. ~~New construction or reconstruction of residential structures (20.740.120(C)(10)(b)(1));~~

c. ~~Placement or replacement of manufactured homes (all types)
(20.740.120(C)(10)(b)(2));~~

d. ~~Critical facilities housing vulnerable populations and emergency
services(20.740.120(C)(12)(a)); and~~

e. ~~Recreational vehicles (20.740.120(C)(13)(a)).~~

b. ~~Designated Floodway: Allowed Encroachments.~~ In areas where the base flood elevation has been provided and a regulatory floodway has been designated, other encroachments including but not limited to fill, new construction, replacement structures, substantial improvements and other development shall be prohibited unless:

1. ~~Certification by a qualified professional (in this case, a registered professional engineer) is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in a net increase in base flood elevation (less than 0.00 feet, rounded) or flood velocity during the occurrence of the base flood discharge. At a minimum, such “no rise” analyses shall include a step-backwater analysis and a conveyance compensation analysis as required in the most recently updated or amended FEMA Region 10 publication, Floodplain Management: A Local Floodplain Administrator’s Guide to the National Flood Insurance Program; and~~

2. ~~The applicable standards of VMC 20.740.120(C)(2-14) are also met.~~

c. ~~No Designated Floodway: Allowed Encroachments.~~ In areas where the base flood elevation has been provided but a regulatory floodway has not been designated, no encroachments including but not limited to new construction, substantial improvement, or other development (including fill) shall be permitted, unless:

1. The applicant has demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point; and

2. The applicable standards of VMC [20.740.120\(C\)\(2-14\)](#) are also met.

d. *Other Areas of Special Flood Hazards and CMZs.* In areas of special flood hazards except the floodway or where the BFE has not been provided, or in channel migration zones, encroachments, including but not limited to fill, new construction, replacement structures, substantial improvements and other development shall be prohibited, unless:

1. A qualified professional provides certification demonstrating that the proposed project would not result in a net loss of flood storage capacity; and

2. The applicable standards of VMC [20.740.120\(C\)\(2-14\)](#) are also met.

2. *Property Damage.* Development shall not result in adverse impacts to other properties either upstream or downstream.

3. *Drainage.* Drainage paths around structures and on slopes shall be adequate to guide floodwaters around and away from proposed structures and adjacent properties.

4. *Water.*

a. Water wells are prohibited in the floodway.

b. In areas of special flood hazards except the floodway and in CMZs, water wells shall be constructed to withstand a 100-year flood without adversely impacting groundwater quality (WAC [173-160-171](#)).

c. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

5. *Waste.*

a. On-site waste disposal systems are prohibited in the floodway.

b. In areas of special flood hazards except the floodway and in CMZs, on-site waste disposal systems shall be located to avoid flood damage to them or release of contaminants from them during a base flood event.

c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

6. *Construction Materials and Methods.*

a. Construction methods and practices shall minimize flood damage.

b. Construction materials and utility equipment shall be resistant to flood damage. For guidance on flood-resistant materials see the most current FEMA Technical Bulletin 2, Flood-Resistant Materials Requirements.

c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during a base flood event. For guidance on the placement of building utility systems, see the most current FEMA Publication #348, Protecting Building Utilities from Flood Damage.

7. *Anchoring.* All new construction including substantial improvements and all types of manufactured homes shall:

a. Be elevated on a permanent foundation and securely anchored to an adequate foundation system to prevent flotation, collapse, or lateral movement.

b. Be installed or placed using methods and practices that minimize flood damage. Manufactured home placement shall follow the guidance in the most current FEMA P-85, Protecting Manufactured Homes from Floods and Other Hazards.

8. *Enclosed Areas Below the Base Flood Elevation.*

a. Enclosed areas below the base flood elevation shall be used only for vehicle parking, building access, or storage.

b. New or substantially improved enclosed areas below the base flood elevation shall be constructed in accordance with:

1. VMC [20.740.120\(C\)\(7\)](#), Anchoring

2. VMC [20.740.120\(C\)\(10\)\(c\)\(2\)\(d\)](#), Residential Construction

3. VMC [20.740.120\(C\)\(6\)\(b-c\)](#), Construction Materials and Methods

c. Enclosed areas below the BFE shall not be considered to be the lowest floor when they are not part of a basement and meet the requirements of VMC [20.740.120\(C\)\(10\)\(d\)](#).

d. *Crawlspace Construction.* Crawlspaces are a type of enclosed area below the BFE. Crawlspaces constructed at or above the lowest adjacent exterior grade are preferred. (Note: Insurance premiums for structures with below-grade crawlspaces will be higher than those with the interior elevation at or above the lowest adjacent exterior grade.) Refer to the most current FEMA Technical Bulletin 11, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas (available from the Planning Official) for more information. Crawlspaces:

1. Are prohibited in areas with flood velocities greater than five feet (5') per second unless designed by a qualified professional (in this case an architect or professional engineer).

2. Shall meet the requirements of VMC 20.740.120(C)(8)(a-c), Enclosed Areas below the BFE.

3. Shall not be considered "basements" for the purposes of VMC 20.740.120 when constructed according to the following standards:

a. The interior grade of a crawlspace below the base flood elevation must not be more than 2' below the lowest adjacent exterior grade.

b. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4' at any point.

c. The crawlspace must be equipped with a drainage system that removes floodwaters from the interior area of the crawlspace in a reasonable period of time after a base flood event.

9. Subdivisions.

a. All subdivisions shall be designed:

1. To ensure that no residential structure or other structures for human habitation are located in the floodway even though lots may extend into the floodway;

2. To avoid placement of any structures in areas of special flood hazards and in CMZs;

3. Where it is not possible to design a subdivision in a manner to avoid placement of any structures in areas of special flood hazards or CMZs, the subdivision shall be designed to minimize or eliminate potential flood damage.

b. All subdivisions shall have facilities such as sewer, gas, power, cable, fiber optic, telephone, stormwater and water systems located and constructed to minimize or eliminate flood damage. (See VMC 20.740.120(C)(2), Property Damage; VMC 20.740.120(C)(4), Water; VMC 20.740.120(C)(5), Waste; VMC 20.740.120(C)(6), Construction Materials and Methods; and VMC 20.740.120(C)(7), Anchoring.)

c. All subdivisions shall have adequate drainage provided to reduce exposure to flood damage. (See VMC 20.740.120(C)(3), Drainage.)

10. Residential Construction (including Manufactured Homes).

a. Residential Construction in the Floodway.

1. ~~New construction and reconstruction of residential development including placement and replacement of all types of manufactured homes is prohibited in the floodway.~~
2. ~~Existing residential structures and manufactured homes in the floodway are nonconforming, but may be repaired or improved, provided:~~
 - a. ~~The repair or improvement does not increase the ground floor area of the structure; and~~
 - b. ~~The repair or improvement does not result in adverse impacts to other properties either upstream or downstream; and~~
 - c. ~~The cost of the repair or improvement does not exceed 50% of the market value of the structure either:~~
 1. ~~Before the start of repair or improvement where there is no damage to the structure; or~~
 2. ~~Before flood or other damage to the structure occurred.~~
 - d. ~~Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the Planning Official and which are the minimum necessary to assure safe living conditions may be excluded from the 50%.~~
 - e. ~~Any project for improvement to a structure identified as a historic place may be excluded from the 50%.~~
- b. *Residential Construction in Other Areas of Special Flood Hazards and CMZs.* ~~In areas of special flood hazards except the floodway and in channel migration zones:~~
 1. ~~New residential construction and reconstruction, including all types of manufactured homes and other structures for human habitation shall meet all the provisions of this chapter, including VMC 20.740.120(C)(8) and (10)(c-d).~~
 2. ~~New placement or replacement of all types of manufactured homes shall meet the standards of VMC 20.740.120(C)(7), Anchoring.~~
 3. ~~Repair or Substantial Improvement. All provisions of this chapter (including the elevation standards of VMC 20.740.120(C)(8) and (10)(c-d)), all state and local health, sanitary, safety codes, and where applicable, historic preservation codes shall be met when the cost of repair or improvement of an existing residential structure exceeds 50% of the market value of the structure either:~~
 - a. ~~Before the start of repair or improvement where there is no damage to the structure; or~~

b. ~~Before flood or other damage to the structure occurred.~~

c. ~~Elevation~~

1. ~~*BFE Established.* The lowest floor (including basement) of new residential structures (including but not limited to reconstruction, substantial improvement, the placement or replacement of all types of manufactured homes) shall be elevated at least 1 foot above base flood elevation. Structures shall be elevated using means other than fill (such as extended foundation or other enclosure walls, piles, or columns) whenever feasible.~~

2. ~~*No BFE.* In areas where the base flood elevation has not been provided or is not available from an authorized source (VMC [20.740.120\(A\)](#) and [.120\(B\)\(5\)](#)) and the Critical Areas Report demonstrates to the satisfaction of the Planning Official that the proposed development would be reasonably safe from flooding, new residential construction (including but not limited to substantial improvement and the placement of manufactured homes) shall be elevated at least 2' above the highest adjacent grade. (Note: Failure to elevate at least 2' above the highest adjacent grade may result in higher insurance rates.)~~

d. ~~*Fully Enclosed Areas Below Lowest Floor.* Fully enclosed areas below the lowest floor that are subject to flooding are prohibited unless designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must be certified by a qualified professional (in this case, a registered professional engineer or architect), or must meet or exceed the following minimum criteria:~~

1. ~~Contain a minimum of 2 openings having a total net area of not less than 1 square inch for every 1 square foot of enclosed area subject to flooding;~~

2. ~~The bottom of all openings are no higher than 1 foot above grade; and~~

3. ~~Openings permit the automatic entry and exit of floodwaters even when equipped with screens, louvers, or other coverings or devices.~~

~~For guidance on flood openings, see FEMA Technical Bulletin 1-93, Openings in Foundation Walls.~~

11. ~~*Non-Residential Construction.* New construction and substantial improvement of any nonresidential structure shall either be elevated (VMC [20.740.120\(C\)\(11\)\(a or b\)](#)) or flood-proofed (VMC [20.740.120\(C\)\(11\)\(c\)](#)):~~

a. ~~Be Elevated: BFE Established.~~

1. ~~Have the lowest floor, including basement, elevated at least one foot above the base flood elevation; and~~

2. Meet the same standards for space below the lowest floor as described in 20.740.120(C)(8)(d) and VMC 20.740.120(C)(10)(d);

b. Be Elevated: No BFE;

1. In areas where the base flood elevation has not been provided or is not available from an authorized source (VMC 20.740.120(C)(2A) and (3.120(B)(5)) and the Critical Areas Report demonstrates to the satisfaction of the Planning Official that the proposed development would be reasonably safe from flooding, new nonresidential construction shall be elevated at least 2' above the highest adjacent grade. Failure to elevate at least 2' above the highest adjacent grade may result in higher insurance rates; and

2. Meet the same standards for space below the lowest floor as described in 20.740.120(C)(8)(d) and VMC 20.740.120(C)(10)(d); or

c. Be Flood-proofed. Together with attendant utility and sanitary facilities shall:

1. Be flood-proofed so that below one foot (or more) above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Planning Official as set forth in VMC 20.740.120(E).

12. Critical Facilities.

a. Critical facilities housing vulnerable populations and emergency services shall be prohibited in the floodway.

b. In areas of special flood hazard except the floodway and in CMZs, construction of new critical facilities shall be prohibited unless the applicant demonstrates that:

1. No feasible alternative site is available; and either:

a. The lowest floor, entrances, egresses, and to the extent feasible access routes are elevated to 3 feet above the base flood elevation or to the elevation of the 500-year flood, whichever is lower; or

b. The applicant demonstrates that other measures would ensure that in the event of a flood, the facility would remain safe and fully operational and that potentially harmful

materials would not be displaced by or released into floodwaters. Such measures shall be conditions of approval of the Critical Areas Permit.

~~13. Recreational Vehicles.~~

~~a. Recreational vehicles shall be located outside the floodway.~~

~~b. Recreational vehicles in areas of special flood hazard except the floodway and in CMZs shall either:~~

~~1. Be on the site for fewer than 180 consecutive days;~~

~~2. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type water, sewer, stormwater, gas, power, cable, fiber optic, telephone, and security devices, and have no permanently attached additions; or~~

~~3. Meet the requirements of VMC [20.740.120\(C\)\(7\)](#), Anchoring; VMC [20.740.120\(C\)\(8\)](#), Enclosed Areas below the Base Flood Elevation; and VMC [20.740.120 \(C\)\(10\)\(c\)](#), Elevation.~~

~~14. Alteration of Watercourse.~~

~~a. The planning official shall notify adjacent communities and the state coordinating agency, Washington State Department of Ecology, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.~~

~~b. Alteration or relocation of a watercourse shall be allowed only after:~~

~~1. Certification by a qualified professional that the alteration or relocation:~~

~~a. Is the only feasible alternative or is part of a restoration project approved by the appropriate state or federal agencies;~~

~~b. Will not diminish the flood carrying capacity of the watercourse;~~

~~c. Will not block side channels;~~

~~d. Will be accomplished using soft armoring techniques wherever possible;~~

~~e. Will avoid to the extent possible and then minimize and mitigate removal of vegetation including downed woody vegetation; and~~

~~f. Will not endanger development in the channel migration zone.~~

~~2. The applicant provides assurance acceptable to the planning official of maintenance of the relocated channel such that the flood carrying capacity of the watercourse is not diminished.~~

D. *Variances and Minor Exceptions.* Variances as interpreted in the National Flood Insurance Program are based on the principle that they pertain to a physical piece of property. They apply to the land and are not personal in nature, do not pertain to the structure, its inhabitants, or economic or financial circumstances. The development standards contained in VMC [20.740.120](#), Frequently Flooded Areas are required by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program (NFIP) to protect life and property from flood damage.

Variances from the NFIP standards of VMC [20.740.120](#) shall meet the approval criteria and other requirements of VMC [20.740.120\(D\)](#) in addition to any other applicable variance criteria or requirements (e.g., VMC [20.290](#) or VMC [20.760](#)). Variances from the NFIP standards of VMC [20.740.120](#) shall be processed as Type I or II variances or shoreline variances as appropriate, not as Minor Exceptions (VMC [20.740.070](#)).

Variances or minor exceptions from other critical area standards (any standards of VMC [20.740](#) not in Section VMC [20.740.120](#)) shall meet the applicable criteria and follow the applicable procedures for the relief requested (VMC [20.740.070](#), VMC [20.290](#), or VMC [20.760](#))

1. *NFIP variances may be allowed:*

a. *For Historic Structures.* NFIP variances may be issued for the repair, reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the Washington Heritage Register, Washington's Heritage Barn Register, Washington's Historic Property Inventory Database, Clark County Cultural Resources Inventory, or Clark County Heritage Register, provided:

1. The proposed development will not preclude the structure's continued designation as a historic structure;
2. The variance is the minimum necessary to preserve the historic character and design of the structure; and
3. NFIP variance approval criteria at (VMC [20.740.120\(D\)\(2\)\(a-d\)](#)) are met.

b. *From the Elevation Standard.* An NFIP variance from the elevation standard may be issued for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood elevation. As the lot size increases the technical justification required for issuing the variance increases.

c. *From the Flood-proofing Standard for Non-Residential Buildings.* NFIP variances may be issued for nonresidential buildings to allow a lesser degree of flood-proofing than watertight or dry flood-proofing where it can be determined that such action:

1. Will have low damage potential;

2. ~~Complies with all other NFIP variance criteria except VMC [20.740.120\(D\)\(1\)\(a\)\(2\)](#);~~

3. ~~Complies with VMC [20.740.120\(C\)\(4\)](#), Water; VMC [20.740.120\(C\)\(5\)](#), Waste; VMC [20.740.120\(C\)\(7\)](#), Anchoring; and VMC [20.740.120\(C\)\(9\)](#), Subdivisions;~~

d. ~~For Allowed Development within the Floodway, NFIP variances may be issued for development within a floodway only when the requirements of VMC [20.740.120\(C\)\(1\)\(b\)](#) are met.~~

2. ~~NFIP Variance Approval Criteria. NFIP variances from elevation and flood-proofing standards, and for development in the floodway (VMC [20.740.120\(D\)\(1\)\(a\)\(2-4\)](#)) may be granted only if the applicant demonstrates that the requested action conforms to all of the following criteria:~~

a. ~~The NFIP variance is the minimum necessary, considering the flood hazard, to afford relief.~~

b. ~~The applicant has demonstrated good and sufficient cause.~~

c. ~~Failure to grant the NFIP variance would result in exceptional hardship to the applicant. (Exceptional hardship for an NFIP variance is described in a FEMA memorandum dated July 22, 1986 entitled Resource Materials on NFIP Variance Criteria available from the Planning Official.)~~

d. ~~Granting the NFIP variance will not result in increased flood heights or velocities, additional threats to public safety, significantly increased property damage potential, extraordinary public expense, or conflict with existing local laws or ordinances.~~

e. ~~Demonstration that the following factors have been considered:~~

1. ~~The danger that materials may be swept onto other lands to the injury of others;~~

2. ~~The danger to life and property due to flooding or erosion damage;~~

3. ~~The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~

4. ~~The importance of the services provided by the proposed facility to the community;~~

5. ~~The necessity to the facility of a waterfront location, where applicable;~~

6. ~~The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~

7. ~~The compatibility of the proposed use with existing and anticipated development;~~

8. ~~The relationship of the proposed use to the comprehensive plan;~~

9. ~~The safety of access to the property in times of flood for ordinary and emergency vehicles;~~

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of facilities such as sewer, gas, electrical, stormwater, and water systems, and streets and bridges.

3. *Notices Required.* A notice to the applicant is required whenever a variance is approved, approved with conditions, or denied. Such notice shall include the decision and the reasons for the decision. When a variance from the elevation standard is approved or approved with conditions, such notice shall state that the structure will be permitted to be built with a lowest floor elevation below that normally required with respect to the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

E. Information to be Obtained and Maintained.

1. For all new and substantially improved structures and development, the planning official shall complete Section B of a current elevation certificate and obtain and record on that certificate:

a. For elevated (rather than flood-proofed) structures and development, the actual (as-built) elevation in relation to mean sea level of the lowest floor (including basement), and whether or not the structure contains a basement.

b. For nonresidential, flood-proofed structures, the elevation to which the structure was flood-proofed. All flood-proofing certifications shall also be maintained.

c. Maintain all records pertaining to development in frequently flooded areas subject to the provisions of this chapter, VMC [20.740](#), for public inspection.

2. *Records of Variance Actions.* The planning official shall keep records of all variance actions and report any approved variances to the Federal Insurance Administration upon request.

3. *Records of Appeal Actions.* The planning official shall keep records of all appeal actions. (Ord. M 4020 § 2, 2012; Ord. M 4017 § 9, 2012; Ord. M 3844 § 2, 2007; Ord. M 3692 § 2, 2005)

20.740.130 Geologic Hazard Areas.

A. *Designation.* Designated or potential Geologic Hazard Areas include Landslide, Seismic, and Erosion Hazard Areas. With the exception of bank erosion hazard areas and fault rupture hazard areas, their potential locations are shown on maps available from the [Shoreline Administrator](#) [planning official](#). Final designations shall be based on site conditions and other available data or information [\[See VMC 20.740.020\(C\)\(1\)\]](#).

1. *Landslide Hazard Areas.* Potential landslide hazard areas are identified from the sources listed below.

- a. Slopes greater than 25% on the property and adjacent areas within 100 feet, except engineered slopes such as cut and fill slopes along transportation routes (including trails), railroad and other berms, or dikes.
 - b. Areas of historic or active landslides, potential instability, or older landslide debris identified on the 1975 map by Allen Fiksdal of the Washington State Department of Natural Resources entitled, Slope Stability: Clark County Washington as revised or superseded, or identified from other available data or in the field by a qualified professional and adjacent areas within 100 feet.
2. *Seismic Hazard Areas.* Seismic Hazard Areas include Liquefaction or Dynamic Settlement, Ground Shaking Amplification, and Fault Rupture Hazard Areas.
 - a. *Liquefaction or Dynamic Settlement.* The following are designated Liquefaction or Dynamic Settlement Hazard Areas:
 1. Areas with Low to Moderate, Moderate, Moderate to High, or High liquefaction susceptibility or Peat Deposits as indicated on the Alternative Liquefaction Susceptibility Map of Clark County, Washington based on Swanson's Groundwater Model by Stephen P. Palmer, Sammantha L. Magsino, James L. Poelstra, and Rebecca A. Niggemann, September, 2004, as revised or superseded.
 2. Areas of fill (Fn) identified by the 1972 USDA Soil Conservation Service Soil Survey of Clark County Washington and by the Shoreline Administrator planning official, based on other reliable evidence.
 - b. *Ground Shaking Amplification.* The following are designated Ground Shaking Amplification Hazard Areas:

Site Classes C to D, D, D to E, E and F as indicated on the Site Class Map of Clark County, Washington by Stephen P. Palmer, Sammantha L. Magsino, James L. Poelstra, and Rebecca A. Niggemann, September, 2004 as revised or superseded.
 - c. *Fault Rupture Hazard Areas.* Potential Fault Rupture Hazard Areas are faults identified on geological maps prepared and maintained by the Washington Department of Natural Resources (DNR), U.S. Geological Survey (USGS), Oregon Department of Geology and Mineral Industries (DOGAMI), Clark County, Washington, or identified from other available data or in the field by a qualified professional and adjacent areas within 100 feet.
3. *Erosion Hazard Areas.* Erosion Hazard Areas include Soil Erosion and Bank Erosion Hazard Areas.
 - a. *Soil Erosion Hazard Areas.* The following are designated Soil Erosion Hazard Areas:

Areas with soils identified as having a severe erosion hazard by the 1972 USDA Soil Conservation Service Soil Survey of Clark County Washington.

- b. *Bank Erosion Hazard Areas.* Bank Erosion Hazard Areas are areas along lakes, streams, and rivers that are subject to regression or retreat due to lacustrine or fluvial processes and adjacent land within 100 feet.

B. *Additional Critical Areas Report Requirements.* In addition to the requirements of [VMC Section 20.740.050](#), the following are Critical Areas Report requirements for development proposals in potential geologic hazard areas. These requirements may be adjusted as appropriate by the [Shoreline Administrator planning official](#). The Critical Areas Report will result in a conclusion as to whether the potential geologic hazard area is an actual geologic hazard area (See [VMC Section 20.740.130\(B\)\(6\)](#)). If it is, the Critical Areas Report requires additional information, mapping, and analysis (See [VMC Section 20.740.130\(B\)\(7\)](#)).

1. Identification of the site and project area (defined at [VMC 20.150](#)), topography in 2-foot contours (or other increment at the discretion of the [Shoreline Administrator planning official](#)), gas, power, cable, fiber optic, telephone, sewer, water, and stormwater management facilities, wells, on-site septic systems, dikes, levees, and existing structures on the site plan required by [VMC Section 20.740.050](#); and
2. Detailed review of field investigations, published data and references, data and conclusions from past geologic studies or investigations, site-specific measurements, tests, investigations, or studies, and the methods of data analysis and calculations that support the results, conclusions, and recommendations; and
3. Field investigation and evaluation of the areas on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100 feet of the site for landslide and bank erosion hazards; and
4. A description of the surface and subsurface geology, hydrology, drainage patterns, soils, and vegetation on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100 feet of the site for landslide and bank erosion hazards; and
5. Identification of the hazard area indicators that were found (if any) on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100 feet of the site for landslide and bank erosion hazards; and
6. Conclusion as to whether there is a geologic hazard area on site or for landslide and bank erosion hazards on or within 100 feet of the site; and
7. If a liquefaction, dynamic settlement, ground shaking amplification, fault rupture, or soil erosion hazard is found to exist on site or if a landslide or bank erosion hazard is found to exist on or within 100 feet of the site:

- a. Label and show on the site plan required by [VMC Section 20.740.050](#):

1. The location(s), extent, and type(s) of geologic hazard area(s) identified; and

2. The location(s) and extent of any area(s) that must be left undisturbed to protect the proposed development from damage or destruction and to protect the hazard area(s) from the impacts of the proposed development; and
3. The boundaries of the area that may be disturbed.
4. The dimension of the closest distance(s) between the geologic hazard area(s) and the project area.
5. The dimension of the closest distance(s) [See VMC [20.170.030\(C\)](#)] between any nondisturbance area [[VMC Section 20.740.130\(B\)\(7\)\(a\)\(2\)](#)] and the project area.

For bank erosion hazard areas, show these areas, boundaries, and dimensions based upon natural processes and, if applicable, proposed bank stabilization measures.

- b. Analysis of the erosion processes on site for soil erosion hazard areas and on or within 100 feet of the site for bank erosion hazard areas.
- c. Evaluation of the impact of the geologic hazard area(s) on the proposed development, other properties, and other critical areas.
 1. *Landslide hazard areas.* The impact of the run-out hazard of landslide debris from both upslope and downslope shall be included in the evaluation.
 2. *Bank erosion hazard areas.* Evaluation of impacts on other properties shall include properties both upstream and downstream of the subject property.
- d. Evaluation of the impact of the proposed development on the geologic hazard area(s).
- e. Assessments and conclusions regarding geologic hazard(s) for both existing and proposed (post-development) site conditions. The ultimate build-out scenarios must be considered and addressed in cases such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval.
- f. Written discussion of:
 1. The risk of damage or destruction from the geologic hazard(s) with respect to human health and safety; infrastructure; the proposed development; other properties (both upstream and downstream for bank erosion hazard areas); and other critical areas; and
 2. Whether and to what degree the proposed development would increase the risk from the geologic hazard(s), such as the occurrence of a landslide or the rate of regression.
- g. Recommendations for mitigation of impacts to protect:
 1. Human health and safety;

2. Infrastructure;
 3. The proposed development;
 4. Other properties (both upstream and downstream for bank erosion hazard areas);
 5. Other critical areas; and
 6. The hazard area during construction and for the anticipated life of the proposed development. The ultimate build-out scenarios must be considered and addressed in cases such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval.
- h. A demonstration of how the standards of **VMC Section 20.740.130(C)** applicable to each geologic hazard area will be met.

C. Performance Standards.

1. *Landslide, Soil Erosion, and Bank Erosion Hazard Areas.* Development in nondisturbance areas (**VMC Section 20.740.130(B)(7)(a)(2)**) shall be prohibited. In other areas, development in landslide, soil erosion, and bank erosion hazard areas and their buffers [**VMC Section 20.740.130(C)(1)(j)**] shall be prohibited except where the applicant has demonstrated compliance with or satisfaction of the following standards or requirements.

- a. The applicant has demonstrated that during construction and for the anticipated life of the proposed development, the proposed use(s), activity(ies), and structure(s):
 1. Will not increase the threat of the geological hazard beyond pre-development conditions; and
 2. Will not adversely impact other critical areas wherever feasible given the type of critical areas involved and the characteristics of the site; and
 3. Are designed so that the hazard to the proposed project is eliminated or mitigated to a level equal to or less than pre-development conditions; and
 4. The life safety risk is minimal or eliminated; and
 5. Are certified by a qualified professional as safe as designed and under anticipated conditions.

Landslide hazard areas may be eliminated through grading based on a Critical Areas Report which demonstrates that the slope will be stabilized prepared by a qualified professional (in this case a licensed Engineering Geologist or Professional Engineer). The Critical Areas Permit shall be conditioned on a final inspection approval confirming that the grading and site are

stable. At the applicant's expense, after site grading, (a) the qualified professional who prepared the Critical Areas Report shall provide inspection specifications; and (b) an inspector acceptable to the City Building Official shall inspect the grading and the site and submit a report to the City indicating whether the site is stable.

b. A plan for revegetation and landscape maintenance to ensure soil stabilization shall be developed and implemented in accordance with the mitigation plan requirements of [VMC Section 20.740.050\(F\)](#).

c. Clearing, grading, uprooting, or otherwise impairing the soil stabilizing function of vegetation shall be prohibited during the wet season (November 1st to May 1st), except as authorized under a valid state or federal permit or [shoreline substantial development permit or shoreline statement exemption](#), a City Type I permit [[VMC 20.740.040\(A\)\(2\)\(D\)](#)].

d. Drainage patterns shall not be altered such that potential for damage or risk to the proposed project, the geologic hazard area, or other critical areas or buffers is increased.

e. The requirements of VMC [14.24](#), Erosion Control shall be met.

f. Trails shall be for pedestrian and nonmotorized vehicular use only and shall be the minimum width necessary to meet applicable regulations.

g. *Roads in Landslide and Bank Erosion Hazard Areas.* A road through or across a landslide or bank erosion hazard area shall meet the standards of [VMC Section 20.740.130\(C\)\(1\)\(a\)-\(f\)](#) and shall not be:

1. The sole access for a proposed subdivision (not including short subdivision) or critical facility;
2. Longer than 200 feet;
3. Steeper than a 15% grade.

h. *Markers and Signs in Landslide Hazard Areas.*

1. The boundary at the outer edge of landslide area tracts and easements shall be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.
2. The boundary at the outer edge of the furthest of the landslide hazard area, nondisturbance area [[VMC Section 20.740.130\(B\)\(7\)\(a\)\(2\)](#)], or buffer shall be identified with temporary signs prior to any site alteration. Such temporary signs shall be replaced with permanent signs prior to occupancy or use of the site.

3. These provisions may be modified by the **Shoreline Administrator planning official** as necessary to ensure protection of sensitive features or wildlife needs.
- i. Bank Stabilization for Existing Development in Bank Erosion Hazard Areas.
 1. Bank stabilization measures may be employed to protect an existing structure when a Critical Areas Report conclusively demonstrates all of the following:
 - a. Bank erosion threatens an established use or existing structure(s); and
 - b. The threatened structure(s) cannot be relocated landward of any nondisturbance area [**VMC Section 20.740.130(B)(7)(a)(2)**]; and
 - c. Where applicable, bank stabilization measures are necessary to the operation and location of water-dependent, water-related, or water enjoyment activities consistent with the City of Vancouver Shoreline Management Master Program; and
 - d. Bank stabilization measures will not cause a significant adverse impact on upstream or downstream properties or an impact that cannot be mitigated without developing bank stabilization measures for those properties; and
 - e. Bank stabilization measures will not cause a significant adverse impact on fish, wildlife, or their habitats protected by this chapter.
 2. When bank stabilization is allowed, it shall be accomplished using beach nourishment, bioengineering (soft armoring) techniques, or a combination of the two. Other techniques may be used when an approved Critical Areas Report demonstrates conclusively that beach nourishment, bioengineering (soft armoring) techniques, or a combination of the two will not provide sufficient protection for the remaining useful life of the structure(s) to be protected.
 3. When bank stabilization is allowed, the pertinent policies and regulations of the City of Vancouver Shoreline Management Master Program shall apply in addition to the requirements of this section. The terms and conditions of any other required state or federal permit or approval shall also apply.
- j. *Buffer.* The following regulations apply to landslide and bank erosion hazard area buffers. No buffer is required for soil erosion hazard areas. Buffers may be included in nondisturbance areas [**VMC Section 20.740.130(B)(7)(a)(2)**] and required planting and maintenance activities may be undertaken within them.
 1. Buffer width shall be measured on a horizontal plane from a perpendicular line established at all edges of the geologic hazard area [See **VMC Section 20.170.030(B)** and **(K)**].
 2. A vegetated buffer shall be maintained around all landslide and bank erosion hazard areas. No alteration to the buffer shall be undertaken without an erosion control plan approved

pursuant to the provisions of VMC [14.24](#), Erosion Control and this chapter. New plantings shall consist of native vegetation. Maintenance shall be the responsibility of the property owner.

3. The minimum buffer width for bank erosion hazard areas shall be the distance recommended in an approved Critical Areas Report.
4. The minimum buffer width for landslide hazard areas shall be the greatest of the following distances:
 - a. 50 feet from all edges of the landslide hazard area; or
 - b. A distance of 1/3 the height of the slope at the top of the slope and a distance of 1/2 the height of the slope at the bottom of the slope [See VMC [20.170.030\(J\)](#)]; or
 - c. The minimum distance(s) recommended in an approved Critical Areas Report.
5. A larger buffer width may be required for landslide and bank erosion hazard areas at the discretion of the **Shoreline Administrator planning official** when:
 - a. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts; or
 - b. The area has a severe risk of slope failure or downslope stormwater drainage impacts; or
 - c. The area is directly adjacent to a riparian management area or wetland; or
 - d. Recommended in an approved Critical Areas Report.
6. The buffer width for landslide hazard areas may be reduced to as little as the smallest of the distances identified in **VMC Section [20.740.130\(C\)\(1\)\(j\)\(4\)](#)** at the discretion of the **Shoreline Administrator planning official** when the dimensions of the landslide hazard area are smaller than those distances.

2. Seismic Hazard Areas

- a. *Liquefaction or Dynamic Settlement Hazard Areas.* All building structures in liquefaction or dynamic settlement hazard areas shall comply with the requirements of VMC Title [17](#), Building and Construction. No buffer is required for liquefaction or dynamic settlement hazard areas.
- b. *Ground Shaking Amplification Hazard Areas.* All building structures in ground shaking amplification hazard areas shall comply with the requirements of VMC Title [17](#), Building and Construction applicable to the NEHRP soil classification of the subject property. No buffer is required for ground shaking amplification hazard areas.
- c. *Fault Rupture Hazard Areas.*

1. A road through or across a fault rupture hazard area shall not be:
 - a. The sole access for a proposed subdivision (not including short subdivision) or critical facility;
 - b. Longer than 200 feet’;
 - c. Steeper than a 15% grade.
2. Structures for human habitation and critical facilities shall be prohibited within fault rupture hazard areas and buffers.
3. Buffer.
 - a. Buffer width shall be measured on a horizontal plane from a perpendicular line established at all edges of the geologic hazard area [See VMC [20.170.030\(B\)](#)].
 - b. The buffer width shall be the greater of the following distances:
 - i. 50 feet from all edges of a fault rupture hazard area, except where critical facilities are involved, the minimum buffer distance shall be 100 feet [See VMC [20.170.030\(L\)](#)]; or
 - ii. The minimum distance recommended in an approved Critical Areas Report.
 - c. A larger buffer width may be required when the **Shoreline Administrator planning official** determines that the buffer is not adequate to protect the proposed development. (Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

20.740.140 Wetlands.

A. Designating and Rating Wetlands.

1. *Designating Wetlands.* Wetlands are those areas, designated in accordance with the approved federal wetland delineation manual and applicable regional supplements, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created (but not as mitigation for impacts to wetlands) from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds and landscape amenities or those wetlands created after July 1, 1990 that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands shall include those artificial wetlands intentionally created from nonwetland areas to mitigate conversion of wetlands.

Final designations shall be based on site conditions and other available data or information (see VMC 20.740.020(C)(1)).

2. *Wetland Ratings.* Wetlands shall be rated according to the Washington State Department of Ecology (Ecology) wetland rating system, Washington State Wetland Rating System for Western Washington – 2014 Update, Ecology Publication No. 14-06-029, October 2014, or as revised by Ecology. The rating system document contains the definitions and methods for determining if the criteria below are met. The most recent version of the rating system form must be used.

a. *Wetland Rating Categories.*

i. *Category I.* Category I wetlands are:

- A. Relatively undisturbed estuarine wetlands larger than one acre;
- B. Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program of the Department of Natural Resources;
- C. Bogs;
- D. Mature and old-growth forested wetlands larger than one acre;
- E. Wetlands that perform many functions well, scoring twenty-three points or more. These wetlands are those that:
 - 1. Represent unique or rare wetland types;
 - 2. Are more sensitive to disturbance than most wetlands;
 - 3. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or
 - 4. Provide a high level of functions.

ii. *Category II.* Category II wetlands function at a moderately high function, scoring between twenty and twenty-two points.

iii. *Category III.* Category III wetlands are:

- A. Wetlands with a moderate level of functions, scoring between sixteen and nineteen points; and
- B. Can often be adequately replaced with a well planned mitigation project.

iv. *Category IV.* Category IV wetlands have the lowest levels of functions (scoring fewer than sixteen points) and are often heavily disturbed. These are wetlands that should be able to be

replaced, or in some cases improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

B. *Additional Critical Areas Report Requirements.* A critical areas report for wetlands shall be prepared according to the Washington State Wetland Rating System for Western Washington – 2014 Update, Ecology Publication No. 14-06-029, October 2014 or as revised by Ecology. The critical areas report shall contain an analysis of the wetlands including the following site- and proposal-related information:

1. A written assessment, data sheets and accompanying maps of any wetlands or buffers on the site including the following information:
 - a. Hydrogeomorphic (HGM) subclassification and Cowardin class;
 - b. Wetland category;
 - c. Wetland delineation and required buffers;
 - d. Existing wetland acreage;
 - e. Vegetative, faunal, and hydrologic characteristics;
 - f. Soil types and substrate conditions;
 - g. Topographic elevations, at one-foot contours; and
 - h. A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year – drift lines, algal layers, moss lines, and sediment deposits).
2. Functional evaluation for the wetland and buffer using Ecology's most current approved method and including the reference of the method and all data sheets.
3. Proposed mitigation, if needed, including a discussion of alternatives and trade-offs inherent in the various alternatives (for example, where enhancement for one function would adversely affect another), a written description and accompanying maps of the mitigation area, including the following information:
 - a. Existing and proposed wetland acreage;
 - b. Existing and proposed vegetative and faunal conditions;
 - c. Surface and subsurface hydrological conditions of existing and proposed wetlands and hydrologically associated wetlands including an analysis of existing hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas;

- d. Relationship to lakes, streams and rivers in the watershed;
- e. Soil type and substrate conditions;
- f. Topographic elevations, at one-foot contours;
- g. Required wetland buffers including existing and proposed vegetation;
- h. Identification of the wetland's contributing area; and
- i. A functional assessment of proposed mitigation to ensure no net loss of shoreline ecological function.

C. *Performance Standards.*

1. *General Requirements.* Development or clearing activities shall protect the functions of wetlands and wetland buffers on the site. ~~Activities and shall meet all of result in no net loss of wetland or buffer functions. Protection may be provided by avoiding (the preferred protection) or minimizing and mitigating as described in~~ the general critical areas performance standards (~~Section VMC~~ [20.740.060](#)).

a. *Wetlands.*

i. In Category I wetlands only the following activities may be allowed ~~if the applicant further demonstrates that avoiding all adverse impacts is not in the public interest or will deny all reasonable economic use of the site:~~

A. A road, railroad, trail, dike, or levee or a water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone facility that cannot feasibly be located outside of the wetland, that minimizes the impact, and that mitigates for any unavoidable impact to functions. Cost may be considered, but shall not be overriding; or

B. Trails and wildlife viewing structures; provided, that the trails and structures minimize the impact and are constructed so that they do not interfere with wetland hydrology and do not result in increased sediment entering the wetland.

ii. In Category II wetlands only the following activities may be allowed ~~if the applicant further demonstrates that avoiding all adverse impacts is not in the public interest or will deny all reasonable economic use of the site:~~

A. Activities allowed in Category I wetlands pursuant to subsection [\(C\)\(1\)\(a\)\(i\)](#) of this section.

B. Enhancement and restoration activities aimed at protecting the soil, water, vegetation or wildlife.

C. Within shoreline jurisdiction ([VMC 20.760.020 SMP Chapter 2](#)), water-dependent, water-related or water-enjoyment activities where there are no feasible alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.

D. Where non-water dependent, related or enjoyment activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited unless the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and successfully avoid or result in less adverse impacts on a wetland on another site or sites in the city of Vancouver or Vancouver urban growth area.

iii. In Category III wetlands only the following activities may be allowed:

A. Activities allowed in Category II wetlands pursuant to subsection [\(C\)\(1\)\(a\)\(ii\)](#) of this section.

B. Other activities may be allowed if the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and avoid or result in less adverse impacts on a wetland or its buffer than alternative uses or designs (including reduction in the size, scope, configuration or density of the project).

iv. In Category IV wetlands activities and uses that result in impacts may be permitted in accordance with an approved critical areas report and mitigation plan if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full mitigation for the loss of acreage and functions shall be provided under the terms established pursuant to subsection [\(C\)\(2\)](#) of this section.

b. *Wetland Buffers.*

i. *Standard Buffer Widths.* Standard buffer widths are those determined by Ecology and described in Freshwater Wetlands in Washington State, Volume 2: Managing and Protecting Wetlands, Ecology Publication No. 05-06-008, April 2005 or as revised by Ecology. Buffer widths are based on wetland category, wetland characteristics and land use intensity.

A. Land use intensities [are defined by the Land Use and Development Code VMC 20.400 Zoning Districts and application is uniform to all uses within a given zoning district](#) are as follows:

Table 20.740.140-1. LAND USE INTENSITIES

Land Use Intensity	VMC Title 20 Zoning Districts

Land Use Intensity	VMC Title 20 Zoning Districts
High	All Residential, Commercial, or Industrial Zones
Moderate	Park or General Greenway Open Space Zones Open Space Park or Open Space Greenway: General
Low	Lettuce Fields Greenway, Vancouver Lake Greenway, or Natural Area Open Space Zones Open Space Greenway: Lettuce Fields or Vancouver Lowlands; or Open Space Natural

B. Level of function for habitat based on the Washington State Wetland Rating System is as follows:

Table 20.740.140-2. RATING SYSTEM

Level of Function	Habitat Score in Rating System
High	8 – 9
Moderate	6 – 7
Low	3 – 5

C. Buffer widths are measured horizontally from the edge of the wetland (see VMC [20.170.030\(B\)](#) and [\(H\)](#)) and are as follows:

~~1. Category I Wetlands.~~

Table 20.740.140 3. CATEGORY I WETLAND BUFFER WIDTHS

Wetland Characteristics	Land Use Intensity	Buffer Width
Wetlands of High Conservation Value	High	250'
	Moderate	190'
	Low	125'
Forested Wetlands High Habitat Function	High	300'
	Moderate	225'
	Low	150'
Moderate Habitat Function	High	150'
	Moderate	110'
	Low	75'
Low Habitat Function	High	100'
	Moderate	75'
	Low	50'
Other Category I Wetlands High Habitat Function	High	300'
	Moderate	225'

Wetland Characteristics	Land Use Intensity	Buffer Width
	Low	150'
Moderate Habitat Function	High	150'
	Moderate	110'
	Low	75'
Low Habitat Function	High	100'
	Moderate	75'
	Low	50'

2. Category II Wetlands:

Table 20.740.140-4. CATEGORY II WETLAND BUFFER WIDTHS

Wetland Characteristics	Land Use Intensity	Buffer Width
High Habitat Function	High	300'
	Moderate	225'
	Low	150'
Moderate Habitat Function	High	150'

Wetland Characteristics	Land Use Intensity	Buffer Width
	Moderate	110'
	Low	75'
Low Habitat Function	High	100'
	Moderate	75'
	Low	50'

3. Category III Wetlands:

Table 20.740.140-5. CATEGORY III WETLAND BUFFER WIDTHS

Wetland Characteristics	Land Use Intensity	Buffer Width
Moderate Habitat Function	High	150'
	Moderate	110'
	Low	75'
Low Habitat Function	High	80'
	Moderate	60'
	Low	40'

4. Category IV Wetlands:

Table 20.740.140-6. CATEGORY IV WETLAND BUFFER WIDTHS

Wetland Characteristics	Land Use Intensity	Buffer Width
All Category IV Wetlands	High	50'
	Moderate	40'
	Low	25'

Table 20.740.140-3. Buffers Required to Protect Water Quality Functions

Wetland Rating	Low Intensity Use	Moderate Intensity Use	High Intensity Use
Category I or II	50 ft.	75 ft.	100 ft.
Category III	40 ft.	60 ft.	80 ft.
Category IV	25 ft.	40 ft.	50 ft.

Table 20.740.140-4. Buffers Required to Protect Habitat Functions in Category I, II and III Wetlands

Habitat Score in the Rating Form	Low Intensity Use	Moderate Intensity Use	High Intensity Use
5 points or less	See Table 40.450.030-2	See Table 40.450.030-2	See Table 40.450.030-2
6 or 7 points	75 ft.	110 ft.	150 ft.
8 or 9 points	150 ft.	225 ft.	300 ft.
Wetlands of High Conservation Value with a Habitat Score of 7 Points or Less	125 ft.	190 ft.	250 ft.

D. All buffers shall be measured from the wetland boundary as surveyed in the field.

E. Areas which are completely functionally separated from a wetland and do not protect the wetland from adverse impacts may be excluded from buffers otherwise required.

ii. *Wetland Buffer Width Averaging.* The shoreline administrator may allow modification of the standard wetland buffer width in accordance with an approved critical areas report on a case-by-case basis by averaging buffer widths. Buffer width averaging shall not be used in combination with buffer width reduction ~~or a minor exception.~~ Averaging of buffer widths (see

VMC [20.170.080\(B\)\(2\)](#)) may only be allowed where a qualified professional wetland scientist demonstrates that:

- A. Such averaging will not reduce wetland functions or functional performance; and
- B. The wetland varies in sensitivity due to existing physical characteristics, or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places; and
- C. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
- D. The buffer width is reduced by no more than twenty-five percent of the standard width and at no point to less than twenty-five feet.

iii. *Buffer Width Reduction Based on Reducing the Intensity of Impacts from Land Uses.*

Buffer widths required for high intensity land uses may be reduced to those required for moderate land use intensity under the following conditions:

- A. For wetlands with moderate or high habitat function:
 - 1. A relatively undisturbed vegetated corridor at least one hundred feet wide is protected between the wetland and any other priority habitats and areas associated with priority species (VMC [Section 20.740.110\(A\)\(1\)\(b\)](#)); and
 - 2. Measures [required](#) to minimize the impacts of different land uses on wetlands are applied, as approved by the shoreline administrator. Such measures include, but [are](#) [may not be](#) limited to, [the examples summarized below](#) [the measures listed in Table 20.740.140-5.](#)

Table 20.740.140-5. EXAMPLES OF MEASURES REQUIRED TO MINIMIZE LAND USE IMPACTS

Examples of Disturbance	Uses and Activities that Cause the Disturbance	Examples of Measures to Minimize Impacts
Lights	Parking lots, warehouses, manufacturing, residential	Direct lights away from wetland

Examples of Disturbance	Uses and Activities that Cause the Disturbance	Examples of Measures to Minimize Impacts
Noise	Manufacturing, residential, commercial	Locate activity that generates noise away from wetland
Toxic runoff	Parking lots, roads, manufacturing, residential, application of agricultural or landscaping chemicals	Route only treated runoff to a wetland Establish covenants limiting use of toxic chemicals within 150' of wetland Apply integrated pest management
Change in water regime	Impervious surfaces, lawns, tilling	Infiltrate or treat, detain, and disperse new runoff into buffer
Pets	Residential	Plant dense vegetation around buffer, such as rose or hawthorn
Human disturbance	Residential, commercial, industrial	Plant dense vegetation around buffer, such as rose or hawthorn
Dust	Tilled fields	Utilize best management practices to control dust

B. For wetlands with low habitat function measures to minimize the impacts of different land uses on wetlands (subsection [\(C\)\(1\)\(b\)\(iii\)\(A\)\(2\)](#) of this section) are applied.

C. Buffer width reduction shall not be used in combination with buffer width averaging (subsection [\(C\)\(1\)\(b\)\(ii\)](#) of this section) ~~or a minor exception (VMC 20.740.070).~~

iv. *Buffer Maintenance.* Except as otherwise specified or allowed in accordance with this chapter, wetland buffers shall be maintained according to the approved critical areas permit.

v. *Buffer Uses.* The following uses may be permitted within a wetland buffer in accordance with the review procedures of this chapter; provided, they are not prohibited by any other applicable law or regulation and they are conducted in a manner so as to minimize impacts to the buffer and the wetland:

A. Activities allowed under the same terms and conditions as in the associated wetlands pursuant to subsection (C)(1)(a) of this section, provided trails shall be located in the outer twenty-five percent ~~to fifty percent~~ of the buffer when feasible and consistent with the public access provisions of this program.

B. Enhancement and restoration activities aimed at protecting the soil, water, vegetation or wildlife.

C. Passive recreation facilities including trails and wildlife viewing structures; provided, that the trails and structures are constructed with a surface that does not interfere with wetland hydrology.

~~D. Stormwater management facilities, limited to detention facilities, constructed wetlands, stormwater dispersion outfalls and bioswales, may be constructed in accordance with an approved critical areas report within the buffers of Category III or IV wetlands; provided, that:~~

~~1. No other location is feasible; and~~

~~2. The location of such facilities will not degrade the functions of the wetland or buffer.~~

~~D. Stormwater management facilities. Stormwater management facilities are not allowed in buffers of Category I or II wetlands. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of an LID, Runoff Treatment, or Flow Control BMP if all of the following criteria are met:~~

~~1. The wetland is classified as a Category III or a Category IV wetland with a habitat score of 3-5 points; and~~

~~2. There will be “no net loss” of functions and values of the wetland, and~~

~~3. The wetland does not contain a breeding population of any native amphibian species; and~~

~~4. The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the “Guide for Selecting Mitigation Sites Using a Watershed Approach,”; or the wetland is part of a priority restoration~~

plan that achieves restoration goals identified in a Shoreline Master Program or other local or regional watershed plan; and

5. The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing; and

6. All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits; and

7. Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost would have to be compensated/replaced.

Stormwater LID BMPs required as part of new and redevelopment projects can be considered within wetlands and their buffers. However, these areas may contain features that render LID BMPs infeasible. A site-specific characterization is required to determine if an LID BMP is feasible at the project site.

c. *Signs and Fencing of Wetlands.*

i. The location of the outer perimeter of the wetland and buffer shall be marked in the field, and such marking shall be approved by the shoreline administrator prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.

ii. A permanent physical demarcation along the upland boundary of the wetland buffer shall be installed and thereafter maintained. Such demarcation may consist of fencing, hedging or other prominent physical marking that allows wildlife passage, blends with the wetland environment, and is approved by the shoreline administrator.

iii. Permanent fencing of the wetland buffer on the outer perimeter shall be erected and thereafter maintained when there is a substantial likelihood of the presence of domestic grazing animals within the property unless the shoreline administrator determines that the animals would not degrade the functions of the wetland or buffer.

iv. Permanent signs shall be posted at an interval of one per lot for single-family residential uses or at a maximum interval of ~~two~~one hundred feet, or as otherwise determined by the shoreline administrator, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the shoreline administrator: "The area beyond this sign is a wetland or wetland buffer. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information."

2. *Compensatory Mitigation.* Compensatory mitigation for impacts to wetlands shall be provided pursuant to VMC [20.740.060](#) and shall be consistent with the Department of Ecology Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance, Version 1, Ecology Publication No. 06-06-

011a March 2006, or as revised by Ecology. Watersheds are defined in VMC [20.740.020\(C\)\(2\)](#) and Chapter [20.150](#) VMC.

- a. *Mitigation for Lost or Affected Functions.* Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement and shall provide similar wetland or buffer functions as those lost, except when:
 - i. The lost wetland or buffer provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limited within a watershed through a formal Washington State watershed assessment plan or protocol; or
 - ii. Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.
- b. *Mitigation Actions.*
 - i. *Creation.* The manipulation of the physical, chemical or biological characteristics present to develop a wetland on an upland or deepwater site where a biological wetland did not previously exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, hydric soils, and support the growth of hydrophytic plant species. Creation results in a gain in wetland acres and functions.
 - ii. *Reestablishment.* The manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches or breaking drain tiles. Reestablishment results in a gain in wetland acres and functions.
 - iii. *Rehabilitation.* The manipulation of the physical, chemical or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Activities could involve breaching a dike to reconnect wetlands to a floodplain, restoring tidal influence to a wetland, or breaking drain tiles and plugging drainage ditches. Rehabilitation results in a gain in wetland functions but not in wetland acres.
 - iv. *Enhancement.* The manipulation of the physical, chemical or biological characteristics of a biological wetland to increase or improve specific functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or wildlife habitat. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations to result in open water ponds, or some combination of these. Enhancement results in a change in certain wetland functions and can lead to a decline in other wetland functions. It does not result in a gain in wetland acres.

c. *Type and Location of Mitigation.* Compensatory mitigation for ecological functions shall be in kind. Compensatory mitigation shall be on site or within the impacted wetland's: (i) contributing area; (ii) stream reach; (iii) sub-watershed; or (iv) watershed. (Sub-watersheds and watersheds are identified on the Clark County Digital Atlas.) The mitigation site shall be where the greatest level of wetland functions can be achieved. Mitigation actions may be conducted in a different watershed when:

- i. Based on a determination of the natural capacity of the potential mitigation sites to mitigate for the impacts, there are no reasonable on-site or in-watershed opportunities, or those opportunities do not have a high likelihood of success. Consideration shall include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, and potential to impact riparian fish and wildlife habitat including connectivity; or
- ii. Watershed goals for water quality, flood or conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation at another site; or
- iii. Credits from a certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.

d. *Mitigation Ratios.*

i. *Replacement Ratios.*

A. The replacement ratios shall apply to wetland mitigation that: (1) is for the same hydrogeomorphic subclass (e.g., riverine flow-through, depressional outflow or flats), and Cowardin class (e.g., palustrine emergent, palustrine forested or estuarine wetlands); (2) is on site; (3) is in the same category; (4) is implemented prior to or concurrent with alteration; and (5) has a high probability of success.

B. The replacement ratios are based on replacing the affected wetland with a compensation wetland of the same category, and hydrogeomorphic (HGM) subclass and Cowardin class.

C. The replacement ratios do not apply to the use of credits from a state-certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank's certification.

D. *Mitigation Ratios.* Mitigation ratios are as follows (see subsection [\(C\)\(2\)\(b\)](#) of this section for definitions of mitigation actions):

Table 20.740.140-8. MITIGATION REPLACEMENT RATIOS

Wetland Category and Type	Reestablishment or Creation	Rehabilitation	Reestablishment or Creation (R/C) plus Rehabilitation (RH)	Reestablishment or Creation (R/C) plus Enhancement (E)	Enhancement Only
Category I Bog	Not Considered Possible	6:1 Rehabilitation of a Bog	R/C Not Considered Possible	R/C Not Considered Possible	Case-by-Case
Category I Natural Heritage Site	Not Considered Possible	6:1 Rehabilitation of a Natural Heritage Site	R/C Not Considered Possible	R/C Not Considered Possible	Case-by-Case
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I Based on Score for Functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1

ii. *Adjustment of Replacement Ratios.* The shoreline administrator may adjust the replacement ratios to compensate for deviations from the requirements under subsection [\(C\)\(2\)\(d\)\(i\)\(A\)](#) of this section, subject to the following:

A. In most cases, adjustments to the replacement ratios will increase the required amount of mitigation. The required mitigation may be decreased under exceptional circumstances, for example, if programmatic out-of-kind mitigation yields watershed-scale benefits that would not be realized from in-kind mitigation, or if out-of-kind mitigation would protect irreplaceable wetlands.

e. *Mitigation Timing.* The mitigation shall be implemented prior to or concurrent with alterations. If mitigation is implemented after alteration is allowed, the **Shoreline Administrator planning official** may require additional mitigation to compensate for temporal losses of wetland functions.

f. *Buffers for Mitigation Wetlands.* Refer to Wetland Buffer Tables 20.740.140-3 through 20.740.140-6.

g. *Wetland Mitigation Banks.*

i. Credits from a wetland mitigation bank may be approved for use as mitigation for unavoidable impacts to wetlands when:

A. The bank is certified under Chapter [173-700](#) WAC;

B. The shoreline administrator determines that the wetland mitigation bank provides appropriate mitigation for the authorized impacts; and

C. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

ii. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

iii. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions. (Ord. M-4289 § 4, 2019; Ord. M-4191 § 2, 2017; Ord. M-4176 § 3, 2016; Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

The Vancouver Municipal Code is current through Ordinance M-4289, passed December 16, 2019.

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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CHAPTER 6 SPECIFIC SHORELINE USE REGULATIONS

6.1 General Provisions

1. This chapter contains the regulations that apply to specific uses, developments, and activities in the shoreline jurisdiction.
2. These regulations are intended to work in concert with all sections of this Program and in particular the Goals and Policies (Chapter 3) and General Use and Development Regulations (Chapters 5 and 5A).

6.2 Shoreline Use, Modification, and Standards Table

1. Each shoreline designation shall be managed in accordance with its designated purpose as described in this Program (Chapter 4). Table 6-1 identifies those uses that are prohibited, may be permitted or permitted with a conditional use approval in each shoreline designation. In the event conflicts exist between the Table 6-1 and the text in this chapter, the text shall apply.
2. Table 6-1 also summarizes general setbacks and building heights for uses within each shoreline designation. These setbacks apply in conjunction with the critical areas requirements established in Chapter 5A of this Program. In the event a conflict exists between Table 6-1 and the requirements of Chapter 5 or 5A, the most protective of shoreline ecological functions shall apply.
3. In Table 6-1, setbacks are measured landward from the ordinary high water mark (OHWM). For transportation facilities and utilities, the setback from OHWM pertains to the right of way and not just the structure or pipeline. Building heights landward of the OHWM are calculated according to WAC 173-27-030(9). In the Aquatic shoreline designation, the setback is waterward of the OHWM and building heights in the Aquatic shoreline designation are measured from the elevation of the OHWM.
4. All the shoreline designations, even if they are not applied within the City limits or urban growth area are included in Table 6-1 to maintain consistency countywide. (See Sections 4.3 and 4.4.5.) Rural Conservancy – Residential and Rural Conservancy – Resource Lands are not applied within the City limits or urban growth area.
5. Classification of a use or development as permitted does not necessarily mean the use/development is allowed. It means the use/development may be allowed subject to review and approval by the City and/or Ecology. The City may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of a project with the Act and this Program.

Table 6-1. Shoreline Use, Modification and Development Standards

Table 6-1 is to be used and understood together with the related policies and regulations of this Program.

“Uses” refers to uses, structures, and/or developments as applicable.

Setbacks are landward from the OHWM in the NT, UC, MI, HI, RC-RD, & RC-RL shoreline designations and waterward of the OHWM in the AQ Shoreline Designation.

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	AQ (Both)	NT (Both)	UC (Urban)	MI (Urban)	HI (Urban)	RC-RD (Rural)	RC-RL (Rural)
Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Shoreline Uses							
Agriculture							
Agriculture	X	X	C	P	P	P	P
• <i>Setback</i>	N/A	N/A	100'	100'	100'	100'	100'
• <i>Height</i>	N/A	N/A	35'	35'	35'	35'	35'
Aquaculture							
Aquaculture, General	P	X	C	C	C	C	C
• <i>Setback</i>	0'	N/A	50'	50'	50'	50'	50'
Boating Uses							
Motorized Boat Launches	P	X	C	C	P	P	P
• <i>Setback</i>	0'	N/A	0'	0'	0'	0'	0'
Non-motorized Boat Launches	P	C	P	P	P	P	P
• <i>Setback</i>	0'	0'	0'	0'	0'	0'	0'
Marinas	P	X	X	C	P	C	C
• <i>Setback</i>	0'	N/A	N/A	25'	25'	25'	25'
• <i>Height</i>							
- 0'-100' from OHWM	20'	N/A	N/A	25'	35'	25'	35'
- >100' from OHWM	20'	N/A	N/A	35'	45'	35'	45'
Docks, Piers, Mooring Buoys	P¹	X	P¹	P¹	P¹	P¹	P¹
• <i>Setback</i>	0'	NA	0'	0'	0'	0'	0'
Commercial Uses							
Water-dependent	C	X	X	P	P	C	C
• <i>Setback</i>	0'	N/A	N/A	0'	0'	0'	0'
• <i>Height</i>							
- 0'-100' from OHWM	35' ³	N/A	N/A	35'	35' ^{3,2}	35'	35'
- >100' from OHWM	35' ³	N/A	N/A	45'	60' ^{3,2}	45'	45'
Water-related, Water-enjoyment	X/C³	X	X	P	P	C	C
• <i>Setback</i>	N/A	N/A	N/A	25'	25' ³	25'	25'
• <i>Height</i>							
- 0'-100' from OHWM	35' ³	N/A	N/A	25'	35' ^{3,2}	35'	35'
- >100' from OHWM	35' ³	N/A	N/A	35'	45' ^{3,2}	45'	45'

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	AQ (Both)	NT (Both)	UC (Urban)	MI (Urban)	HI (Urban)	RC-RD (Rural)	RC-RL (Rural)
Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Non-water-oriented	X	X	X	C⁴	C⁴	X	X
• <i>Setback</i>	N/A	N/A	N/A	100'	100' ³	N/A	N/A
• <i>Height</i>	N/A	N/A	N/A	2535'	2535' ^{3,2}	N/A	N/A
Forestry							
Log Storage	C	X	X	X	P	X	P
• <i>Setback</i>	0'	N/A	N/A	N/A	50'	N/A	50'
Timber Harvest	X	X	C	P	P	P	P
• <i>Setback</i>	N/A	N/A	100'	100'	50'	100'	50'
Industrial Uses							
Water-dependent	P	X	X	X	P	X	X
• <i>Setback</i>	0'	N/A	N/A	N/A	0'	N/A	N/A
• <i>Height</i>							
- 0'-100' from OHWM	UNL	N/A	N/A	N/A	UNL	N/A	N/A
- >100' from OHWM	UNL	N/A	N/A	N/A	UNL	N/A	N/A
Water-related	X	X	X	X	P	X	X
• <i>Setback</i>	N/A	N/A	N/A	N/A	50'	N/A	N/A
• <i>Height</i>							
- 0'-100' from OHWM	N/A	N/A	N/A	N/A	UNL	N/A	N/A
- >100' from OHWM	N/A	N/A	N/A	N/A	UNL	N/A	N/A
Non-water-oriented	X	X	X	X	P	X	X
• <i>Setback</i>	N/A	N/A	N/A	N/A	100'	N/A	N/A
• <i>Height</i>	N/A	N/A	N/A	N/A	35'	N/A	N/A
Institutional Uses							
Water-dependent	C	X	C	P	P	C	C
• <i>Setback</i>	0'	N/A	0'	0'	0'	0'	0'
• <i>Height</i>							
- 0'-100' from OHWM	35'	N/A	25'	35'	35'	35'	35'
- >100' from OHWM	35'	N/A	35'	45'	35'	45'	45'
Water-related	X	X	X	P	P	C	X
• <i>Setback</i>	N/A	N/A	N/A	25'	25'	50'	NA
• <i>Height</i>							
- 0'-100' from OHWM	N/A	N/A	N/A	35'	45'	35'	N/A
- >100' from OHWM	N/A	N/A	N/A	45'	60'	35'	N/A
Non-water-oriented	X	X	X	PC⁴	PC⁴	X	X
• <i>Setback</i>	N/A	N/A	N/A	100'	100'	N/A	N/A
• <i>Height</i>	N/A	N/A	N/A	35'	35'	N/A	N/A
Mining							
Gravel Mining	C⁵	X	X	X	C⁵	C⁵	C⁵
• <i>Setback</i>	0'	N/A	N/A	N/A	200'	200'	200'
Hard Rock Mining	X	X	X	X	C⁵	C⁵	C⁵
• <i>Setback</i>	N/A	N/A	N/A	N/A	100'	100'	50'
Parking							

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	AQ (Both)	NT (Both)	UC (Urban)	MI (Urban)	HI (Urban)	RC-RD (Rural)	RC-RL (Rural)
Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Primary Use	X	X	X	X	X	X	X
• Setback	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Accessory Use	X	X	P	P	P	P	P
• Setback	N/A	N/A	100'	100'	50'	100'	100'
• Height	N/A	N/A	35'	35'	35'	35'	35'
Recreational Uses							
Water-dependent	P	P ⁶	P	P	P	P	P
• Setback	0'	0'	0'	0'	0'	0'	0'
• Height	15'	15'	15'	35'	35'	35'	35'
Water-related/enjoyment (trails generally parallel to the shoreline, accessory bldgs)	C ⁶	C ⁶	P	P	P	P	P
• Setback	0'	50' ⁷	50' ⁷	50' ⁷	20'	20'	20'
• Height	15'	15'	15'	35'	35'	35'	35'
Public access connections generally perpendicular to the shoreline to water- related/enjoyment features (viewpoints, fishing piers)							
• Setback	0'	0'	0'	0'	0'	0'	0'
Non-water-oriented (golf courses, sports fields)	X	X	C	C	C	C	X
• Setback	N/A	N/A	100'	100'	100'	200'	N/A
• Height	N/A	N/A	25'	25'	25'	15'	N/A
Residential Uses							
Single-family ⁸	X	X	P	P	X	P	P
• Setback	N/A	N/A	100'	50'	N/A	100'	100'
• Height	N/A	N/A	35'	35'	N/A	35'	35'
• Density	N/A	N/A	In accordance with the underlying zoning				
Floating homes (new)	X	N/A	N/A	N/A	N/A	N/A	N/A
• Height	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Floating homes (existing) ⁹	P	N/A	N/A	N/A	N/A	N/A	N/A
• Height	Existing	N/A	N/A	N/A	N/A	N/A	N/A
Multifamily	X	X	X	P	P	X	X
• Setback	N/A	N/A	N/A	35'	35'	N/A	N/A
• Height	N/A	N/A	N/A	35'	35'	N/A	N/A
• Density	N/A	N/A	N/A	In accordance with the underlying zoning		N/A	N/A
Signs ¹⁶⁷							
Sign heights are regulated in accordance with VMC 20.960 or VMC 20.450 as applicable. Free-standing informational signs in the Aquatic SD are limited to 15' ¹⁰ .							
Agricultural	X	X	X	X	P	P	P
Fascia or Wall Signs	X	X	X	P	P	P	P

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Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Free Standing Informational	P	P	P	P	P	P	P
High School Electronic Message	X	X	X	P	P	P	P
Monument	X	P	P	P	P	P	P
Navigation	P	P	P	P	P	P	P
Transportation Uses							
Highways, Arterials, Railroads (parallel to OHWM)	C ¹¹	X	P	P ¹¹	P ¹¹	P	P
• <i>Right-of-Way Setback</i>	0'	N/A	200'	100' ¹¹	100' ¹¹	200'	200'
Secondary/Public Access Roads (parallel to OHWM)	X	X	P	P	P	P	P
• <i>Right-of-Way Setback</i>	NA	N/A	100'	50'	50'	100'	100'
Secondary/Public Access Roads (perpendicular to OHWM)	X	X	P	P	P	P	P
• <i>Setback</i>	N/A	N/A	Limited to the setback for the use the road is serving ¹²				
Bridges (perpendicular to shoreline)	C	C	C	P	P	C	C
• <i>Setback</i>	0'	0'	0'	0'	0'	0'	0'
Utility Uses							
Above-ground Utilities (parallel to shoreline)	C	C	P	P	P	P	P
• <i>Right-of-Way Setback</i>	0'	200'	100'	50'	50'	100'	100'
• <i>Structure Height</i>	15'	15'	35'	35'	UNL	15'	15'
• <i>Distribution Pole Height</i>	0'	45'	45'	45'	UNL	45'	45'
Electrical Transmission Lines	C	C	C	C	C	C	C
• <i>Tower Height</i>	UNL	UNL	UNL	UNL	UNL	UNL	UNL
Underground Utilities (parallel to shoreline)	C	C	P	P	P	P	P
• <i>Right-of-Way Setback</i>	0'	200'	100'	50'	50'	50'	50'
Underground Utilities (perpendicular to shoreline)	C	C	C	C	C	C	C
• <i>Right-of-Way Setback</i>	0'	0'	0'	0'	0'	0'	0'
Unclassified Uses							
Unclassified Uses	C	C	C	C	C	C	C
• <i>Setback</i>	0'	200'	100'	100'	100'	100'	100'
• <i>Height</i>	15'	15'	35'	35'	35'	35'	35'
Shoreline Modification							
Dredging and Dredge Material Disposal							
Non-maintenance Dredging	C	N/A	N/A	N/A	N/A	N/A	N/A
Maintenance Dredging	P	N/A	N/A	N/A	N/A	N/A	N/A
Dredge Material Disposal	C	X	X	C ¹³	C ¹³	C	C
Dredging & Disposal as part of Ecological Restoration/ Enhancement	P	C	P	P	P	P	P
Fill							

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	AQ (Both)	NT (Both)	UC (Urban)	MI (Urban)	HI (Urban)	RC-RD (Rural)	RC-RL (Rural)
Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Speculative	X	X	X	X	X	X	X
Other	C ¹⁴	P ¹⁵	P	P	P	P	P
Flood Control Works and In-stream Structures							
Dams, Dikes, & Levees	C	X	C	C	P	C	C
Instream structures	C	N/A	N/A	N/A	N/A	N/A	N/A
Shoreline Restoration							
Ecological Restoration / Enhancement / Mitigation	P	P	P	P	P	P	P
Shoreline Stabilization							
Bioengineered/Non-Structural	P	P	P	P	P	P	P
Structural	C	X	C	C	PC	C	C
Breakwaters, Jetties, Rock Weirs, and Groins	C	X	C	C	C	C	C

¹ Docks associated with a commercial or industrial water-dependent Use permitted. Private residential docks permitted as community or joint-use only. See Section 6.3.3.4.

² See Section 6.3.4(7).

³ See Section 6.3.4(8). Allowed conditionally only on dock or pier structures located on the Columbia River from the Interstate 5 Bridge, downstream to the BNSF railroad bridge. See related policy Section 4.3.1(4).

⁴ As part of mixed-use development only. See Section 6.3.4(4), 6.3.7(2) and (4).

⁵ In Surface Mining Overlay areas only

⁶ Passive only

⁷ See Section 6.3.10(12, 13, and 14). Water-related/enjoyment features such as viewpoints, gazebos, or fishing piers may have a 0' setback when connected to a public access trail.

⁸ See Section 6.3.11.1(944) for information about existing residential development on land.

⁹ See Section 6.3.11.2(4) for information about existing floating homes.

¹⁰ Above Ordinary High Water Mark (OHWM)

¹¹ See 6.3.13(6).

¹² New roads may connect to existing roads within shoreline jurisdiction as long as the connection is landward of the existing road and the ordinary high water mark.

¹³ Permitted outside of channel migration zones.

¹⁴ See Section 5.6.2(11).

¹⁵ Permitted for restoration only; otherwise prohibited.

¹⁶ Sign requirements adopted with either a formally-approved master plan or through a Special Sign District under VMC 20.960.110 shall prevail over this section.

6.3 Use-specific Development Regulations

6.3.1 Agriculture

1. Agricultural practices shall prevent erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.
2. Stream banks and water bodies shall be protected from damage due to concentration and overgrazing of livestock by providing the following:
 - a. Suitable bridges, culverts or ramps for stock crossing;
 - b. Ample supplies of clean water in tanks on dry land for stock watering; and
 - c. Fencing or other grazing controls to prevent damage to riparian vegetation, bank compaction or bank erosion.
3. New confinement lots, feeding operations, lot wastes, stockpiles of manure solids, manure lagoons, and storage of noxious chemicals are prohibited.
4. The disposal of farm wastes, chemicals, fertilizers and associated containers and equipment within shoreline jurisdiction is prohibited. Composted organic wastes may be used for fertilization or soil improvement.
5. New uses proposed as part of a conversion of agricultural lands shall comply with the provisions of VMC Title 20 and this Program.

6.3.2 Aquaculture

1. No aquatic species shall be introduced into City waters without prior written approval of the appropriate state or federal regulatory agency for the species proposed for introduction. Such approval(s) shall be submitted in writing to the City as part of the shoreline permit application.
2. Aquaculture facilities shall only be permitted where impacts to existing water-dependent uses can be fully mitigated.
3. Fish net-pens shall not occupy more than one (1) surface acre of water, excluding booming and anchoring equipment and shall not be located within one (1) mile of any other aquaculture facility.
4. No processing of any aquaculture product, except for the sorting or culling of the cultured species and the washing or removal of surface materials or species after harvest, shall occur in or over the water. All other processing activities and facilities shall be located on land.

5. If uncertainty exists regarding potential impacts of a proposed aquaculture activity, baseline and periodic operational monitoring by a City-approved consultant (unless otherwise provided for) may be required, at the applicant's expense, and shall continue until adequate information is available to determine the success of the project and/or the magnitude of any probable significant adverse environmental impacts. Permits for such activities shall include specific performance measures and provisions for adjustment or termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.
6. Aquacultural uses and facilities not involving substantial substrate modification shall be located at least six hundred (600) feet from any wildlife refuge lands; those involving substantial substrate modification shall be located at least fifteen hundred (1,500) feet from such areas. Lesser distances may be authorized without a variance if (1) it is demonstrated by the applicant that the fish and wildlife habitat resources will be protected; and (2) if the change is supported by the reviewing resource agencies. Greater distances may be required if recommended by the reviewing resource agencies.
7. Aquacultural structures and activities that are not water-dependent (including but not limited to, warehouses for storage of products, parking and loading facilities) shall be located landward of the OHWM and landward of water dependent portions of the project, and shall minimize detrimental impacts to the shoreline.
8. For aquaculture projects using over-water structures, storage of necessary tools and apparatus waterward of the OHWM shall be limited to containers of not more than three (3) feet in height, as measured from the surface of the raft or dock. Materials, which are not necessary for the immediate and regular operation of the facility, shall not be stored waterward of the OHWM.
9. No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation. All wastes shall be disposed of in a manner that will ensure strict compliance with all applicable waste disposal standards.
10. When feasible, the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing or hand washing, rather than chemical treatment and application.
11. Prior to use of any agents such as antibiotics, vaccines, growth stimulants, or anti-fouling agents, approval must be obtained from all appropriate state and federal agencies, including but not limited to the U.S. Food and Drug Administration, Ecology, WDFW, and the Department of Agriculture, as required, and proof thereof is submitted to the City.
12. Only non-lethal, non-abusive predator control methods shall be used. Double netting for seals, overhead netting for birds, and three-foot high fencing or netting for otters are approved methods of predator control. The use of other nonlethal,

non-abusive predator control measures shall be contingent upon receipt of written approval from the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service, as required.

6.3.3 Boating Uses

6.3.3.1 General Requirements

1. All boating uses, development and facilities shall protect the rights of navigation.
2. Boating uses, developments, and facilities shall locate on stable shorelines in areas where:
 - a. There is adequate water mixing and flushing;
 - b. Such facilities will not adversely affect flood channel capacity or otherwise create a flood hazard;
 - c. Water depths are adequate to minimize spoil disposal, filling, beach enhancement, and other channel maintenance activities; and
 - d. Water depths are adequate to prevent the structure from grounding out at the lowest low water.
3. Boating uses, developments and facilities shall not be located:
 - a. Along braided or meandering river channels where the channel is subject to change in alignment;
 - b. On point bars or other accretion beaches; or
 - c. Where new or maintenance dredging will be required;
 - d. In areas with important bank margin habitat for all life stages of aquatic species; or
 - e. Where wave action caused by boating use would increase bank erosion rates.
4. Marinas shall be designed to:
 - a. Provide thorough flushing of all enclosed water areas;
 - b. Allow the free movement of aquatic life in shallow water areas; and
 - c. Avoid and minimize any interference with geo-hydraulic processes and disruption of existing shore forms.
 - d. All moorage facilities shall be constructed and maintained in a safe and sound condition. Those that are abandoned or unsafe shall be removed or repaired promptly by the owner or lessee.

5. Boating facilities shall be sited and designed to ensure no net loss of shoreline ecological functions, and shall meet DNR requirements and other state guidance if located in or over state-owned aquatic lands. On the Columbia River, boating facilities shall be sited waterward of -15 feet CRD to protect shallow water habitat ~~unless shallow water habitat will be created as mitigation.~~ unless adverse impacts to shallow water habitat are addressed through mitigation to ensure no net loss. Mitigation can include, enhancement, creation and/or payment of mitigation bank credits, and comply with Section 6.4.4.
6. Boating facilities shall locate where access roads are adequate to handle the traffic generated by the facility and shall be designed so that lawfully existing or planned public shoreline access is not unnecessarily blocked, obstructed nor made dangerous.
7. Boating uses and facilities shall be located far enough from public swimming beaches, fishing, aquaculture harvest areas, and waterways used for commercial navigation to alleviate any adverse impacts, safety concerns and potential use conflicts.
8. Accessory uses at boating facilities shall be:
 - a. Limited to water-oriented uses, including uses that provide physical or visual shoreline access for substantial numbers of the general public; and
 - b. Located as far landward as possible while still serving their intended purposes.
9. Parking and storage areas shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas.
10. All marinas and public launch facilities shall provide restrooms/hand-sanitizing facilities for boaters' use that are designed, constructed and maintained to be clean, well lighted, safe and convenient for public use. One restroom and hand sanitizing facility shall be provided for every seventy-five (75) marina moorage slips or twenty (20) boat launch parking spaces.
11. Installation of boat waste discharge and disposal facilities such as pump-outs and portable dump stations shall be required at all marinas and public moorage facilities, and shall be provided at public boat launches to the extent possible. Such facilities shall include oil containment barriers when required by the US Coast Guard under provisions of the Clean Water Act. The locations of such facilities shall be considered on an individual basis in consultation with the Washington Departments of Health, Ecology, Natural Resources, Parks, and Fish and Wildlife, as necessary.
12. All utilities shall be placed at or below the dock surface, or below ground, as appropriate.

13. All signage shall adhere to the standards for signs in this chapter, VMC 20.960, and VMC 20.450, except that a marina or boat launch may have one advertising sign oriented towards the water that does not exceed twenty four (24) square feet in area and fifteen (15) feet in height above the OHWM.
14. Where appropriate, marinas and boat launch facilities shall install public safety signs, to include the locations of fueling facilities, pump-out facilities, and locations for proper waste disposal.
15. Boating facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals. Materials used for submerged portions, decking and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain or runoff. Wood treated with creosote, copper chromium, arsenic, pentachlorophenol or other similarly toxic materials is prohibited.
16. Boats shall be restricted from extended mooring on waters of the state except as allowed by state regulations and provided that lease or permission is obtained from the state and impacts to navigation and public access are mitigated.
17. No more than one private community or joint-use boating facility (boat launch, float, dock, pier, dock/pier combination, or mooring buoy) is allowed on a parcel or lot when a public facility is unavailable within ½-mile upstream or downstream of any property line and all applicable requirements are met.

6.3.3.2 Boat Launch Facilities

1. Boat launch facilities shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available.
2. A private boat launch shall be allowed on a parcel or lot only when public boat launches are unavailable within ½-mile upstream or downstream of any property line.
3. No more than one (1) private boat launch facility or structure shall be permitted on a single residential parcel or lot.
4. Boat launch and haul-out facilities, such as ramps, marine travel lifts and marine railways, and minor accessory buildings shall be designed and constructed in a manner that minimizes adverse impacts on fluvial processes, biological functions, aquatic and riparian habitats, water quality, navigation and neighboring uses.

6.3.3.3 Marinas

1. Open pile or floating breakwater designs shall be used unless it can be demonstrated that riprap or other solid construction would not result in any

- greater net impacts to shoreline ecological functions, processes, fish passage, or shore features.
2. Wet-moorage marinas shall locate a safe distance from domestic sewage or industrial waste outfalls.
 3. To the maximum extent possible, marinas and accessory uses shall share parking facilities and those facilities shall be located landward of critical area buffers to the extent practicable.
 4. New marina development shall provide public access amenities such as viewpoints, interpretive displays, and public access to accessory water-enjoyment uses such as restaurants.
 5. If a marina is to include gas and oil handling facilities, such facilities shall be separate from main centers of activity in order to minimize the fire and water pollution hazard, and to facilitate fire and pollution control. Marinas shall have adequate facilities and procedures for fuel handling and storage, and the containment, recovery, and mitigation of spilled petroleum, sewage, and other potentially harmful or hazardous materials, and toxic products.
 6. Live-aboards are restricted to marinas that provide potable water, waste handling, and other sanitary services. Live-aboards may occupy up to twenty (20) percent of the slips at such a marina and shall be connected to utilities that provide potable water and wastewater conveyance to an approved disposal facility.
 7. The marina operator shall be responsible for the collection and proper disposal of sewage, solid waste, and petroleum waste.
 8. No commercial or sport fish-processing discharge or discarding of unused bait, scrap fish, or viscera shall be permitted within any marina.
 9. Bulk storage (non-portable storage in fixed tanks) for gasoline, oil and other petroleum products for any use or purpose is prohibited on docks and piers.
 10. Covered moorage shall be limited to the number of covered moorage slips legally established prior to January 1, 2011 and to the amount of water surface area covered.
 11. The restrictions in 6.3.3.3(10) shall not apply to over-water structures housing water-dependent emergency response equipment for public agency use to protect people, property, and the environment in and adjacent shoreline jurisdiction. However, such new, remodeled, rebuilt, or relocated structures shall be constructed to allow 60% light penetration over 60% of the structure whether enclosed or not.
 12. Commercial covered moorage facilities may be permitted only where boat construction or repair work is to be the primary activity and covered work areas

are demonstrated to be the minimum necessary over water, including a demonstration that adequate landside sites are not feasible. When permitted, commercial covered moorage facilities must be constructed to allow 60% light penetration over 60% of the structure, whether enclosed or not.

13. Marina development must also meet the standards of 6.3.3.4(10)(a-k).

6.3.3.4 Joint Use and Community Moorage Facilities

1. Community and joint use moorage facilities are defined (Chapter 8) and regulated as marinas (Section 6.3.3.3; defined in Chapter 8) if:
 - a. They provide commercial goods or services;
 - b. They have ten (10) or more slips;
 - c. Moorage is proposed to be leased to upland property owners; or
 - d. The proposal includes a boat launching facility other than a ramp.
2. Live-aboards are not allowed at joint-use or community moorages.
3. Covered moorage facilities associated with any residential development shall be prohibited.
4. Existing, legally-established, private recreational docks, piers, and floats for individual single-family developments are considered non-conforming uses and structures. If such dock or float is abandoned, becomes hazardous, or is removed for any reason, it may be replaced with only one joint-use or community facility that complies with the policies and regulations of this Program. All required permits and approvals shall be obtained prior to commencing construction.
5. A new private dock or pier serving an individual lot is prohibited.
6. New joint-use docks and piers serving two or more contiguous residential lots each having direct water frontage are allowed if no **public** marina or public boat launch is located within ½-mile upstream or downstream of any property line and all applicable requirements of this Program are met. Each residential lot proposed to have access to the joint-use dock must show development of the lot is capable of meeting the minimum development standards for zoning and the applicable provisions of Vancouver Shoreline Master Program.
7. New residential land divisions with shoreline frontage shall provide for community docks if there is an appropriate location for future construction of a dock. Proposed docks and piers shall include no more than one mooring space per dwelling unit. Where a new moorage facility is proposed within a residential waterfront development, only one community moorage facility may be allowed, but only after demonstrating that such use is appropriate for the waterbody and

- that no public moorage facility is available to residents within ½-mile of the perimeter of the development. All conditions of approval related to required access easements and dedications shall be identified on the face of the plat. In addition, the community dock easement shall be recorded with the County Auditor.
8. Applicants for community or joint-use residential docks and piers shall demonstrate and document that adequate maintenance of the structure, activities, and associated landward area will be provided by identified responsible parties. The applicant shall file a legally enforceable joint use agreement or other legal instrument prior to the issuance of any building permits. The documents shall at minimum address the following:
 - a. Apportionment of construction and maintenance expenses;
 - b. Easements and liability agreements; and
 - c. Use restrictions.
 9. Only a single, community moorage facility shall be permitted in association with hotels, motels, and multi-family residences. No more than one (1) mooring slip per unit shall be allowed.
 10. The dimensions of a joint use or community moorage facility dock or pier shall be no greater than necessary, and shall meet the development standards listed below.
 - a. Fixed-piers shall not be permitted for residential use on rivers. Floating docks shall be required in rivers and streams unless it can be demonstrated that fixed docks will result in substantially less impact on geo-hydraulic processes and flood hazards can be minimized or mitigated. A fixed pier, landward of a floating dock, which connects to the shore at one end and to the floating dock by a gangway at the other is allowed.
 - b. Piers/anchors and/or ramps shall extend waterward, perpendicular from the ordinary high water mark (OHWM), to a point where the water depth is sufficient to prevent damage to shallow-water habitat (-15 feet CRD on the Columbia River).
 - c. The moorage facility may extend into the waterbody the minimum distance necessary to allow for moorage of the boats anticipated but in no instance more than 300' beyond the OHWM.
 - d. The bottom of either the pier or landward edge of the ramp shall be elevated at least 2 feet above the plane of OHWM.
 - e. Piers and ramps shall be no more than 8 feet in width. Finger piers shall be no more than 8 feet wide and 45 feet long. Piers, ramps and docks shall be

constructed to allow a minimum of 60% light penetration over 60% of each structure.

- f. Skirting shall not be placed on piers, ramps, floating docks, or floats. Protective bumper material will be allowed along the outside edge of the float or floating dock as long as the material does not extend below the bottom edge of the float frame or impede light penetration.
- g. Shoreline concrete anchors must be placed at least 10 feet landward from the OHWM, and shall be sized no larger than 4-feet wide by 4-feet long, unless otherwise approved by National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries), the US Army Corps of Engineers (Corps), and Washington Department of Fish and Wildlife (WDFW).
- h. Overwater structures shall be located in water sufficiently deep to prevent the structure from grounding out at the lowest low water.
- i. Docks used for motor boats should be located where the water will be deeper than seven (7) feet at the lowest low water to avoid prop scour.
- j. All docks and floats shall include stops that serve to keep the floats off the lake bottom or river bed at low water levels. If a bulkhead-like base is proposed for a fixed pier or dock where there is net positive littoral drift, the base shall be built landward of the OHWM or protective berms. When plastics or other non-biodegradable materials are used in float, pier, or dock construction, precautions shall be taken to ensure their containment.
- k. Pilings must be structurally sound and cured prior to placement in the water. Pilings employed for docks, piers, or any other structure shall have a minimum vertical clearance of one foot above extreme high water. Pile spacing shall be the maximum feasible to minimize shading and avoid a “wall” effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.

6.3.3.5 Moorage Facilities: Docks, Piers, and Mooring Buoys

- 1. Mooring buoys shall be used instead of docks and piers whenever feasible.
- 2. Mooring buoys shall be placed as specified by WDFW, DNR, and the U.S. Coast Guard to balance the goals of protecting nearshore habitat and minimizing obstruction to navigation. Anchors and other design features shall meet WDFW standards.
- 3. Mooring buoys shall be discernible from a distance of at least one hundred (100) yards. One (1) mooring buoy for each waterfront lot shall be permitted unless greater need is demonstrated by the applicant and documented by the City. In

cases such as those of a community park with recreational users or a residential development with lot owners both on and away from the shoreline needing moorage, community moorage facilities shall be used instead of mooring buoys.

4. Docks and piers for water-dependent commercial and industrial uses shall be allowed to the outer harbor line or combined U.S. Pierhead/Bulkhead line but no more than that required for the draft of the largest vessel expected to moor at the facility. These provisions are also applicable to multiple-use facilities where the majority use is water-dependent and public access can safely be provided.
5. Bulk storage (non-portable storage in fixed tanks) for gasoline, oil and other petroleum products for any use or purpose is prohibited on docks and piers.
6. Recreational floats shall be designed and constructed to meet the following standards:
 - a. They shall be located as close to the shore as possible, and no farther waterward than any existing floats and established swimming areas.
 - b. They shall be constructed so that the deck surface is a minimum of one (1) foot above the water surface and with reflectors for night-time visibility.
 - c. Floats serving the public, a subdivision, a multi-family development, a hotel, motel, or multiple property owners shall not exceed one hundred sixty (160) square feet and shall be constructed to allow a minimum of 60% light penetration over 60% of the structure.

6.3.4 Commercial Uses

1. Water-oriented commercial uses are preferred over nonwater-oriented commercial uses.
2. An applicant for a new commercial use or development shall demonstrate that the use or development will not cause a net loss of ecological function or adversely impact other shoreline resources or uses.
3. Loading, service areas, and other accessory uses shall be located landward of a commercial structure or underground whenever possible, but shall in no case be waterward of the structure. Loading and service areas shall be screened from view with native plants.
4. ~~Where allowed, non~~Nonwater-oriented commercial uses may be ~~permitted~~allowed only as part of a mixed-use development that:
 - a. As part of a mixed-use development that includes water-oriented uses and has a formally-approved master plan that complies with this Program, including having demonstrated consistency with the policies of Section 3.2 if its proposed location is on a shoreline of statewide significance, where there is a

substantial public benefit with respect to the goals and policies of this Program such as providing public access and/or ecological restoration; or

Has a formally approved master plan that complies with this Program, including having demonstrated consistency with the policies of Section 3.2 if its proposed location is on a shoreline of statewide significance;

- b. Where navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Act's objectives such as providing public access and ecological restoration; or ~~Includes water-oriented uses; and~~
 - c. ~~If the site is physically separated from the shoreline by another property or public right-of-way. Provides a significant public benefit such as public access and/or ecological restoration.~~
5. Nonwater-oriented commercial uses meeting the conditions of Section 6.3.4(4) and located in a High Intensity shoreline designation on the Columbia River between the eastern boundary of Wintler Park and the railroad bridge (Columbia River Shoreline Enhancement Plan District) may occupy:
- a. Up to 85% of the total frontage length of all parcels in the master-planned development (regardless of ownership); or
 - b. Up to 85% of the project area within shoreline jurisdiction of all parcels in the development (regardless of ownership).
6. Nonwater-oriented commercial uses meeting the conditions of Section 6.3.4(4) and not located in a High Intensity shoreline designation on the Columbia River between the eastern boundary of Wintler Park and the railroad bridge (Columbia River Shoreline Enhancement Plan District) may occupy:
- a. Up to 25% of the total frontage length of all parcels in the master-planned development (regardless of ownership); or
 - b. Up to 25% of the total project area within shoreline jurisdiction of all parcels in the master-planned development (regardless of ownership).
7. When a new, mixed-use commercial development meets all applicable provisions of Section 6.3.4 **(Commercial Uses)**, Section 5.8.1 **(Visual Access)**, and this Program and:
- a. Is located in a High Intensity shoreline designation on the Columbia River between the eastern boundary of Wintler Park and the railroad bridge (Columbia River Shoreline Enhancement Plan District);

- b. Has a formally-approved master plan that complies with this Program including having demonstrated consistency with the policies of Section 3.2 **(Shorelines of Statewide Significance)**;
 - c. Includes water-oriented uses;
 - d. Provides public access to the shoreline;
 - e. Restores degraded shorelines; and
 - f. Building heights for commercial development in the High Intensity shoreline designation in Table 6-1 may be increased in accordance with the underlying zoning.
8. Water oriented commercial use is allowed on a dock or pier as a conditional use only under the follow circumstances:
- a. The commercial dock or pier is located between the I-5 Bridge and the BNSF railroad bridge;
 - b. The commercial use of the dock or pier is included in a formally approved master plan that complies with this Program;
 - c. All uses shall be water-dependent, water-related or water-enjoyment;
 - d. There are design elements that link the site back to historic uses.
 - e. A dock or pier associated with an existing commercial building located on such dock or pier may be maintained, rebuilt, replaced and/or relocated as follows:
 - i. A rebuilt or replaced dock or pier shall not occupy a larger footprint then the dock or pier as it existed on March 15, 2018.
 - ii. A commercial building may be rebuilt, replaced or relocated on top of the dock or pier only when the applicant of a shoreline conditional use permit demonstrates the following:
 - 1. The development shall include design elements that are reflective of the local maritime history and structures on the site, and enhance the public's experience along the city's waterfront.
 - 2. The height of the structure shall not exceed 65 feet measured from ordinary high water mark.
 - 3. The building shall not occupy a footprint that is larger than the footprint of the building existing on March 15, 2018. The building footprint may shift from its current location on the dock or pier as

needed to comply with public access requirements of this program and/or existing or future state highway right-of-ways.

4. The building located on the dock or pier shall be positioned to maintain public access to the dock or pier and to the shoreline consistent with this Program and the policies set forth in the Vancouver City Center Vision (VCCV) Subarea Plan.

6.3.5 Forest Practices

1. Commercial harvest of timber undertaken on shorelines shall comply with the applicable policies and provisions of the Forests and Fish Report (U.S. Fish and Wildlife Service, et al., 1999) and the Forest Practices Act, RCW 76.09 as amended, and any regulations adopted pursuant thereto (WAC 222), as administered by the Department of Natural Resources.
2. When timberland is to be converted to another use, such conversion shall be clearly indicated on the Forest Practices application. Failure to indicate the intent to convert the timberland to another use on the application will result in subsequent conversion proposals being reviewed pursuant to Conversion Option Harvest Plan. Failure to declare intent to convert on the application shall provide adequate grounds for denial of subsequent conversion proposals for a period of six years from date of Forest Practices application approval per RCW 76.09.060(3)(d), (e) and (f), RCW 76.09.460, and RCW 76.09.470.
3. With respect to timber situated within two hundred (200) feet landward of the OHWM within shorelines of the statewide significance, Ecology or the City shall allow only selective commercial timber cutting, so that no more than thirty percent (30%) of the merchantable trees may be harvested in any ten- (10-) year period of time; provided that other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions, or silviculture practices necessary for regeneration render selective logging ecologically detrimental; and provided further, that clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this chapter may be permitted. Exceptions to this standard shall be allowed by conditional use only.
4. For the purposes of this Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered forest practices and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this Program, including vegetation conservation.
5. A forest practice that only involves timber harvest is not a development under the Act and is not subject to the Shoreline Master Program. A forest practice that includes activities other than timber harvest are a development under the Act and may require a Substantial Development Permit, as required by WAC 222-50-020

6.3.6 Industrial Uses

6.3.6.1 General Requirements

1. Water-oriented industrial uses and development are preferred over nonwater-oriented industrial uses and development.
2. Water-related uses shall not displace existing water-dependent uses or occupy space designated for water-dependent uses identified in a substantial development permit or other approval.
3. Water-enjoyment uses shall not displace existing water-dependent or water-related uses or occupy space designated for water-dependent or water-related uses identified in a substantial development permit or other approval.
4. Waterward expansion of existing non-water-oriented industry is prohibited.
5. Proposed developments shall maximize the use of legally-established existing industrial facilities and avoid duplication of dock or pier facilities before expanding into undeveloped areas or building new facilities. Proposals for new industrial and port developments shall demonstrate the need for expansion into an undeveloped area.
6. Proposed large-scale industrial developments or major expansions shall be consistent with an officially-adopted comprehensive scheme of harbor improvement and/or long-range port development plan.
7. New facilities for shallow-draft shipping shall not be allowed to preempt deep-draft industrial sites.
8. Ship, boat-building, and repair yards shall employ best management practices (BMPs) with regard to the various services and activities they perform and their impacts on surrounding water quality.
9. Industrial water treatment and water reclamation facilities may be permitted only as conditional uses and only upon demonstrating that they cannot be located outside of shoreline jurisdiction. They shall be designed and located to be compatible with recreational, residential, or other public uses of the water and shorelands.

6.3.6.2 Log Storage

1. Log booming, rafting and storage in the Aquatic shoreline designation shall comply with WAC 332-30-145 or its successor.
2. Log storage shall be permitted in public waters only where:
 - a. water quality standards can be met at all times;

- b. grounding will not occur;
 - c. associated activities will not hinder other beneficial uses of the water, such as small craft navigation; and
 - d. fish and wildlife habitat conservation areas can be avoided.
3. No log raft shall remain in the Aquatic shoreline designation for more than one year, unless specifically authorized in writing by DNR.
4. Log storage facilities shall be sited to avoid and minimize the need for dredging in order to accommodate new barging and shall be located in existing developed areas to the greatest extent feasible. If a new log storage facility is proposed along an undeveloped shoreline, an alternatives analysis shall be required that demonstrates that it is not feasible to locate the facility within an existing developed area.
5. A Debris Management Plan describing the removal and disposal of wood waste must be approved by the City. Debris monitoring reports shall be provided, where stipulated. Positive control, collection, treatment, and disposal methods for keeping leachate, bark, and wood debris (both floating and sinking particles) out of surface water and groundwater shall be employed at log storage areas, log dumps, raft building areas, and mill-side handling zones. In the event that bark or wood debris accidentally enters the water, it shall be immediately removed. Surface runoff from log storage areas shall be collected and discharged at only one point, if possible.
6. Existing in-water log storage and log booming facilities in critical habitats utilized by threatened or endangered species classified under the Endangered Species Act (ESA) shall be re-evaluated if use is discontinued for one (1) year, or if substantial repair or reconstruction is required. The evaluation shall include an alternatives analysis in order to determine if logs can be stored upland and out of the water, or if the site should be used for other purposes that would have lesser impacts on ESA-listed species. The alternatives analysis shall include evaluation of the potential for moving all, or portions of, log storage and booming to uplands.
7. Non-aquatic log storage areas shall meet the following requirements:
- a. The ground surface of any unpaved log storage area underlain by permeable soils shall be separated from the highest seasonal water table by at least four (4) feet in order to reduce waste buildup and impacts on ground water and surface water;
 - b. Stormwater shall be managed consistent with VMC Chapter 14.25; and
 - c. A berm must be located around the outer edge of the upland sort surface using rocks, or other suitable materials to prevent loss of wood debris into the water.

6.3.7 Institutional Uses

1. Water-oriented institutional uses and developments are preferred.
2. Where allowed, nonwater-oriented institutional uses may be permitted as part of a mixed-use development provided that a significant public benefit such as public access and/or ecological restoration are provided.
3. Loading, service areas, and other accessory uses shall be located landward of a primary structure or underground whenever possible, but shall in no case be waterward of the structure. Loading and service areas shall be screened from view with native plants.
4. ~~Where a~~ Non-water-oriented institutional uses are allowed ~~as a conditional use only if;~~ the following ~~must be is~~ demonstrated:
 - a. A water dependent use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features of the site, or due to the site's separation from the water;
 - b. The proposed use does not displace a current water-oriented use and will not interfere with adjacent water-oriented uses; and
 - c. The proposed use will be of substantial public benefit by increasing the public use, enjoyment, ecological function, and/or access to the shoreline.
5. Over-water structures housing public safety equipment for public agency use to protect people, property, and the environment may be allowed as a conditional use and may be increased in number or expanded. See Section 6.3.3.3(10) and (11).

6.3.8 Mining

1. An applicant for mining and associated activities within shoreline jurisdiction shall demonstrate that the proposed activities are dependent on a shoreline location consistent with this Program and WAC 173-26-201(2)(a).
2. Mining and associated activities shall be designed and conducted to result in no net loss of shoreline ecological functions and processes, and will only be allowed if they will not cause:
 - a. Damage to or potential weakening of the structural integrity of the shoreline zone that would change existing aquatic habitat or aquatic flow characteristics;
 - b. Changes in the water or exchange of water to or from adjacent water bodies that would damage aquatic or shoreline habitat; and

- c. Changes in groundwater or surface water flow that would be detrimental to aquatic habitat, shoreline habitat, or ground water.
- 3. Mining within the active channel(s) or channel migration zone of a stream shall not be permitted unless:
 - a. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect instream habitat or the natural processes of gravel transport for the stream system as a whole.
 - b. The mining and any associated permitted activities, such as flood hazard reduction, will not have significant adverse impacts to habitat for priority species nor cause a net loss of shoreline ecological functions.
- 4. The applicant shall obtain and comply fully with all required local, state, and federal permits and approvals, including but not limited to, Hydraulic Project Approvals (HPA) from WDFW.
- 5. A reclamation plan that complies with the format and detailed minimum standards of RCW 78.44 and WAC 332-18 and that meets the provisions of this Program shall be included with any shoreline permit application for mining. The proposed subsequent use of mined property must be consistent with the provisions of the shoreline designation in which the property is located and the applicant shall obtain and fully comply with all required permits and approvals. Reclamation of disturbed shoreline areas shall provide appropriate ecological functions consistent with the setting.
- 6. Aggregate washing and ponding of waste water are prohibited in floodways.
- 7. Disposal of overburden or other mining spoil or non-organic solid wastes shall comply with fill policies and regulations of this Program and other applicable regulations.
- 8. In considering renewal, extension or reauthorization of gravel bar and other in-channel mining operations in locations where they have previously been conducted, the City shall require compliance with this Program.
- 9. Where a lawfully-established mining operation has resulted in the creation of a lake(s) greater than 20-acres and such lake(s) is subject to the provisions of the Shoreline Management Program and the Act, such lake(s) shall be given a shoreline designation of Rural Conservancy – Resource Lands or as otherwise adopted. Notwithstanding any other applicable regulations, such mining operations shall be permitted to continue and may be expanded subject to approval of a shoreline conditional use permit.
- 10. The provisions of this section do not apply to dredging of authorized navigation channels when conducted in accordance with WAC 173-26-231.

6.3.9 Parking

1. Parking as a primary use is prohibited in all shoreline areas.
2. Temporary storage of vehicles for import or export in port areas shall not be considered parking.
3. Temporary storage of vehicles for import or export in port areas is prohibited over water.
4. Where parking is allowed as accessory to a permitted use, **whenever feasible** it **should** ~~shall~~ be located landward of the primary structure as far as possible or within the primary structure.

6.3.10 Recreational Uses

1. Recreational developments shall provide facilities for non-motorized access to the shoreline such as pedestrian and bicycle paths.
2. The minimum width of public access easements for trails shall be twenty (20) feet when a trail is not located within a public right-of-way, unless the Shoreline Administrator determines that undue hardship would result, or that it is impractical or environmentally unsound. In such cases, easement width may be reduced only by the minimum extent necessary to meet public access standards.
3. Recreation areas or facilities on the shoreline shall provide physical or visual public access to the shoreline. Trails or other facilities may traverse the setback to provide public access to the shoreline.
4. Parking areas shall be located upland away from the immediate shoreline, with pedestrian trails or walkways providing access to the water.
5. All permanent, substantial, recreational structures and facilities shall be located outside officially mapped floodways. The Shoreline Administrator may grant administrative exceptions for non-intensive minor accessory uses (including but not limited to, picnic tables, playground equipment).
6. Recreational sites with active uses shall be provided with restrooms and hand sanitizing facilities in accordance with public health standards and without adversely altering the natural features attractive for recreational uses.
7. Recreational facilities shall include features such as buffer strips, screening, fences, and signs to protect the value and enjoyment of adjacent or nearby private properties and natural areas from trespass, overflow and other possible adverse impacts.

8. Where fertilizers and pesticides are used in recreational developments, waters in and adjacent to such developments shall be protected from drainage and surface runoff.
9. Golf course structures (clubhouses and maintenance buildings) that are non water-oriented shall be located no closer than one hundred (100) feet from the OHWM of any shorelines of the state.
10. Tees, greens, fairways, golf cart routes, and other site development features shall be located no closer than one hundred (100) feet from the OHWM of any shorelines of the state to the extent practicable. Where unavoidable, such development shall be designed to minimize impacts to shoreline and critical areas and their buffers and mitigate impacts by including ecological restoration and enhancement.
11. Golf course water hazards and stormwater drainage basins shall be managed for wildlife through appropriate plantings and measures to maintain or enhance water quality.
12. The setback for water-related and water-enjoyment recreational development in Natural, Urban Conservancy, and Medium Intensity shoreline designations is 50 feet, except for trails which may meander between 20 and 50 feet landward of the OHWM to:
 - a. Respond to site characteristics such as natural topography and existing vegetation; or
 - b. Take advantage of opportunities for visual or physical access to the shoreline; or
 - c. Connect existing trail easements; or
 - d. Create an interesting experience for trail users.
13. A trail project, any portion of which encroaches closer than 50 feet, shall maintain no net loss, and include shoreline restoration where feasible.
14. The following trail types as described in the Vancouver-Clark Parks & Recreation Regional Trails and Bikeway Systems Plan (2006) and the Paths & Trails Element of the Vancouver Walking and Bicycling Master Plan (2004) are preferred in the Natural shoreline designation:
 - a. Type A3: Primitive Trails or Paths
 - b. Type C2: Walking Trails or Paths
 - c. Type D1: Equestrian Trails or Paths

15. When regional or local shared-use or other impervious surface trails are proposed in the Natural or Urban Conservancy shoreline designations, to respond to Americans with Disabilities Act (ADA) requirements or other circumstances or conditions, the project shall maintain no net loss, and include shoreline restoration where feasible.

6.3.11 Residential Development

6.3.11.1 Residential Development

1. Residential developments shall include provisions to ensure preservation of native vegetation and control erosion during construction.
2. New residential construction shall be located so as not to require shoreline stabilization measures.
3. New residential development shall be located and designed to a density that minimizes view obstructions to and from the shoreline.
4. Clustering of residential units shall be allowed where appropriate and in compliance with VMC Title 20 to minimize physical and visual impacts on shorelines.
5. In those areas where only onsite sewage systems are available, density shall be limited to that which can demonstrably accommodate protection of surface and groundwater quality.
6. New residential development, including sewage disposal systems, shall be prohibited in floodways and channel migration zones.
7. Appurtenances, accessory uses, and facilities serving a residential structure shall be located outside setbacks, critical areas, and buffers unless otherwise allowed under this Program to promote community access and recreational opportunities.
8. New residential lots created through land division in shoreline jurisdiction and lot line adjustments shall only be permitted when configured such that the following standards are met:
 - a. Structural flood hazard reduction measures are not required and will not be necessary during the life of the development or use.
 - b. Shoreline stabilization measures will not be required for new development to occur.
 - c. There will be no net loss of shoreline ecological function.
9. Legally-established residential development located landward of the OHWM, including normal appurtenances, existing on the effective date of this Program

that do not meet the standards of this Program are considered to be conforming and may be maintained, repaired, replaced, or expanded provided that any future development:

- a. Does not exceed height limitations;
 - b. Does not encroach farther waterward than the existing primary structure;
 - c. Does not encroach farther into critical areas or buffers; and.
 - d. Will result in no net loss of shoreline ecological functions.
10. New residential development shall be prohibited in, over, or floating on the water, except as provided in 6.3.11.2 (1-5).

6.3.11.2 Floating Home Development

1. A floating on-water residence legally established prior to July 1, 2014, is considered a conforming use and may be maintained, repaired and remodeled provided there is no increase in the surface water area covered.
2. The floating homes legally established prior to January 1, 2011, are conforming preferred uses under this Program.
3. Floating homes legally established prior to January 1, 2011 may be remodeled, rebuilt (home torn down to the float and rebuilt in place), or replaced (existing home and float removed and a new home and float towed in) in situ, PROVIDED:
 - a. There is no increase in the number of floating homes beyond the number existing on January 1, 2011;
 - b. There is no increase in the surface water area covered by the floating homes existing on January 1, 2011 and accessory structures including cantilevered portions that extend beyond the float;
 - c. There is no net loss of shoreline ecological function.
4. Any proposal to replace, remodel, or rebuild a floating home shall be accompanied by an accurate, fully-dimensioned site plan along with details about the proposed changes, similar to that required for other land use approvals under VMC Title 20.
5. When remodeling, rebuilding, or replacing a floating home legally established prior to January 1, 2011 the following standards apply in addition to those of Section 6.3.11(1-4):
 - a. The total height of the float and the structure from the water surface shall not exceed its existing height;

- b. The minimum distance between existing adjacent floating home walls shall not be reduced, and if the floating home is being replaced shall not be less than 6 feet;
- c. Floating homes shall not block views from the waterward end of any pier, more than any existing view blockage;
- d. No new living or storage spaces shall be located below water level. Existing living or storage spaces below water level may be remodeled or replaced, but not expanded;
- e. Unenclosed Styrofoam or similar material that has the potential to break apart is prohibited in floats;
- f. Floats shall be maintained and repaired using the minimum amount of structure below the waterline necessary to maintain floatation. At the time of replacement of a float and/or floating home, any structure below waterline and outside the primary float structure that provides minimal or no floatation shall be removed;
- g. All utilities shall be repaired or replaced to current standards to ensure proper functioning and no net loss of shoreline ecological functions.

6.3.12 Signs

- 1. Free-standing signs shall be for only informational purposes such as directional, navigational, educational/interpretive, and safety purposes, unless otherwise allowed under this Program and as specified in Table 6-1.
- 2. Signs for commercial purposes shall be limited to fascia or wall signs and as regulated by VMC Chapter 20.960, unless otherwise provided for in this chapter for specific uses.
- 3. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access corridors to the shoreline.
- 4. Overwater signs or signs on floats or pilings shall be prohibited, except when related to navigation or a water-dependent use.
- 5. Illuminated signs shall be limited to informational, directional, navigational or safety purposes and shielded so as to eliminate glare when viewed from surrounding properties or watercourses.
- 6. Sign requirements adopted with either a formally-approved master plan or through a Special Sign District under VMC 20.960.110 shall prevail over the provisions of this section.

6.3.13 Transportation Uses

1. All transportation facilities in shoreline areas shall be constructed and maintained to cause the least possible adverse impacts on the land and water environments, shall respect the natural character of the shoreline, and make every effort to preserve wildlife, aquatic life and their habitats.
2. New or expanded surface transportation facilities not related to and necessary for the support of shoreline activities shall be located outside the shoreline jurisdiction wherever possible, or set back from the ordinary high water mark far enough to make shoreline stabilization, such as rip rap, bulkheads or jetties, unnecessary.
3. Transportation facilities shall not adversely impact existing or planned water-dependent uses by impairing access to the shoreline.
4. All roads shall be set back from water bodies and shall provide buffer areas of compatible, self-sustaining native vegetation. Shoreline scenic drives and viewpoints may provide breaks in the vegetative buffer to allow open views of the water.
5. Transportation facilities that are allowed to cross over water bodies and associated wetlands shall utilize elevated, open pile or pier structures whenever feasible to reduce shade impacts. All bridges shall be built high enough to allow the passage of debris and anticipated high water flows.
6. Transportation facility development shall not be permitted in the Aquatic shoreline designation including associated wetlands or in the setbacks of adjacent Medium Intensity or High Intensity shoreline designations except as a conditional use when:
 - a. All structural or upland alternatives have proven infeasible; and
 - b. The transportation facility is necessary to support water-dependent uses or essential public facilities consistent with this program.
7. Transportation and utility facilities shall be required to make joint use of rights-of-way and to consolidate crossing of water bodies.

6.3.14 Utilities Uses

These provisions apply to services and facilities that produce, convey, store, or process power, gas, wastewater, communications, and similar services and functions. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence or other approved use are “accessory utilities” and shall be considered a part of the primary use.

1. Whenever feasible, all utility facilities shall be located outside shoreline jurisdiction. Where distribution and transmission lines (except electrical transmission lines) must be located in the shoreline jurisdiction they shall be located underground.
2. Where overhead electrical transmission lines must parallel the shoreline, they shall be outside of the two hundred (200) foot shoreline environment unless topography or safety factors would make it unfeasible.
3. Utilities, including limited utility extensions shall be designed, located and installed in such a way as to preserve the natural landscape, minimize impacts to scenic views, and minimize conflicts with present and planned land and shoreline uses.
4. Transmission, distribution, and conveyance facilities shall be located in existing rights of way and corridors or shall cross shoreline jurisdictional areas by the shortest, most direct route feasible, unless such route would cause significant environmental damage.
5. Utility production and processing facilities, such as power plants and wastewater treatment facilities, or parts of those facilities that are nonwater-oriented shall not be allowed in the shoreline jurisdiction unless it can be demonstrated that no other feasible option is available.
6. Stormwater control facilities, limited to detention / retention / treatment ponds, media filtration facilities, and lagoons or infiltration basins, within the shoreline jurisdiction shall only be permitted when the stormwater facility is designed to mimic and resemble natural wetlands, ponds, or closed depressions, and meets the requirements of VMC 14.25, Stormwater Control.
7. New outfalls and modifications to existing outfalls shall be designed and constructed to avoid impacts to existing native aquatic vegetation attached to or rooted in substrate. Outfalls may require bank hardening to prevent failure of the outfall structure or erosion of the shoreline. Diffusers or discharge points must be located offshore at a distance beyond the nearshore area to avoid impacts to nearshore habitats.
8. Water reclamation discharge facilities such as injection wells or activities such as land application are prohibited in the shoreline jurisdiction, unless the discharge water meets State Department of Ecology Class A reclaimed water standards. An applicant for discharge of Class A reclaimed water in the shoreline jurisdiction shall demonstrate habitat benefits of such discharge.
9. Where allowed under this program, construction of underwater utilities or those within the wetland perimeter shall be scheduled to avoid major fish migratory runs or use construction methods that do not cause disturbance to the habitat or migration.

10. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially detrimental to water quality shall be equipped with automatic shut off valves.
11. Upon completion of utility installation/maintenance projects on shorelines, banks shall, at a minimum, be restored to pre-project configuration, replanted and provided with maintenance care until the newly planted vegetation is fully established. Plantings shall be native species and/or be similar to vegetation in the surrounding area.

6.4 Shoreline Modification Regulations

6.4.1 General Requirements

1. Structural shoreline modifications shall only be allowed where it can be demonstrated that the proposed activities are necessary to support or protect legally existing shoreline use or primary structure that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline or bedlands for an allowed water-dependent use or for shoreline mitigation or enhancement purposes.
2. Modifications shall only be allowed when impacts are avoided, minimized, and mitigated to assure no net loss of shoreline ecological functions.
3. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity). In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.
4. Public access shall be provided in accordance with public access policies and regulations of this Program (See Section 5.4(1-2)).

6.4.2 Dredging and Dredge Material Disposal

6.4.2.1 General

1. Dredging and dredge disposal shall be prohibited on or in archaeological sites that are listed on the National Register of Historic Places, the Washington Heritage Register, and/or the Clark County Historic Register until such time that they have been reviewed and approved by the appropriate agency.
2. Dredging and dredge disposal shall be scheduled to protect biological productivity (including but not limited to, fish runs, spawning, and benthic productivity) and to minimize interference with fishing activities. Dredging activities shall not occur in areas used for commercial fishing (including but not limited to, drift netting and crabbing) during a fishing season unless specifically addressed and mitigated for in the permit.

6.4.2.2 Dredging

1. Dredging shall be avoided where possible. Dredging shall be permitted only where it is demonstrated that the proposed water-dependent or water-related uses will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines unless one or more of these impacts cannot be avoided. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of shoreline ecological functions.
2. Maintenance dredging of established navigation channels and basins shall be restricted to managing previously dredged and/or existing authorized location, depth and width.
3. Dredging shall be prohibited between the OHWM and minus fifteen (-15) feet CRD, unless **adverse impacts to shallow water habitat is addressed through mitigation to no net loss. Mitigation can include, enhancement, creation and/or payment of mitigation bank credits, and comply with Section 6.44. shallow water habitat will be created to mitigate for the dredging project.**
4. Dredging activity is prohibited in the following locations:
 - a. Along net positive drift sectors and where geohydraulic-hydraulic processes are active and accretion shore forms would be damaged, altered, or irretrievably lost;
 - b. In shoreline areas with bottom materials that are prone to significant sloughing and refilling due to currents or tidal activity which result in the need for continual maintenance dredging;
 - c. In habitats identified as critical to the life cycle of officially designated or protected fish, shellfish, or wildlife.
5. Dredging techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only the amount of dredging necessary shall be permitted.
6. Dredging shall be permitted only:
 - a. For navigation or navigational access;
 - b. In conjunction with a water-dependent use of water bodies or adjacent shorelands;
 - c. As part of an approved habitat improvement project;

- d. To improve water flow or water quality, provided that all dredged material shall be contained and managed so as to prevent it from reentering the water;
 - e. In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist; or
 - f. To acquire sand and gravel for commercial purposes from within the Columbia River.
7. Dredging for fill is prohibited except where the material is necessary for restoration of shoreline ecological functions.

6.4.2.3 Dredge Material Disposal

1. ~~Dredge material disposal shall be avoided where possible.~~ Dredge disposal shall be permitted only where it is demonstrated that the proposed water-dependent or water-related uses will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of shoreline ecological functions. Environmentally sound beneficial uses of suitable dredge material are encouraged as an alternative to conventional placement practices, when feasible.
2. Near shore or landside disposal of dredge materials shall not be located upon, adversely affect, or diminish:
 - a. Stream mouths, wetlands, or significant plant communities (approved mitigation plans may justify exceptions);
 - b. Prime agricultural land except as enhancement;
 - c. Natural resources including but not limited to sand and gravel deposits, timber, or natural recreational beaches and waters except for enhancement purposes;
 - d. Designated or officially recognized wildlife habitat and concentration areas;
 - e. Water quality, quantity, and drainage characteristics; and
 - f. Public access to shorelines and water bodies.
3. Dredged material shall be disposed of on land only at sites reviewed and approved by the USACOE and the Shoreline Administrator. Applicants shall demonstrate that the proposed site will ultimately be suitable for a use permitted by this Program. Disposal shall be undertaken such that:

- a. The smallest possible land area is affected, unless dispersed disposal is authorized as a condition of permit approval for soil enhancement or other purposes;
 - b. Shoreline ecological functions and processes will be preserved, including protection of surface and ground water;
 - c. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property; and
 - d. Sites will be adequately screened from view of local residents or passersby on public right-of-ways to the maximum extent practicable.
4. The following conditions shall apply to land disposal sites:
 - a. Springs and aquifers shall be identified and protected.
 - b. Containment dikes and adequate settling basins shall be built and maintained so that the water discharged from the site carries a minimum of suspended sediment. Required basins shall be designed to maintain at least one foot of standing water at all times to encourage proper settling.
 - c. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands, and drainage ways.
 - d. There shall be a single point of ingress and egress for removal of the de-watered material.
 - e. Runoff shall be directed through grassy swales or other treatment features that assures protection of water quality and a location that maximizes circulation and fishing.
 - f. Sites shall be revegetated with appropriate native species as soon as possible to retard erosion and restore wildlife habitat and other critical areas functions;
 - g. Vegetation shall be maintained by the property owner;
 - h. Dredge materials deposited upland and not part of a permitted dike or levee shall constitute fill, and when deposited within shoreline jurisdiction, shall comply with the fill regulations; and
 - i. The applicable requirements of VMC 14.24, 14.25, and 14.26 shall be met.
5. Dredged material shall be disposed of in water only at sites approved by the USACOE and the Shoreline Administrator. Disposal techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only if:

- ~~a. Land disposal is infeasible, less consistent with this Program, or prohibited by law;~~
 - a. ~~b.~~ Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible;
 - b. ~~c.~~ Offshore habitat will be protected, restored, or enhanced;
 - c. ~~d.~~ Adverse effects on water quality or biologic resources from contaminated materials will be mitigated;
 - d. ~~e.~~ Shifting and dispersal of spoil will be minimal; and
 - e. ~~f.~~ Water quality will not be adversely affected.
6. The deposition of dredged materials in water or wetlands shall be permitted only in approved, open water disposal sites and:
- a. To improve wildlife habitat;
 - b. To correct material distribution problems adversely affecting fish habitat;
 - c. To create, expand, rehabilitate, or enhance a beach when permitted under this Program and any required state or federal permit; or
 - d. When land deposition is demonstrated to be more detrimental to shoreline resources than water deposition.

6.4.3 Flood Control Works and In-stream Structures

6.4.3.1 Flood Control Works

- 1. Dikes and levees shall only be authorized by conditional use permit only when it can be demonstrated by a scientific and engineering analysis that:
 - a. They are necessary to protect existing development;
 - b. Nonstructural measures are not feasible;
 - c. Impacts on ecological functions and critical areas can be successfully mitigated so as to assure no net loss; and
 - d. Appropriate vegetation conservation actions are undertaken.
- 2. Dikes and levees shall protect the natural processes and resource values associated with streamways and deltas including but not limited to wildlife habitat.
- 3. Springs and aquifers shall be identified and protected.

4. Public access shall be provided in accordance with public access policies and regulations of this Program (See Section 5.4(1-2)).
5. Dikes and levees shall be limited in size to the minimum height required to protect adjacent lands from the protected flood stage as identified in the applicable comprehensive flood control management plan or as required by FEMA for dike recertification.
6. Dikes and levees shall not be constructed with material dredged from the adjacent wetland or stream area unless part of a comprehensive flood and habitat enhancement plan, and the only by conditional use.
7. Removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and with this Program, and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of shoreline ecological functions, and is part of a comprehensive flood management solution.

6.4.3.2 Flood Control Works – Design

1. Dikes and levees shall be designed, constructed, and maintained in accordance with Hydraulic Project Approval, and in consideration of resource agency requirements and recommendations.
2. Dikes and levees shall be set back at convex (inside) bends to allow streams to maintain point bars and associated aquatic habitat through normal accretion. Where bank dikes have already cut off point bars from the edge of the floodway, consideration should be given to their relocation in order to lower flood stages and current velocities.
3. Where dikes are necessary in intermediate gradient floodways to protect fringe areas, tangent diking is preferred over bank levees. Dikes and levees shall be located near the tangent to outside meander bends so that the stream can maintain normal meander progression and utilize most of its natural flood water storage capacity.
4. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands, and drainages.
5. The outside face of dikes shall be sloped at 1.5:1 (horizontal to vertical) or flatter, and seeded with native grasses.
6. Structural flood hazard reduction measures shall be placed landward of associated wetlands and vegetation conservation areas unless there is no other feasible alternative to reduce flood hazard to existing development.

6.4.3.3 In-stream Structures

1. In-stream structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. The City may condition the permit to achieve this objective by requiring that the development include features such as setbacks, buffers, or storage basins.
2. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing shoreline ecological function or are a threat to public safety.
3. In-stream structures shall provide for adequate upstream or downstream migration of anadromous fish, where applicable.
4. In-stream structures shall preserve valuable recreation resources and aesthetic values such as point and channel bars, islands, and braided banks.

6.4.3.4 In-stream Structures – Design & Placement

1. In-stream structures and their support facilities shall be located and designed to avoid the necessity for shoreline defense structures. Shoreline defense structures shall be minimized and any impacts mitigated. All diversion structures shall be designed to permit natural transport of bedload materials.
2. Materials adequate to immediately correct emergency erosion situations shall be maintained on-site.
3. All debris, overburden and other waste materials from construction shall be disposed of in such a manner so as to prevent their entry into a water body, including a wetland, by erosion, from drainage, high water, or other vectoring mechanisms.
4. All heavy construction equipment, and fuel storage, repair, and construction material staging areas shall be located as far landward as necessary to avoid and minimize impacts to shoreline ecological functions. Powerhouses, but not raceways, shall be located farther than one hundred (100) feet from the OHWM unless there is no feasible alternative and any unavoidable impacts are minimized and mitigated. Penstocks shall be located, designed, and constructed so as to present as low a profile as possible. Powerhouses and penstocks shall be located and designed to return flow to the stream in as short a distance as possible.
5. A mitigation plan that details the objectives of the mitigation activities shall be prepared by the applicant, and be subject to approval by the appropriate authority.

6.4.4 Shoreline Restoration and Enhancement

1. Shoreline restoration and enhancement activities designed to restore shoreline ecological functions and processes and/or shoreline features should be targeted toward meeting the needs of sensitive and/or regionally important plant, fish, and wildlife species and shall be given priority. Implementation of restoration projects

- on shorelines of statewide significance take precedence over implementation of restoration projects on other shorelines of the state.
2. Shoreline restoration, enhancement, and mitigation activities designed to create dynamic and sustainable ecosystems to assist the city in achieving no net loss of shoreline ecological functions are preferred.
 3. Restoration activities shall be carried out in accordance with an approved shoreline restoration plan, and in accordance with the provisions of this Program.
 4. To the extent possible, restoration, enhancement, and mitigation activities shall be integrated and coordinated with other parallel natural resource management efforts. Implementation of restoration projects identified in the Shoreline Restoration Plan that are focused on restoring degraded habitat in shoreline jurisdiction take precedence over other restoration projects.
 5. Habitat and beach creation, expansion, restoration, and enhancement projects may be permitted subject to required state or federal permits when the applicant has demonstrated that:
 - a. The project will not adversely impact spawning, nesting, or breeding fish and wildlife habitat conservation areas;
 - b. Upstream or downstream properties or fish and wildlife habitat conservation areas will not be adversely affected.
 - c. Water quality will not be degraded;
 - d. Flood storage capacity will not be degraded;
 - e. Streamflow will not be reduced;
 - f. Impacts to critical areas and buffers will be avoided and where unavoidable, minimized and mitigated; and
 - g. The project will not interfere with the normal public use of the navigable waters of the state.

6.4.5 Shoreline Stabilization – General

1. New shoreline stabilization to protect new residential development is prohibited. For other types of new development new shoreline stabilization is prohibited unless it can be demonstrated through a geotechnical analysis by a qualified professional that:
 - a. The proposed use cannot be developed without shore protection; or
 - b. Shore protection is necessary to restore ecological functions; or

- c. Shore protection is necessary for a hazardous substance remediation project.
2. New or expanded shore stabilization shall:
- a. Be designed using best available science and in accordance with applicable Ecology and WDFW guidelines;
 - b. Not result in a net loss of shoreline ecological functions;
 - c. Not cause significant erosion or beach starvation;
 - d. Not be located where valuable geohydraulic, hydraulic, or biological processes are sensitive to interference and critical to shoreline conservation;
 - e. Document that alternative solutions (including relocation or reconstruction of existing structures) are not feasible or do not provide sufficient protection;
 - f. Demonstrate that future stabilization measures would not be required on the project site or adjacent properties; and
 - g. Be certified by a qualified professional.
3. New or expanded structural shoreline stabilization for existing primary structures, including roads, railroads, and public facilities is prohibited unless there is conclusive evidence documented by a geotechnical analysis that there is a significant possibility that the structure will be damaged within three years as a result of shoreline erosion caused by stream processor waves, and only when significant adverse impacts are mitigated to ensure no net loss of shoreline ecological functions and/or processes.
4. Where a geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, the analysis may still be used to justify more immediate authorization for shoreline stabilization using bioengineering approaches.
5. Replacement of an existing shoreline stabilization structure with a similar structure is permitted if there is a demonstrated need to protect existing primary uses, structures or public facilities including roads, bridges, railways, and utility systems from erosion caused by stream undercutting or wave action; provided that, the existing shoreline stabilization structure is removed from the shoreline as part of the replacement activity. Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the structure is a residence that was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. New or expanded shore stabilization shall be designed in accordance with applicable Ecology and WDFW guidelines and certified by a qualified professional.

~~6. Shoreline stabilization projects that meet the criteria of Section 2.3.2(18) require a statement of exemption (Section 2.3.3) and if exempt will be regulated under RCW 77.55.181. Stabilization projects that do not meet these criteria will be regulated by this Program. Shoreline stabilization projects that are part of a fish habitat enhancement project meeting the criteria of RCW 77.55.181 are shall be consistent with the provisions set forth in 2.1.1 and 2.3.2, exempt and will be regulated under the state process set forth in RCW 77.55.181. Stabilization projects that are not part of such a fish enhancement project will be regulated by this Program.~~

7. Small-scale or uncomplicated shoreline stabilization projects (for example, tree planting projects) shall be reviewed by a qualified professional to ensure that the project has been designed using best available science.
8. Large-scale or more complex shoreline stabilization projects (for example, projects requiring fill or excavation, placing objects in the water, or hardening the bank) shall be designed by a qualified professional using best available science. The applicant may be required to have a qualified professional oversee construction or construct the project.
9. Standards for new stabilization structures when found to be necessary include limiting the size to the minimum necessary to achieve the stabilization objective, using measures to assure no net loss of shoreline ecological functions, using soft approaches, and mitigating for impacts.

6.4.6 Bioengineered Stabilization

1. Naturally regenerating systems for the prevention and control of shoreline erosion shall be used instead of structural solutions where:
 - a. The length and configuration of shoreline will accommodate such systems;
 - b. Such protection is a reasonable solution to the needs of the specific site; and
 - c. The project will:
 - i. Recreate or enhance natural shoreline conditions;
 - ii. Create or enhance natural habitat;
 - iii. Reverse erosional conditions; or
 - iv. Enhance access to the shoreline, especially to public shorelines.
2. All bioengineered projects shall be designed in accordance with best available science and use a diverse variety of native plant materials including but not limited to trees, shrubs, forbs, and grasses, unless demonstrated infeasible for the particular site.

3. All cleared areas shall be replanted following construction and irrigated (if necessary) to ensure that within three years time all vegetation is fully re-established. Areas that fail to adequately reestablish vegetation shall be replanted with approved plant materials until such time as the plantings are viable.
4. Bank protection in the form of a buffer zone shall be provided for a minimum of three (3) years. The buffer zone shall exclude livestock, vehicles, and/or other activities that could disturb the site.
5. All bioengineered projects shall be monitored and maintained as necessary. Areas damaged by pests and/or the elements shall be promptly repaired.
6. All construction and planting activities shall be scheduled to minimize impacts to water quality and fish and wildlife aquatic and upland habitat, and to optimize survival of new vegetation.

6.4.7 Structural Stabilization

1. Structural stabilization may be allowed when:
 - a. The requirements of Section 6.4.5 are met;
 - b. Alternative measures are demonstrated to be infeasible or insufficient through a geotechnical analysis by a qualified professional;
 - c. The structural stabilization is designed and installation overseen by a qualified professional;
 - d. The structural stabilization is designed so that future stabilization measures will not be necessary on the subject property or other properties;
 - e. The size of the shoreline stabilization structure is limited to the minimum necessary; and
 - f. Impacts are mitigated to result in no net loss of shoreline ecological functions.

6.4.8 Bulkheads

6.4.8.1 Bulkheads - General

1. All bulkheads must be in support of an allowable shoreline use that is in conformance with the provisions of this master program, unless it can be demonstrated that such activities are necessary and in the public interest for the maintenance of shoreline environmental resources.
2. Bulkheads shall be allowed only when evidence is presented that conclusively demonstrates that one of the following conditions exists:

- a. Serious wave erosion threatens an established primary use or existing primary building(s) on upland property;
 - b. Bulkheads are necessary to the operation and location of water-dependent and water-related activities consistent with this master program, provided that all alternatives have proven infeasible (i.e., use relocation, use design, nonstructural shore stabilization options), and that such bulkheads meet other policies and regulations of this chapter; or
 - c. Proposals for bulkheads have first demonstrated that use of natural materials and processes and nonstructural solutions to bank stabilization are unworkable in protecting existing development.
3. Use of a bulkhead to protect a platted lot where no structure presently exists is prohibited.
 4. Natural materials and processes such as protective berms, drift logs, brush, beach feeding, or vegetative stabilization shall be utilized to the maximum extent possible.
 5. The construction of a bulkhead for the primary purpose of retaining or creating dry land that is not specifically authorized as a part of the permit shall be prohibited.
 6. Bulkheads are prohibited for any purpose if they will cause significant erosion or beach starvation.

6.4.8.2 Bulkhead Location

1. Bulkheads shall not be located on shores where valuable geohydraulic-hydraulic or biological processes are sensitive to interference and critical to shoreline conservation, such as feeder bluffs, marches, wetlands, or accretion shoreforms such as spits, hooks, bars, or barrier beaches.
2. Bulkheads are to be permitted only where local physical conditions such as foundation bearing material, surface, and subsurface drainage are suitable.
3. On all shorelines, bulkheads shall be located landward of the OHWM, landward of protective berms (artificial or natural), and generally parallel to the natural shoreline. In addition:
 - a. On bluff or bank shorelines where no other bulkheads are adjacent, the construction of a bulkhead shall be as close to the bank as possible, and in no case shall it be more than three (3) feet waterward from the toe of the natural bank; and
 - b. Bulkheads may tie in flush with existing bulkheads on adjoining properties, provided that (1) the adjoining bulkheads were built at or near the OHWM,

and (2) the new bulkhead does not extend more than three feet waterward of OHWM at any point. If there is an existing bulkhead on only one of the adjacent properties, the proposed bulkhead may tie in flush with the adjacent bulkhead at or landward of the OHWM, and shall be contoured to minimize the land area waterward of the required setback, that shall be met on the side not abutting an existing bulkhead.

4. Replacement bulkheads may be located immediately in front of and abutting (sharing a common surface) an existing bulkhead, provided that replacement bulkheads shall not be authorized abutting an abandoned or neglected bulkhead, or a bulkhead in serious disrepair that is located more than three feet waterward of OHWM. Replacement of such bulkheads shall be located at OHWM.

6.4.8.3 Bulkhead Design

1. Bulkhead design and development shall conform to all other applicable state agency policies and regulations, including the WDFW criteria governing the design of bulkheads.
2. When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated into bulkhead design.
3. Bulkheads shall be designed with the minimum dimensions necessary to adequately protect the development for the expected life of the development.
4. Bulkheads shall be designed to permit the passage of surface or ground water without causing ponding or saturation of retained soil/materials.
5. Adequate toe protection consisting of proper footings, a fine retention mesh, etc., shall be provided to ensure bulkhead stability without relying on additional riprap.
6. Stairs or other permitted structures may be built into a bulkhead, but shall not extend waterward of it.
7. Materials used in bulkhead construction shall meet the following standards:
 - a. Bulkheads shall utilize stable, non-erosional, homogeneous materials such as concrete, wood, rock riprap, or other suitable materials that will accomplish the desired end with the maximum preservation of natural shoreline characteristics.
 - b. Beach materials shall not be used for fill behind bulkheads unless it is specifically authorized by the permit, and then only when it is demonstrated that leaving the material on the beach would be detrimental to shoreline resources.
8. Gabions (wire mesh filled with concrete or rocks) shall not be used in bulkhead construction where alternatives more consistent with this Program are feasible,

because of their limited durability and the potential hazard to shore users and the shoreline environment.

9. Fill behind bulkheads shall meet the requirements of Section 5.6.2.

6.4.9 Revetments

6.4.9.1 Revetments - General

1. Revetments must be in support of an allowable shoreline use that is in conformance with the provisions of this Program, unless it can be demonstrated that such activities are necessary and in the public interest for the maintenance of shoreline environmental resources.
2. Design of revetments shall include and provide improved access to public shorelines whenever possible and appropriate. All forms of revetments shall be constructed and maintained in a manner that does not reduce water quality and/or fisheries habitat.
3. Design of the proposed revetment shall incorporate proper consideration of:
 - a. Data on local geophysical conditions;
 - b. Data on stream flow, velocity, and/or flood capacity; and
 - c. Effects on adjacent properties.
4. Bank revetments, where permitted, shall be placed at the extreme edge or bank of the shoreline. Construction below ordinary high water mark is not considered fill when needed to construct the revetment. Revetments, where permitted, shall minimize encroachment waterward of the ordinary high water mark. In the Columbia River, adverse impacts to shallow water habitat between the OHWM and minus fifteen (-15) feet CRD shall be mitigated to ensure no net loss of ecological function. Mitigation can include enhancement, creation and/or payment of mitigation bank credits. Placement of revetments waterward of the OHWM are not considered fill.
5. Revetments shall only be used when habitat-friendly alternatives are not feasible.

6.4.9.2 Revetment - Design

1. When permitted, the siting and design of revetments shall be performed using appropriate engineering principles, including guidelines of the Natural Resources Conservation Service and the U. S. Army Corps of Engineers.
2. Revetment shall be constructed using techniques and materials that will enhance natural shoreline values and functions, including fish and wildlife habitat, water

quality, vegetation, and aesthetics. The following techniques and materials shall be used:

- a. Riprap material shall consist of clean quarried rock, free of loose dirt and any pollutants, and shall be of sufficient size and weight to prevent movement by wave or current action. Tires, automobile bodies, scrap metal paper products, and other inappropriate solid waste materials shall not be used for riprap.
 - b. Use of downed logs, snags, or rock-work to enhance habitat and to provide a more natural appearance to the shoreline shall be incorporated into the design where appropriate.
 - c. Where on-site environmental conditions allow, vegetation shall be integrated into the riprap design to reduce erosion, provide cover, shade and habitat, and improve the natural appearance of the shoreline, consistent with the applicable vegetation management provisions of this Program.
3. If an armored revetment is employed, the following design criteria shall be met.
 - a. The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system;
 - b. Filter cloth must be used to aid drainage and help prevent settling; and
 - c. The toe reinforcement or protection must be adequate to prevent a collapse of the system from river scouring or wave action for the anticipated life of the project.
 4. The area shall be restored as nearly as possible to pre-project condition, including replanting with native species and maintenance care until the newly planted vegetation is established.

6.4.10 Breakwaters, Jetties, Rock Weirs, and Groins

6.4.10.1 Breakwaters, Jetties, Rock Weirs, and Groins - General

1. All breakwaters, jetties, rock weirs, and groins are allowed only by conditional use and where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
2. Applicants proposing groins, jetties, and solid breakwaters shall notify all shoreline landowners within the same drift sector. If it is not possible to make a reasonable determination of the drift sector, all shoreline land owners within one mile of the project proposal shall be notified.
3. The effect of proposed breakwaters, jetties, rock weirs, and groins on sand movement shall be evaluated during permit review. The beneficiaries and/or owners of large-scale defense works that substantially alter, reduce, or block

littoral drift, and cause new erosion of downdrift shores shall be required to establish and maintain an adequate long term beach feeding program either by artificially transporting sand to the downdrift side of an inlet with jetties or by artificial beach feeding in the case of groins, breakwaters, and rock weirs.

4. The effect of proposed breakwaters, jetties, rock weirs, and groins on bank margin habitat, channel migration, and floodplain processes should be evaluated during permit review.

6.4.10.2 Breakwaters, Jetties, Rock Weirs, and Groins - Location

1. Breakwaters shall be prohibited in lakes.
2. Jetty, rock weir, or groin development that would result in a net adverse impact on adjacent and nearby properties and shorelines is prohibited.

6.4.10.3 Breakwaters, Jetties, Rock Weirs, and Groins – Design

1. Proposed designs for new or expanded breakwaters, jetties, rock weirs, and groins shall be designed and certified by a registered civil engineer.
2. The design of breakwaters, jetties, rock weirs, and groins shall conform to all applicable requirements established by the Washington Departments of Fish and Wildlife, and the U.S. Army Corps of Engineers. Breakwaters, jetties, rock weirs, and groins shall be designed and constructed in a manner that will prevent detrimental impacts on water circulation, sand movement, and aquatic life. The design shall also minimize impediments to navigation and to visual access from the shoreline.
3. The design of new breakwaters, groins, and jetties shall incorporate provisions for public access such as sightseeing and public fishing if it is determined such access is feasible and desirable. Open-pile or floating breakwaters shall be the only type allowed unless it can be shown that solid breakwaters will have no significant adverse effect on the aquatic biology and shore processes, or that such adverse effects can be adequately mitigated.
4. Materials used for the construction of breakwaters, jetties, rock weirs, and groins shall exhibit the qualities of long-term durability, ease of maintenance, and compatibility with local shore features, processes, and aesthetics. The use of solid waste, junk, or abandoned automobiles, asphalt, or any building demolition debris is prohibited.
5. Floating breakwaters shall be used in place of solid, rubble mound types wherever they can withstand anticipated wave action in order to maintain sand movement and protect fish and aquatic habitat.

CHAPTER 7 ADMINISTRATION AND ENFORCEMENT

7.1 General Provisions

1. Except as specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to RCW 90.58, the Act and this Program.
2. Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e), WAC 173-27-040, and Section 2.3.2 of this Program shall not require a Shoreline Substantial Development Permit (SDP) but shall conform to the policies and regulations of this Program and the Act and shall obtain a Statement of Exemption (SOE) (Sections 2.3.3 and 7.42.7).
3. Classification of a use or development as permitted does not necessarily mean the use/development is allowed. It means the use/development may be allowed subject to review and approval by the City and/or Ecology. The City may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of a project with the Act and this Program.
4. To be authorized under this Program, all uses and developments shall be planned and carried out in a manner that is consistent with the City codes and this Program regardless of whether a shoreline substantial development permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.
5. Applicants requesting review for permits or statement of exemption under this Program have the burden to prove that the proposed development or activity is consistent with the criteria that must be met before a permit or statement of exemption is granted.
6. Applicants shall submit all information and documentation determined by the Shoreline Administrator as necessary to process an application
7. The City shall not issue any permit for development within the shoreline jurisdiction until approval has been granted pursuant to this Program.
8. A development or use that does not comply with the bulk, dimensional, and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.
9. A development or use that is listed as a conditional use pursuant to this Program, or is an unlisted use, must obtain a Shoreline Conditional Use Permit (SCUP) even if the development or use does not require a substantial development permit.
10. Issuance of a Shoreline Substantial Development Permit, Shoreline Variance (SV) or Shoreline Conditional Use Permit does not constitute approval pursuant to any other federal, state or City laws or regulations.

11. All shoreline permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Shoreline Administrator, documenting compliance with bulk and dimensional policies and regulations of this Program. The Shoreline Administrator may attach conditions to the approval as necessary to assure consistency with **the** RCW 90.58 and this Program. Such conditions may include a requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.
12. Proposed actions that would alter designated critical areas or their buffers, as established by this Program (Chapters 5.3 and 5A) shall be reviewed for compliance with this Program. If required, the applicable critical area report and/or mitigation plan and/or habitat management plan shall be submitted as part of the development application or request for statement of exemption. The critical area review shall be conducted and processed in conjunction with the highest threshold of review that is applicable to the primary development proposed:
 - a. Statement of Exemption;
 - b. Land Use Permit or Building Permit;
 - c. Excavation, Grading, Clearing and Erosion Control Permit;
 - d. SEPA Threshold Determination;
 - e. Shoreline Substantial Development Permit;
 - f. Shoreline Conditional Use Permit;
 - g. Shoreline Variance; or
 - h. Revisions to Shoreline Permits.
13. Habitats of Local Importance may be proposed by the property owner or the City (Chapter 5A, **VMC Section 20.740.100**) and shall be designated according to a Type IV legislative procedure (**VMC Chapter 5A, Section 20.210.070**).
14. **The final decision on a shoreline permit (Type II application) Shoreline Conditional Use or Shoreline Variance (Type III application) shall be made within 120 calendar days after the date of a fully complete determination is made per VMC 20.210. However, per RCW 47.01.485(1) to the greatest extent practicable, a final determination on all permits required for a project on a state highway as defined in RCW 46.04.560 shall be made no later than 90 days after a fully complete determination is made per VMC 20.210.**

7.2 Administrative Authority and Responsibility

7.2.1 Shoreline Administrator

1. The responsible official or his/her designee is the Shoreline Administrator for the City.
2. The Shoreline Administrator shall have the authority to act upon the following matters:
 - a. Administrative Interpretations
 - b. Requests for Statements of Exemption
 - c. Applications for Shoreline Substantial Development Permits;
 - d. Modifications or revisions to Statements of Exemption or Shoreline Substantial Development Permits;
 - e. Other duties and responsibilities as assigned in this Program.
3. The Shoreline Administrator shall document all project review actions in shoreline areas in order to periodically evaluate the cumulative effects of authorized development on shoreline conditions per WAC 173-26-191.

7.2.2 City Hearing Examiner

1. The City Hearing Examiner shall be responsible for making final determinations on appeals of:
 - a. Statements of Exemption;
 - b. Shoreline Substantial Development Permits; and
 - c. Revisions to Statements of Exemption and Shoreline Substantial Development Permits.
2. The City Hearing Examiner shall be responsible for making recommendations to Ecology on:
 - a. Applications for Shoreline Conditional Use Permits;
 - b. Applications for Shoreline Variances; and
 - c. Applications for ~~Shoreline Substantial Development Permits in conjunction with a required~~ Shoreline Conditional Use Permit or Shoreline Variance. The Hearings Examiner shall make a decision on a Shoreline Substantial Development Permit or Shoreline Permit Exemption when submitted with a Shoreline Condition Use or Variance. Both the decision on the Substantial

Development Permit and recommendation to Ecology on the Conditional Use or Variance shall be sent to Ecology per the requirements of this SMP.

3. The City Hearing Examiner shall be responsible for rescinding approved Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances (Section 7.8).
4. On Type IV quasi-judicial applications such as planned developments processed per VMC Title 20, the Hearing Examiner shall make recommendation to City Council on shoreline permits, when review is consolidated with the Type IV application.

7.2.3 City Planning Commission

The City Planning Commission shall be responsible for hearing and making recommendations for action to the City Council on the following types of matters:

1. Amendments to the Shoreline Master Program. Any of the provisions of this Program may be amended as provided for in WAC 173-26-100 and 173-26-104.
2. Review and adjustments. Periodic review of this Program shall be conducted as required by state law and regulations RCW 90.58.080(4). Adjustments shall be made as necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with WAC 173-26-090 and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.
3. Type IV quasi-judicial applications such as planned developments processed per VMC Title 20.

7.2.4 City Council

1. The City Council shall consider appeals of the Hearing Examiner decision on proposals that include Shoreline Conditional Use Permits, Shoreline Variances, and SSDPs processed in conjunction with SCUPs and/or SVs.
2. The City Council shall be responsible for making final determinations on amendments to the Shoreline Master Program at the local level. The local plan shall be adopted by ordinance. The Council shall enter findings and conclusions setting forth the factors it considered in reaching its decision. The Program adopted by the City Council shall be submitted to Ecology for review and adoption. Ecology must approve all master programs before they become effective.
3. When submitted with a Type IV quasi-judicial applications such as planned developments processed per VMC Title 20, the City Council shall make a decision on a Shoreline Substantial Development Permit or Shoreline Permit Exemption and shall make a recommendation to Ecology on a Shoreline Condition Use or

Variance. Both the decision on the Substantial Development Permit and the recommendation to Ecology on the Conditional Use or Variance shall be sent to Ecology per the requirements of this SMP.

7.2.5 State Department of Ecology and Attorney General

1. The duties and responsibilities of Ecology shall include, but are not limited to the following:
 - a. Reviewing and approving Program amendments prepared by the City pursuant to WAC 173-26-120 (State Process for Approving/Amending Shoreline Master Programs).
 - b. Reviewing and petitioning for review of the City's Statement of Exemption and Shoreline Substantial Development Permit decisions.
 - c. Final approval and authority to condition or deny Shoreline Conditional Use Permits and Shoreline Variance Permits filed by the City.

7.3 Master Program Amendments

1. This Program shall be periodically reviewed no later than eight (8) years following its approval by Ecology and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with WAC 173-26 requirements in RCW 90.58.080 and WAC 173-26-090 and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public. The Program shall be consistent with the City comprehensive plan and development regulations adopted under RCW 36.70A and other local requirements.
2. Any of the provisions of this Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Amendments or revision to this Program, as provided by law, do not become effective until approved by Ecology.
3. Proposals for shoreline re-designation (i.e., amendments to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in WAC 173-22-040.

7.4 Permitting Procedures

7.4.1 Administrative Interpretations

1. Interpretation, enforcement, and administration of this Program shall be in conformance with the provisions of WAC 173-26-140. The City establishes the following procedures for processing Administrative Interpretations:

- a. Application. Any person may request in writing the Shoreline Administrator's interpretation of a code provision of this Program when it pertains to a specific property or project by means of a Type I application pursuant to Section 20.210.040 VMC.
- b. The Shoreline Administrator may independently initiate an interpretation of any conflicting or unclear provisions of this Program.
- c. Consultation with the Ecology. Prior to issuing an interpretation, the Shoreline Administrator shall formally consult with the Ecology to insure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines.
- d. Catalog. To ensure that the Shoreline Administrator's interpretations are applied consistently over time, the Shoreline Administrator shall catalog these interpretations. The Shoreline Administrator shall retain and maintain the catalog of interpretations.

7.4.2 Statement of Exemption

1. Any person requesting an exemption from the substantial development permit review procedures shall submit a completed application for Shoreline Exemption to the Shoreline Administrator.
2. Proposals for Statements of Exemption shall comply with the provisions of Section 2.3.3.
3. Applications for Statements of Exemption under section 2.3.3 are to be processed using the Type I review procedures as set forth in VMC 20.210.040. The Shoreline Administrator shall forward documentation of decisions on Statements of Exemption to Ecology as required by Section 7.92.3.3 and WAC 173-27-050130 or its successor.

7.4.3 Shoreline Substantial Development Permits

1. Applications for Shoreline Substantial Development Permits are to be processed using the Type II review procedures as set forth in VMC 20.210.050, **WITH THE EXCEPTION THAT THE PUBLIC COMMENT PERIOD SHALL BE AT LEAST 30 DAYS (WAC 173-27-110(2)(e)).**
2. Applications shall be reviewed, and shall only be approved if the application conforms with the criteria for approval found in WAC 173-27-150 and this Program, including the provisions of Section 2.2.
3. In addition, upon completion of the local appeal period, the Shoreline Administrator shall forward the application and decision to Ecology in compliance with the provisions of 7.4.9, Ecology and WAC 173-27-130 or its successor.

7.4.4 Shoreline Conditional Use Permits

1. Shoreline Conditional Use Permits are required for any proposed use or development which is listed as a conditional use in this program and for any use not specifically addressed in this program. A Shoreline Conditional Use Permit cannot be used to allow any use or structure specifically prohibited by this program.
2. Shoreline Conditional Use Permit Review Procedures
 - a. Applications for Shoreline Conditional Use Permits are to be processed using the Type III review procedures as set forth in VMC 20.210.060 and VMC 20.210.120 **except that the Hearing Examiner shall make a recommendation to Ecology.**
 - b. Applications shall be reviewed, and shall only be approved if the application conforms with the criteria for approval found in WAC 173-27-160 and this Program, including the provisions of Section 2.7.
 - c. Upon completion of the local appeal period, the Shoreline Administrator shall forward the application and **decision recommendation** to Ecology in compliance with the provisions of 7.4.9, **Ecology** and WAC 173-27-130 or its successor.

7.4.5 Shoreline Variance Permits

1. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.
2. Shoreline Variance Permit Review Procedures
 - a. Applications for Shoreline Variance Permits are to be processed using the Type III review procedures as set forth in VMC 20.210.060 and VMC 20.210.120 **except that the Hearing Examiner shall make a recommendation to Ecology.**
 - b. Applications shall be reviewed, and shall only be approved if the application conforms to the criteria for approval found in WAC 173-27-170 and this Program, including the provisions of Section 2.6.
 - c. In addition, upon completion of the local appeal period, the Shoreline Administrator shall forward the application and **decision recommendation** to Ecology in compliance with the provisions of 7.4.9, **Ecology** and WAC 173-27-130 or its successor.

7.4.6 Revisions to Shoreline Permits

1. A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the master program and/or the policies and provisions of chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision. All revisions shall be processed in accordance with WAC 173-27-100.

When an applicant seeks to revise a permit, the applicant shall complete an application for Shoreline Permit Revision. The applicant shall provide detailed plans and text describing the proposed changes.

- a. If the Shoreline Administrator determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the applicable master program and the act, local government may approve a revision.
- b. "Within the scope and intent of the original permit" means all of the following:
 - i. No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;
 - ii. Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;
 - iii. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof;
 - iv. Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;
 - v. The use authorized pursuant to the original permit is not changed; and
 - vi. No adverse environmental impact will be caused by the project revision.
- c. Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter 90.58 RCW, this regulation and the local master program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time

requirements or to authorize substantial development beyond the time limits of the original permit.

- d. If the sum of the revision and any previously approved revisions under WAC 173-27-100 or this section violate the provisions in subsection (b) of this section, local government shall require that the applicant apply for a new permit.
- e. The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed with Ecology. In addition, the Shoreline Administrator shall notify parties of record of the action.
- f. If the revision to the original permit involves a conditional use or variance, the Shoreline Administrator shall submit the revision to Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of WAC 173-27.

Upon receipt of Ecology's final decision, the Shoreline Administrator shall within 14 days notify parties of record of Ecology's final decision.

- g. The revised permit is effective immediately upon final decision by Shoreline Administrator, when appropriate under subsection (f) of this section, upon final action by Ecology.
- h. Appeals shall be in accordance with RCW 90.58. Appeals shall be based only upon contentions of noncompliance with the provisions of subsection (b) of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

7.4.7 Hearings

- 1. Applications which require an open-record hearing shall be considered by the Hearing Examiner. When an open-record hearing is required, all other land use permit applications for a specific site or project shall be considered concurrently, including any accompanying environmental appeal, under VMC 20.210. Therefore, in this situation, applications for which the Shoreline Administrator has authority shall be transferred to the jurisdiction of the Hearing Examiner to allow consideration of all land use actions concurrently.
- 2. Any decision or ruling of the Hearing Examiner on a shoreline substantial development permit not processed in conjunction with an SCUP or SV may be appealed to the State Shorelines Hearing Board may be appealed per Section 7.4.8.

3. The Planning Commission may hold an open-record hearing on **amendments to the SMP including map amendments and Type IV quasi-judicial applications including planned developments**, forward a recommendation to the City Council. The City Council shall conduct an open-record hearing on same, **make a decision on a Shoreline Development Permit or Statement of Exemption and make a recommendation on a Shoreline Conditional Use or Variance**, and forward a final recommendation/decision to Ecology. **Ecology's decision on an SMP amendment may be appealed to the Growth Management Hearings Board (GMHB) (See Section 7.8.4.5).**

7.4.8 Appeals

7.4.8.1 Standing to Appeal

1. Shoreline Revisions (Type I decision). Only the applicant and property owner have standing to appeal a Shoreline Administrator's decision on a Shoreline Revision.
2. Shoreline Substantial Development Permits (Type II decision). The following parties have standing to appeal a Shoreline Administrator's decision on a Shoreline Substantial Development Permit to the Hearing Examiner:
 - a. The applicant or owner of the subject property;
 - b. Any party eligible for written notice of a pending Type II administrative decision.
 - c. Any other party who demonstrates that they participated in the decision process through the submission of written testimony.
3. Shoreline Conditional Use Permits, Shoreline Variances, and Shoreline Substantial Development Permits processed in conjunction with Shoreline Conditional Use Permits and/or Shoreline Variances (Type III decision). The following parties have standing to appeal the Hearing Examiner's recommendation to Ecology regarding Shoreline Conditional Use Permits and Shoreline Variances and/or the Hearing Examiner's decision on a Shoreline Substantial Development Permit processed in conjunction with a Shoreline Conditional Use Permit or Shoreline Variance to the City Council:
 - a. The applicant or owner of the subject property;
 - b. Any party who testified verbally or in writing at the public hearing;
 - c. Any other party who demonstrates that they participated in the decision process through the submission of written testimony;
 - d. Any party who provides a written request for a copy of the notice of decision; and

- e. City staff.

7.4.8.2 Filing Appeals

1. Statement of Exemption

- a. **Scope.** Any decision or ruling of the Shoreline Administrator on a Statement of Exemption may be reconsidered upon a request for reconsideration within seven (7) days of the date of issuance of the decision. Applicants may appeal the initial notice of decision or subsequent reconsideration to the City Hearing Examiner.
- b. **Time Limit for Appealing.** Appeals from decisions or rulings of the Shoreline Administrator shall be made within fourteen (14) calendar days of the date of the written order or within seven (7) calendar days of the date of issuance of the decision on a request for reconsideration.
- c. **Form of Appeal.** An appeal of the Shoreline Administrator's decision on a Statement of Exemption shall take the form of a written statement of the alleged reason(s) the decision was in error, or specifying the grounds for appeal. Failure to set forth specific errors or grounds for appeal shall result in summary dismissal of the appeal. The following information, accompanied by an appeal fee as specified in VMC Chapter 20.210.130 shall be submitted:
 - i. An indication of facts that establish the appellant's right to appeal.
 - ii. An identification of explicit exceptions and objections to the decision being appealed, or an identification of specific errors in fact or conclusion.
 - iii. The requested relief from the decision being appealed.
 - iv. Any other information reasonably necessary to make a decision on the appeal.

2. Shoreline Substantial Development Permits

- a. **Scope.** A decision of the Shoreline Administrator relating to a Shoreline Substantial Development Permit may be appealed to the Hearing Examiner to be processed as an open record hearing in conformance with the provisions of 7.4.8.3(3)(b-d).
- b. **Time limit for Appealing.** The appeal must be received no later than 14 calendar days after written notice of the decision is mailed. Receipt of a complete appeal submittal shall stay the original decision until the city reaches a final decision on the appeal.

- c. Form of Appeal. An appeal of the Shoreline Administrator's decision on a Substantial Development Permit shall take the form of a written statement containing the following information:
 - i. The case number designated by the city and the name of the applicant;
 - ii. The name and signature of each petitioner or their authorized representative and a statement showing that each petitioner has standing to file the appeal. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative for all contact with the Shoreline Administrator. All contact with the Shoreline Administrator regarding the appeal, including notice, shall be with the contact representative; and
 - iii. The specific aspect(s) of the decision or determination being appealed, and the specific reasons why each aspect is in error as a matter of fact or law.
- 3. Shoreline Variances, Shoreline Conditional Use Permits and Substantial Development Permits Processed in Conjunction with Such Permits
 - a. Scope. The recommendation of the Hearing Examiner to Ecology on a Shoreline Conditional Use or Shoreline Variance, or a final decision on a Shoreline Substantial Development processed in conjunction with a Shoreline Conditional Use or Shoreline Variance may be appealed to the City Council to be processed as a closed record public hearing in conformance with the provisions of 7.4.8.3(4)(b-d).
 - b. Time limit for Appealing. The appeal must be received no later than 14 calendar days after written notice of the decision is mailed. Receipt of a complete appeal submittal shall stay the original decision until the city reaches a final decision on the appeal.
 - c. Form of Appeal. An appeal of the Hearing Examiner's decision on an SCUP, SV, or SSDP processed in conjunction with an SCUP or SV shall take the form of a written statement containing the following information:
 - i. The case number designated by the city and the name of the applicant;
 - ii. The name and signature of each petitioner or their authorized representative and a statement showing that each petitioner has standing to file the appeal under this chapter. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative for all contact with the Shoreline Administrator. All contact with the Shoreline Administrator regarding the appeal, including notice, shall be with the contact representative; and
 - iii. The specific aspect(s) of the decision or determination being appealed, and the specific reasons why each aspect is in error as a matter of fact or law.

7.4.8.3 Appeal Review Process

1. General. All complete appeals submitted shall be scheduled for review at a public hearing such that a final decision can be rendered within 60 calendar days for closed-record appeals, and within 90 calendar days for open-record appeals. Further extensions are permitted upon mutual agreement of the appellant, the applicant, and the Shoreline Administrator. If a final decision is not reached within this time, the Shoreline Administrator shall so notify the appellant and shall provide a reason for the delay and an estimated date of final decision issuance.
2. Statement of Exemption
 - a. Venue. Appeals of the Shoreline Administrator's decision on a Statement of Exemption are conducted before the Hearing Examiner in an open record proceeding.
 - b. Notice. At least 10 calendar days prior to the hearing date, notice shall be sent by mail to the appellant.
 - c. Decision Timeline. The Hearing Examiner shall issue a decision within 14 calendar days of the close of the record
 - d. Further Local Review. The decision of the Hearing Examiner is the final and may not be appealed local appeal.
3. Shoreline Substantial Development Permit
 - a. Venue. Appeals of the Shoreline Administrator's decision on a Shoreline Substantial Development Permit are conducted before the Hearing Examiner in an open record proceeding.
 - b. Notice. At least 10 calendar days prior to the hearing date, notice shall be sent by mail to:
 - i. The applicant and all owners of the site that is the subject of the application;
 - ii. All parties of record;
 - iii. Any neighborhood or community organization recognized by the City Council and whose boundaries include the site;
 - iv. Any person who has submitted a written request to be notified; and
 - v. The appellant and all parties to the appeal.
 - c. Decision Timeline. The Hearing Examiner shall issue a decision within 14 calendar days of the close of the record

- d. Further Local Review. No additional local review is provided. However, within 21 days of the issuance of the Hearing Examiner's decision, further appeal may be filed with Superior Court and/or the State Shorelines Hearings Board.
4. Shoreline Variances, Shoreline Conditional Use Permits, and Substantial Development Permits Processed in Conjunction with Such Permits
- a. Venue. Appeals of the Hearing Examiner's decision on Shoreline Variances, Shoreline Conditional Use Permits and Substantial Development Permits Processed in Conjunction with such permits are conducted before the City Council in a closed record proceeding.
 - b. Notice. At least 10 calendar days prior to the hearing date, notice shall be sent by mail to:
 - i. The applicant and/or appellant and all owners of the site that is the subject of the application;
 - ii. All parties of record;
 - iii. Any neighborhood or community organization recognized by the City Council and whose boundaries include the site;
 - iv. Any person who provided oral or written testimony entered into the record at the public hearing.
 - v. Anyone who requested in writing a notification of the decision on a particular matter; and
 - vi. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the city that includes provision for such notice or which is otherwise entitled to such notice.
 - c. Decision Timeline. The City Council shall issue a decision within 14 calendar days of the close of the record.
 - d. Further Local Review. No additional local review is provided. in the case of Shoreline Conditional Use Permits and Shoreline Variances. The city is making a recommendation to Ecology. Ecology's final decision may be appealed by filing an appeal with Superior Court and/or the State Shorelines Hearings Board.

The City Council decision on any Substantial Development Permit processed in conjunction with a Shoreline Conditional Use Permit or Shoreline Variance may be appealed separately to the State Shoreline Hearings Board.

7.4.8.4 State Shoreline Hearings Board

- 1. Appeals of any final permit decision may be made to the Shorelines Hearing Board as governed by the procedures established in RCW 90.58.180 (Appeals from

Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings).

2. Such appeals must be filed within twenty-one (21) days from the date of filing of the permit decision was filed.
3. The provisions of this section shall apply to any final order, requirement, permit, decision, or determination on land use proposals made by the Shoreline Administrator, Hearing Examiner or City Council on appeal. These may include, but are not limited to, Shoreline Substantial Development Permits, Statements of Exemption, Shoreline Conditional Use Permits, Shoreline Variances, and Shoreline Revisions.

7.4.8.5 State Growth Management Hearings Board

1. Ecology's decision on an SMP amendment including a map amendment may be appealed to the Growth Management Hearings Board (GMHB) in accordance with RCW 90.58.190.

7.4.9 Notification to Ecology and the Attorney General

1. 2. The Shoreline Administrator shall notify Ecology and the Attorney General of any Statement of Exemption, Substantial Development Permit decision and/or recommendation on a, Conditional Use or Variance Permit decisions made by the Shoreline Administrator (or Hearing Examiner or City Council when required), whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a Substantial Development Permit and either Conditional Use or Variance Permit are required for a development, the submittal of the permits shall be made concurrently. The Shoreline Administrator shall file the following with Ecology and the Attorney General by return receipt requested by mail:
 - a. A copy of the complete application per WAC 173-27-180;
 - b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);
 - c. The final decision or recommendation of the City;
 - d. The permit data sheet per WAC 173-27-990;
 - e. Affidavit of public notice; and

- f. Where applicable, the documents required by the State Environmental Policy Act (RCW 43.21C).
2. ~~4.~~ When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.
3. ~~5.~~ Ecology shall review the documentation provided by the Shoreline Administrator for completeness. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the City and the applicant in writing. Ecology will not act on Conditional Use or Variance Permit submittals until the material requested in writing is received.

7.4.10 Ecology Review

1. Ecology may petition for review of the City's decision on a ~~Statement of Exemption or a~~ Shoreline Substantial Development Permit ~~to the Shorelines Hearings Board~~. Such petition must be commenced within twenty one (21) days from the date ~~of filing of the City's the~~ final decision ~~was filed~~.
2. Ecology shall make a final decision approving, approving with conditions, or disapproving a Shoreline Conditional Use Permit or Shoreline Variance Permit and convey its decision to the City and the applicant within thirty (30) days of the date ~~of submittal by the City of filing by the City~~. The Shoreline Administrator will notify those interested persons having requested notification of such decision.
3. Ecology shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA, the criteria listed in this Program and the provisions of WAC 173-27-160 for conditional use permits, WAC 173 27-170 for variances and WAC 173-27-210 relating to minimum standards for conditional use and variance permits.
4. Appeals of Ecology decisions on Shoreline Conditional Use Permits and Shoreline Variance Permits shall be made to the Shorelines Hearing Board as specified in Section 7.4.8.4.

7.4.11 Commencement of Development Activity and Permit Validity

1. No construction pursuant to a substantial development permit, shoreline variance or shoreline conditional use authorized by this program shall begin or be authorized and no building, grading or other construction permits shall be issued by the City until twenty-one (21) days from the date the permit decision was filed or until all review proceedings are terminated.

2. Construction may be commenced no sooner than thirty (30) days after the date the appeal of the Shorelines Hearings Board's decision is filed if a permit is granted by the local government, and
 - a. The granting of the permit is appealed to the Shorelines Hearings Board within twenty-one (21) days of the date of filing;
 - b. The hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit; and
 - c. An appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.05 RCW.
3. Construction activities shall be commenced, or where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of a substantial development permit. The Shoreline Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of proposed extension is given to parties of record on the substantial development permit and to Ecology
4. Authorization to conduct construction activities shall terminate five (5) years after the effective date of a substantial development permit. However, upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program and WAC 173-27-090 the city may adopt different time limits as a part of action on a substantial development permit. The Shoreline Administrator may authorize a single extension if it has been filed before the expiration date and notice of the proposed extension is given to parties of record and Ecology.

7.5 Enforcement

7.5.1 General Enforcement

1. It shall be unlawful to violate the provisions of this program.
2. These shoreline regulations shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.
3. The Shoreline Management Act calls for a cooperative enforcement program between local and state government. It provides for both civil and criminal penalties, orders to cease and desist, orders to take corrective action and permit rescission. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the

enforcement action, the benefits that accrue to the violator and the cost of obtaining compliance may also be considered.

4. Enforcement action by the City of Vancouver or Ecology may be taken whenever a person has violated any provision of the act or this program. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of bad faith of the persons subject to the enforcement action.
5. The Shoreline Administrator, and/or authorized representative, shall have the authority to enforce the shoreline regulations of the City of Vancouver.
6. The Shoreline Administrator or duly authorized representative of the Shoreline Administrator may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by this Program.
7. No provision of, or term used in, this code is intended to impose upon the City of Vancouver, or any of its officers or employee, any duty which would subject them to damages in a civil action.
8. The City of Vancouver and/or Ecology shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of this program or chapter 90.58 RCW.
 - a. Content of order. The order shall set forth and contain:
 - i. A description of the specific nature, extent, and time of violation and the damage or potential damage; and
 - ii. A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under WAC 173-27-280 may be issued with the order.
 - b. The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.
 - c. Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

7.5.2 Requirement for Restoration Plan

1. In the event the City initiates enforcement action under this Program or files a complaint in court, the City may require a restoration plan consistent with the requirements of this Program. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the

minimum requirements described in Chapter 5A, VMC 20.740.090(C). The Shoreline Administrator shall, at the violator's expense, seek expert advice in determining whether the plan restores the affected area to its pre-existing condition or, where that is not possible, restores the functions of the affected area. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.

2. Minimum Performance Standards for Restoration

- a. For alterations to frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:
 - i) The structure and functions of the critical area or buffer prior to violation shall be restored, including water quality and habitat functions;
 - ii) The soil types and configuration prior to violation shall be replicated;
 - iii) The critical area and buffers shall be replanted with native vegetation (a list of native species is available from the Shoreline Administrator). ~~If the critical area or buffer is on a site that meets the criteria of Chapter 5A, VMC 20.740.030(B)(1)(f)(1), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the Shoreline Administrator;~~ and
 - iv) Information demonstrating compliance with the requirements in Chapter 5A, VMC 20.740.050(F) Mitigation Plan Requirements shall be submitted to the Shoreline Administrator.
- b. For alterations to frequently flooded and geologic hazard areas, the following minimum performance standards shall be met for the restoration of a critical area or buffer, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:
 - i) The hazard shall be reduced to a level equal to, or less than, the pre-violation hazard;
 - ii) The risk of personal injury resulting from the alteration shall be eliminated or minimized;
 - iii) Drainage patterns shall be restored to those existing before the alteration; and
 - iv) The hazard area and buffers shall be replanted consistent with pre-violation conditions with native vegetation sufficient to minimize the hazard. ~~If the critical area or buffer is on a site that meets the criteria of Chapter 5A, VMC 20.740.030(B)(1)(f)(1), the vegetation for replanting must be not~~

~~only native but also fire-resistant. A list of native, fire-resistant species is available from the Shoreline Administrator.~~

3. As a condition of the restoration plan, the applicant shall grant reasonable access to the property.

7.5.3 Investigation and Notice of Violation

1. An investigation shall be made of any structure or use which the City reasonably believes does not comply with the standards and requirements of this Program.
2. If, after an investigation, it is determined that the standards or requirements of this title have been violated, a notice of violation shall be served, by first class mail, upon the owner, tenant or other person responsible for the condition.
3. The compliance period shall not be less than two weeks, except where substantial life safety issues exist.

7.5.4 Penalties

- 1 Any person found to have willfully engaged in activities on the City's shorelines in violation of the Shoreline Management Act of 1971 or in violation of this Program or who fails to conform to the terms of a substantial development permit, conditional use permit or variance issued under RCW 90.58.140, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order issued under these regulations may be subject to a civil penalty by the City of Vancouver. Ecology may impose a penalty jointly with the City, or alone only upon an additional finding that a person:
 - a. Has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule; or
 - b. Has been given previous notice of the same or similar type of violation of the same statute or rule; or
 - c. The violation has a probability of placing a person in danger of death or bodily harm; or
 - d. Has a probability of causing more than minor environmental harm; or
 - e. Has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars.
- 2 In the alternative, a penalty may be issued to a person by the City alone, or jointly with Ecology for violations which do not meet the criteria of subsection (1)(a) through (e) of this section, after the following information has been provided in writing to a person through a technical assistance visit or a notice of correction:

- a. A description of the condition that is not in compliance and a specific citation to the applicable law or rule;
 - b. A statement of what is required to achieve compliance;
 - c. The date by which the City requires compliance to be achieved;
 - d. Notice of the means to contact any technical assistance services provided by the City or other agencies; and
 - e. Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the City of Vancouver.
3. Amount of penalty. The penalty shall not exceed one thousand dollars for each violation. Each day of violation shall constitute a separate violation.
4. Aiding or abetting. Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.
5. Notice of penalty. A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the City of Vancouver or Ecology, or from both jointly. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.
6. Right of appeal. Persons incurring a penalty imposed by Ecology or imposed jointly by the City of Vancouver and Ecology may appeal the same to the shorelines hearings board. Appeals to the shorelines hearings board are adjudicatory proceedings subject to the provisions of chapter 34.05 RCW. Persons incurring a penalty imposed by local government may appeal the same to the local government legislative authority.
7. Timing of appeal. Appeals shall be filed within thirty days of the date of receipt of the penalty. The term "date of receipt" has the same meaning as provided in RCW 43.21B.001.
8. Penalties due.
 - a. Penalties imposed shall become due and payable thirty days after receipt of notice imposing the same unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty days after receipt of the City of Vancouver's and/or Ecology's decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable upon completion of all review proceedings and upon the issuance of a final decision confirming the penalty in whole or in part.

- b. If the amount of a penalty owed the City of Vancouver is not paid within thirty days after it becomes due and payable, the City will take actions necessary to recover such penalty, including any applicable actions listed in VMC Title 22. If the amount of a penalty owed Ecology is not paid within thirty days after it becomes due and payable, the attorney general, upon request of Ecology, shall bring an action in the name of the state of Washington to recover such penalty.
9. Penalty recovered. Penalties recovered by the City of Vancouver shall be paid to the City Critical Areas Restoration Fund and shall be used to protect and restore critical areas within the City of Vancouver. Penalties recovered by Ecology shall be paid to the state treasurer. Penalties recovered jointly by the City and Ecology shall be divided equally between the City and Ecology unless otherwise stipulated in the order.

7.5.5 Violations – Subsequent Development and Building Permits

No building permit or other development permit shall be issued for any parcel of land developed or divided in violation of this Program. All purchasers or transferees of property shall comply with provisions of the Act and this Program and each purchaser or transferee may recover damages from any person, firm, corporation, or agent selling, transferring, or leasing land in violation of the Act or this Program. Damages may include any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of the Act or this Program as well as costs of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser, transferee, or lessor, as an alternative to conforming their property to these requirements, may rescind the sale, transfer, or lease and recover costs of investigation, litigation and reasonable attorney's fees occasioned thereby from the violator.

7.6 Public and Private Redress

1. Any person subject to the regulatory program of this Program who violates any provision of this Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation.
2. The City Attorney may bring suit for damages under this section on behalf of the City. Nothing in this section precludes private persons from bringing suit for damages on their own behalf. If liability has been established for the cost of restoring an area affected by violation, the court shall make provisions to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the court, in its discretion, may award attorneys' fees and costs of the suit to the prevailing party.

7.7 Fees for Permits Obtained after Development

1. Permits obtained following, rather than prior to, the commencement of a development or use shall be three (3) times the normal amount. This provision is in addition to the enforcement measures contained in this Program.
2. Delinquent permit penalties shall be paid in full prior to resuming the use or activity.

7.8 Rescission of Permits

1. This section applies to requests or decisions to rescind Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances.
2. The Hearing Examiner shall have the power to rescind or modify approved Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances in accordance with the Type III procedures of VMC 20.210.060 and VMC 20.210.120.
3. City staff or any other persons who are aggrieved by activities undertaken under a shoreline permit may request in writing that the Hearing Examiner rescind or modify the permit.
4. Upon receipt of a request for rescission, the Shoreline Administrator shall schedule a public hearing for the next Hearing Examiner meeting where the review can be accommodated and the required notice given.
5. Notice of Public Hearing.
 - a. The Shoreline Administrator shall publish a notice of the rescission hearing at least fourteen days before the hearing date.
 - b. The Shoreline Administrator shall mail notice of the hearing to the party to which the permit was issued, the owner of the property for which the permit was issued, the person or persons who requested the Hearing Examiner rescind the permit and any persons who requested notice of the hearing in writing at least ten days before the hearing date.
 - c. The notice shall include the following information:
 - i. The name of the permit holder and, if applicable, the project name.
 - ii. The street address of the subject property and a description of the property in non-legal terms sufficient to identify the location.
 - iii. A brief description of the issues.

- iv. The date, time and place of the public hearing.
 - v. A statement of the right of any person to participate in the public hearing by providing written statements before or at the hearing and orally at the hearing.
6. The Hearing Examiner shall hold a public hearing before deciding whether to rescind or add conditions to the permit. Any person can submit written statements or speak. At the hearing, the Hearing Examiner may request such additional information as is reasonably necessary to evaluate whether the permit or variance should be rescinded.
7. After the public hearing has concluded, the Hearing Examiner shall decide whether to rescind, modify, or add conditions to the permit.
- a. The decision may be made at the same public meeting as the public hearing or at another public meeting. The Hearing Examiner shall issue a decision within fourteen days of closure of the public record.
 - b. The decision shall be based on the decision criteria in Section 7.8(13).
 - c. If the Hearing Examiner decides to rescind the permit, the Hearing Examiner may require restoration or reclamation of the property and may set time limits for the completion of these activities.
 - d. The Hearing Examiner shall adopt findings of fact and conclusions which support the decision and any required conditions.
8. Unless appealed to City Council, the decision of the Hearing Examiner and the findings of fact and conclusions shall be reduced to writing and mailed by the Shoreline Administrator to the permit holder, the property owner, Ecology and the Washington State Attorney General within fourteen days of the date of the decision.
9. Effect of Decision.
- a. Unless appealed to the City Council, the decision of the Hearing Examiner is the final decision of the City.
 - b. If the Hearing Examiner rescinds the permit, all activity authorized by the Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance Permit shall immediately cease, unless the decision maker grants a period of time to complete the activity or reclaim the site or a court authorizes continued operation during an appeal.
10. Appeal of decision to City Council. The City Council shall hold a public hearing before deciding whether to uphold or overturn a Hearing Examiner's decision to rescind or add conditions to the permit. Any person can submit written statements or speak. At the hearing, members of the City Council may request such additional

information as is reasonably necessary to evaluate whether the permit should be rescinded.

- a. After the public hearing has concluded, the City Council shall decide whether to uphold or overturn the Hearings Examiner's decision to rescind, modify, or add conditions to the permit. The City Council shall also have the authority to modify the decision of Hearings Examiner.
 - b. The decision may be made at the same public meeting as the public hearing or at another public meeting. The City Council shall issue its decision within 90 days of the filing of an appeal of a rescission,
 - c. The decision shall be based on the decision criteria in Section 7.8(13).
 - d. If the City Council upholds or modifies the Hearing Examiner decision to rescind the permit, the City Council may require restoration or reclamation of the property and may set time limits for the completion of these activities.
 - e. In its decision on the appeal of the Hearing Examiner decision, the City Council shall adopt findings of fact and conclusions which support the decision and any required conditions.
11. The decision of the City Council on the appeal of the Hearing Examiner decision shall include the findings of fact and conclusions shall be reduced to writing and mailed by the Shoreline Administrator to the permit holder, the property owner, Ecology and the Washington State Attorney General within twelve days of the date of the decision.
12. Effects of Decision.
 - a. The decision of the City Council on the appeal of a Hearing Examiner decision on the rescission may be appealed to the Washington State Shorelines Hearings Board as provided in RCW 90.58.180 and Chapter 461-08 WAC.
 - b. If, on appeal, the City Council rescinds the permit, all activity authorized by the Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Or Shoreline Variance Permit shall immediately cease, unless the City Council grants a period of time to complete the activity or reclaim the site or a court authorizes continued operation during an appeal.
13. Criteria for ~~Reeission~~ Rescission.
 - a. The Hearing Examiner or City Council, on appeal, may rescind or modify a permit upon finding that one or more of the following criteria are met.
 - i. The permit approval was obtained by fraud or through the provision of misleading application material.

- ii. The permit is being exercised contrary to the terms or conditions of approval or in violation of law.
 - iii. The use or activity for which approval was granted is being exercised so as to be detrimental to the public health, safety, or welfare.
14. Ecology may initiate permit rescission. Under the provisions of RCW 90.58.140(8), if Ecology is of the opinion that noncompliance exists, Ecology shall provide written notice to the City and the permittee. If Ecology is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the City has taken no action to rescind the permit, Ecology may petition the Shoreline Hearings Board for a rescission of the permit upon written notice of the petition to the City and the permittee if the request by Ecology is made to the Hearings Board within fifteen days of the termination of the thirty-day notice to the City.

CHAPTER 8 DEFINITIONS

A

1. **Accessory Structure** – a subordinate building or use incidental to the use of the main building or use.
2. **Accessory Use** – any use or activity incidental and subordinate to a primary use or development.
3. **Accretion** – the growth of a beach by the addition of material transported by wind and/or water. Included are such shoreforms as barrier beaches, points, spits, hooks, and tombolos.
4. **Act** - Washington State Shoreline Management Act of 1971, as amended, RCW 90.58.
5. **Adjacent** - having a common end point or border.
6. **Adjacent Lands** – lands adjacent to the shorelines of the state (outside of shoreline jurisdiction) (*RCW 90.58.340*).
7. **Agricultural Activities** - agricultural uses and practices including, but not limited to: producing, breeding or increasing agricultural products; rotating and changing agricultural crops; agricultural crops; allowing land used for agricultural activities to lie fallow in that it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation (*WAC 173-26-020(3)(a)*).
8. **Agricultural Equipment and Agricultural Facilities** – includes, but is not limited to:
 - a. The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;
 - b. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands
 - c. Farm residences and associated equipment, lands, and facilities; and
 - d. Roadside stands and on-farm markets for marketing fruit or vegetables.
9. **Agricultural Land** – those specific land areas on which agricultural activities are conducted as of the date of adoption of this Program, as evidenced by aerial

photography or other documentation. After the effective date of this Program, land converted to agricultural use shall comply with the requirements of this Program.

10. **Agricultural Products** – includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products.
11. **Aggrieved Person** – a person who is suffering from an infringement or denial of legal rights or claims.
12. **Amendment** - means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.
13. **Anadromous fish** -Fish that migrate downstream in their juvenile lifestages; live their adult lives in the ocean; then migrate upstream from the ocean to breed in fresh water.
14. **Appurtenance** - A structure or development necessarily connected to a single-family residence. Normal appurtenances include a garage, a shop, a deck, a pool, a driveway, utilities, fences, grading which does not exceed 250 cubic yards and does not involve placement of fill in any wetland or waterward of the OHWM, and when allowed, installation of a septic tank and drainfield.
15. **Aquaculture** - The culture or farming of food fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. (*WAC 173-26-241(3)(b)*).
16. **Area of Special Flood Hazard** - Land in the flood plain subject to a 1% or greater chance of flooding in any given year. Designations on Flood Insurance Rate Maps always include the letter A. Also referred to as “Frequently Flooded Areas.”
17. **Associated Wetlands** - Those wetlands that are in proximity to and either influence or are influenced by tidal waters or a lake, river or stream subject to the Shoreline Management Act.
18. **Average Grade Level** - the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property that will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure (*WAC 173-27-030(3)*).

B

19. **Beach Enhancement/Restoration** – process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation drift sills, and other non-intrusive means as applicable.

20. **Bedlands** – means those submerged lands, including tidelands where appropriate, underlying navigable waters.
21. **Berm** – a linear mound or series of mounds of earth, sand and/or gravel generally paralleling the water at or landward of the line of ordinary high water. Also a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.
22. **Best Available Science** – use of the most reliable and available scientific information, most often used in the context of local government compliance with the State Growth Management Act (RCW 36.70A.900) for developing policies and development regulations regarding critical areas (WAC 365-195).
23. **Best Available Technology (BAT)** – the most effective method, technique, or product available that is generally accepted in the field, and which is demonstrated to be reliable, effective, and preferably low maintenance.
24. **Best Management Practices (BMP)** - For the purposes of this Program, BMP means the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by the Washington State Department of Ecology and/or the City of Vancouver that, when used singly or in combination, control, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.
25. **Bioengineering** - means project designs or construction methods that use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank that is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation (*WAC 220-110-020(12)*).
26. **Boat** - means any floating vessel or watercraft, including ships and barges, which is designed and used for navigation and which does not interfere with the normal public use of the water (*WAC 173-27-030(18)*).
27. **Boating Facility** – means any structure or group of structures including but not limited to ramps, marinas, docks, piers, floats, or mooring buoys providing access to or service for boats. Boating facilities may serve hotels, motels, multi-family residences, individual lots or subdivisions, or public recreation uses.
28. **Boathouse** – An over-water structure designed for storage of boats.
29. **Boat Launch Facility** - a facility or structure providing access in and out of the water for boats, such as ramps, rails, or lift stations.
30. **Bog** – A type of wetland where (1) organic (peat or muck) soil layers comprise at least 16 of the first 32 inches of the soil profile; or (2) there is more than 70% cover of mosses at ground level and more than 30% of the total shrub and herbaceous cover consists of species listed in Table 3 – Characteristic Bog Species in Washington State found in Hruby, 2004, Washington State Wetlands Rating System for Western Washington, Ecology publication #04-06-025, or as revised by

Ecology. Many bogs have soils classified as peat or muck, are nutrient poor, have a low pH (acidic), and are fed largely by rainfall rather than streams or groundwater.

- 31. **Breakwater** - a structure aligned parallel to shore, sometimes shore-connected, that provides protection from waves.
- 32. **Buffer Area** – An area that is contiguous to and protects a critical area and which is required for the continued maintenance, functioning, and/or structural stability of a critical area.
- 33. **Bulkhead** - a solid, open-pile, or irregular wall of rock, rip-rap, concrete, steel, or timber or combination of these materials erected parallel to and near ordinary high water mark to provide a protective vertical wall resistant to water and wave action.

C

- 34. **Channel** – an open conduit for water either naturally or artificially created, but does not include artificially created irrigation, return flow, or stockwatering channels (*WAC 173-27-030(8b)*).
- 35. **Channel Migration Zone (CMZ)** - the area along a river within that the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.
- 36. **City** - means the City of Vancouver.
- 37. **Clean Water Act** – the primary federal law providing water pollution prevention and control, previously known as the Federal Water Pollution Control Act. See 33 USC 1251 et seq.
- 38. **Clearing** - the destruction or removal of vegetation from a site by physical, mechanical, chemical or other means. This does not include landscape maintenance or pruning consistent with accepted horticultural practices, such as those recommended by the Washington State University Extension Service, which does not impair the health or survival of the trees or native vegetation.
- 39. **Commercial** - a business use or activity at a scale greater than a home business or cottage industry involving retail or wholesale marketing of goods and services. Examples of commercial uses include restaurants, offices, and retail shops.
- 40. **Commercial Fishing** - is the activity of capturing fish and other seafood under a commercial license.
- 41. **Conditional Use** – a use, development, or substantial development that is classified as a conditional use, or is not classified within the Master Program, and requires a conditional use permit (*WAC 173-27-030(4)*).
- 42. **Covered Moorage** – Boat moorage, with or without walls, that has a roof to protect a boat.
- 43. **Critical Aquifer Recharge Area** - Areas with a critical recharging effect on aquifers used for potable water as designated at VMC 14.26.

- 44. **Critical Areas** - include fish and wildlife habitat conservation areas, frequently flooded areas, geologic hazard areas, and wetlands as designated in Chapter 5A, and critical aquifer recharge areas as designated at VMC 14.26.
- 45. **Critical Habitat**- Specific geographical areas that possess physical or biological features that are essential to the conservation of federally listed species. These designated areas may require special management considerations or protection.

D

- 46. **Date of Filing** – means the date of actual receipt by Ecology of the City’s decision **on a substantial development permit**. For a variance or conditional use permit, the date of filing is the date Ecology’s decision is transmitted to the City. For a variance or conditional use permit decision in conjunction with a shoreline substantial development permit decision, the date of filing is the date Ecology’s decision is transmitted to the City.
- 47. **Development** - a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this Program at any state of water level. **“Development” does not include dismantling or removing structures if there is no other associated development or re-development.**
- 48. **Development Regulations** - the controls placed on development or land uses, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under RCW 90.58, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto (*WAC 173-26-020(8)*).
- 49. **Dike** - is an artificial embankment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.
- 50. **Dock** - a landing or moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances.
- 51. **Dock, Community** – a dock serving a subdivision, hotel, motel, or multi-family residential development.
- 52. **Dock, Joint-Use** – a dock serving two or more lots, providing a moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents on adjacent lots each with water frontage.
- 53. **Dolphin** – A cluster of piles bound together.
- 54. **Dredge Material** – the material removed by dredging.
- 55. **Dredging** - is the removal or displacement of earth or sediments such as gravel, sand, mud, silt, or debris from below the OHWM of any stream, river, lake, water body, or wetland.

- 56. **Dredging, Maintenance** - dredging for the purpose of maintaining a prescribed minimum depth previously authorized by a federal, state, and/or local permit as part of any specific waterway project. Maintenance dredging also includes dredging that maintains the previously authorized width of a channel, boat basin or berthing area.
- 57. **Drift Sector** - the extent of the littoral drift area downstream from and caused by a breakwater, jetty, rock weir or groin.

E

- 58. **Ecology** – the Washington State Department of Ecology.
- 59. **Ecosystem-wide Processes** - the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions (*WAC 173-26-020(14)*).
- 60. **Effective Date of Permit** – For Shoreline Substantial Development, Conditional Use and Variance Permits, the date of filing as provided in RCW 90.58.140(6). including completion of all appeals or legal actions.
- 61. **Emergency**- is an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time too short to allow full compliance with this Program.
- 62. **Emergency Construction** - Emergency construction does not include development of new permanent protective structures where none previously existed. As a general matter, flooding or other seasonal events that can be anticipated and may occur, but are not imminent, are not an emergency (*RCW 90.58.030(3)(e)(iii)* and *WAC 173-14-040(1)(d), (2), and (3)*).
- 63. **Enhancement** - Alterations performed to improve the condition of an existing degraded area so that the functions provided are of a higher quality. Enhancements are to be distinguished from resource creation or restoration projects.
- 64. **Erosion** – The general process or the group of processes whereby the material of the earth's crust are loosened, dissolved, or worn away, and simultaneously moved from one place to another, by natural forces, that include weathering, solution, corrosion, and transportation, but usually exclude mass wasting (American Geological Institute, 1998).
- 65. **Exempt/Exemption** - developments that are set forth in Section 2.3 (Exemptions from Substantial Development Permit) of this Program that are not required to obtain a Shoreline Substantial Development Permit, but which must otherwise comply with applicable provisions of the act and this Program (*WAC 173-27-040; RCW 90.58.030(3)(e), 90.58.147, 90.58.355, and 90.58.515*).

F

- 66. **Fair Market Value** - the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials

necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials (*WAC 173-27-030(8)*).

- 67. Feasible** - an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:
- e. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
 - f. The action provides a reasonable likelihood of achieving its intended purpose; and
 - g. The action does not physically preclude achieving the project's primary intended legal use.

In cases where this Program requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the city may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. (*WAC 1713-26-020(15)*)

- 68. Feeder Bluff** - any bluff (or cliff) experiencing periodic erosion from waves, sliding, slumping, whose eroded earth, sand, or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform. Feeder bluff exceptional segments lack a backshore, old or rotten logs, and coniferous bluff vegetation.
- 69. Fill** - means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land (*WAC 173-26-020(16)*).
- 70. Fill, Speculative** - The placement of fill material not associated with an approved project.
- 71. Fish and Wildlife Habitat Conservation Areas** - Fish and Wildlife Habitat Conservation Areas as designated at VMC 20.740.110.
- 72. Float** - a fixed platform structure anchored in and floating upon a water body that does not connect to the shore, and that provides landing for water dependent recreation or moorage for vessels or watercraft.
- 73. Floating Home** – a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a boat, even though it may be capable of being towed.
- 74. Floating on-water residence** – any floating structure other than a floating home, as defined below;

- a. That is designed or used primarily as a residence on the water and has detachable utilities; and
 - b. Whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.
- 75. Flood Hazard Reduction** - measures taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and storm water management programs; and of structural measures, such as dikes, levees, and floodwalls intended to contain flow within the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.
- 76. Floodplain** - synonymous with the one hundred-year floodplain and area of special flood hazard (frequently flooded areas) and refers to the land subject to a 1% or greater chance of flooding in any given year.
- 77. Floodway** - means the area, as identified in this Program, that has been established in Federal Emergency Management Agency flood insurance rate maps or floodway maps. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state (RCW 90.58.030(2)(b)).
- 78. Forb** - an herbaceous, non-woody plant other than grass.
- 79. Forest Practices** – any activity conducted on or directly related to forest land and relating to growing, harvesting, or processing timber. These activities include but are not limited to: road and trail construction, final and intermediate harvesting, pre-commercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control (*WAC 222-16-010(21)*).
- 80. Frequently Flooded Areas** - the areas of special flood hazard as designated at VMC 20.740.120.
- 81. Frontage or Water Frontage** – the portion of a parcel adjacent to the OHWM between property lines.

G

- 82. Gabions** – structures composed of masses of rocks, rubble, or masonry held tightly together usually by wire mesh so as to form blocks or walls.
- 83. Geologic Hazard Areas** - include areas of landslide, liquefaction and dynamic settlement, ground shaking amplification, fault rupture, soil erosion, and bank erosion hazard areas as designated at VMC 20.740.130.
- 84. Grading** - means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land (*WAC 173-26-020(20)*).

- 85. **Grassy Swale** – a vegetated drainage channel that is designed to remove various pollutants from stormwater runoff through biofiltration.
- 86. **Groin** - a barrier-type structure extending from the backshore or stream bank into a water body for the purpose of the protection of a shoreline and adjacent upland by influencing the movement of water and/or deposition of material.
- 87. **Groundwater** - means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

H

- 88. **Harbor Area** - the area of navigable waters between the inner and outer harbor lines identified by the Board of Natural Resources acting as the State Harbor Lines Commission and as established by Section 1 of Article XV of the Washington State Constitution.
- 89. **Harbor Line, Inner** - the line established by the State of Washington in navigable tidal waters between the line of ordinary high tide and the outer harbor line and constituting the inner boundary of the harbor area. This line determines the seaward extent of private ownership in tidal or shoreland areas (often corresponds to the “bulkhead line”).
- 90. **Harbor Line, Outer** - the line located and established by the Washington State Department of Natural Resources in navigable waters that delineates the extent of water area that may be leased to private interests.
- 91. **Hazard Tree** - any tree with a combination of structural defect and/or disease and a proximity to persons or property which makes it subject to a high probability of failure, as recommended by a qualified arborist.
- 92. **Height** - the distance measured from the average grade level to the highest point of a structure: Provided that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines (or the master program provides otherwise): Provided further that temporary construction equipment is excluded in this calculation (WAC 173-27-030(9)).
- 93. **Hook** – a spit or narrow cape of sand or gravel that turns landward at its outer end.

I

- 94. **Institutional Use** – A use and related structure(s) for the provision of educational, medical, cultural, social, public safety, and/or recreational services to the community, including but not limited to schools, colleges, museums, community centers, and the relevant essential public facilities identified in WAC 365-196-550
- 95. **In-stream Structure** - a structure placed by humans within a stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation,

irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose. Outfalls are not in-stream structures.

96. Interested Party – means all persons who have notified local government of their desire to receive a copy of the final order on a permit under WAC 173-27-030 (*WAC 173-27-030(12)*).

97. Invasive – means a nonnative plant or animal species that:

- causes or may cause significant displacement in range, a reduction in abundance of native species;
- Threatens or may threaten natural resources or their use in the state;
- Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or
- Threatens or harms human health (RCW 77.08.010(28)).

J

98. Jetty- a structure usually projecting out into the water for the purpose of protecting a navigation channel, a harbor, or to influence water currents.

L

99. Lakes – all the surface water areas of the state, including reservoirs; except: (a) Lakes less than twenty acres in size; (b) Streams or rivers (as described in WAC 173-18-030); and (c) Shorelines of statewide significance (*WAC 173-20-030(1)*).

100. Lakes of Statewide Significance - those lakes, whether natural, artificial or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high-water mark (*WAC 173-20-030(2)*).

101. Large Woody Debris - Shrubs, trees, or their branches that have fallen and are on the ground or in, across, or dangling above streams, rivers, lakes, or ponds.

102. Levee – a large dike or embankment, often having an access road along the top, that is designed as part of a system to protect land from floods.

103. Limited Utility Extension – the extension of a utility service that is categorically exempt under RCW 43.21C for natural gas, electricity, telephone, water or sewer to service an existing use and will not extend more than twenty-five hundred (2500) linear feet within the shorelines of the state.

104. Littoral – The area of the shore from the OHWM waterward to a depth of two meters below ordinary low water or to the maximum extent of non-persistent emergent plants.

105. Littoral Drift –The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and current.

106. Live-aboard boat – A licensed boat designed as a conventional recreational vessel with habitable cabin or quarters that is occupied in a single location for a period exceeding two months in any one calendar year. The live-aboard boat shall have self-propulsion and steering that is sufficient to move the vessel entirely under its own power and shall have detachable utilities or facilities and anchoring.

- The live-aboard boat must be of a design that is capable of safely navigating the waterway where it is located including being equipped to handle winds, waves, tides and currents. Typical terms for live-aboard boats are sailboat, cabin cruiser, trawler yacht, tug, motor yacht cruiser, motorsailer, multi-hulled power boat, sport fishing boat or similar vessel.
- 107. Local Government** – any county, incorporated city, or town that contains within its boundaries shorelines of the state subject to chapter 90.58 RCW.
- 108. Log Booming** – includes the placement or removal of logs and log bundles into and from the water, and the assembly and disassembly of rafts for waterborne transportation.

M

- 109. Marina** - a water-dependent commercial use that consists of a system of piers, buoys, or floats which provides moorage for at least ten (10) boats. For the purposes of this Program, large community moorage facilities, yacht club facilities, and camp or resort moorage areas are also considered marinas. Boat launch facilities and supplies and services for small commercial or pleasure craft are often associated with marinas. Uses accessory to marinas may include fuel docks and storage, boating equipment sales and rental, repair services, public launching, bait and tackle shops, potable water, waste disposal, administration, parking, groceries, and dry goods.
- “Foreshore marinas” are marinas located waterward of the ordinary high water mark.
- “Backshore marinas” are marinas located landward of the ordinary high water mark. There are two common types of backshore marinas: (1) a wet-moorage marina that is dredged out of the land artificially creating a basin; and (2) a dry-moorage marina that has upland storage with a hoist, marine travel lift, or ramp for water access.
- 110. Marine Railway** – a set of steel rails running from the upland area into the water upon which a cart or dolly can carry a boat to be launched.
- 111. Marine Travel Lift** – a mechanical device that can hoist vessels off trailers and transport them into the water. Often associated with dry land moorage.
- 112. May** - means the action is acceptable, provided it conforms to the provisions of this Program.
- 113. Merchantable Trees** - live trees, 6 inches in diameter at breast height (DBH) and larger, unless documentation of current, local market conditions are submitted and accepted by the local jurisdiction indicating non-marketability. "Merchantable trees" shall not include trees smaller than 4 inches DBH.
- 114. Mining** - the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses (*WAC 173-26-241*).
- 115. Mitigation** – to avoid, then minimize and compensate for unavoidable adverse impacts to shoreline ecological functions and processes.

- 116. Mitigation, Compensatory** – an action to reduce the severity of effects from an action that may cause potential impacts to functions and values of critical areas and their buffers.
- 117. Mixed-use Project** - developments that include a combination of components, such as residential uses, hotels, marinas, habitat improvement actions, public access provisions, and other uses.
- 118. Moorage** - a pier, dock, buoy or float, either fixed or floating, to which boats may be secured.
- 119. Moorage Facility, Community** - a moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents of a certain subdivision, hotel, motel, or multi-family residential development within shoreline jurisdiction; or for use by patrons of a public park or quasi-public recreation area, including rental of non-powered craft. A community moorage facility is a marina (Definition #106) if:
- a. it provides commercial goods or services;
 - b. it is of a large scale (more than ten slips);
 - c. moorage is proposed to be leased to upland property owners; or
 - d. the proposal includes a boat launching facility other than a ramp.
- 120. Moorage Facility, Joint Use** - a moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents on adjacent or neighboring lots each with water frontage. A joint-use moorage facility is a marina (Definition #106) if:
- a. it provides commercial goods or services;
 - b. it is of a large scale (more than ten slips);
 - c. moorage is proposed to be leased to upland property owners; or
 - d. the proposal includes a boat launching facility other than a ramp.
- 121. Mooring Buoy** - a floating object anchored to the bottom of a water body that provides tie-up capabilities for boats or watercraft.
- 122. Multi-Family Residence** - a building containing two or more dwelling units including but not limited to duplexes, apartments, and condominiums.
- 123. Must** - means a mandate; the action is required.

N

- 124. Natural/Existing Topography** – the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading including excavation and filling.
- 125. Navigational Channels** - are those routes on the waters of state beyond the outer harbor line, commonly used by ships for useful commerce.
- 126. Navigable Waters** - a body of water is capable or susceptible of having been or being used for the transport of useful commerce. The state of Washington

considers all bodies of water meandered by government surveyors as navigable unless otherwise declared by a court (*WAC 332-30-106*).

126a. Non-conforming Lot - A nonconforming lot may be developed if permitted by other land use regulations of the city and so long as such development conforms to all other requirements of this Program and the Act.

- 127. Non-conforming Structure** – a structure that was lawfully constructed or established prior to the effective date of the applicable Act or Program provision, and which no longer conforms to the applicable shoreline provisions (*WAC 173-27-080(1)*).
- 128. Non-conforming Use** - use or activity that was lawfully established prior to the effective date of the applicable Act or Program provision, and which no longer conforms to the applicable shoreline provisions. (*WAC 173-27-080(1)*)
- 129. Non-Water-Oriented Use or Activity** - a use or activity that is not water-dependent, water-related, or water-enjoyment.
- 130. Normal Maintenance** - includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (*WAC 173-27-040(2)(b)*). See also “normal repair”.
- 131. Normal Repair** - to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment (*WAC 173-27-040(2)(b)*). See also “normal maintenance”.
- 132. Noxious Weeds** - Non-native plants that are destructive, competitive, and difficult to control as defined by the Washington State Noxious Weed Control Board.

O

- 133. Ordinary High Water Mark (OHWM)** - that mark found by examining the bed and banks of a body of water and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or Ecology: Provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the OHWM adjoining fresh water shall be the line of mean high water (*RCW 90.58.030(2)(b)* and *WAC 173-22-030(6)*).

- 134. Over-water Structure** - a structure or other construction located waterward of the Ordinary High Water Mark (OHWM) or a structure or other construction erected on piling above the surface of the water, or upon a float.

P

- 135. Parking** - the temporary storage of automobiles or other motorized vehicles. Temporary storage of vehicles for import or export in port areas shall not be considered parking.
- 136. Parking, Accessory** - is that which directly serves an approved shoreline use.
- 137. Parking, Primary** - parking that is the principal use on the property, not accessory to another use.
- 138. Party of Record** - includes all persons, agencies or organizations who have submitted written comments in response to a public notice; presented testimony in a formal public hearing; or notified the city of their desire to receive a copy of the final decision; and who have provided a complete, accurate, and current address for delivery of such decision by mail.
- 139. Permitted Use** – a use that is allowed under the rules and regulations of this Program.
- 140. Permit** - any substantial development, variance, conditional use permit, or revision authorized under this Program (*WAC 173-27-030(13)*).
- 141. Pier** - a fixed platform structure supported by piles in a water body that abuts the shore to provide landing for water-dependent recreation or moorage for boats or watercraft or to provide access to a floating dock.
- 142. Pierhead Line** - the waterward limit to which open pile work may be constructed as designated by the Federal government.
- 143. Point** – a low profile shoreline promontory of more or less triangular shape, the top of which extends seaward. A point may be the wavecut shelf remnant of a headland bluff or a purely accretional deposit that began as a hooked spit and becomes a point by subsequently closing the lagoon gap between the headland and the tip of the hook. Points are characterized by converging berms that normally enclose a lagoon, marsh, or meadow, depending on the point's stage of development.
- 144. Port** – a municipal corporation that is a special purpose district of local government authorized by the Washington State Constitution and regulated by RCW Chapter 53.
- 145. Potentially Harmful Materials** - means hazardous materials as defined at VMC Section 14.26.110 as well as other materials including, but not limited to, the following which, if discharged or improperly disposed, may present a risk to water resources:

Petroleum products including but not limited to petroleum fuel and petroleum-based coating and preserving materials; oils containing PCBs; antifreeze and other liquid automotive products; metals, either in particulate or dissolved form, in

concentrations above established regulatory standards; flammable or explosive materials; radioactive material; used batteries; corrosives, acids, alkalis or bases; paints, stains, resins, lacquers or varnishes; degreasers; solvents; construction materials; drain cleaners and other toxic liquid household products; pesticides, herbicides, fungicides or fertilizers unless applied in accordance with local, state and federal standards; steam cleaning and carpet cleaning wastes; pressure cleaning wastes; car wash water; laundry wastewater; soaps, detergents, ammonia; swimming pool backwash; chlorine, bromine, and other disinfectants; heated water; domestic animal wastes; sewage; recreational vehicle waste; animal carcasses, excluding salmonids; food wastes; pharmaceuticals and personal care products; collected lawn clippings, leaves or branches; trash or debris; silt, sediment or gravel; dyes; and untreated or unapproved wastewater from industrial processes.

- 146. Program** - the Shoreline Master Program developed pursuant to the Shoreline Management Act (RCW 90.58), adopted by the city and approved by Ecology.
- 147. Project Area** – the area which will be directly physically affected by a proposed development.
- 148. Provisions** - policies, regulations, standards, guideline criteria or environment designations.
- 149. Public Access** - is the physical ability of the general public to reach, touch and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations (*WAC 173-26-221*).
- 150. Public Interest** - the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development (*WAC 173-27-030(14)*).

Q

- 151. Qualified Professional** - a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4).

R

- 152. Recreational Use** – a use and related structures for the provision of recreational activities, as follows:
 - a. Active recreational uses/facilities or uses** – involve indoor or outdoor activities with a large number of participants or viewers; require a moderate to high level of infrastructure and maintenance; generate high noise levels. Sports fields, golf courses, skate parks, and motorized boating are examples of active recreational uses or facilities.

- b. Passive recreational uses/facilities** - involve a small number of participants or viewers; require a low to moderate level of infrastructure development and maintenance; generate little noise; and are compatible with open space and natural resource protection. Wildlife viewing, non-vehicular trails, fishing, canoeing and picnicking are examples of passive recreational uses and facilities.
- 153. Recreational Vehicle** – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
- 154. Residential Development** - is the development on shorelands of single-family and multi-family residences and their normal appurtenances, and the creation of new residential lots through land division.
- 155. Restoration**– means to reestablish or upgrade impaired ecological processes or functions. This may be accomplished through measures including, but not limited to, re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions (*WAC 173-26-020(31)*).
- 156. Revetment** - a sloped wall constructed of riprap or other material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement. A revetment typically slopes waterward and has rough or jagged facing. The slope differentiates it from a bulkhead that is a vertical structure.
- 157. Right-of-Way (ROW)** - The property held by the city or other governmental jurisdiction for existing and/or future public access including land occupied or intended to be occupied by a street, crosswalk, pedestrian and bike paths, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, street trees or other special use. The usage of the term right-of-way for land division purposes shall mean that every right-of-way hereafter established and shown on a plat or map is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.
- 158. Rip-Rap** - is a foundation or retaining wall of stones or rock placed along the water's edge or on an embankment to prevent erosion.
- 159. Rock Weir** – See “Groyne.”

S

- 160. Setback** –the distance an activity, building, or structure must be located from the Ordinary High Water Mark.
- 161. Shall** - a mandate; the action must be done.

- 162. Shorelands** - those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous floodplain areas landward two hundred feet from such floodways (minimum extent) or to the outer extent of the floodplain (maximum extent); and all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to the provisions of this program, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58. (See Section 2.1.)
- 163. Shoreline Administrator** - is the city's Planning Official or his/her designee responsible for administering this Program.
- 164. Shoreline Designations** - the categories of shorelines established by this Program in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.
- 165. Shoreline Ecological Functions** - the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments which constitute the shoreline's natural ecosystem (*WAC 173-26-200 (2)(c)*).
- 166. Shoreline Jurisdiction** - all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.
- 167. Shoreline Master Program or Program** - means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. See Section 1.8 for complete details.
- 168. Shoreline Modifications** - those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, dredging or application of chemicals.
- 169. Shoreline Restoration Project** – a project designed to restore impaired ecological function of a shoreline.
- 170. Shoreline Stabilization** – includes actions taken to address erosion impacts to property and structures caused by processes such as current, flood, wind, or waves. These actions include structural and non-structural methods. Structural measures include but are not limited to bulkheads, revetments, and riprap. Non-structural measures include building setbacks, relocation of structures, and bioengineered methods that use vegetation or wood.
- 171. Shoreline Substantial Development Permit** - is the permit required by this Program for uses which meet the definition of substantial developments.
- 172. Shorelines** - means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except: (a) shorelines of statewide significance; (b) shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per

second or less, and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes. See RCW 90.58.030(2)(d) and WAC 173-18, 173-26 and 173-22.

- 173. Shorelines Hearing Board (SHB)** – a quasi-judicial body established by the Shoreline Management Act of 1971 to hear appeals by any aggrieved party on the issuance of a substantial development permits, conditional uses, variance or, enforcement penalties.
- 174. Shorelines of Statewide Significance** –a select category of shorelines of the state, defined in RCW 90.58.030(2)(f), where special policies and regulations apply, and described below:
- Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of 1,000 acres or more, measured at the ordinary high water mark;
 - Those natural rivers or segments thereof, downstream of a point where the mean annual flow is measured at 1,000 cubic feet per second, or more, and
 - Their associated shorelands.
- 175. Shorelines of the State** – are the total of all “shorelines” and “shorelines of statewide significance” within the state.
- 176. Should** - the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and WAC 173-26, against taking the action.
- 177. Sign** - A sign is any structure, device, advertisement, advertising device, or visual representation intended to advertise, identify, or communicate information to attract the attention of the public for any reason. Informational signs are non-commercial and intended to communicate safety, directional, navigation, educational, or interpretive information.
- 178. Significant Vegetation Removal** – the removal or alteration of trees, shrubs, and /or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, where it does not affect ecological functions does not constitute significant vegetation removal (*WAC 173-26-020(33)*).
- 179. Single-Family Residence** - a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance.
- 180. Solid Waste Facility** - refers to any land or structure where solid waste is stored, collected, transported, or processed in any form, whether loose, baled or containerized, including but not limited to the following: transfer stations, landfills, or solid waste loading facilities. Solid waste handling and disposal facilities do not include the following: handling or disposal of solid waste as an incidental part of an otherwise permitted use; and solid waste recycling and

- reclamation activities not conducted on the same site as and accessory to the handling and disposal of garbage and refuse.
181. **Stormwater** - runoff during and following precipitation and snowmelt events, including surface runoff and drainage.
 182. **Stream** - Water contained within a channel, either perennial or intermittent, and classified according to WAC 222-16-030 or WAC 222-16-031. Streams also include natural watercourses modified by humans. Streams do not include drainage ditches which are not modifications of natural watercourses.
 183. **Structure**- a permanent or temporary edifice or building or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (*WAC 173-27-030(15)*).
 184. **Subdivision** – the division or re-division of land, including short subdivision, for the purpose of sale, lease, or conveyance.
 185. **Substantial Development** - "Substantial development" shall mean any development of that the total cost or fair market value ~~exceeds five thousand seven hundred and eighteen dollars (\$5,718)~~ **seven thousand forty-seven dollars (\$7,047)**, or as adjusted by the State Office of Financial Management, or any development that materially interferes with the normal public use of the water or shorelines of the state, except as specifically exempted pursuant to RCW 90.58.030(3)(e).
 186. **Substantially Degrade** - to cause significant ecological impact (*WAC 173-26-020(35)*).
 187. **Surface Water** - water that flows across the land surface, in channels, or is contained in depressions in the land surface, including but not limited to ponds, lakes, rivers, and streams.

T

188. **Terrestrial** – of or relating to land as distinct from air and water.
189. **Transfer Facility** – See “Solid Waste Facility.”
190. **Transmit** - to send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items is the date that the document is certified for mailing or, for hand-delivered items, is the date of receipt at the destination (*WAC 173-27-030(16)*).
191. **Transportation Facility** - a road, railway, bridge and related structures such as culverts, fills, embankments, causeways, and the relevant essential public facilities identified in WAC 365-196-550 for the purpose of moving people or freight using motorized or non-motorized means of transport.

U

- 192. Upland** – generally described as the dry land area above and landward of the OHWM.
- 193. Utilities** - services and facilities that produce, convey, store, or process power, water, wastewater, stormwater, gas, communications, oil, and the like, including the relevant essential public facilities identified in WAC 365-196-550.
- 194. Utilities, Accessory** - are on-site utility features serving a primary use, such as a water, sewer, or gas line to a residence, and shall be considered a part of the primary use.

V

- 195. Variance** - is a means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline. See RCW 90.58.160. (*WAC 173-27-030(17)*).
- 196. Vegetation Conservation** - includes activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species (*WAC 173-26-221*).
- 197. Vessel** - See “Boat.”
- 198. View Corridor** - portion of a viewshed, often between structures or along thoroughfares. View corridors may or may not be specifically identified and reserved through development regulations for the purpose of retaining the ability of the public to see a particular object (such as a mountain or body of water) or a landscape within a context that fosters appreciation of its aesthetic value.

W

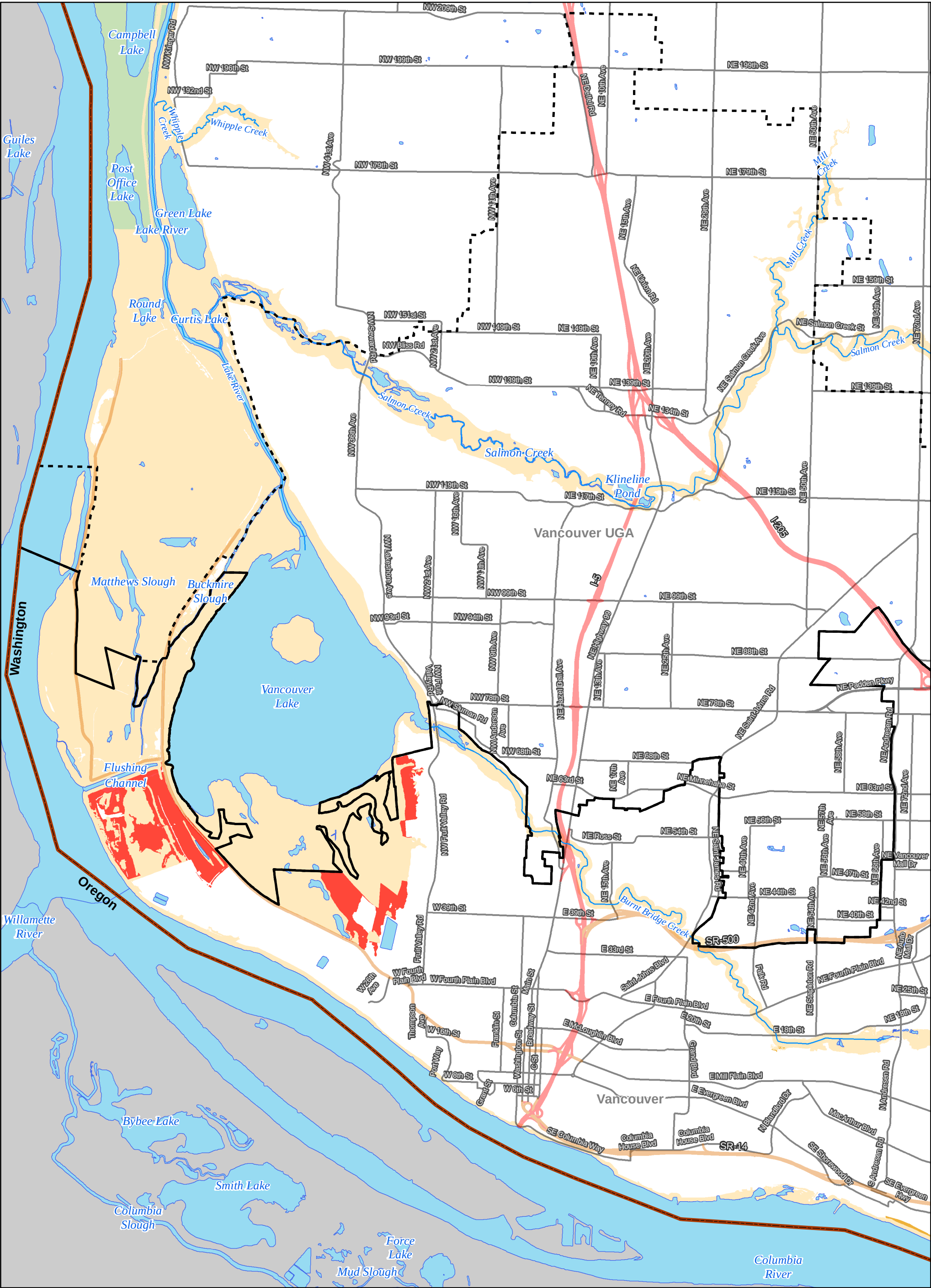
- 199. Water-dependent Use or Activity** - a use or a portion of a use which requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations.
- 200. Water-enjoyment Use or Activity** - a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and that through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.
- 201. Water-oriented Use or Activity** - a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

- 202. Water Quality** - the characteristics of water within shoreline jurisdiction, including water quantity, hydrological, chemical, aesthetic, recreation-related, and biological characteristics.
- 203. Water Quantity** - For the purposes of this program, refers only to development and uses affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this Program, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340 (WAC 173-26-020(42)).
- 204. Water-related Use or Activity** – a use or portion of use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:
- a. of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water or,
 - b. the use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers make its services less expensive and/or more convenient.
- 205. Water Resources** – Means surface water, stormwater, and groundwater.
- 206. Watershed Restoration Plan** - a plan, developed or sponsored by WDFW, Ecology, DNR, the Washington Department of Transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, a special purpose agency such as the Lower Columbia Fish Recovery Board, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.
- 207. Watershed Restoration Project** - a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of a the plan and consists of one or more of the following activities (RCW 89.08.460):
- a. A project that involves less than ten miles of stream reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
 - b. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
 - c. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure

associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.

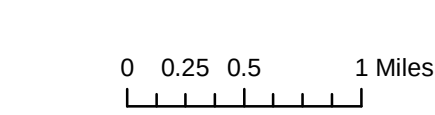
208. Weir - a structure in a stream or river for measuring or regulating stream flow.

209. Wetlands - areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and which under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands. Wetlands are designated at VMC 20.740.140.



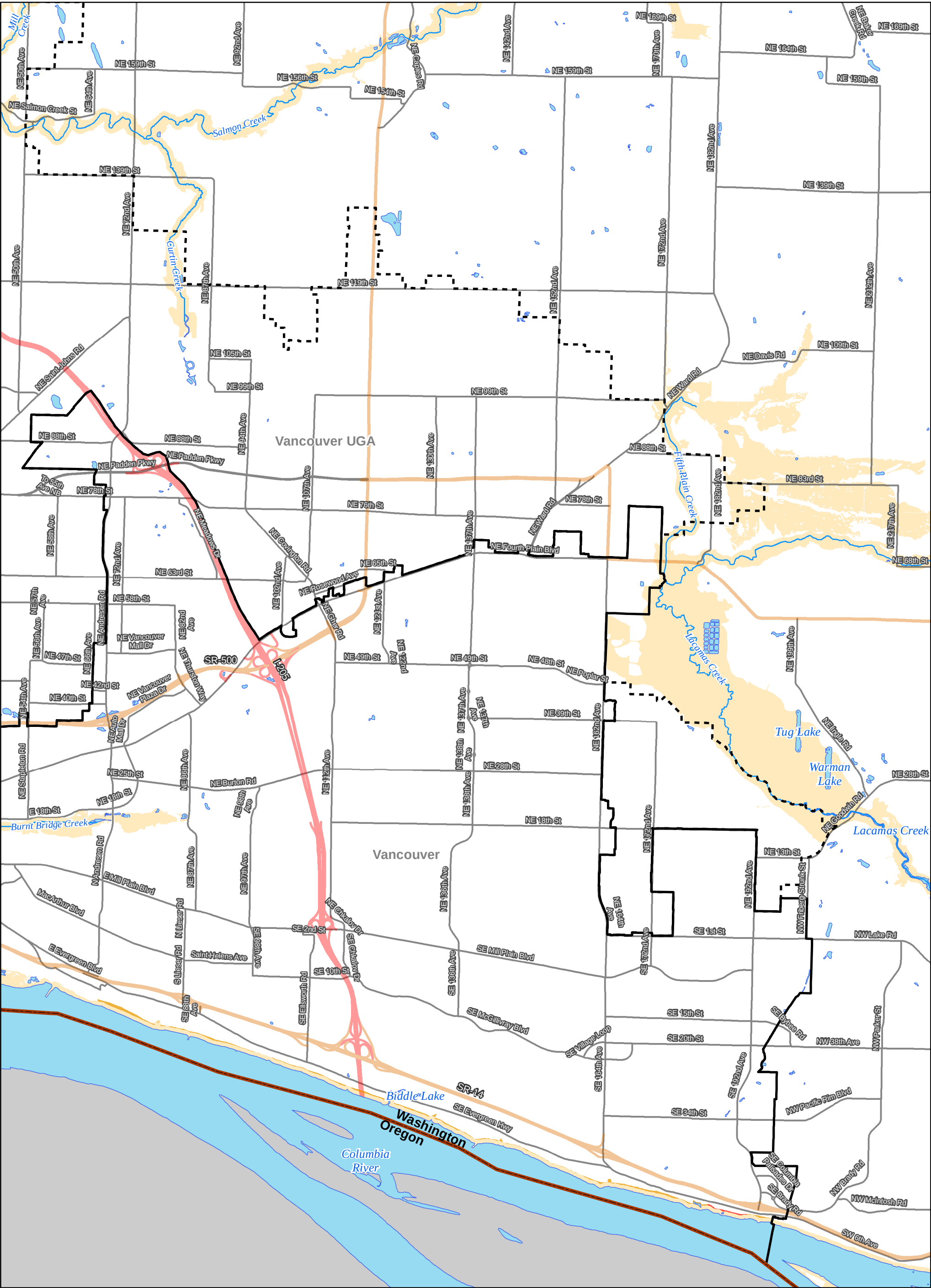
Legend

-  County Boundary
-  City Limits
-  Urban Growth Areas
-  High Intensity Areas Removed
-  Medium Intensity Areas Removed
-  Areas with no Change
-  USFWS National Wildlife Refuges**



0 0.25 0.5 1 Miles

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Legend

County Boundary

City Limits

Urban Growth Areas

High Intensity Areas Removed

Medium Intensity Areas Removed

Areas with no Change

USFWS National Wildlife Refuges**

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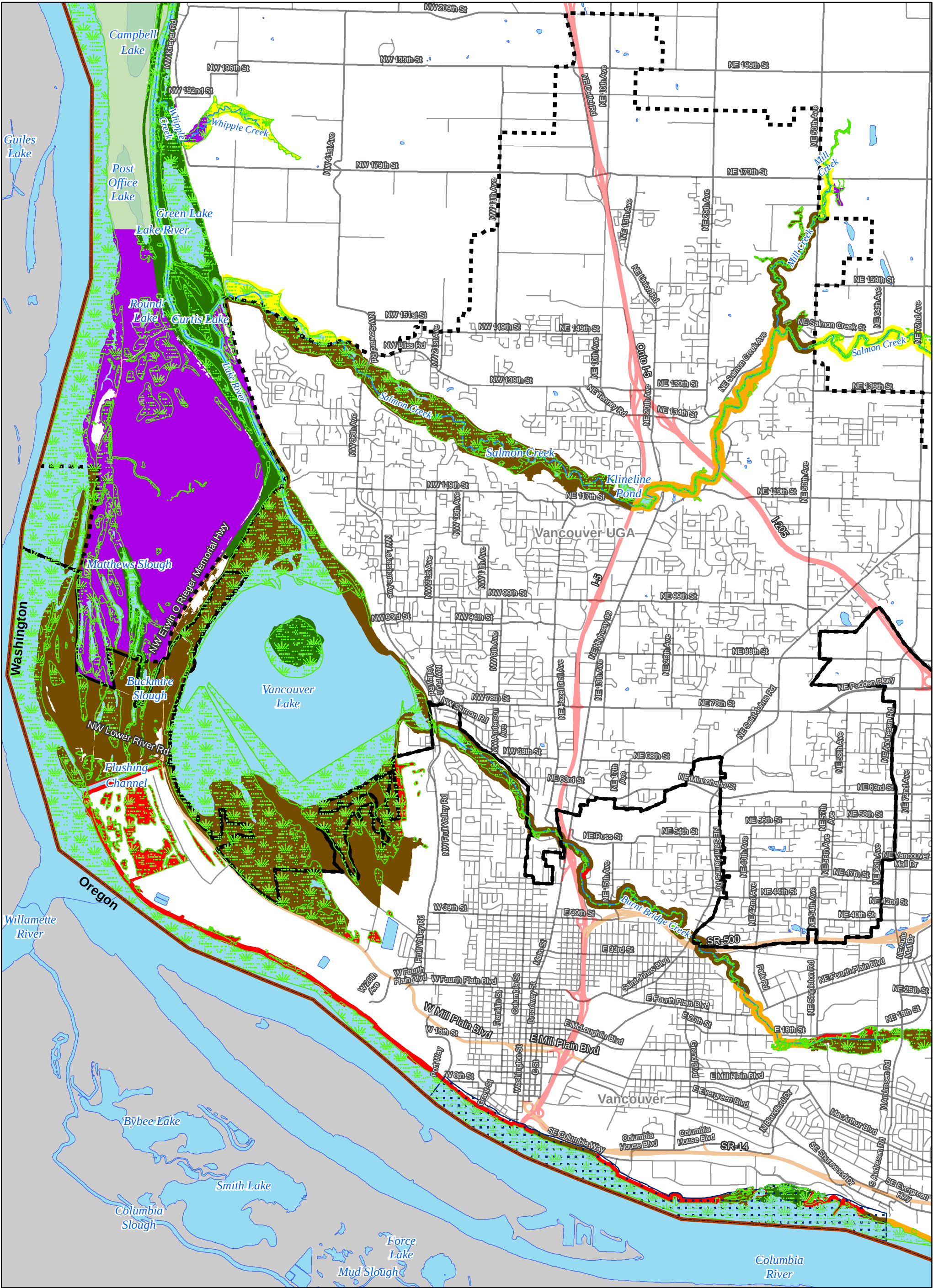
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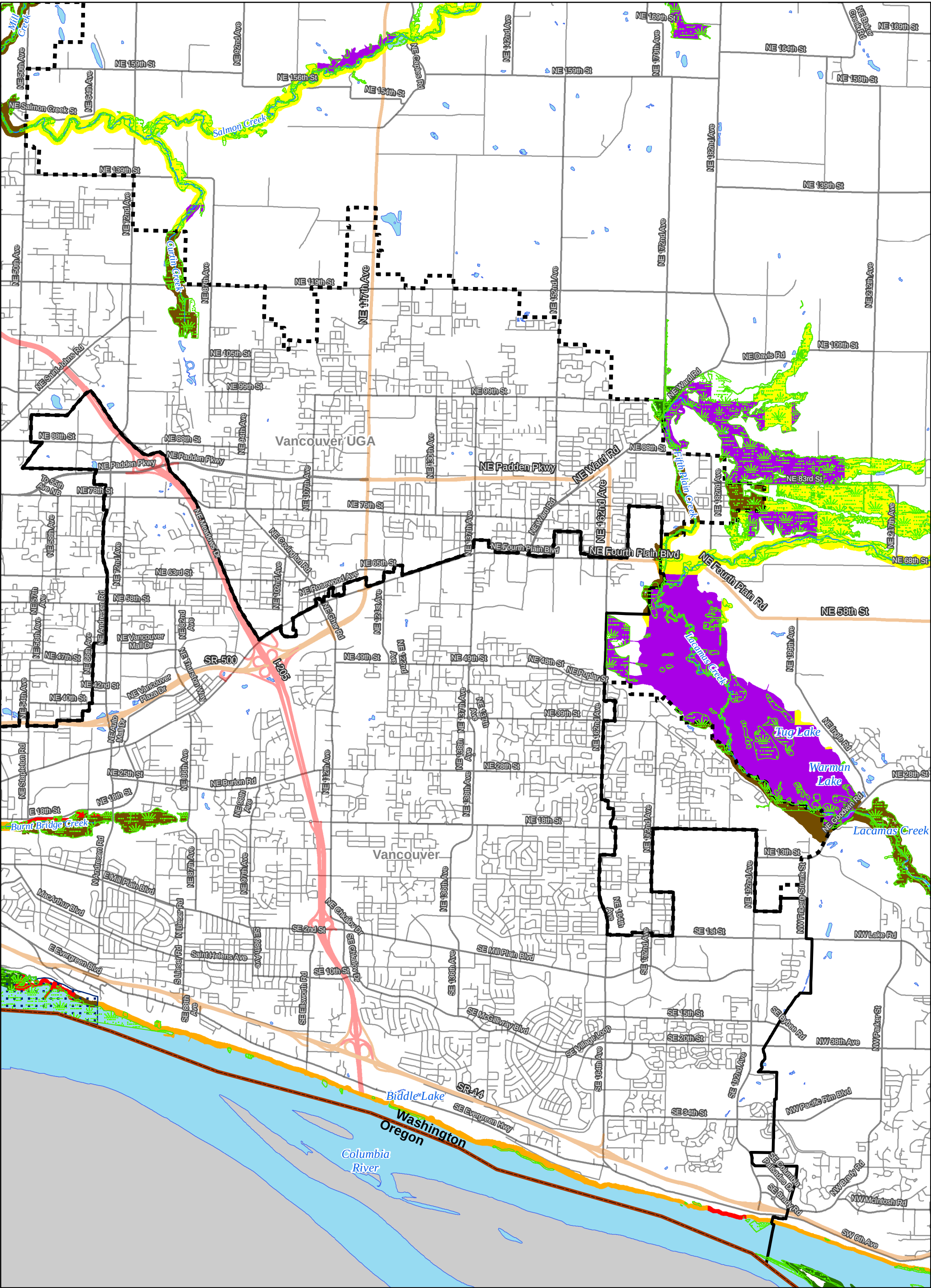
Proposed Changes to Shoreline Map (East)

City of Vancouver, Washington

January 2021 Draft

Data Sources: Clark County, 2009, 2011; DNR, 2007; City of Vancouver, 2020





Shoreline Designations

- Aquatic
- Natural
- Urban Conservancy
- Medium Intensity
- High Intensity
- Rural Conservancy Residential
- Rural Conservancy Resource Land
- USFWS National Wildlife Refuges*

 Associated Wetlands**

 City Limits

 Urban Growth Areas

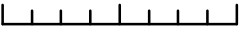
 Columbia River Shoreline Enhancement Plan District

 County Boundary

* Private development in RNWR is regulated under the Rural Conservancy Residential provisions of this SMP

** Definitive presence will be determined on a project basis.

0 0.25 0.5 1 Miles



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Shoreline Master Program Periodic Review

Summary of Proposed Amendments

City of Vancouver, WA
March 2021

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2. State Legislative Amendments
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1. Introduction

Vancouver has initiated a periodic review of our Shoreline Master Program (SMP) as mandated by the Washington State Shoreline Management Act (SMA), RCW 90.58.080(4), and in coordination with the state Department of Ecology (Ecology). The Act requires each local SMP to be reviewed and revised, if needed, every eight years to ensure consistency with changes to state laws and rules, other city plans and regulations, and responsiveness to changed circumstances, new information, and improved data. The SMP is a planning and regulatory document that establishes goals, policies, and regulations for activities on or near Vancouver's shorelines of the state, or special waterbodies that meet certain size or flow criteria as identified by the SMA. The City's shorelines of the state include the Columbia River, Vancouver Lake, Burnt Bridge Creek, Fifth Plain Creek, Lacamas Creek, Salmon Creek, Mill Creek, Curtin (Glenwood) Creek, Lake River, and other waterbodies.

Vancouver underwent a comprehensive update to the SMP that was approved by the Washington State Department of Ecology (Ecology) and became effective September 24, 2012. The 2012 comprehensive update was a lengthy and intensive planning process that resulted in a complete overhaul of the SMP, while the scope of the current periodic review is narrower and designed to ensure the SMP stays current and adaptable. Additional amendments to the SMP were completed in 2017 and 2019 to incorporate adopted amendments to the Critical Areas Protection Ordinance (VMC 20.740) and accommodate the redevelopment of the Port of Vancouver's Terminal 1 site consistent with the City of Vancouver's City Center Vision (VCCV) Plan, respectively.

This report provides a summary of the proposed amendments to the SMP in the format of the Periodic Review Checklist (a resource provided by Ecology that establishes a framework for identifying actions to be taken by the City) and is organized into the following sections:

2. State Legislative Amendments

This section identifies proposed amendments to ensure consistency with state law and rule changes. This analysis is based on a list of amendments between 2007 and 2019, as summarized by Ecology and provided to the City in the Periodic Review Checklist and [Checklist guidance](#).

3. Additional Amendments

In addition to amendments required to maintain compliance with state law and rules and other city plans and regulations, jurisdictions can also bring forward locally-initiated amendments from staff, stakeholders, and the public for consideration. This section identifies proposed amendments to ensure consistency with the city plans and development regulations, as well as other locally-initiated amendments proposed by staff to improve the overall usability, adaptability, and effectiveness of the SMP or initiated by stakeholders.

2. State Legislative Amendments

To evaluate consistency of the SMP with state law and rule changes adopted between 2007 and 2019, staff utilized the Periodic Review Checklist provided by Ecology. Table 1 summarizes the state law and rule changes over this time period, and indicates whether amendments were needed to ensure consistency. Proposed amendments highlighted in green are included in the current draft of the amended SMP.

Table 1. Summary of proposed amendments for consistency with state law and rule changes

Row	Summary of Change	Review	Action
2019			
a.	OFM adjusted the cost threshold for building freshwater docks	SMP identifies exemption cost thresholds for building freshwater docks of \$10,000, and \$2,500 for subsequent construction occurring within five years of the completion of prior construction. Relevant Section(s): 2.3.2(8)	Revise cost threshold above which construction of a freshwater dock will require a Substantial Development Permit (SDP) to refer to the updated dollar thresholds and/or WAC definition, as adjusted by OFM every five years.
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites (<i>applies to 9 jurisdictions</i>)	Not applicable. The City of Vancouver and Clark County do not have open water disposal sites managed by the Dredged Material Management Program (DMMP).	No action required.
c.	The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.	SMP accurately references RCW 77.55.181 and does not include a full list of fish habitat enhancement project types. Relevant Section(s): 2.3.2(18)	No action required.
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	SMP identifies a cost threshold for substantial development of \$5,718. Relevant Section(s): 2.3.2(1), Chapter 8 “Substantial Development” definition	Revise cost threshold above which a development will require a SDP to refer to the updated dollar threshold and/or WAC definition, as adjusted by OFM every five years.
b.	Ecology permit rules clarified the definition of “development” does not include dismantling or removing structures.	SMP does not incorporate the clarification made by Ecology permit rules to the definition of “development.”	Add clarification into the definition of “development” using Ecology’s recommended language.

Row	Summary of Change	Review	Action
		Relevant Section(s): Chapter 8 “Development” definition	
c.	Ecology adopted rules clarifying exceptions to local review under the SMA.	The SMP does not address exceptions under WAC 173-27-044 or -045. These activities are not required to obtain shoreline permits or local reviews under the Act. The SMP as written currently includes some of these exceptions within the list of exemptions. Relevant Section(s): 2.3.2 (17) and (19)	Revise section 2.1.1 to consolidate all SMA exceptions and incorporate Ecology’s recently revised rules with all applicable statutes, per the checklist guidance (also include fish habitat enhancement project exception into this section). Remove those currently listed in section 2.3.2 List of Exemptions. Relocate existing 2.1.1(1) to 2.1(7).
d.	Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.	The SMP outlines specific permit filing procedures that are consistent with the 2011 statutory amendments, and includes reference to WAC 173-27-130. Relevant Section(s): 7.4 Permitting Procedures	No action required.
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	The SMP addresses forest practices and allows timber harvest as a conditional use in the Urban Conservancy designation, and as a permitted use in Medium Intensity, Urban, Rural Residential, and Rural Resource Lands designations. The SMP does not reference WAC 222-50-020 and does not specify requirements for timber cutting alone. Relevant Section(s): 6.3.5 Forest Practices, Chapter 6 Table 6-1	Add provision 5 to section 6.3.5 to clarify that forest practices only involving timber cutting do not require Shoreline Development Permits.
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	SMP specifies that federal agencies’ actions on federal lands are not required to comply with the provisions of the SMP and the Act, but that compliance is encouraged. There are no federal lands under exclusive federal jurisdiction in Clark County.	No action required.

Row	Summary of Change	Review	Action
		Relevant Section(s): 2.1.1 Developments Not Subject to the Shoreline Management Act	
g.	Ecology clarified “default” provisions for nonconforming uses and development .	SMP establishes tailored provisions for nonconforming uses and development and does not reference WAC 173-27-080. It also provides definitions for “Non-conforming Structure” and “Non-conforming Use” which both reference WAC 173-27-080, but does not specify a definition for Nonconforming Lots. Relevant Section(s): 2.5 Nonconforming Use and Development, Chapter 8 Definitions	Add definition for Nonconforming Lots into Chapter 8 using Ecology’s recommended language.
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	The SMP specifically addresses periodic review procedures with accurate reference to WAC 173.26.090 in 7.2.3(2). This item is not required by the state. Relevant Section(s): 7.2.3(2) City Planning Commission	No action required.
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	SMP does not reference the optional SMP amendment process in WAC 173-26-100 and WAC 173-26-104. Relevant Section(s): 7.2.3(1) City Planning Commission	Clarify references to WAC 173-26-100 and WAC 173-26-104.
j.	Submittal to Ecology of proposed SMP amendments.	SMP does not include a procedure on the submittal process of proposed SMP amendments to the Department of Ecology. This item is not required by the state.	No action required.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act .	SMP does not include a shoreline permit exemption for projects undertaken to comply with the Americans with Disabilities Act or otherwise provide physical access to a	Revise to include exemption using Ecology’s recommended language.

Row	Summary of Change	Review	Action
		structure by individuals with disabilities. Relevant Section(s): 2.3.2 List of Exemptions	
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	Wetland provisions in the SMP do not adequately address Ecology's most recent guidance, as identified by Ecology's evaluation. Relevant Section(s): Chapter 5A Section 20.740.140 Wetlands	Update provisions in Chapter 5A section 20.740.140 to align with Ecology's most recent guidance (also reflected in Table 2).
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	SMP does not include specific procedures for local review shoreline permits, and instead references appropriate VMC code for Types II and III review procedures. This item is not required by the state.	No action required.
2014			
a.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	SMP addresses this new definition and policy. Relevant Sections(s): Chapter 8 Definition "Floating on-water residence," Section 6.3.11.2(1).	No action required.
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	The SMP addresses appeals for SMP amendments (including a map amendment) to be appealed to the Growth Management Hearings Board in accordance with RCW 90.58.190, which is accurately stated as a jurisdiction "fully planning" under the GMA. Relevant Section(s): Section 7.4.8.5 State Growth Management Hearings Board in Chapter 7 Administration and Enforcement	No action required.

Row	Summary of Change	Review	Action
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	SMP states that designation of wetlands will be in accordance with the approved federal wetland delineation manual and applicable regional supplements. Relevant Section(s): Section 20.740.140(A)(1) in Chapter 5A VMC 20.740 Critical Areas Protection	No action required.
b.	Ecology adopted rules for new commercial geoduck aquaculture .	Not applicable in the City of Vancouver.	No action required.
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	SMP includes language consistent with the state statute in various sections: Nonconforming uses and development, general shoreline use and development regulations, in the residential use section of Table 6-1, in use-specific development regulations, and in the definitions. Relevant Section(s): 2.5.2(7), 5.1(8), Table 6-1 Shoreline Use, Modification and Development Standards in Residential Uses, 6.3.11.2, Chapter 8 definition of "Floating Homes"	No action required.
d.	The Legislature authorizing a new option to classify existing structures as conforming .	SMP includes a provision indicating use of the option provided in RCW 90.58.620. Relevant Section(s): 2.5.3(4)	No action required.
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	SMP addresses clarifications to the relationship between the SMA and GMA and the correct effective date. Relevant Section(s): 5.3 Critical Areas, 1.9 Effective Date	No action required.

Row	Summary of Change	Review	Action
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	SMP includes “relief” procedures within an Urban Growth Area (UGA) related to shoreline restoration projects causing a shift in the OHWM as part of 5.1 General Shoreline Use and Development Regulations, and states that a substantial development permit is not required for land within a UGA under these circumstances in the list of exemptions. This allowance only occurs if relief has been sought under these circumstances and approved by both the city and Ecology, and including the existing language in this section divorces this action from the remainder of the provision in RCW 90.58.580. Relevant Section(s): 5.1.2(15), 2.3.2(15)	Remove 2.3.2(15) from the list of exemptions (recommended by Ecology), and relocate with the remainder of the provision in new section 5.1.2(15).
b.	Ecology adopted a rule for certifying wetland mitigation banks .	SMP authorizes use of wetland mitigation banks for use as mitigation for unavoidable impacts in Chapter 5A VMC 20.740 Critical Areas Protection. Relevant Section(s): 20.740.140.C(d)(2)(d)(1) Wetland Mitigation Banks	No action required.
c.	The Legislature added moratoria authority and procedures to the SMA.	Not included in the SMP, and not required by the state.	No action required.
2007			
a.	The Legislature clarified options for defining “floodway” as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	SMP uses FEMA maps to define the floodway, but does not include the word “effective” for the FEMA maps. Relevant Section(s): Chapter 8 definition of “Floodway”	No action required.
b.	Ecology amended rules to clarify that comprehensively updated	SMP provides a list of streams and lakes in section 2.1	No action required.

Row	Summary of Change	Review	Action
	SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	Applicability, and references the Shoreline Map for the City and its UGA. Relevant Section(s): 2.1(f), 2.1(g), 2.1(h)	
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	SMP includes an exemption for fish habitat enhancement projects that conform to provision of RCW 77.55.181, but it does not reference WAC-173-27-040. Relevant Section(s): 2.3.2(18)	No action required.

3. Additional Amendments

Project staff reviewed updates made to the Comprehensive Plan and development regulations since the comprehensive update of the SMP in 2012 to determine any inconsistencies and necessary amendments to address these. Staff also reviewed the SMP for general usability and effectiveness, and identified recommendations for amendments that would improve clarity, consistency, and relevancy of regulations.

These proposed amendments resulted from staff implementation of the SMP, issues brought forward by stakeholders, and coordination with Ecology to address outdated provisions that may be noncompliant with most recent guidance and require immediate action. Table 2 summarizes proposed amendments included in the current draft of the amended SMP.

Table 2. Summary of proposed amendments for consistency with city plans and development regulations, and other locally-initiated amendments

<i>Item #</i>	<i>SMP section</i>	<i>Summary of Change</i>	<i>Review</i>	<i>Action</i>	<i>SMP Guidelines Consistency</i>
1	5.1.15, 5.6.2.12, 6.3.3.1(5), 6.4.2.2(3), 6.4.9.1(4)	Expand sections of the SMP related to mitigation for adverse impacts to shallow-water habitat to include creation, enhancement, and/or payment of mitigation bank credits.	SMP as currently written limits options for mitigation of impacts to shallow-water habitat to creation of new shallow-water habitat, which is not always possible on a site.	Amend section 5.1.15 (new section 5.1.2(6)), 5.6.2(12), 6.3.3.1(5), 6.4.2.2(3), and 6.4.9.1(4) to include creation, enhancement, and/or payment of mitigation bank credits as mitigation for loss of shallow-water habitat.	-
2	6.4.9.1(4)	Replace existing terms of “extreme edge or bank” with specific and defined terms to clarify under what circumstances revetments can be located partially below the OHWM, that they are not considered fill, and when and how adverse impacts to shallow-water habitat require mitigation.	This SMP criteria as currently written does not provide adequate specificity to determine whether the intent of the mitigation action is met. Provisions in this section of the SMP are also unclear and lead to subjectivity in determining under what circumstances revetments can be located partially below the OHWM. This required an Administrative Interpretation to be drafted by the City and approved by	Amend section 6.4.9.1(4) to include additional revetment siting standards and expand mitigation options for adverse impacts to shallow-water habitat (see item #1)	Proposed amendment is consistent with WAC 173-26-231(3)(c) and replaces an Administrative Interpretation approved by Ecology.

Item #	SMP section	Summary of Change	Review	Action	SMP Guidelines Consistency
			Ecology in August 2019. Proposed SMP revisions will replace this Administrative Interpretation.		
3	Ch. 5A, Ch. 5A 20.740.140, Ch 5A 20.740.120, 5.3	In Chapter 5A, make substantive updates to wetlands regulations in 20.740.140 as identified in Ecology's evaluation, remove provisions from the Frequently Flooded Areas section and include a soft reference to the VMC 20.740.120, and update Chapter 5A to be consistent with Title 20 Critical Areas Protection code updates since 2012. In section 5.3, clarify the relationship between critical areas regulations and their applicability in shoreline jurisdiction for ease of use by both applicants and planning officials.	Chapter 5A of the SMP contains the nested VMC 20.740 Critical Areas Protection regulations as modified for application in shoreline jurisdiction which was last updated in 2012. Since then, the Title 20 Critical Areas regulations have undergone substantive updates to comply with state requirements, non-substantive updates for clarity, and reformatting. Chapter 5A of the SMP also includes the entirety of the VMC 20.740 Critical Areas Protection code. Ecology has recommended the city not fully integrate the Frequently Flooded Areas section within the SMP to avoid issues with implementation under the NFIP, and identified regulations within the Wetlands section that are outdated with Ecology's most recent guidance and require revision. Section 5.3 of the SMP includes provisions that were specific to critical areas permitting and create confusion about applicability in shoreline jurisdiction. It also includes	Amend Chapter 5A as follows: Replace existing Chapter 5A with VMC 20.740 Critical Areas Protection and modify for applicability in shoreline jurisdiction to make consistent with the most recent Title 20 CAO updates since 2012, update provisions in section 20.740.140 to align with Ecology's most recent guidance, and remove the full incorporation of the city's flood ordinance in section 20.740.120 and add a soft reference to VMC 20.740.. Revise section 5.3 to clarify how critical areas regulations apply in shoreline jurisdiction and relocate mitigation sequencing provisions to new section 5.1.2 and Chapter 5A.	The proposed amendments to wetlands regulations in 20.740.140 would update identified provisions to align with Ecology guidelines and are consistent with WAC 173-26-221(2)(c)(i).

Item #	SMP section	Summary of Change	Review	Action	SMP Guidelines Consistency
			reference to mitigation sequencing which are more appropriately located within other sections of the SMP.		
4	2.1.1	For all other shorelines within city limits not included in the area along the Columbia River from Wintler Park to the Vancouver Flushing Channel, maintain the full extent of the 100-year floodplain in shoreline jurisdiction for conservancy designations, and apply minimum jurisdiction in high intensity and medium intensity designations to allow for reasonable use of land and development where intended.	The existing SMP includes the full extent of the floodplain in shoreline jurisdiction with the exception of properties along the Columbia River from Wintler Park to the eastern boundary of Port of Vancouver Parcel 3 where minimum jurisdiction is applied. This application of shoreline jurisdiction to include the full extent of the floodplain is voluntary and not required by state law. Any change to shoreline jurisdiction will require associated Shoreline Designation Map changes.	Amend the extent of shoreline jurisdiction in section 2.1.1 as follows: Apply minimum shoreline jurisdiction, as allowed by the law, to the High Intensity and Medium Intensity designations. Retain the full extent of the 100-year floodplain in the Urban Conservancy and Natural designations in shoreline jurisdiction. Map revisions reflecting these changes as described in Item 4.	Proposed amendment consistent with RCW 90.58.030(2)(d).
5	Appendix A	Update Shoreline Designation Maps to reflect the change to shoreline jurisdiction proposed in item 4.	Existing Shoreline Designation Maps in Appendix A of the SMP will require updates to reflect change to shoreline jurisdiction described in item 4. This change will primarily apply on Port Parcel 3 to the Vancouver Flushing Channel and south/southeast of Vancouver Lake, as well as in some areas along Burnt Bridge Creek and east of Wintler Park along the Columbia River.	Revise Shoreline Designation Maps to reflect change in shoreline jurisdiction on impacted properties.	Proposed amendments to shoreline jurisdiction would be reflected in updated unofficial Shoreline Designations Maps consistent with WAC 173-26-211(2)(b) and WAC 173-26-110(3).

Item #	SMP section	Summary of Change	Review	Action	SMP Guidelines Consistency
6	Table 6-1	Change structural shoreline stabilization to a permitted use in high intensity designations to eliminate undue process on properties that already have developed shorelines.	Structural shoreline stabilization in high intensity designations is currently a shoreline conditional use in the SMP requiring a public hearing and a decision by Ecology. Changing to a permitted use will allow approval administratively while still ensuring consistency with the standards in the SMP.	Amend Table 6-1 to make structural shoreline stabilization a permitted use in high intensity designations.	-
7	6.3.12	Allow a signage master plan or sign program to be developed through a Special Sign District Process under VMC 20.960.110 in order to supersede SMP requirements, where appropriate.	The SMP contains restrictions for signs that are additional to the City Sign Code (VMC 20.960). The SMP places limitations on signs for commercial purposes and illuminated signs, as well as prohibits overwater and rooftop signs. The City Sign Code allows for establishment of a Special Sign District that allows sign regulations to be tailored to a specific area.	Add provision 6 to section 6.3.12 Signs that allows a City-approved master plan or sign program to supersede the SMP sign provisions.	-
8	Table 6-1, 6.3.7	Change non-water oriented institutional uses in high and medium intensity designations to a permitted use to reduce undue process while maintaining provisions that encourage water-oriented uses, where feasible.	Non-water oriented institutional uses are currently conditional uses with a footnote directing to provisions in section 6.3.7 that provide limitations on the flexibility to allow these over water-oriented uses. The proposed change removes the additional process of a conditional use permit while maintaining these provisions to restrict this flexibility and ensure that non-water-oriented	Amend Table 6-1 to make non-water-oriented institutional uses permitted in high and medium intensity designations, and revise 6.3.7 to make consistent.	Proposed amendment would provide flexibility to allow non-water-oriented institutional uses where water-dependent, water-related, or water-enjoyment uses are not feasible, but maintains the priority for water-oriented uses consistent with

Item #	SMP section	Summary of Change	Review	Action	SMP Guidelines Consistency
			institutional uses are only allowed where appropriate or water-related uses are not feasible.		WAC 173-26-211(5)(d)(ii)(A).
9	Table 6-1	Make height limitation 35' for non-water-oriented commercial uses in medium and high intensity designations to be consistent with the allowance for other uses.	Table 6-1 currently specifies a maximum height of 25' for non-water-oriented commercial uses which is inconsistent with the allowance for other uses.	Amend Table 6-1 to allow the height limitation of non-water-oriented commercial uses in medium and high intensity designations to be 35'.	Proposed amendment is consistent with RCW 90.58.320.
10	6.4.2.3	Defer to the review and approval under federal requirements for disposal of dredging material and encourage environmentally sound beneficial uses, when feasible.	SMP includes a provision that gives preference to land disposal for dredging material over in water disposal. Use of either method requires review and approval by multiple federal agencies and must adhere to federal requirements and requirements within the SMP.	Remove provision 6.4.2.3(5)(a) giving preference to land disposal and add language to 6.4.2.3(1) encouraging environmentally sound beneficial uses, when feasible, consistent with WAC 173-26-231.	Proposed amendment is consistent with WAC 173-26-231(3)(f).
11	2.3.3, 7.4.2, 7.4.9	Only require mailings for exemptions that require a federal permit.	SMP requires the city to mail all statements of exemption while state law requires that statements of exemption are mailed to Ecology only if the project involved a federal permit.	Amend section 7.4.9 so statement of exemption is consistent with what is required by state law.	Proposed amendment consistent with WAC 173-27-050.
12	Ch. 2, Ch. 3, Ch. 5, Ch. 5A, Ch. 6, Ch. 7	Make amendments to address non-substantive items that will improve readability and usability for both applicants and planning officials.	Existing SMP contains section references that may be outdated, errors, duplications, unclear or inaccurate language and/or process, and formatting issues.	Revise with accurate section references, address unclear or inaccurate language and/or process, eliminate duplications, and fix formatting and errors where applicable.	-

Item #	SMP section	Summary of Change	Review	Action	SMP Guidelines Consistency
13	4.3.4, 6.3.4,	Include allowances for non-water-oriented commercial uses per WAC 173-26-241 to provide flexibility where appropriate or where water-oriented uses are not feasible.	The existing SMP currently provides flexibility to allow non-water-oriented commercial uses if the development as part of a mixed-use project, but does not currently incorporate provisions in WAC 173-26-241 providing flexibility if navigability is severely limited at the proposed site or if the site is physically separated from the shoreline.	Revise 4.3.4.4(6) and 6.3.4(4) to include expanded allowances consistent with WAC 173-26-241.	Proposed amendment consistent with WAC 173-26-241(3)(d).

TO: Planning Commission **HEARING DATE:** 2/9/2021

FROM: Cayla Cothron, Associate Planner; and Keith Jones, Senior Planner, Community and Economic Development Department

SUBJECT: Periodic review and update to the Vancouver Shoreline Master Program, as required by the Washington State Shoreline Management Act under RCW 90.58.080(4).

Report Date: 1/26/2021

Proposal: Proposed amendments to Vancouver's Shoreline Master Program, including text and map changes, for the periodic review and update.

Location: City of Vancouver

City Staff: Cayla Cothron, Associate Planner, cayla.cothron@cityofvancouver.us, (360) 487-7899

Recommendation: Forward to City Council a recommendation to approve proposed amendments to the Shoreline Master Program.

I. PRIOR COMMISSION REVIEW:

Since the periodic review of the Vancouver Shoreline Master Program (SMP) was initiated in late 2019, Planning Commission has reviewed progress through an April 1, 2020 memo in lieu of a workshop, and at workshops on July 14, 2020 and December 8, 2020. This project has also been reviewed by City Council through a January 30, 2020 memo in lieu of a workshop, and at workshops on August 30, 2020 and January 4, 2021.

Upcoming City Council review of the proposed amendments to the SMP includes a first reading on March 22 and public hearing on April 5.

II. BACKGROUND AND REVIEW PROCESS:

Vancouver is conducting a periodic review of its Shoreline Master Program (SMP) as mandated by the Washington State Shoreline Management Act (SMA), RCW 90.58.080(4), and in coordination with the Washington State Department of Ecology. The Act requires each local SMP to be reviewed and revised, if needed, every eight years to ensure consistency with changes to state laws and rules and other city plans and regulations, and responsiveness to changed circumstances, new information, and improved data.

The Shoreline Management Act (SMA) of 1971 provides a statewide framework for managing, accessing, and protecting shorelines with an overarching goal "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

Under the Act, cities and counties are required to prepare and adopt a Shoreline Master Program (SMP) which is used to jointly administer the SMA with the State Department of Ecology (Ecology). The SMP consists of a long-range plan that defines goals and policies for shoreline development consistent with the Comprehensive Plan, a set of regulations that applies to any change in land use or permitted activity that occurs within shoreline jurisdiction, and a framework for permit review and approval and enforcing regulations.

In alignment with Ecology guidance on the periodic review process, project staff reviewed the existing SMP and identified proposed amendments, which were presented at a July 14 Planning Commission workshop, August 3 City Council workshop, and September 16 public open house held virtually due to COVID-19 limitations (materials for these can be viewed on the [project website](#)). Feedback from the Commission consisted of clarifying questions about implementation, and details and potential implications of the proposed amendments. Council feedback focused on high intensity designations, implications of specific proposed amendments, and the format of the public open house.

Community input received at the September 16 public open house included concerns about enforcement of violations in shoreline jurisdiction, specifically related to impacts of unauthorized camping along Burnt Bridge Creek to shorelines and water quality. The project team reviewed these issues in coordination with Ecology and determined that they are not within the purview of the periodic review planning process. While enforcement provisions exist in the SMP, jurisdictions are constrained in their ability to address these activities in the same way as other code enforcement issues per court rulings and city policy surrounding homelessness and the COVID-19 pandemic. Related to water quality concerns, the City addresses water quality protection and improvement across a variety of programs, both citywide and specific to Burnt Bridge Creek. More information about these city efforts can be viewed [here](#).

Project staff drafted language for the proposed amendments to the SMP which was reviewed by the Planning Commission and City Council at workshops on December and January 4, respectively. The draft amended SMP includes proposed text changes in strikethrough/underline format, associated proposed map changes, and the updated Summary of Proposed Amendments in the format of the Periodic Review Checklist provided by Ecology. These deliverables can be found in attachments to this staff report and on the [project website](#).

Commission deliberation at the December 8 workshop primarily consisted of questions about the SMA's role in addressing unauthorized camping along shorelines, inclusion of the full extent of the 100-year floodplain in shoreline jurisdiction as part of the 2012 comprehensive update and the circumstances surrounding the proposed changes to shoreline jurisdiction, technical details of several proposed amendments, and clarifications on how SMP regulations are implemented and their relationship to other development codes, such as floodplain or critical areas regulations. More information about Commissioner questions and responses by project staff, as well as an audio recording of the full December 8 Planning Commission workshops discussion can be found in the January 4 City Council workshop memorandum [here](#). Council feedback at the January 4 workshop focused on the applicability of the City's SMP to shorelines in the Urban Growth Area (UGA), and

clarification on whether or not the SMP addresses the impacts of unauthorized camping along shorelines.

III. SUMMARY OF ISSUE:

The periodic review proposal includes [text changes](#) in strikethrough/underline format and associated [map changes](#) to ensure the SMP stays current with changes in laws and rules, remains consistent with other city plans and development regulations, and is responsive to changed circumstances, new information, and improved data. The proposed amendments are summarized below, and the full detailed list can be found in the Summary of Proposed Amendments provided as an attachment to this staff report:

State Legislative Amendments

- Revise cost thresholds for shoreline permit exemptions.
- Add new shoreline permit exemption to comply with the Americans with Disabilities Act and state law.
- Clarify process, definitions, and/or references to comply with state law.
- Update wetlands regulations to align with Ecology's most recent critical areas guidance.

Additional Amendments

- Fix errors and address issues of clarity, consistency, redundant or inaccurate language and/or process and relevancy of regulations.
- Expand sections of the SMP related to mitigation for adverse impacts to shallow-water habitat to include creation, enhancement, and/or payment of mitigation bank credits.
- Replace existing terms of "extreme edge or bank" with specific and defined terms to clarify under what circumstances revetments can be located partially below the Ordinary High Water Mark (OHWM), that they are not considered fill, and when and how adverse impacts to shallow-water habitat require mitigation.
- Remove provisions from the frequently flooded areas section not required to be included in the SMP, and include a soft reference to the Title 20 critical areas regulations.
- Update SMP Chapter 5A to be consistent with VMC Title 20 Critical Areas Protection code updates since 2012, and amend for applicability and permitting in shoreline jurisdiction.
- For all other shorelines within city limits not included in the area along the Columbia River from Wintler Park to the Vancouver Flushing Channel, maintain the full extent of the 100-year floodplain in shoreline jurisdiction for conservancy designations, and apply minimum jurisdiction (200 feet from ordinary high water mark) in High Intensity and Medium Intensity designations to allow for reasonable use of land and development where intended. Update Shoreline Designation Maps to reflect this proposed change to shoreline jurisdiction.
- Change structural shoreline stabilizations to a permitted use in High Intensity designations (currently a conditional use) to eliminate undue process on properties that already have developed shorelines.

- Allow a signage master plan or sign program to be developed through a Special Sign District Process in order to supersede SMP requirements, where appropriate.
- Clarify the relationship between critical areas regulations and their applicability in shoreline jurisdiction for ease of use by both applicants and planning officials.
- Only require mailings for shoreline statement of exemptions that require a federal permit.
- Make height limitation 35' for non-water-oriented commercial uses in Medium and High Intensity designations to be consistent with the allowance for other uses.
- Change non-water oriented institutional uses in High and Medium Intensity designations to a permitted use to reduce undue process while maintaining provisions that encourage water-oriented uses, where feasible.
- Include allowances for non-water-oriented commercial uses per state law to provide flexibility where appropriate or where water-oriented uses are not feasible.
- Defer to the review and approval under federal requirements for disposal of dredging material and encourage environmentally sound beneficial uses, when feasible.
- Make amendments to address non-substantive items that will improve readability and usability for both applicants and planning officials.

IV. REVIEW CRITERIA AND FINDINGS:

Consistency with Washington State Law and Rules

The regulatory framework that guides local SMP policies includes the Revised Code of Washington (RCW) Chapter 90.58 and Washington Administrative Code (WAC) Chapter 173-26. The state legislative amendments being proposed ensure consistency with state law and rules governing the SMP and can be viewed in the [Periodic Review Checklist guidance](#) as provided by the Washington State Department of Ecology. Review of the proposed additional amendments for consistency with the RCW and WAC, where applicable, was also conducted, and can be found in the 'SMP Guidelines Consistency' column in Table 2 of the Summary of Proposed Amendments provided as an attachment to this staff report.

Applicable Zoning Code Standards

Section 20.285.070 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 the applicable provisions of the Vancouver Strategic Plan and Comprehensive Plan; and
 2. The proposed change is necessary to further the public interest based on present needs and conditions.

Applicable Comprehensive Plan Policies

EN-5 Environmental Coordination: Coordinate environmental policies and programs. Continue to consolidate environmental regulations.

EN-6 Habitat: Protect riparian areas, wetlands, and other fish and wildlife habitat. Link fish and wildlife habitat areas to form contiguous networks. Support sustainable fish and wildlife populations.

Applicable Strategic Plan Policies

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

Staff Findings: The proposed amendments to Vancouver's Shoreline Master Program were developed in coordination with the Washington State Department of Ecology. A SEPA checklist has been prepared and a Determination of Non-Significance was issued, finding there would be no significant adverse environmental impacts from the proposed amendments. One comment of support from the City of Vancouver Fire Department was received on the SEPA determination. The proposed amendments resulting from the periodic review process adhere to the SMP guidelines found in relevant sections of the RCW and WAC, and ensure consistency with other city plans and development regulations, and is responsive to changed circumstances, new information, and improved data.

The proposed amendments to the SMP are also consistent with the Vancouver Strategic Plan, Vancouver Comprehensive Plan and other applicable laws, and the public interest. The proposed amendments further Comprehensive Plan policy EN-5 by providing consistency and clarity between environmental regulations within the SMP and in the Title 20 Critical Areas Protection code. Proposed amendments to wetlands regulations furthers Comprehensive Plan policy EN-6 by updating outdated regulations to align with Ecology's most recent critical areas guidance and ensure adequate protection of these critical areas. The proposed amendments resulting from the periodic review furthers Goal 1 of the strategic plan by ensuring the SMP stays current and adaptable to ensure environmental protection in shoreline development.

V. RECOMMENDED ACTION:

Based on the analysis and findings in this report, and subject to public testimony, staff recommends that the Planning Commission forward a recommendation to the Vancouver City Council to approve the periodic review and proposed amendments to the Vancouver Shoreline Master Program described herein.

Cayla Cothron, Associate Planner, cayla.cothron@cityofvancouver.us or (360) 487-7899

Attachments:

- A. [Summary of Proposed Amendments \(December 2020\)](#)
- B. [Draft Amended SMP – Proposed Text Changes](#)
- C. [Draft Amended SMP – Proposed Map Changes](#)
- D. [Technical Review and Analysis of Proposed Change to Shoreline Jurisdiction](#)

TO: Cayla Cothron, Associate Planner, City of Vancouver
CC: Jackie Chandler, Shoreline Administrator, WA Department of Ecology
FROM: Kim Van Zwalenburg, Senior Shoreline Planner, WA Department of Ecology
Date: March 5, 2021
Subject: **SMP Periodic Review** - Initial Determination of Consistency
Sent via email to: Cayla.cothron@cityofvancouver.us

Use of this Document

Ecology's *Determination of Initial Concurrence* provides Ecology's review of the proposed amendment to the City of Vancouver (City) Shoreline Master Program (SMP). This document is divided into two sections: **Findings of Fact**, which provides findings related to the City's proposed amendment, amendment history, and the review process and **Initial Determination** of the proposed amendment with next steps.

Attachment 1 itemizes issues that can be addressed prior to Ecology's final approval of the proposed amendment.

Brief Description of Proposed Amendment

The City of Vancouver (City) is undergoing a statutorily required periodic review of their Shoreline Master Program (SMP) and has submitted their draft SMP amendment to Ecology for an initial determination as required by the joint review process and consistent with WAC 173-26-104(3). The SMP regulates shoreline uses and activities along shorelines within city limits including portions of the Columbia River, Vancouver Lake, Burnt Bridge Creek, Lacamas Creek Salmon Creek, Mill Creek, Curtin Creek and Lake River.

FINDINGS OF FACT

Need for amendment

Vancouver comprehensively updated their master program in September 2012 and amended their SMP twice, in 2017 and 2018. The proposed amendment is needed to comply with the statutory deadline for a periodic review of the SMP pursuant to RCW 90.58.080(4). The City has also proposed revisions to address changed local circumstances, new information and improved data.

SMP provisions to be changed by the amendment as proposed

The City prepared a checklist and an analysis documenting the proposed amendment. The amendment will bring the SMP into compliance with requirements of the Shoreline Management Act, or state rules that have been added or changed since the last SMP amendment, ensure the SMP remains consistent with amended comprehensive plans and regulations, and incorporate revisions deemed necessary to reflect changed circumstances, new information, or improved data.

Vancouver's SMP is a standalone document containing goals, policies and regulations, and the Official Shoreline Map (which sets forth Shoreline Designations). The goals and policies set forth in chapters 3 and 4 are considered an element of the City's comprehensive plan. All other portions of the SMP are

part of the City's development regulations. Critical area regulations are embedded in the SMP in Chapter 5A.

Vancouver Municipal Code (VMC) Chapter 20.760 Shoreline Management Area establishes the boundaries of the Shoreline Management Area and references and implements the Shoreline Master Program (Ord. M-3231, as amended).

In addition to overarching organizational changes, general edits to correct and update syntax, and formatting and citation corrections, the following sections of the SMP are proposed to be amended:

1. Chapter 2. Applicability, Shoreline Permits and Exemptions

- a. 2.1 Applicability is revised, reducing the extent of shoreline jurisdiction from the entire 100-year floodplain to the minimum allowed by the Shoreline Management Act. These revisions affect shorelines along portions of Burnt Bridge Creek, areas south and southeast of Vancouver Lake on the outer edge of the floodplain, and segments along the Columbia River from the eastern city limits downstream to Wintler Park, and portions of Port Parcel 3. Shoreline jurisdiction for all other shoreline areas in the City remain the full extent of the 100-year floodplain. Related changes are made to the Shoreline Map in Appendix A.
- b. Language is relocated from 2.1.1 clarifying the applicability of the SMP to Tribes and Tribal activities.
- c. 2.1.1 is revised consistent with WAC 173-27-044 and 173-27-045 to address those developments not subject to shoreline permits or local review.
- d. 2.3.2 List of Exemptions is updated to include new monetary thresholds for substantial development and docks; two provisions (nos. 17 and 19) now listed in 2.1.1 are deleted; an exemption addressing ADA retrofits is added; and two provisions which are not exemptions (nos. 15 and 16) are removed.
- e. 2.3.3 Statements of Exemption is revised to clarify when an exemption letter is sent.

2. Chapter 4. Shoreline Designations

- a. 4.3.4 Medium Intensity Shoreline Designation. Management policies in 4.3.4.4 are revised. Preference for water-oriented uses is retained while the policy related to allowances for non-water-oriented commercial uses is expanded consistent with WAC 173-26-241(3)(d). Related changes are in 6.2 Shoreline Use, Modification and Standards, Table 6-1 Commercial Uses, and in 6.3.4 Commercial Development.

3. Chapter 5. General Shoreline Use and Development Regulations

- a. 5.1 Provisions in this section are reorganized into two subsections. Additional revisions clarify relief procedures allowed in urban growth areas due to shoreline restoration projects, and expand mitigation options for developments on the Columbia River requiring work within the Aquatic Shoreline Designation.
- b. 5.3 Critical Areas Protection. This section is reorganized, removing the one subsection (5.3.1 General Provisions) and deleting the existing regulations. These are replaced with language clarifying how critical areas regulations, contained in Chapter 5A of the SMP, are implemented in shoreline jurisdiction.
- c. 5.6 Site Planning and Development. Regulation 5.6.1(1) duplicates the first regulation in 5.6.2 and is deleted. Regulation 5.6.2(12) is revised to expand mitigation options for fill in the Columbia River consistent with the revision in 5.1.2(6).

- d. New subsection 5.10 Septic Systems is added, and existing regulation 5.9(8) is relocated into this subsection.

4. Chapter 5A Critical Areas Regulations

All of existing Chapter 5A is struck and replaced with language from the City's updated Critical Areas Protection Ordinance (Chapter 20.740), ensuring it is current with the code updates which have occurred since 2012.

New SMP Chapter 5A is retitled, and the language throughout is modified for application in shoreline jurisdiction and for consistency with the SMA and implementing rules¹. Changes include referencing the Shoreline Administrator, removing critical area permit requirements, aligning exemptions with SMP requirements, use of shoreline variance permits in place of reasonable use provisions and minor exceptions, ensuring critical area reviews are integrated into shoreline permit decisions or review, updating mitigation sequencing language, revising wetland habitat score ranges and related revisions to the wetland buffer tables consistent with Ecology guidance, ensuring trails are located in the outer 25 % of the wetland buffer and updating the language on stormwater management facilities in wetland buffers.

The most significant revision removes the City's Frequently Flooded Areas code (VMC Chapter 20.740.210) from Chapter 5A. The SMP makes clear these flood regulations apply throughout shoreline jurisdiction but are not directly incorporated into the master program. This helps reduce potential conflicts in administration of the flood code as required by the NFIP and FEMA. In addition, this change avoids the need for SMP amendments to incorporate future flood code updates being dictated by FEMA and/or Ecology. The SMP remains consistent with the flood hazard reduction² provisions of the SMP Guidelines.

5. Chapter 6 Specific Shoreline Use Regulations

- a. 6.2 Shoreline Use, Modification and Standards Table. Table 6-1
 - i. Docks – Footnote 1 is revised to clarify that commercial and industrial docks are permitted while private residential docks may only be community or joint-use.
 - ii. Commercial Uses is revised, adding reference to footnote 2 and increasing the height allowance from 25' to 35' for non-water oriented commercial uses.
 - iii. Allowance for non-water oriented institutional uses is revised from a conditional use to a permitted use in the Medium and High Intensity designations, and the restriction to mixed use developments is removed in footnote 4.
 - iv. Signs - A new footnote 16 is added to clarify sign requirements. A related change is made in 6.3.12.
 - v. Allowance for structural shoreline stabilization in the High Intensity designation is revised from a conditional use to permitted.
- b. 6.3.3 Boating Uses – Mitigation options for adverse impacts of boating facilities to shallow water habitat are expanded. (6.3.3.1(5))

¹ RCW 90.58, WAC 173-26-221, WAC 173-22 and WAC 173-27

² WAC 173-26-221(3). See SMP 3.6 Flood Prevention and Flood Damage Minimization and 6.4.3 Flood Control Works and In-Stream Structures. Additional regulations are found in use-specific sections of the SMP including 6.3.10 Recreational Development (see 6.3.10(5)) and 6.3.11 Residential Development (see 6.3.11(6) and (8)).

- c. 6.3.4 Commercial Uses is revised. Preference for water-oriented uses is retained while the allowances for non-water-oriented commercial uses is expanded consistent with WAC 173-26-241(3)(d). Related changes are in 4.3.4 Medium Intensity Designation Management Policies and 6.2 Shoreline Use, Modification and Standards, Table 6-1 Commercial Uses.
- d. 6.3.5 Forest Practices is revised adding regulation 5 which clarifies timber harvest is not a development.
- e. 6.3.12 Signs is revised to allow for sign requirements as part of a Special Sign District to prevail over the SMP sign provisions.
- f. 6.4.2.2 Dredging is revised to expand mitigation options for adverse impacts to shallow water habitat.
- g. 6.4.2.3 Dredge Material Disposal is revised to encourage environmentally sound beneficial uses of dredge material and removes the preference for land disposal.
- h. 6.4.9 Revetments – language is added to clarify that revetment elements below the OHWM are not considered fill, and to expand mitigation options for adverse impacts to shallow water habitat.

6. Chapter 7 Administration and Enforcement

Revisions throughout the chapter improve clarity on the City's decision making process.

7. Chapter 8 Definitions

- a. Definitions are revised for the following terms: date of filing, development, and substantial development.
- b. Definition for the following term is added: non-conforming lot.

8. Appendix A - Shoreline Designation Map

Maps are revised to reflect the proposal to change the extent of shoreline jurisdiction along Medium Intensity and High Intensity designations, as set forth in SMP Section 2.1.1. The City proposes reducing shoreline jurisdiction from the full extent of the 100-year floodplain to the minimum allowed by the SMA. These changes affect Columbia River shorelines from Wintler Park upstream to the city limits, Port of Vancouver Parcel 3 to the Flushing Channel, areas south and southeast of Vancouver Lake on the outer edges of the floodplain, and portions of Burnt Bridge Creek.

Amendment History, Review Process

The City prepared a public participation program in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines. An important element of the public participation plan is the City's SMP Periodic Review project [website](#)³. City staff developed draft documents. Due to the COVID-19 pandemic, the City held public meetings in a virtual format using GoToMeeting. The July 14, 2020 Planning Commission workshop, August 3, 2020 City Council workshop and September 16, 2020 public open house were all held remotely.

The City used Ecology's Periodic Review checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines, that have occurred since the master

³ <https://www.cityofvancouver.us/ced/page/shoreline-master-program-periodic-review>

program was last amended, and determine if local amendments were needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i). The City also reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii). The City considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii). The City consulted with Ecology and solicited comments throughout the review process including opportunities to comment on draft materials in September, October and November 2020.

The City provided notice to local parties, including a statement that the hearing was intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii). The City's record indicates notice of the hearing was published in *The Columbian* on January 8, 2021. Ecology distributed notice of the joint comment period to state interested parties on January 5, 2021, including separate notice to the Yakama Tribe, Cowlitz Indian Tribe and the Confederated Tribes of Grand Ronde.

The City and Ecology held a joint local/state comment period on the proposed amendments following procedures outlined in WAC 173-26-104. The comment period began on January 8, 2021 and continued through February 8, 2021. A public hearing before the Planning Commission was held virtually via GoToMeeting on February 9, 2021.

The City accepted public comments on the proposed SMP amendments during the 30-day public comment period. Written comments were submitted by four individuals or organizations on the proposed amendments.

The City prepared a Comment Responsiveness Summary and considered all comments. Comments focused on concerns that protections for archaeological resources could be impaired by the proposed reduction in shoreline jurisdiction along the Columbia River; concern about long term maintenance of existing pilings which support nests for osprey and geese; and concerns about how the draft amendments may impact a proposal currently under review. The City reviewed and considered all comments and is proposing no additional revisions.

The proposed SMP amendments were received by Ecology on February 19, 2021 for initial state review. The submittal was supplemented on February 22, 2021 and verified as complete on February 25, 2021. This began Ecology's review and initial determination.

Ecology consideration of comments received

Ecology has reviewed all the comments received during the joint review process along with the City's responses. Ecology finds the City's responses are consistent with the statutory obligations for conducting periodic reviews. Ecology finds the City considered whether to incorporate any amendments to reflect changed circumstances, new information, or improved data, as provided or raised during the comment period. The City determined, and Ecology concurs, that no additional amendments are warranted at this time based upon the significance of this information and the existing SMP provisions⁴.

Other Studies or Analyses supporting the SMP amendments

Ecology also reviewed supporting documents prepared by or for the City in support of the SMP amendments. These documents include the public participation plan, the periodic review checklist,

⁴ WAC 173-26-090(3)(b)(iii)

supporting documents for the locally initiated amendments including a memo providing a technical review and analysis regarding shoreline jurisdictional changes, and the Staff Report on the SMP Periodic Review amendment.

Consistency with Chapter 90.58 RCW

The proposed amendments have been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

Consistency with applicable guidelines (Chapter 173-26 WAC, Part III)

The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Periodic Review Checklist, which was completed by the City.

Consistency with SEPA Requirements

The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) January 8, 2021 for the proposed SMP amendments. The record indicates notice of the DNS was published in *The Columbian* on January 8, 2021.

Ecology recommended changes

Ecology has identified four recommended changes to the SMP amendment for consideration by the City. These can be found within Attachment 1, items Rec-1 through Rec-4.

Findings. *Ecology finds that Attachment 1, items Rec-1 through Rec-4 recommended changes, if implemented would be consistent with the policy and standards of RCW 90.58 and the applicable guidelines.*

INITIAL DETERMINATION

The following constitutes Ecology's written statement of initial concurrence, consistent with WAC 173-26-104(3)(b)(ii):

After review by Ecology of the complete record submitted and all comments received, Ecology has determined that the City's proposed amendment is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions).

Next Steps

Consider the recommended changes identified by Ecology. We anticipate being able to approve your SMP Periodic Review amendment after formal submittal is provided consistent with WAC 173-26-110.

ITEM	SMP PROVISION	BILL FORMAT CHANGES [<u>underline</u> -additions; strike through -deletions]	ECOLOGY - DISCUSSION/RATIONALE
Rec-1	5.1.1 Shoreline Use	7. On navigable waters or their beds, all uses and developments should be located and designed to: 8. a. <u>a.</u> Minimize interference with surface navigation; 9. b. <u>b.</u> Consider impacts to public views; and 10. c. <u>c.</u> Allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration. 11. <u>d.</u>	Recommended correction to formatting error.
Rec-2	5.3.1 General Provisions	5.3.1 General Provisions	This title is no longer necessary as all regulations under this subsection are being deleted.
Rec-3	6.2 Shoreline Use, Modification, and Standards Table 6-1	15 <u>16</u> Sign requirements adopted with either a formally-approved master plan or through a Special Sign District under VMC 20.960.110 shall prevail over this section.	Typographical correction to the number of the footnote
Rec-4	7.4.2 Statement of Exemption	3. Applications for Statements of Exemption <u>under Section 2.3.3</u> are to be processed using the Type I review procedures as set forth in VMC 20.210.040. The Shoreline Administrator shall forward documentation of decisions on Statements of Exemption <u>to Ecology and to the applicant</u> as required by Section 7.92-33 <u>2.3.3</u> and WAC 173-27- 050130 or its successor.	Revisions are for recommended for improved clarity.

04/05/21
04/19/21

ORDINANCE NO. _____

AN ORDINANCE relating to the Shoreline Master Program periodic review as required by Revised Code of Washington (“RCW”) Chapter 90.58, the Shoreline Management Act; amending the City of Vancouver Shoreline Master Program (SMP) Chapter 2 Applicability, Shoreline Permits and Exemptions, Section 2.1 Applicability; Section 2.3 Exemptions from a Shoreline Substantial Development Permit; Chapter 3, Shoreline Master Program Goals and Policies, Section 3.6 Flood Prevention and Flood Damage Minimization; Chapter 4 Shoreline Designations, Section 4.3 Shoreline Designations; Chapter 5 General Shoreline Use and Development Regulations, Section 5.1 General Shoreline Use and Development Regulations; Section 5.3 Critical Areas Protection; Section 5.4 Public Access; Section 5.6 Site Planning and Development; Section 5.7 Vegetation Conservation; Section 5.9 Water Quality and Quantity; Chapter 5A VMC 20.740, Critical Areas Protection; Chapter 6 Specific Shoreline Use Regulations, Section 6.2 Shoreline Use, Modification, and Standards Table 6-1; Section 6.3 Use-specific Development Regulations; Section 6.4 Shoreline Modification Regulations; Chapter 7 Administration and Enforcement, Section 7.1 General Provisions; Section 7.2 Administrative Authority and Responsibility; Section 7.3 Master Program Amendments; Section 7.4 Permitting Procedures; Section 7.5 Enforcement; Section 7.8 Rescission of Permits; Chapter 8, Definitions; and Appendix A Unofficial Shoreline Designation maps; subject to approval by the Washington State Department of Ecology (Ecology); providing for severability; and providing for an effective date.

ORDINANCE - 1

WHEREAS, the Shoreline Management Act (SMA) requires City of Vancouver to develop and administer a Shoreline Master Program (SMP); and

WHEREAS, the City of Vancouver adopted a comprehensive SMP update as required by RCW 90.58.080(2), which was effective as of September 24, 2012; and WHEREAS, RCW 90.58.080(4) requires City of Vancouver to periodically review and, if necessary, revise the master program on or before June 30, 2021; and WHEREAS, the review process is intended to bring the SMP into compliance with requirements of the act or state rules that have been added or changed since the last SMP amendment, ensure the SMP remains consistent with amended comprehensive plans and regulations, and incorporate amendments deemed necessary to reflect changed circumstances, new information, or improved data; and

WHEREAS, the City of Vancouver developed a public participation program for this periodic review in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines; and

WHEREAS, the City of Vancouver has followed its adopted public participation program, including a project website, public review and comment period, and public open house held virtually due to COVID-19 limitations; and

WHEREAS, city staff submitted memorandums in lieu of work sessions to the City of Vancouver City Council and Planning Commission on January 30, 2020 and April 1, 2020, respectively; and

WHEREAS, the City of Vancouver used Ecology's checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines that have

occurred since the master program was last amended, and determine if local amendments are needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i); and

WHEREAS, the City of Vancouver reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii); and

WHEREAS, the City of Vancouver considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii); and

WHEREAS, the City of Vancouver Planning Commission and City Council reviewed staff recommendations and prepared initial amendments at work sessions on July 14, 2020 and August 3, 2020, respectively; and

WHEREAS, the City of Vancouver consulted with the Department of Ecology early and often during the drafting of the amendments. The City worked collaboratively with the Department of Ecology to address local interests while ensuring proposed amendments are consistent with the policy of RCW 90.58.020 and applicable guidelines in accordance with WAC 173-26-104; and

WHEREAS, the City of Vancouver Planning Commission and City Council held work sessions on the proposed amendments on December 8, 2020 and January 4, 2021, respectively; and

WHEREAS, the City of Vancouver conducted a duly-noticed formal public comment period from January 8 through February 8, 2021 in compliance with requirements of WAC 173-26-104; and

ORDINANCE - 3

WHEREAS, the City of Vancouver published a legal notice in the Columbian on January 8, 2021 for a public hearing on the proposed Planning Commission recommendation(s), including a statement that the hearings were intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii); and

WHEREAS, a State Environmental Policy Act (SEPA) environmental checklist was prepared based upon Planning Commission Public Hearing Draft, and the City of Vancouver SEPA responsible official issued and circulated a copy of the checklist and a Determination of Non- Significance (DNS) on January 8, 2021; and

WHEREAS, the City provided Notice of Intent to Adopt to the Washington State Department of Commerce in accordance with WAC 173-26-100(5); and

WHEREAS, the Planning Commission and Ecology took public testimony on the proposed amendments to the SMP at a duly-noticed public hearing, consistent with WAC 173-26-090(3)(c)(iii), on February 9, 2021; and

WHEREAS, the Planning Commission reviewed the public testimony and written comments on the proposed SMP revisions; and

WHEREAS, the Planning Commission recommended approval of the proposed amendments and forwarded it to the City Council for review and adoption; and

WHEREAS, the City of Vancouver submitted to Ecology on February 19 and February 25, 2021 the Planning Commission's recommended amendments to the SMP for review and an Initial Determination of Consistency in accordance with WAC 173-26-104(3)(a); and

WHEREAS, Ecology sent an Initial Determination of Consistency on March 5, 2021 which included four recommended changes to the proposed SMP amendments; and

ORDINANCE - 4

WHEREAS, Ecology's recommended changes were incorporated into the proposed amendments for City Council consideration; and

WHEREAS, on April 19, 2021 the City Council held a duly-advertised public hearing, consistent with WAC 173-26-090(3)(c)(iii), at which testimony was received and considered; and

WHEREAS, after considering all public comments and evidence, the City Council determined that the proposed amendments comply with all applicable laws and rules; and

WHEREAS, this completes the City's required process for periodic review in accordance with RCW 90.58.080(4) and applicable state guidelines (WAC 173-26); and

WHEREAS, the City council adopts this Ordinance as set forth below.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Findings. The recitals set forth above are adopted as the legislative findings of the City Council of the City of Vancouver in support of adoption of this ordinance to amend the Vancouver Shoreline Master Program.

Section 2. The City of Vancouver Shoreline Master Program, Chapter 2 Applicability, Shoreline Permits and Exemptions, Section 2.1 Applicability; Section 2.1.1 Developments Not Subject to the Shoreline Management Act; Section 2.3.1 General Requirements; Section 2.3.2 List of Exemptions; Section 2.3.3 Statements of Exemption, adopted by Ordinance M-3995 and as amended, are hereby amended to read as follows:

2.1 Applicability

1. This Program shall apply to all of the shorelands and waters within the City limits that fall under the jurisdiction of RCW 90.58 as follows:

- a. ~~On the Columbia River from the eastern boundary of Wintler Park downstream to the eastern boundary of Parcel #153105000 (also referred to as “Port Parcel 3”)~~
Shorelands shall include those lands extending two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM); floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to the provisions of this Program, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58 only:-

- i. On all lands along the Columbia River from the eastern boundary of Wintler Park downstream to the Vancouver Lake Flushing Channel, and;
- ii. On shorelines designated Medium or High Intensity.

~~On all other shorelines regulated by this Program, shoreline jurisdiction includes those areas described in 2.1.1(a) and the full extent of the 100-year floodplain. shorelands shall include those lands extending two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM); floodways; the full extent of the floodplain; and all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to the provisions of this Program, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58.~~

- b. In addition to lands identified in Section 2.1(1)(a) and (b), shorelands shall include land necessary for buffers for critical areas that occur within shorelines of the state.
- c. In accordance with RCW 35.21.160, where the City is bounded by a river, lake, or other navigable water, the City’s shoreline jurisdiction extends to the middle of that river, lake, or navigable water.
- d. The City is pre-designating shorelines within its adopted Urban Growth Area (UGA). Until annexation, development in these areas will continue to be regulated by the Clark County Shoreline Master Program (SMP). The City’s SMP will apply upon annexation and no additional procedures will be required by Ecology at the time of annexation (WAC 173-26-150) unless a re-designation is occurring per Section 4.4.5 and Table 4-1.
- e. An unofficial copy (see Section 4.4.2) of the Shoreline Map for the City and its UGA is shown in Appendix A.
- f. Shorelines of Statewide Significance:
 - i. Columbia River
 - ii. Vancouver Lake

g. Shorelines of the State:

- i. Burnt Bridge Creek
- ii. Fifth Plain Creek
- iii. Lacamas Creek
- iv. Salmon Creek
- v. Mill Creek
- vi. Curtin (Glenwood) Creek
- vii. Lake River
- viii. Unnamed Lake 02

- 2. Maps indicating the extent of shoreline jurisdiction and shoreline designations are guidance only. They are to be used in conjunction with best available science, field investigations and on-site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed. All areas meeting the definition of a shoreline of the state or a shoreline of statewide significance, whether mapped or not are subject to the provisions of this Program.
- 3. This Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity that develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act; and within the external boundaries of federally owned lands (including but not limited to, private in-holdings in national wildlife refuges).
- 4. Non-federal agency actions undertaken on federal lands must comply with this Program and the Act.
- 5. Shoreline development occurring in or over navigable waters may require a shoreline permit in addition to other approvals required from state and federal agencies.
- 6. This Program shall apply whether the proposed development or activity is exempt from a shoreline permit or not.
- 7. Native American Tribes' actions on tribal lands and federal agencies' actions on federal lands are not required, but are encouraged, to comply with the provisions of this Program and the Act. Nothing in this Program shall affect any rights established by treaty to which the United States is a party.

2.1.1 Developments Not Subject to the Shoreline Management Act Required to Obtain Shoreline Permits or Local Reviews

- ~~1. Native American Tribes' actions on tribal lands and federal agencies' actions on federal lands are not required, but are encouraged, to comply with the provisions of this Program and the Act. Nothing in this Program shall affect any rights established by treaty to which the United States is a party.~~
- ~~2. Environmental excellence program agreements entered into under RCW 43.21K (RCW 90.58.045).~~

Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review conducted by a local government to implement this Program do not apply to the following:

1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issues pursuant to chapter 70.105D RCW, or to Ecology when it conducts a remedial action under chapter 70.105D RCW.
2. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.
4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

2.3.1 General Requirements

1. Except as specifically ~~exempted~~ excepted by statute (Section 2.1.1), all proposed uses and development occurring within shoreline jurisdiction must conform to the Act and this Program.
2. Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e), WAC 173-27-040, and Section 2.3.2 of this Program shall not require a substantial development permit but shall conform to the policies and regulations

of this Program and the Act and shall obtain a Statement of Exemption (Sections 2.3.3 and ~~7.2.7~~4.2).

3. A use or development that is listed as a conditional use pursuant to this Program or is an unclassified use or development must obtain a conditional use permit (Section 2.7 and ~~7.2.94.4~~) even if the development or use does not require a substantial development permit.
4. When a development or use is proposed that does not meet the bulk, dimensional, and/or performance standards of this Program, such development or use shall only be authorized by approval of a shoreline variance (Section 2.6 and ~~7.2.104.5~~) even if the development or use does not require a substantial development permit.
5. If a shoreline substantial development permit is required for any part of a proposed development, then a shoreline substantial development permit is required for the entire proposed development project.
6. Exemptions from the requirement to obtain a shoreline substantial development permit shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.
7. The burden of proof that a development or use is exempt from the requirement to obtain a shoreline substantial development permit is on the applicant for the development action.

2.3.2 List of Exemptions

The following activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit but shall obtain a statement of exemption, as provided for in Section 2.3.3.

1. Any development of which the total cost or fair market value does not exceed ~~seven~~ five thousand, seven hundred, eighteen dollars ~~forty-seven~~ (\$~~5,7187,047.00~~) or as adjusted by the State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 ~~(32)(ee)~~. The total cost or fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment or materials.
2. Normal maintenance or repair of existing legally-established structures or developments, including damage by accident, fire, or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location, and

external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location, and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

3. Construction of a normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the State Department of Fish and Wildlife.
4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit that would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or this Program, shall be obtained. All emergency construction shall be consistent with the policies and requirements of this chapter 90.58 RCW and this Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.
5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands

by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities.

6. Construction or modification of navigational aids such as channel markers and anchor buoys.
7. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence or appurtenance for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above average grade level, and which meets all requirements of the City, other than requirements imposed pursuant to chapter 90.58 RCW. Construction authorized under this exemption shall be located landward of the ordinary high water mark.
8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private non-commercial use of the owner, lessee, or contract purchaser of a single-family or multiple-family residence. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies in fresh waters when the fair market value of the dock does not exceed:
 - a. Twenty-two thousand five hundred ten thousand dollars (\$22,500 40,000.00); or as adjusted by the State Office of Financial Management for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or
 - b. Eleven thousand two hundred dollars (\$11,200) or as adjusted by the State Office of Financial Management for all other docks constructed in fresh waters.

~~but~~ However, if subsequent construction ~~having a fair market value exceeding two thousand five hundred dollars (\$2,500.00)~~ occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.
9. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands.
10. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.
11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, that were created, developed or utilized primarily as a part of an agricultural drainage or diking system.

12. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - a. The activity does not interfere with the normal public use of surface waters;
 - b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity; and
 - d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to assure that the site is restored to pre-existing conditions.
13. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control published by the Departments of Agriculture or Ecology jointly with other state agencies under RCW 43.21C.
14. Watershed restoration projects as defined in RCW 89.08.460. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.
- ~~15. A substantial development permit is not required on land within urban growth areas as defined in RCW 36.70A.030 that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark (RCW 90.58.580(3)).~~
- ~~16. Other than conversions to non-forest land use, forest practices regulated under RCW 76.09 are not subject to additional regulations under the Act or this Program (90.58.030(2)(d)(ii)).~~
- ~~17. The holder of a certification from the governor pursuant to chapter 80.50 RCW (certification from the State Energy Facility Site Evaluation Council) shall not be required to obtain a permit under this Program (90.58.140(9)).~~
15. 48. A public or private project that is designed to improve fish or wildlife habitat or fish passage when all of the following apply:
 - a. The project has been approved by WDFW;

- b. The project has received hydraulic project approval (HPA) by WDFW pursuant to RCW 77.55; and
- c. The City has determined that the project is substantially consistent with the local shoreline master program. The City shall make such determination in a timely manner and provide it by letter to the project applicant.

Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with this Program.

~~19. Hazardous substance remedial actions pursuant to a consent decree, order, or agreed order issued under RCW 70.105(D) and 90.58.355 are exempt from the requirement to obtain a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance under this Program.~~

16. The external or internal retrofitting of an existing structure for the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities (RCW 90.58.030).

2.3.3 Statements of Exemption

1. Any person claiming exemption from the substantial development permit requirements shall make an application to the Shoreline Administrator for such an exemption in the manner prescribed by the Shoreline Administrator. A written statement of exemption is required for emergency development after the emergency has been abated. The property owner, person, or agency undertaking the emergency action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to shoreline ecological functions resulting from the emergency action. Restoration and/or mitigation activities must be initiated within three months of the date of ~~the~~ the emergency or as otherwise determined by the Shoreline Administrator, and completed in a timely manner.
2. The Shoreline Administrator is authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in Section 2.3.2. The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the Shoreline Administrator's analysis of the consistency of the project with this Program and the Act. ~~The letter shall be sent to the applicant and maintained on file in the offices of the Shoreline Administrator.~~
3. Statements of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of this Program and Act.
4. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial.

5. The letter shall be sent per section 7.4.2.
6. ~~5.~~ The Shoreline Administrator's decision on a statement of exemption may be appealed in accordance with the procedures in Section 7.4.8.
7. ~~6.~~ Exempt activities shall not be conducted until a statement of exemption has been obtained from the Shoreline Administrator.

Section 3. The City of Vancouver Shoreline Master Program, Chapter 3, Shoreline Master Program Goals and Policies, Section 3.6.2 Policies, adopted by Ordinance M-3995 and as amended, is hereby amended to read as follows:

3.6.2 Policies

1. All shoreline development should be located, designed, and constructed to prevent flood damage and to the extent possible be located outside of shoreline jurisdiction.
2. ~~4.~~ Flood management works should be located, designed, constructed and maintained to protect:
 - a. The physical integrity and other properties of the shoreline and other properties that may be damaged by alterations of the geo-hydraulic system;
 - b. Water quality and natural ground water movement;
 - c. Fish, vegetation, and other life forms and their habitat vital to the aquatic food chain; and
 - d. Recreation resources and aesthetic values such as point and channel bars, islands, and other shore features and scenery.
3. ~~2.~~ Non-structural flood hazard reduction measures are preferred to structural measures. Flood hazard reduction measures should be accomplished in a manner that ensures no net loss of shoreline ecological functions and ecosystem-wide processes.
4. ~~3.~~ Flood protection measures that result in channelization and/or reduction in shoreline ecological function should be avoided.
5. ~~4.~~ Proposals for shoreline protection should clearly demonstrate that life, property, and natural resource values within the stream system will not be endangered.
6. ~~5.~~ When evaluating alternate flood control measures, consider the removal or relocation of structures in flood-prone areas.

7. ~~6.~~ New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

Section 4. The City of Vancouver Shoreline Master Program, Chapter 4 Shoreline Designations, Section 4.3.4.4 Management Policies; Section 4.3.5.4 Management Policies, adopted by Ordinance M-3995 and as amended, are hereby amended to read as follows:

4.3.4.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Encourage regulations that ensure no net loss of shoreline ecological functions as a result of new development such as limiting lot coverage, providing adequate setbacks from the shoreline, promoting vegetation conservation, reducing the need for shoreline stabilization and maintaining or improving water quality to ensure no net loss of ecological functions.
2. The scale and density of new uses and development should be compatible with sustaining shoreline ecological functions and processes, and the existing residential character of the area.
3. Public access and joint use (rather than individual) of recreational facilities should be promoted.
4. Access, utilities, and public services to serve proposed development within shorelines should be constructed outside shorelines to the extent feasible, and be the minimum necessary to adequately serve existing needs and planned future development.
5. Public or private outdoor recreation facilities should be provided with proposals for subdivision development and encouraged with all shoreline development if compatible with the character of the area. Priority should be given first to water-dependent and then to water-enjoyment recreation facilities.
6. ~~Commercial development should be limited to water-oriented uses. Non-water-oriented commercial uses should only be allowed as part of mixed use developments where the primary use is residential and where there is a substantial public benefit with respect to the goals and policies of this Program such as providing public access or restoring degraded shorelines.~~ Commercial development should be limited to water-oriented uses. Non-water-oriented commercial uses should only be allowed:

- a. As part of mixed-use developments where the primary use is residential and where there is a substantial public benefit with respect to the goals and policies of this Program such as providing public access or restoring degraded shorelines;
- b. Where navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Act's objectives such as providing public access and ecological restoration; or
- c. If the site is physically separated from the shoreline by another property or public right-of-way.

4.3.5.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Encourage regulations that ensure no net loss of shoreline ecological functions as a result of new development.
2. Promote infill and redevelopment in developed shoreline areas and encourage environmental remediation and restoration of the shoreline, where applicable with the goal of achieving full utilization of designated high-intensity shorelines.
3. Encourage the transition of uses from non-water-oriented to water-oriented uses.
4. Water-oriented uses are encouraged, however new non-water oriented uses may be allowed if that use has limited access to the shoreline or ~~and~~ when included in a master plan or part of a mixed-use development.

Section 5. The City of Vancouver Shoreline Master Program, Chapter 5 General Shoreline Use and Development Regulations, Section 5.1 General Shoreline Use and Development Regulations; Section 5.3 Critical Areas Protection; Section 5.4 Public Access; Section 5.6.1 General; Section 5.6.2 Clearing, Grading, Fill and Excavation; Section 5.7 Vegetation Conservation; Section 5.9 Water Quality and Quantity, adopted by Ordinance M-3995 and as amended, are hereby amended to read as follows:

5.1 General Shoreline Use and Development Regulations

5.1.1 Shoreline Use

1. ~~Shoreline uses and developments that are w~~Water-dependent uses shall be given priority.
2. Non-water-oriented uses shall not adversely impact or displace water-oriented shoreline uses.
3. Single family residential uses shall be allowed on all shorelands not subject to a preference for commercial or industrial water-dependent uses, and shall be located, designed and used in accordance with applicable policies and regulations of this Program. However, single family residences are prohibited in the Natural shoreline designation, and new floating homes and floating on-water residences are prohibited in the Aquatic shoreline designation.
4. Shoreline uses and developments shall not cause impacts that require remedial action or loss of shoreline ecological functions on other properties.
5. Shoreline uses and developments shall be located and designed in a manner such that shoreline stabilization is not necessary at the time of development and will not be necessary in the future for the subject property or other nearby shoreline properties unless it can be demonstrated that stabilization is the only alternative that allows a reasonable and appropriate water-dependent use to become established or expand or protects public safety and existing primary structures.
6. Land shall not be cleared, graded, filled, excavated or otherwise altered prior to issuance of the necessary permits and approvals including a statement of exemption for a proposed shoreline use or development to determine if environmental impacts have been avoided, minimized and mitigated to result in no net loss of ecological functions.
7. On navigable waters or their beds, all uses and developments should be located and designed to:
 1. Minimize interference with surface navigation;
 2. Consider impacts to public views; and
 3. Allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.
8. Hazardous materials shall be disposed of and other steps be taken to protect the ecological integrity of the shoreline area in accordance with the other policies and regulations of this Program as amended and all other applicable federal, state, and local statutes, codes, and ordinances.
9. Previous approvals of master plans for projects in shoreline jurisdiction should be accepted. New phases of projects for which no master plan has yet been approved, or for which major changes are being proposed, or new projects for which master plans are being submitted shall be subject to the policies and regulations of this Program.

5.1.2 Adverse Impacts and Mitigation

1. ~~2.~~ The applicant shall demonstrate all reasonable efforts have been taken to avoid and where unavoidable, minimize and mitigate impacts such that no net loss of critical area and shoreline ecological function is achieved. Mitigation shall occur in the following order of priority:
 - a. Avoiding the impact altogether by not taking a certain action or parts of an action. This may necessitate a redesign of the proposal.
 - b. Minimizing unavoidable impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts. The applicant shall seek to minimize fragmentation of the resource to the greatest extent possible.
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations;
 - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments. The compensatory mitigation shall be designed to achieve the functions as soon as practicable.
 - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
2. ~~3.~~ In addition to compensatory mitigation, unavoidable adverse impacts may be addressed through voluntary restoration efforts.
- ~~4. Shoreline uses and developments shall not cause impacts that require remedial action or loss of shoreline ecological functions on other properties.~~
- ~~5. Shoreline uses and developments shall be located and designed in a manner such that shoreline stabilization is not necessary at the time of development and will not be necessary in the future for the subject property or other nearby shoreline properties unless it can be demonstrated that stabilization is the only alternative that allows a reasonable and appropriate water dependent use to become established or expand or protects public safety and existing primary structures.~~
- ~~6. Land shall not be cleared, graded, filled, excavated or otherwise altered prior to issuance of the necessary permits and approvals including a statement of exemption for a proposed shoreline use or development to determine if environmental impacts have been avoided, minimized and mitigated to result in no net loss of ecological functions.~~

- ~~7. Non-water-oriented uses shall not adversely impact or displace water-oriented shoreline uses.~~
- ~~8. Single family residential uses shall be allowed on all shorelands not subject to a preference for commercial or industrial water dependent uses, and shall be located, designed and used in accordance with applicable policies and regulations of this Program. However, single family residences are prohibited in the Natural shoreline designation, and new floating homes are prohibited in the Aquatic shoreline designation.~~
- ~~9. On navigable waters or their beds, all uses and developments should be located and designed to:~~
- ~~a. Minimize interference with surface navigation;~~
 - ~~b. Consider impacts to public views; and~~
 - ~~c. Allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.~~
- ~~10. Hazardous materials shall be disposed of and other steps be taken to protect the ecological integrity of the shoreline area in accordance with the other policies and regulations of this Program as amended and all other applicable federal, state, and local statutes, codes, and ordinances.~~
3. 11. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity). In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.
4. 12. The effect of proposed in-stream structures on bank margin habitat, channel migration, and floodplain processes should be evaluated during permit review.
- ~~13. Previous approvals of master plans for projects in shoreline jurisdiction should be accepted. New phases of projects for which no master plan has yet been approved, or for which major changes are being proposed, or new projects for which master plans are being submitted shall be subject to the policies and regulations of this Program.~~
5. 14. Within urban growth areas (RCW 36.70A.110), the Department of Ecology may grant relief from use and development regulations of this program On land within urban growth areas as defined in RCW 36.70A.030 that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark (RCW 90.58.580(3)), relief may be granted when:
- a. A shoreline restoration project causes or would cause a landward shift in the OHWM creating a hardship meeting specific criteria in RCW 90.58.580;

- b. The proposed relief meets specific criteria in RCW 90.58.580; and
- c. The application for relief is submitted to Ecology in writing requesting approval or disapproval as part of a normal review of a shoreline substantial development permit, conditional use permit, or variance. If the proposal is not connected to a shoreline permit review, the City may provide a copy of a complete application to Ecology along with the applicant's request for relief.

A substantial development permit is not required on land within urban growth areas as defined in RCW 36.70A.030 that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark (RCW 90.58.580(3)).

- 6. ~~15.~~ Developments permitted in the Aquatic Shoreline Designation along the Columbia River shall be sited waterward of -15 feet CRD unless adverse impacts to shallow water habitat will be created as is addressed through mitigation to ensure no net loss. Mitigation can include, enhancement, creation and/or payment of mitigation bank credits and ~~comply with Section 6.4.4.~~

5.3 Critical Areas Protection

- 1. Applicable Critical Areas Regulations

Critical areas and the buffers necessary to protect critical areas shall be regulated in accordance with the provisions of Chapter 5A of this SMP.

Terms stated in Chapter 5A can be clarified by definitions provided in both the VMC or SMP.

- 2. Review Process

The City will not issue a 'Critical Areas Permit' within shoreline jurisdiction as is done outside shoreline jurisdiction under VMC Chapter 20.740. Instead, the City shall consolidate and integrate the review and processing of the critical areas aspects of the proposal within the shoreline permit decision or review required for the proposed activity as applicable or required by this SMP.

Any decision criteria and submittal requirements within Chapter 5A shall be considered supplemental to the shoreline permit or review required for the proposed activity. In cases where required by Chapter 5A, the applicant shall submit a critical areas report prepared by a qualified professional.

- 3. Critical Areas Exemptions

Critical Areas exemptions do not apply. Exemptions are limited to those listed in section 2.3.2 and must comply with the standards of the SMP, including Chapter 5A.

4. Conflicting Provisions

Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided without full compliance with the Chapter 5A and this Shoreline Master Program. Chapter 5A shall be liberally construed together with the all other chapters of the Shoreline Master Program to give full effect to the objectives and purposes of the provisions of the Shoreline Master Program and the Shoreline Management Act. If there is a conflict or inconsistency between any of the adopted provisions in Chapter 5A and the Shoreline Master Program, the most restrictive provisions shall prevail.

5. Appeals

All appeals shall be processed per Chapter 7 of the SMP.

5.3.1 General Provisions

1. ~~In addition to the provisions of this section, critical areas (fish and wildlife habitat conservation areas, frequently flooded areas, geologic hazard areas, and wetlands) located within shoreline jurisdiction and their buffers are regulated and protected by Chapter 5A, VMC 20.740, Critical Areas Protection as modified for consistency with the Act and this Program. All shoreline development shall comply with VMC 14.26, Water Resources Protection.~~
2. ~~Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered or land divided without full compliance with this Program whether or not a shoreline permit or written statement of exemption is required.~~
3. ~~Any allowed use, development, or activity affecting a critical area proposed on a parcel located in the shoreline jurisdiction, whether or not exempt from obtaining a shoreline substantial development permit, shoreline conditional use, or shoreline variance, shall be regulated under the provisions of this Program.~~
4. ~~Shoreline uses and developments and their associated structures and equipment shall be located, designed and operated using best management practices to protect critical areas.~~
5. ~~The applicant shall demonstrate all reasonable efforts have been taken to avoid and where unavoidable, minimize and mitigate impacts such that no net loss of critical area and shoreline ecological function is achieved. Mitigation shall occur in the following order of priority:~~
 - a. ~~Avoiding the impact altogether by not taking a certain action or parts of an action. This may necessitate a redesign of the proposal.~~
 - b. ~~Minimizing unavoidable impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps~~

- ~~to avoid or reduce impacts. The applicant shall seek to minimize fragmentation of the resource to the greatest extent possible.~~
- ~~c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;~~
 - ~~d. Reducing or eliminating the impact over time by preservation and maintenance operations;~~
 - ~~e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments. The compensatory mitigation shall be designed to achieve the functions as soon as practicable.~~
 - ~~f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.~~
6. ~~In addition to compensatory mitigation, unavoidable adverse impacts may be addressed through restoration efforts.~~

5.4 Public Access

1. Provisions for adequate public access shall be incorporated into all shoreline development proposals that involve public funding unless the applicant demonstrates public access is not feasible due to one or more of the provisions of Section 5.4.2 (a-e). Where feasible, such projects shall incorporate ecological restoration.
2. Consistent with constitutional limitations, provisions for adequate public access shall be incorporated into all land divisions and other shoreline development proposals (except residential development of less than five (5) parcels), unless this requirement is clearly inappropriate to the total proposal. Public access will not be required where the applicant demonstrates one or more of the following:
 - a. Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;
 - b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
 - c. The cost of providing the access, easement, alternative amenity, or mitigating the impacts of public access are unreasonably disproportionate to the total proposed development;
 - d. Significant environmental impacts that cannot be mitigated will result from the public access; or

- e. Significant undue and unavoidable conflict between public access requirements and the proposed use and/or adjacent uses would occur, provided that the applicant has first demonstrated and the City determines that all reasonable alternatives have been evaluated and found infeasible, including but not limited to:
 - i. Regulating access by such means as maintaining a gate and/or limiting hours of use;
 - ii. Designing separation of uses and activities (including but not limited to, fences, terracing, use of one-way glazings, hedges, landscaping); and
 - iii. Provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.
- 3. Public access sites shall be connected to barrier free route of travel and shall include facilities based on criteria ~~within the~~ within the Americans with Disabilities Act Accessibility guidelines.
- 4. Public access shall include provisions for protecting adjacent properties from trespass and other possible adverse impacts to neighboring properties.
- 5. Signs indicating the public's right of access to shoreline areas shall be installed and maintained in conspicuous locations.
- 6. Required public access shall be fully developed and available for public use at the time of occupancy of the use or activity.
- 7. Public access shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat launching ramp, dock or pier area, or other area serving as a means of view and/or physical approach to public waters and may include interpretive centers and displays.
- 8. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, as a minimum. Said recording with the County Auditor's Office shall occur at the time of permit approval.
- 9. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.
- 10. Maintenance of the public access facility shall be the responsibility of the owner unless otherwise accepted by a public or non-profit agency through a formal agreement approved by the Shoreline Administrator and recorded with the County Auditor's Office.

5.6.1 General

- ~~1. Land disturbing activities such as grading and cut/fill shall be conducted in such a way as to minimize impacts to soils and native vegetation and shall comply with VMC 14.24, Erosion Prevention & Sediment Control and VMC 14.25, Stormwater Control.~~
1. ~~2.~~ Development shall be designed and land disturbing activities conducted to avoid impacts to healthy trees such that they are likely to become hazard trees.
2. ~~3.~~ Impervious surfaces shall be minimized to the extent feasible so as not to jeopardize public safety. Impervious surfacing for parking lot/space areas, trails, and pathways shall be minimized through the use of alternative surfaces where feasible.
3. ~~4.~~ When feasible, existing transportation corridors shall be utilized. Ingress/egress points shall be designed to minimize potential conflicts with and impacts upon vehicular and pedestrian traffic. Pedestrians shall be provided with safe and convenient circulation facilities.
4. ~~5.~~ Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading, alteration of topography and natural features, and designed to accommodate wildlife movement.
5. ~~6.~~ Parking, storage, and non-water dependent accessory and appurtenant structures and areas shall be located landward from the OHWM and landward of the water-oriented portions of the principal use.
6. ~~7.~~ Trails and uses near the shoreline shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas, without blocking visual access to the water.
7. ~~8.~~ Elevated walkways shall be utilized, as appropriate, to cross sensitive areas such as wetlands.
8. ~~9.~~ Fencing, walls, hedges, and similar features shall be designed in a manner that does not significantly interfere with wildlife movement.
9. ~~10.~~ Exterior lighting shall be designed, shielded and operated to:
 - a. Avoid illuminating nearby properties or public areas;
 - b. Prevent glare on adjacent properties, public areas or roadways;
 - c. Prevent land and water traffic hazards; and
 - d. Reduce night sky effects to avoid impacts to fish and wildlife.

10. ~~44.~~ Utilities shall be located within roadway and driveway corridors and rights-of-way wherever feasible.
11. ~~42.~~ A use locating near a legally established aquaculture enterprise, including an authorized experimental project, shall demonstrate that such use would not result in damage to or destruction of the aquaculture enterprise, or compromise its monitoring or data collection.

5.6.2 Clearing, Grading, Fill and Excavation

1. Land disturbing activities such as clearing grading, fill and excavation shall be conducted in such a way as to minimize impacts to soils and native vegetation, and shall comply with VMC 14.24, Erosion Prevention & Sediment Control; 14.25, Stormwater Control; and VMC Chapter 17.12, International Building Code.
2. Clearing, grading, fill, and excavation activities shall be scheduled to minimize adverse impacts, including but not limited to, damage to water quality and aquatic life.
3. Clearing and grading shall not result in changes to surface water drainage patterns that adversely impact adjacent properties.
4. Developments shall comply with the VMC 14.24, Erosion Prevention & Sediment Control during construction and shall ensure preservation of native vegetation for bank stability. Disturbed areas shall be stabilized immediately and revegetated with native vegetation.
5. Habitat that cannot be replaced or restored within twenty (20) years shall be preserved. Peat bogs and stands of mature trees are examples of such habitat.
6. Fills shall be permitted only in conjunction with a permitted use, and shall be of the minimum size necessary to support that use. Speculative fills are prohibited.
7. Any fill activity shall comply with the fill provisions of VMC Chapter 17.12. Fill shall consist only of clean materials.
8. Soil, gravel or other substrate transported to the site for fill shall be screened and documented that it is uncontaminated. Use of any contaminated materials as fill is prohibited.
9. Fills shall be designed and placed to allow surface water penetration into groundwater supplies where such conditions existed prior to filling.
10. Fills must protect shoreline ecological functions, including channel migration processes.
11. Fill waterward of OHWM shall only be allowed as a conditional use, and then only when it is necessary:

- a. To support a water-dependent or public access use;
 - b. For habitat creation or restoration projects;
 - c. For remediation of contaminated sediments as part of an interagency environmental clean-up plan;
 - d. For disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the Washington Department of Natural Resources;
 - e. For expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible;
 - f. For a mitigation action;
 - g. For environmental restoration; or
 - h. For a beach nourishment or enhancement project.
12. In the Columbia River, fills shall be prohibited between the OHWM and minus fifteen (-15) feet CRD, unless adverse impacts to shallow water habitat are addressed through mitigation to ensure no net loss will be created as mitigation. Mitigation can include enhancement, creation and/or payment of mitigation bank credits.
13. Excavation below the OHWM is considered dredging and subject to provisions under that section in Chapter 6.
14. Upon completion of construction, remaining cleared areas shall be replanted with native species on the City's Native Plant List available from the Shoreline Administrator. Replanted areas shall be maintained such that within three (3) years' time the vegetation is fully re-established.

5.7 Vegetation Conservation

- 1. Existing native vegetation within shoreline jurisdiction shall be retained and allowed to grow naturally in the riparian area.
- 2. Removal of native vegetation outside the riparian area shall be avoided. Where removal of native vegetation cannot be avoided, it shall be minimized and mitigated to result in no net loss of shoreline ecological functions. Lost functions may be replaced by enhancing other functions provided that no net loss in overall functions is demonstrated and habitat connectivity is maintained. Mitigation shall be provided consistent with an approved mitigation plan. See Chapter 5A, ~~20.740.030(B)(1)(f)~~ on maintaining fire-defensible space.

3. If non-native vegetation is removed, it shall be replaced with native vegetation within the shoreline jurisdiction.
4. Development shall be located to avoid clearing and grading impacts to more mature or multi-storied plant communities and to retain habitat connectivity.
5. Vegetation (such as a mature stand of trees) that cannot be replaced or restored within twenty (20) years shall be preserved.
6. Maintaining vegetated riparian areas to protect shoreline stability and shoreline ecological functions takes precedence over vegetation clearing to preserve or create views.
7. Topping trees is prohibited.
8. Pruning of trees which are not hazard trees is allowed in compliance with the National Arborist Association pruning standards, and is limited to:
 - a. Removal of no more than twenty-five (25) percent of the limbs of any single tree within a given five-year (5-year) period; and
 - b. No more than twenty-five (25) percent of canopy in a single stand of trees may be removed in a given five-year (5-year) period.
9. Hazard trees are regulated by VMC 20.770 and 17.14.
10. Natural features such as snags, stumps, logs or uprooted trees, which support fish and other aquatic systems, do not intrude on the navigational channel or threaten public safety, and existing structures and facilities, shall be left undisturbed.
11. Aquatic weed control shall only occur to protect native plant communities and associated habitats or where an existing water-dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards and shall be done by a qualified professional.
12. Unless otherwise stated, the vegetation conservation regulations of this Program do not apply to:
 - a. Commercial forest practices as defined by this Program when such activities are covered under the Washington State Forest Practices Act (RCW 76.09), except where such activities are associated with a conversion to other uses or other forest practice activities over which the City has authority; or
 - b. Flood control levees required to be kept free of vegetation that damages their structural integrity.

5.9 Water Quality and Quantity

1. The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and ground water adjacent to the site.
2. All shoreline development shall comply with the applicable requirements of the VMC Chapter 14.24, Erosion Prevention & Sedimentation Control; 14.25, Stormwater Control; and 14.26, Water Resources Protection.
3. Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all shoreline development.
4. Potentially harmful materials, including but not limited to oil, chemicals, tires, or hazardous materials, shall not be allowed to enter any body of water or wetland, or to be discharged onto the land except in accordance with VMC 14.26. Potentially harmful materials shall be maintained in safe and leak-proof containers.
5. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-five (25) feet of a waterbody, except by a qualified professional in accordance with state and federal laws. Further, pesticides subject to the final ruling in *Washington Toxics Coalition, et al., v. EPA* shall not be applied within sixty (60) feet for ground applications or within three hundred (300) feet for aerial applications of the subject water bodies and shall be applied by a qualified professional in accordance with state and federal law.
6. Any structure or feature in the Aquatic shoreline designation shall be constructed and/or maintained with materials that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants.
7. Conveyance of any substance not composed entirely of surface and stormwater directly to water resources shall be in accordance with VMC 14.26.

5.10 Septic Systems

1. ~~8.~~ Septic systems should be located as far landward of the shoreline and floodway as possible. Where permitted, new on-site septic systems shall be located, designed, operated, and maintained to meet all applicable water quality, utility, and health standards.

Section 6. The City of Vancouver Shoreline Master Program, Chapter 5A VMC 20.740, Critical Areas Protection, adopted by Ordinance M-3995 and as amended, is hereby repealed and replaced with the City's updated Critical Areas Protection code (VMC 20.740) and hereby amended for applicability in shoreline jurisdiction to read as follows:

ORDINANCE - 28

Chapter 20.740 Chapter 5A
SHORELINE CRITICAL AREAS PROTECTION REGULATIONS

All uses and development activities in shoreline jurisdiction shall be subject to the following general regulations in addition to the applicable use-specific regulations in Chapter 6. All shoreline development shall comply with VMC 14.26, Water Resources Protection.

Vancouver WA Zoning Ordinance

Chapter 20.740

CRITICAL AREAS PROTECTION

As Modified for Application in Shoreline Jurisdiction

Sections:

20.740.010	Purpose.
20.740.020	General Provisions.
20.740.030	Applicability and Exemptions from <u>Chapter 5A</u> Requirement to Obtain Permit.
20.740.040	Approval Process.
20.740.050	Submittal Requirements.
20.740.060	Approval Criteria.
20.740.070	Minor Exceptions.
20.740.080	Reasonable Use Exceptions.
20.740.090	Unauthorized Critical Areas Alterations and Enforcement.
20.740.100	Habitats of Local Importance.
20.740.110	Fish and Wildlife Habitat Conservation Areas.
20.740.120	Frequently Flooded Areas.
20.740.130	Geologic Hazard Areas.
20.740.140	Wetlands.

20.740.010 Purpose.

~~A. The purpose of this chapter is to designate and protect ecologically sensitive and hazardous areas (critical areas) and their functions and values, while also allowing for reasonable use of property.~~

~~B. As mandated by the Growth Management Act (GMA) (RCW 36.70A), this chapter provides protection for the critical areas of wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, and frequently flooded areas. Critical aquifer recharge areas are covered in VMC 14.26.~~

~~C. This chapter implements the goals and policies of the Vancouver Comprehensive Plan, 2003-2023, under the Washington Growth Management Act and other related state and federal laws. (Ord. M 3692 § 2, 2005)~~

ORDINANCE - 29

In addition to the purpose as set forth in Chapter 1, the regulations set forth in Chapter 5A designate and protect ecologically sensitive and hazardous areas (critical areas) and their functions and values. This chapter provides protection for wetlands, fish and wildlife habitat conservation areas and geologically hazardous areas.

VMC Chapter 20.740.120 Frequently Flooded Areas regulations apply within shoreline jurisdiction, but are not incorporated into this Shoreline Master Program.

Critical aquifer recharge areas are addressed in VMC Chapter 14.26 Water Resources Protection, but the regulations are not incorporated into this Shoreline Master Program.

20.740.020 General Provisions.

A. *No Net Loss of Functions.* Activity shall result in no net loss of functions and values in the critical areas. Since values are difficult to measure no net loss of functions and values means no net loss of functions. The beneficial functions provided by critical areas include, but are not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage; conveyance and attenuation of flood waters; ground water recharge and discharge; erosion control; and wave attenuation. These beneficial functions are not listed in order of priority. This chapter is also intended to protect residents from hazards and minimize risk of injury or property damage.

B. *Relationship to Other Regulations.*

1. These critical areas regulations shall apply in addition to zoning and other regulations adopted by the city.
2. Any individual critical area that overlaps another type of critical area shall meet the requirements that provide the most protection to the critical areas involved.
3. When there is a conflict between any provisions of this chapter or any other regulations, that which provides the most protection to the subject critical area shall apply.
4. Conditions of approval of a project affecting critical areas may be supplemented by a review under the State Environmental Policy Act (SEPA), as locally adopted.
5. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements (for example, Shoreline Substantial Development Permits, Hydraulic Project Approval [HPA] permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, or National Pollution Discharge Elimination System permits). The applicant is responsible for complying with other state and federal requirements in addition to the requirements of this chapter. Obtaining all applicable state and federal permits shall be made a condition of any shoreline authorization ~~a Critical Areas Permit~~. Such authorizations ~~permits~~ shall

be obtained prior to issuance of permits for development, construction or site disturbance ~~except under the circumstances set forth in VMC 20.740.040(I).~~

C. *Jurisdiction.*

~~1. All areas within the city meeting the definition of one or more critical areas, whether mapped or not, are hereby designated critical areas and with their buffers are subject to the provisions of this chapter.~~

~~2. Watersheds (Chapter 20.150 VMC) are those most recently identified and mapped by Clark County Public Works. Watershed maps are available from the planning official. Burnt Bridge Creek, Columbia Slope, and Vancouver Lake/Lake River are the primary watersheds in Vancouver.~~

Chapter 5A shall apply to all critical areas and their buffers within shoreline jurisdiction as defined in Chapter 2 of the SMP.

D. *Warning and Disclaimer of Liability.* The standards established herein are minimum standards. The standards are established for regulatory purposes only. Minimum compliance with these standards may not be sufficient protection from identified or unidentified hazards. City establishment of these minimum standards is not a representation that these standards are sufficient protection from any hazard. Critical areas development should be based on sound scientific and engineering considerations that may be more stringent than this chapter. The city assumes no liability if these established standards prove to be insufficient protection.

E. *Interpretation of Critical Area Boundaries.* The Shoreline Administrator ~~planning official~~ shall be authorized to interpret the exact location of the critical area boundary. Final designations shall be based on site conditions and other available data or information. A person who disagrees with the interpretation may appeal the interpretation pursuant to ~~VMC 20.255.020(D).~~ Chapter 7 of the SMP. ~~(Ord. M 4289 § 4, 2019; Ord. M 4017 § 4, 2012; Ord. M 3844 § 2, 2007; Ord. M 3692 § 2, 2005.~~

20.740.030 Applicability and Exemptions from Requirement to Obtain Permit

Chapter 5A

A. *Applicability.*

1. ~~Unless listed in VMC 20.740.030(B)(2),~~ The provisions of Chapter 5A ~~this chapter~~ shall apply to all lands, all land uses, clearing and development activity, and all structures and facilities in the city located within a critical area or buffer or on a site containing a critical area or buffer including single-family residential lots platted prior to April 29, 2005, and developments such as play structures that require no other permits.

2. The provisions of this chapter shall apply whether or not a permit or authorization is required.

3. No person, company, agency, or applicant shall alter a critical area or buffer (including removal of downed woody vegetation or application of chemicals harmful to fish and wildlife within 25 feet of wetlands, ponds, lakes, streams or rivers) except as consistent with the requirements of this chapter.

4. If required by this SMP, a shoreline substantial development permit, shoreline permit statement of exemption, shoreline conditional use or shoreline variance ~~The Critical Areas Permit required pursuant to this chapter~~ shall be obtained prior to undertaking any activity or development regulated by this chapter; ~~unless exempted by this chapter.~~

B. *Statements of Exemption Process.* ~~For exempt activities listed in subsection (C)(1) of this section, a written Statement of Exemption from securing a Critical Areas Permit must be obtained prior to undertaking any development activity. Activities exempt from subsection (C)(2) of this section do not require a statement of exemption.~~

Exemptions from the shoreline permit process are only authorized through Chapter 2.3 Exemptions in this SMP. All exempt activities are still subject to the policies and regulations of the SMP including Chapter 5A this chapter. The Shoreline Administrator planning official shall attach Critical Areas Ordinance conditions to the building permits and other permits and approval as necessary to enforce the policies and regulations of this chapter.

~~The request for the Statement of Exemption shall be in writing, on forms required by the planning official, and include the information required by the planning official.~~

~~The planning official shall issue a decision on a request for a Statement of Exemption in writing within 21 calendar days of receiving the request.~~

The following actions may be authorized, pursuant to the following provisions, provided the applicant demonstrates mitigation sequencing and there is no net loss of shoreline ecological function.

C. Exemptions from Requirement to Obtain a Critical Areas Permit.

1. Category I Exemptions ~~Activities for which a Statement of Exemption is required. The following activities shall obtain a Statement of Exemption under subsection B of this section:~~

a. ~~Existing Structure Remodel—Impervious Surface Increase Less than 500 Square Feet.~~
~~Development or clearing, outside areas of special flood hazards and other than tree removal, as minimally necessary to remodel an existing structure, provided:~~

i. ~~The activity will increase the footprint of structures including impervious surfaces by less than 500 square feet from the footprint size at the time of the adoption of this chapter; and~~

~~ii. If the structure or impervious surface is within a critical area or buffer, the distance from the nearest structure or impervious surface to lakes, streams, rivers, wetlands or geological hazards is not decreased; and~~

~~iii. All vegetation disturbed as a result of the development shall be replaced one-to-one, except trees shall be replaced using tree units derived from Chapter 20.770 VMC, Tree, Vegetation, and Soil Conservation. Native vegetation shall be used where feasible.~~

~~iv. Impacts to critical areas and buffers shall be minimized and mitigated.~~

~~b. *No Impervious Surface Increase in the Riparian Management Area or Riparian Buffer.*~~

~~Development activity on the portions of sites with existing structures or impervious surfaces which does not increase the impervious surface area within the Riparian Management Area or Riparian Buffer and which is not otherwise exempt under subsection B of this section shall be exempt from the provisions of VMC Section 20.740.110 (Fish and Wildlife Habitat Conservation Areas). The applicant is encouraged to provide enhancement to the extent feasible. Such enhancement activities may include, but are not limited to, landscaping using native plants, additional treatment of stormwater as appropriate, and implementation of best management practices that would enhance habitat functions.~~

~~c. *Approved Subarea Plan with EIS.* Development activity covered by and in compliance with all the conditions of an approved subarea plan that contains:~~

~~i. Baseline information on existing critical areas and their functions at the level of detail required for an Environmental Impact Statement (EIS) under the State Environmental Policy Act (SEPA);~~

~~ii. An analysis of the impacts of full development at the level of detail required for an EIS under SEPA and in keeping with the plan; and~~

~~iii. Mitigation for those impacts consistent with the requirements of this chapter.~~

~~d. a. *Fence.* A fence may be installed in a critical area buffer (not in a critical area) where:~~

~~i. The fence is necessary for safety and security;~~

~~ii. The property was developed prior to the effective date of Chapter 20.740 VMC (April 29, 2005);~~

~~iii. The fence is designed and installed in a manner that protects the critical area and buffer functions and blends with the critical area environment.~~

~~e. b. *On-site Critical Area will be Avoided.* Development may be permitted on a site containing a critical area or buffer not also subject to state or federal permits where the Shoreline Administrator~~

~~Planning Official~~ determines that the critical areas and buffers will be clearly avoided using the following procedures and criteria:

- i. The Shoreline Administrator ~~planning official~~ has visited the site;
- ii. The critical area(s) and buffer(s) has/have been identified in the field and clearly mapped by a qualified professional through an approved, limited-scope Critical Areas Report (for example, a wetland boundary delineation without categorization or functional assessment, but with the minimum documentation necessary to justify the boundary location); except that for a single-family or duplex residential development on a property with a stream not regulated under the state Shoreline Management Act, its Riparian Management Area or Riparian Buffer, the Shoreline Administrator ~~planning official~~ may accept an aerial photo overlain with two-foot contour lines from the Clark County Digital Atlas with the required information drawn to scale by someone other than a qualified professional;
- iii. The site plan and final plat show a development envelope within which all development activity will take place, and a note identifying the development envelope and its purpose is placed on the face of the site plan and the final plat;
- iv. The boundaries of the development envelope are clearly outside of all maximum critical areas and all maximum buffers. The maximum critical area and maximum buffer are the greatest that may be applied under any circumstances. (For example, under this chapter, the maximum wetland buffer that could be applied under any circumstance is 300 feet; the maximum Riparian Management Area is 100 feet, and the maximum Riparian Buffer is 75 feet from the outer boundary of the Riparian Management Area.)

~~£. c.~~ *Fire-Defensible Space.* Maintaining fire-defensible space around a structure to reduce fire hazards, involving regular maintenance of existing trees at least six-inch diameter at breast height, grasses, and underbrush, not tree removal or other ground-disturbing or soil-destabilizing activities- ~~or~~ Creating or maintaining fire-defensible space as follows: (see VMC 20.740.040(H)) or ~~undertaking other development requires a Critical Areas Permit under VMC 20.740.040(A)(2)(f) and could require other permits as well.~~

- i. Pruning trees, grasses, and brush within a critical area or buffer to maintain fire-defensible space around a structure may be permitted when one or more of the following criteria are met:
 - A. The structure nearest the property line is within 30 feet of a slope of at least 25 percent (also designated as a landslide hazard area under this chapter);
 - B. The nearest structure is within 30 feet of a forested area;
 - C. The vegetation within 30 feet of the structure is comprised of less than 50 percent native species;

- D. The vegetation within 30 feet of the structure is higher than 12 inches;
 - E. Trees are crowded within 30 feet of the structure or overhanging the structure's roof;
 - F. The structure is located in an area designated by the Fire Marshal as a "Wildfire Safety Area."
- ii. When maintenance of a fire-defensible space is permitted, the following standards shall apply:
- ~~A. Trees may be pruned or limbed up to mitigate a hazard, but trees may not be removed without a Critical Areas Permit and any other necessary permit(s). (See VMC 20.740.040(A)(2)(f) and 20.740.040(H) on creating fire-defensible space.)~~
 - ~~B. A.~~ Grasses and underbrush shall be maintained between eight inches and 12 inches in height.
 - ~~C. B.~~ Trees may be pruned, limbed-up, or removed. Topping trees is prohibited.
 - C. Removal of vegetation in a landslide hazard area is prohibited during the wet season (November 1st to May 1st). The area must be immediately replanted to ensure soil stability. The property owner shall maintain the newly planted vegetation to ensure its survival.
 - D. Any debris from pruning shall be disposed of promptly and properly.
 - E. Required replantings shall be of native, fire-resistant species. A list of native, fire-resistant species is available from the Shoreline Administrator.

2. Category II Exemptions ~~Activities for which a Statement of Exemption is not required. Reasonable methods shall be used to avoid potential impacts to critical areas. Any damage to, or alteration of, a critical area that is not a necessary outcome of the exempt activity shall be corrected at the property owner's expense.~~

The following activities may be exempt from the need for a shoreline Substantial Development Permit when consistent with the provisions of Chapter 2.3 Exemptions or are determined to not meet the definition of development found in Chapter 8 ~~are exempt from needing a Critical Areas Permit and do not require a statement of exemption:~~

- a. Emergencies. See Chapter 2.3 (Exemptions) of the SMP. Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of property damage and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter, so long as all of the following apply:
 - i. The emergency action uses reasonable methods to address the emergency.
 - ii. The emergency action must have the minimum possible impact to the critical area or its buffer.

- iii. The property owner, person or agency undertaking such action shall notify the city within one working day following commencement of the emergency activity.
- iv. Within 14 days the Shoreline Administrator ~~planning official~~ shall determine if the action taken was within the scope of the emergency actions allowed in this section. If the Shoreline Administrator ~~planning official~~ determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of VMC 20.740.090 shall apply.
- v. After the emergency, the property owner, person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved Critical Areas Report and mitigation plan. The property owner, person or agency undertaking the action shall apply for review. The alteration, Critical Areas Report, and mitigation plan shall be reviewed by the city in accordance with the review procedures contained in this chapter.
- vi. Restoration and/or mitigation activities must be initiated within three months of the date of the emergency or as otherwise determined by the Shoreline Administrator ~~planning official~~, and completed in a timely manner.
- b. ~~(Repealed) *Valid Critical Areas Permit*. Any development proposed on property pursuant to a currently valid Critical Areas Permit, provided all conditions and requirements of the Critical Areas Permit are met and the proposed activity is within the scope of the original permit.~~
- c. *Hazard Tree*. Emergency or hazard tree removal (as defined in Chapter 20.770 VMC) conducted so that critical area impacts are minimized.
- d. *Landscape Maintenance*. See Chapter 2.3 (Exemptions) of the SMP. Landscape maintenance (other than tree removal or use of pesticides, herbicides, fungicides or fertilizers applied into or within 25 feet of water bodies) consistent with accepted horticultural practices, such as those recommended by the Washington State University Extension Service, within the boundaries of an existing lawn, garden or landscaped area and not associated with development.
- e. *Noxious or Invasive Plants*. Clearing of noxious or invasive plants using hand-held equipment such as a weed-whacker, provided (1) fueling and maintenance take place outside the critical area and buffer; (2) all cleared vegetation is taken away and disposed of properly; and (3) denuded soils are stabilized with native vegetation. The city of Vancouver's Noxious or Invasive Plants List and Native Plant Species List are available from the Shoreline Administrator ~~planning official~~.
- f. *Pesticides, Herbicides, Fungicides or Fertilizers 25 feet from Critical Area*. Application of pesticides, herbicides, fungicides or fertilizers farther than 25 feet from any wetland, pond, lake, stream or river or in a manner specified in a valid permit.

g. *State or Federally Approved Conservation or Preservation.* State or federally approved conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing critical area or buffer.

h. *Harvesting Wild Crops.* The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops or other native vegetation and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the critical area or buffer by changing existing topography, water conditions or water sources.

i. *Passive Activities.* Passive outdoor recreation, education, and scientific research activities such as fishing, hiking, and bird watching that do not degrade the critical area or buffer.

j. *Land surveys, soil sampling, percolation tests, and other related activities.* In every case, impacts to the critical area or buffer shall be minimized and disturbed areas shall be stabilized immediately.

k. *Navigational Aids and Boundary Markers.* See Chapter 2.3 Exemptions (6) and (10). Construction or modification of navigational aids and boundary markers. Impacts to the critical area or buffer shall be minimized and disturbed areas shall be restored within 72 hours.

l. *Agricultural Activities.* See Chapter 2.3.2(5) Exemptions. Existing and ongoing agricultural activities protected under the federal Food Security Act occurring in wetland areas.

Existing and ongoing agriculture within fish and wildlife habitat conservation areas so long as livestock and application of pesticides, herbicides, fungicides and fertilizers are kept 25 feet from any water body.

m. *State or Federally Approved Restoration or Enhancement Project.* See Chapter 2.3 Exemptions. Implementation of a state or federally approved restoration or enhancement project not related to any development project.

n. *Operation, Repair and Maintenance.* See Chapter 2.3 Exemptions. Operation, repair and maintenance of existing structures, infrastructure, roads, sidewalks, railroads, trails, dikes, or levees or water, sewer, stormwater, power, gas, telephone, cable, or fiber optic facilities if the activity does not further increase the impact to, or encroach farther within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, repair, or maintenance.

o. *Areas with only ground shaking or liquefaction hazards.* In areas with only ground shaking or liquefaction hazards, repair or construction of roads, sidewalks or trails (except where there are structures), or water, sewer, stormwater, gas, power, cable, or fiber optic facilities shall be exempt from the ground shaking and liquefaction permitting requirements.

p. Public improvement projects located within existing impervious surface areas.

~~q. City, State or Federally Approved Stand-alone “Critical Area” Creation Project.~~

Implementation of a city, state or federally approved stand-alone “critical area” creation project that is not mitigation. A “Critical Area” created under these circumstances that would not otherwise have met the definition of that type of critical area is exempt from the provisions of this chapter. Also see the definition of “Wetlands” at Chapter 20.150 VMC.

~~r. d. Clearing in Frequently Flooded Area and/or Seismic Hazard Area Only.~~ Clearing vegetation within the floodplain but outside the Riparian Management Area or Riparian Buffer (see VMC 20.740.040(A)(2)(f)).

Clearing vegetation in critical areas that are only seismic hazard areas (see VMC 20.740.040(A)(2)(f)).

~~s. r. Fence Repair.~~ See Chapter 2.3 Exemptions. Maintenance, repair, and in-kind replacement of existing fences.

~~t. s. Seismic Hazard Areas Only.~~ Sites identified as located within only a Seismic Hazard Area (VMC Section 20.740.130 – Geologic Hazard Areas) shall be exempt from needing to provide a seismic hazard critical areas report prior to issuance of a shoreline substantial development permit, shoreline permit statement of exemptions, shoreline conditional use or shoreline variance ~~obtain a critical areas permit~~. All projects within the Seismic Hazard Area must comply with the Building Code at time of building permit review including providing a geotechnical report. (Ord. M-4289 § 4, 2019; Ord. M-4034 § 23, 2012; Ord. M-4017 § 5, 2012; Ord. M-3931 § 22, 2009; Ord. M-3922 § 36, 2009; Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

20.740.040 Approval Process.

A. Critical Areas Approval Process Approval Process.

The City shall consolidate and integrate the review and processing of the critical areas aspects of the proposal within the shoreline permit decision or review required for the proposed activity as applicable or required by this SMP.

Any additional decision criteria and submittal requirements within Chapter 5A shall be considered supplemental to the shoreline permit or review required for the proposed activity. In cases where required by this Chapter, the applicant shall submit a critical areas report prepared by a qualified professional.

~~1. Pre-application Conference Required. A pre-application meeting or waiver per Chapter 20.210 VMC is required prior to submitting a critical areas permit. Provided, pre-application conferences shall not be required for the following:~~

~~a. Proposed activities within only ground shaking and/or liquefaction areas.~~

~~b. Proposals involving only an addition to an existing single family home, including accessory structures.~~

~~c. Other minor improvements determined by the planning official to not warrant a pre-application meeting.~~

~~2. Critical Areas Permit. All Critical Areas Permits as determined to be necessary under Chapter 20.740 VMC and as stated below shall be processed as a Type I permit or, when submitted with another land use application, reviewed according to the procedures of the underlying land use application pursuant to Chapter 20.210 VMC.~~

~~a. New single family and duplex residences, alterations to existing single family and duplex residences, or new accessory structures located within a critical area or buffer, or on a property containing a critical area or buffer.~~

~~b. Application of pesticides, herbicides, fungicides or fertilizers within 25 feet of ponds, lakes, streams, rivers or wetlands.~~

~~c. Approval of agricultural activities within 25 feet of ponds, lakes, streams or rivers.~~

~~d. Critical Area restoration or enhancement projects not related to any development project; and establishment of mitigation banks.~~

~~e. Public improvement projects located entirely within the previously improved portion of the right-of-way, not otherwise exempted by this chapter.~~

~~f. Clearing vegetation within a critical area or buffer, including: (i) grading, uprooting or other activities that impair the soil stabilization function of vegetation in landslide hazard areas (VMC 20.740.130); (ii) removal of downed woody vegetation from wetlands, lakes, streams or rivers; and (iii) removal of trees, grasses, or brush to create fire defensible space (subsection H of this section). However, clearing vegetation within the area of special flood hazard outside of the Riparian Management Area and Buffer and in seismic hazard areas shall not require a permit (see VMC 20.740.030).~~

~~g. Approval of programmatic permits (subsection G of this section) for activities within critical areas or buffers.~~

~~3. Review Procedure. The planning official shall make a determination as to whether the proposed activity and mitigation, if any, are consistent with the provisions of VMC Title 20. The planning official's determination shall be based on the approval criteria of VMC 20.740.060. The Critical Areas Permit shall be valid for as long as the underlying land use permit or as otherwise specified by the planning official.~~

B. *Notice on Title – Covenant and Tracts.*

1. *Covenants.* This section applies to all nonexempt projects that involve critical areas and buffers.
 - a. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is approved shall file a covenant with the county records and elections division according to the direction of the city. The covenant shall state the presence of the critical area or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The covenant shall “run with the land.”
 - b. The applicant shall submit proof that the covenant has been filed for public record before the city approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, planned unit developments, binding site plans, and other developments that involve platting, at or before recording of the plat.
2. *Tracts.* This section applies in addition to subsection (B)(1) of this section to projects that involve platting on properties containing fish and wildlife habitat conservation areas, wetlands, and their buffers. The Shoreline Administrator ~~planning official~~ may also apply this section to developments that involve platting on properties containing geologic hazard areas and their buffers. The location of the tract, critical area(s), and buffer(s) shall be shown on the face of the plat. ~~See subsection (B)(2)(b) of this section for exceptions.~~
 - a. The property owner shall place the subject critical areas and buffers in one or more nondevelopable tracts except when:
 - i. Creation of a nonbuildable tract would result in violation of minimum lot depth standards; or
 - ii. The responsible official determines a tract is impractical.
 - b. When an exception in subsection (B)(2)(a) of this section applies, residential lots may extend into the critical area(s) or buffer(s) provided:
 - i. The location of the outer perimeter of the critical area(s) and buffer(s) is marked in the field and approved by the Shoreline Administrator ~~planning official~~ prior to the commencement of permitted activities and maintained throughout the duration of the permit.
 - ii. A permanent physical demarcation along the outer/upland boundary of the critical area buffer(s) is installed and thereafter maintained. Such demarcation may consist of fencing, hedging or other prominent physical marking that allows wildlife passage, blends with the critical area environment, and is approved by the Shoreline Administrator ~~planning official~~.
 - iii. Permanent signs are posted at an interval of one per lot for single-family residential uses or at a maximum interval of 200 feet, or as otherwise determined by the Shoreline Administrator ~~planning official~~, and must be perpetually maintained by the property owner. The sign shall be

worded as follows or with alternative language approved by the Shoreline Administrator
~~planning official~~: “The area beyond this sign is a critical area or critical area buffer. Alteration
or disturbance is prohibited by law. Please call the City of Vancouver for more information.”

C. *Financial Assurances.*

1. When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to provide security in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant shall provide security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional (including but not limited to construction, maintenance, and monitoring).
2. The security shall be in the amount of 125 percent of the estimated cost of restoring the functions of the critical area that are at risk.
3. The security authorized by this section shall remain in effect until the city determines, in writing, that the standards for which the security is required have been met. Bonds or other security shall be held by the city for a minimum of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.
4. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
5. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed in the project budget or capital improvement budget for mitigation, maintenance, monitoring, or restoration.
6. Failure to satisfy any critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.
7. Any funds recovered pursuant to this section shall be used to complete the required mitigation. Excess funds shall be returned to the applicant.

D. *Critical Area Inspections.* Reasonable access to the site shall be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

~~E. *Reconsideration of planning official's determination.* If, within five days following the date of mailing of a Critical Areas Permit, new information relevant to the decision is made available, any party may request that the decision be reconsidered. If the new information is found to be substantial and relevant to the critical area~~

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~~review, the planning official may reopen the critical area review and make a new determination based on the revised report. The Critical Areas Permit shall not be considered final and subject to appeal until the decision on the request for reconsideration, if applied for, has been issued.~~

~~F. E. Appeals. Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to VMC 20.210.130. Appeals per Chapter 7 of the SMP.~~

~~G. F. Programmatic Authorization Permits.~~ The purpose of a programmatic ~~permit~~ authorization is to provide for ongoing, routine maintenance, operation, or repair activities on sites containing critical areas or buffers (1) so as not to impair an agency's or business's ability to operate effectively and efficiently; and (2) at the same time protect critical areas and buffers in accordance with this chapter.

1. In addition to the submittal requirements in ~~VMC Section~~ 20.740.050, applicants for a programmatic ~~permit~~ authorization shall submit a proposed management plan. The management plan shall contain:

- a. A narrative explaining the need for the authorization ~~programmatic permit~~.
- b. A list of the ongoing, routine, maintenance, operation, or repair activities that impact or potentially impact critical areas and buffers.
- c. A description of the potentially impacted critical area and buffer functions.
- d. Proposed measures and standards for avoiding impacts to critical area and buffer functions and, where unavoidable, minimizing and mitigating those impacts to achieve no net loss of functions.
- e. A training program ensuring that all employees, contractors, and individuals under the supervision of the applicant who are involved in permitted activities understand and perform in accordance with the terms of the permit.

2. A programmatic authorization ~~permit~~ may be approved for up to seven years. The ~~permit~~ duration may be tied to other permits or processes.

3. Every two years within 30 days of the anniversary of permit authorization issuance ~~for the duration of the permit~~, the applicant shall submit a report to the ~~planning official~~ Shoreline Administrator summarizing activities undertaken under the authorization ~~programmatic permit~~ including any issues to be resolved. The report shall also document the training provided in accordance with this section ~~subsection (G)(1)(e) of this section~~.

4. The applicant or the city may initiate an amendment to the programmatic authorization ~~permit~~ to respond to ~~permit~~ performance issues. An amendment shall be considered through a Type 1 process following a pre-application conference and may require a new or amended shoreline permit or shoreline permit statement of exemption.

5. An application for reauthorization of a programmatic ~~permit~~ approval shall be submitted at least 90 days prior to the date the current ~~permit~~ approval expires. Programmatic approval ~~permits~~ may be reauthorized through a Type 1 process following a required pre-application conference. Permit standards and conditions may be modified to conform to the current codes, policies, and standards or based on past performance. Where the review of the reauthorization application will extend beyond the expiration date of the current programmatic approval ~~permit~~, the ~~planning official~~ Shoreline Administrator may extend the duration of the current approval ~~permit~~ for 30 days at a time, not to exceed 180 days.

~~H. Trees, grasses, and brush in a critical area or buffer may be pruned or removed to create fire-defensible space around a structure (see subsection (A)(2)(f) of this section) when one or more of the criteria in VMC 20.740.030(C)(1)(f)(i)(A) through (C)(1)(f)(i)(F) are met. When creating fire-defensible space is permitted, the following standards shall apply:~~

- ~~1. Grasses and underbrush shall be maintained between eight inches and 12 inches in height.~~
- ~~2. Trees may be pruned, limbed up, or removed. Topping trees is prohibited.~~
- ~~3. Removal of vegetation in a landslide hazard area is prohibited during the wet season (November 1st to May 1st). The area must be immediately replanted to ensure soil stability. The property owner shall maintain the newly planted vegetation to ensure its survival.~~
- ~~4. Any debris from vegetation removal shall be disposed of promptly and properly.~~
- ~~5. Required replantings shall be of native, fire-resistant species. A list of native, fire-resistant species is available from the planning official.~~

~~I. Development may be permitted on a site containing a critical area(s) or buffer(s) which may also be subject to state or federal permits prior to all necessary state or federal permits being obtained when all of the following criteria are met:~~

- ~~1. A phased master plan is submitted under Chapter 20.260 or 20.268 VMC as appropriate, demonstrating:~~
 - ~~a. How the maximum critical area(s) and maximum buffer(s) will be clearly avoided until all local, state, or federal permits are obtained;~~
 - ~~b. How each phase could be permitted as an individual project not relying on development of any other phases in any way;~~
 - ~~c. How each phase could be developed regardless of whether any or all of the pending state or federal permits are ever obtained;~~
 - ~~d. No net loss of critical area functions for each phase and for the project as a whole, regardless of whether any or all of the pending state or federal permits are ever obtained.~~

~~2. Development is permitted only in the area that clearly avoids (VMC 20.740.030(B)(2)(f)(i)(A)) the maximum critical area(s) and buffer(s). (Ord. M 4289 § 4, 2019; Ord. M 4105 § 3, 2014; Ord. M 4017 § 6, 2012; Ord. M 3959 § 37, 2010; Ord. M 3931 § 23, 2009; Ord. M 3844 § 2, 2007; Ord. M 3692 § 2, 2005)~~

20.740.050 Submittal Requirements.

A. *Preparation by Qualified Professional.* Any required Critical Areas Report shall be prepared by a qualified professional as defined herein.

B. *General Critical Areas Report Contents.* At a minimum, the Critical Areas Report shall contain the following:

1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
2. A copy of the site plan for the development proposal including:
 - a. A map to scale depicting critical areas, buffers, ordinary high water mark, shoreline jurisdiction extent, the development proposal, and any areas to be cleared; and
 - b. Proposed stormwater management and sediment control plan for the development including a description of any impacts to drainage alterations; and
 - c. A digital map of the geographic information required pursuant to the applicable provisions of this chapter for each critical area and buffer on site. The digital map(s) must be based on the same coordinate system as the Clark County GIS database: state plane coordinates using the NAD 1983 datum and the Washington South zone (also referred to as the FIPS Zone 4602). The digital map(s) must also conform to other Clark County GIS digital mapping standards and specifications available from the Shoreline Administrator ~~Planning Official~~ or directly from Clark County's Department of Assessment and GIS.
3. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
4. *Identification and scientific characterization of all critical areas and buffers.* The scientific characterization shall include a detailed assessment of the functional characteristics of the critical areas;
5. An assessment of the probable impacts to critical areas and buffers and risk of injury or property damage including permanent, temporary, temporal, and indirect impacts resulting from development of the site and the operations of the proposed development;
6. A written response to each of the approval criteria in ~~VMC~~ Section 20.740.060;

7. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with Section VMC 20.740.050(F) Mitigation Plan Requirements.

C. *Additional Information.* Any additional information required for the specific critical areas and buffers as specified in VMC Section 20.740.110 Fish and Wildlife Habitat Conservation Area, VMC Section 20.740.120 Frequently Flooded Areas, VMC Section 20.740.130 Geologic Hazard Areas, and VMC Section 20.740.140 Wetlands.

D. *Other Reports or Studies.* Unless otherwise provided, a Critical Areas Report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Shoreline Administrator ~~planning official~~. Provided, the site conditions shall not have changed since the earlier report or study was completed.

E. *Critical Areas Report – Modifications to Requirements.* Modifications to Required Contents. The applicant may consult with the Shoreline Administrator ~~planning official~~ prior to or during preparation of the Critical Areas Report to obtain city approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential impacts to any critical areas or buffers and the required mitigation. The Shoreline Administrator ~~planning official~~ may also initiate a modification to the required report contents by requiring either additional or less information, when determined to be necessary to the review of the proposed activity in accordance with this chapter.

F. *Mitigation Plan Requirements.* When mitigation is required, the applicant shall submit a mitigation plan as part of the Critical Areas Report. The mitigation plan shall include:

1. *Detailed Construction Plans.* The mitigation plan shall include descriptions of the mitigation proposed, such as:
 - a. The proposed construction sequence, timing, and duration;
 - b. Grading and excavation details;
 - c. Erosion and sediment control features;
 - d. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
 - e. Measures to protect and maintain plants until established.

These written descriptions shall be accompanied by detailed site diagrams, scaled cross sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

2. *Monitoring Program.* The mitigation plan shall include a program for monitoring construction of the mitigation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years. For example, ten (10) years or more of monitoring are typically needed for forested wetlands or scrub-shrub communities.

When the applicant believes that the conditions of the monitoring plan are met, the applicant shall contact the City and request that the City verify and certify so in writing. The City shall conduct an on-site assessment as part of the verification process. The applicant shall provide reasonable access to the property as necessary for verification and certification.

When the City has verified and certified that the conditions of the monitoring plan have been met, the critical area shall no longer be considered as mitigation, but as a naturally-occurring critical area when processing a future development permit application(s).

3. *Adaptive Management.* The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met. (Ord. M-3931 § 24, 2009; Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

20.740.060 Approval Criteria.

Any activity or development subject to this chapter, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria. The city may condition the proposed activity as necessary to mitigate impacts to critical areas and their buffers and to conform to the standards required by this chapter. Activities shall protect the functions of the critical areas and buffers on the site.

~~A. *Avoid Impacts.* The Applicant shall first seek to avoid all impacts that degrade the functions and values of (a) critical area(s). This may necessitate a redesign of the proposal.~~

~~B. *Minimize Impacts.* Where avoidance is not feasible, the applicant shall minimize the impact of the activity and mitigate to the extent necessary to achieve the activity's purpose and the purpose of this ordinance. The applicant shall seek to minimize the fragmentation of the resource to the greatest extent possible.~~

A. *Mitigation Sequencing.* Before impacting any Critical Area or its buffer, an applicant shall demonstrate that the following actions have been taken. Actions are listed in the order of preference:

1. Avoid the impact altogether by not taking a certain action or parts of an action.

2. Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.

3. Rectify the impact by repairing, rehabilitating, or restoring the affected environment.

4. Reduce or eliminate the impact over time by preservation and maintenance operations.

5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.

6. Monitor the required compensation and take remedial or corrective measures when necessary.

~~BE.~~ *Compensatory Mitigation.* The applicant shall compensate for the unavoidable impacts by replacing each of the affected functions to the extent feasible. The compensatory mitigation shall be designed to achieve the functions as soon as practicable. Compensatory mitigation shall be in-kind and on-site, when feasible, and sufficient to maintain the functions of the critical area, and to prevent risk from a hazard posed by a critical area to a development or by a development to a critical area.

~~CD.~~ *No Net Loss.* The proposal protects the critical area functions and values and results in no net loss of critical area functions and values.

~~DE.~~ *Consistency with General Purposes.* The proposal is consistent with the general purposes of this chapter and does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;

~~EF.~~ *Performance Standards.* The proposal meets the specific performance standards of Fish and Wildlife Habitat Conservation Areas ~~VMC Section~~ 20.740.110, Frequently Flooded Areas ~~VMC Section~~ 20.740.120, Geologic Hazard Areas ~~VMC Section~~ 20.740.130, and Wetlands ~~VMC Section~~ 20.740.140, as applicable. (~~Ord. M 4017 § 7, 2012; Ord. M 3692 § 2, 2005~~)

20.740.070 Minor Exceptions.

Minor exceptions do not apply in shoreline jurisdiction. Deviations are allowed through a Shoreline Variance.

~~A. *Minor Exceptions Authorized.* Minor exceptions of no greater than 10% from the standards of this chapter may be authorized by the city in accordance with the procedures set forth in VMC 20.210.050, Type II Applications. Minor exceptions shall not be combined with buffer averaging [(20.740.140(C)(1)(b)(ii))] or buffer reduction (20.740.140(C)(1)(b)(iii)). Minor exceptions from the NFIP development standards of VMC 20.740.120, Frequently Flooded Areas are prohibited (VMC 20.740.120(D)).~~

~~B. *Minor Exception Criteria.* A minor exception from the standards of this chapter may be granted only if the applicant demonstrates that the requested action conforms to all of the following criteria.~~

- ~~1. Unusual conditions or circumstances exist that are peculiar to the intended use, the land, the lot, or something inherent in the land, and that are not applicable to all other lands in the same vicinity or district;~~
- ~~2. The unusual conditions or circumstances do not result from the actions of the applicant;~~
- ~~3. Granting the minor exception requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances;~~
- ~~4. The minor exception is necessary for the preservation and enjoyment of a substantial property right of the applicant such as is possessed by the owners of other properties in the same vicinity or district;~~
- ~~5. The minor exception requested is the least necessary and no greater than 10% of the subject standard to relieve the unusual circumstances or conditions identified in Subsection VMC 20.740.070(B)(1) above;~~
- ~~6. The granting of the minor exception or the cumulative effect of granting more than one minor exception is consistent with the general purpose and intent of the City of Vancouver Comprehensive Plan, this Title, this chapter, and the underlying zoning district;~~
- ~~7. Degradation of the functions (including public health and safety) of the subject critical areas and any other adverse impacts resulting from granting the minor exception will be minimized and mitigated to the extent feasible in accordance with the provision of this chapter;~~
- ~~8. Granting the minor exception will not otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;~~
- ~~9. The proposed development complies with all other applicable standards.~~

~~C. *Conditions May Be Required.* In granting any minor exception, the city may attach such conditions and safeguards as are necessary to secure adequate protection of critical areas and developments from adverse impacts, and to ensure conformity with this chapter.~~

~~D. *Time Limit.* The city shall prescribe a time limit within which the action for which the minor exception is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the minor exception.~~

~~E. *Burden of Proof.* The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application. (Ord. M 4017 § 8, 2012; Ord. M 3844 § 2, 2007; Ord. M 3692 § 2, 2005)~~

20.740.080 Reasonable Use Exceptions.

Reasonable Use Exceptions do not apply in shoreline jurisdiction. The applicant must apply for a Shoreline Variance.

~~A. *Exception Request and Review Process.* If the application of this chapter would deny all reasonable economic use of the subject property, the city shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section. Exceptions from the standards of this chapter may be authorized by the city in accordance with the procedures set forth in VMC 20.210.060, Type III Applications.~~

An application for a reasonable use exception shall be made to the city and shall include a Critical Areas Report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (RCW 43.21C). The planning official shall prepare a recommendation to the Hearings Examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in VMC 20.740.080(B).

~~B. *Reasonable Use Review Criteria.* The city shall approve applications for reasonable use exceptions when all of the following criteria are met:~~

- ~~1. The application of this chapter would deny all reasonable economic use of the property;~~
- ~~2. No other reasonable economic use of the property has less impact on the critical area;~~
- ~~3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;~~
- ~~4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this chapter, or its predecessor;~~
- ~~5. The proposal does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;~~
- ~~6. The proposal mitigates for the loss of critical area functions to the greatest extent feasible and contributes to the Critical Areas Restoration Fund for any impacts that cannot be mitigated.~~
- ~~7. The proposal is consistent with other applicable regulations and standards.~~

~~C. *Burden of Proof.* The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. (Ord. M 3692 § 2, 2005)~~

20.740.090 Unauthorized Critical Areas Alterations and Enforcement.

A. Enforcement.

~~1. It shall be unlawful to violate the provisions of VMC Chapter 5A 20.740. Any violation of this chapter shall constitute a public nuisance. Violations of this Chapter are subject to enforcement under Chapter 7 of this SMP.~~

~~2. VMC Title 22 shall provide the enforcement provisions for VMC Chapter 20.740. VMC Title 22 may impose any of the remedies, requirements or corrective actions contained in this chapter. In lieu of or in addition to the enforcement provisions contained in VMC Title 22, the city may also seek injunctive or other relief from any court of competent jurisdiction.~~

~~3. The city shall deposit all monetary penalties collected pursuant to VMC Title 22 into the Critical Areas Restoration Fund. Accrued monies in the Critical Areas Restoration Fund shall be used to protect and restore critical areas within the City of Vancouver.~~

B. Requirement for Restoration Plan. In the event the city initiates enforcement action under ~~VMC Title 22 Chapter 7~~ or files a complaint in court, the city may require a restoration plan consistent with the requirements of this chapter. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in ~~VMC Section 20.740.090(C)~~. The ~~planning official~~ Shoreline Administrator shall, at the violator's expense, seek expert advice in determining whether the plan restores the affected area to its pre-existing condition or, where that is not possible, restores the functions of the affected area. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.

C. Minimum Performance Standards for Restoration.

1. For alterations to frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

- a. The structure and functions of the critical area or buffer prior to violation shall be restored, including water quality and habitat functions;
- b. The soil types and configuration prior to violation shall be replicated;
- c. The critical area and buffers shall be replanted with native vegetation (a list of native species is available from the ~~Planning Official~~ Shoreline Administrator). ~~If the critical area or buffer is on a site that meets the criteria of VMC 20.740.030(C)(1)(f)(i), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the Planning Official; and~~

d. Information demonstrating compliance with the requirements in ~~VMC Section~~ 20.740.050(F) Mitigation Plan Requirements shall be submitted to the Shoreline Administrator ~~planning official~~.

2. For alterations to frequently flooded and geologic hazard areas, the following minimum performance standards shall be met for the restoration of a critical area or buffer, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

- a. The hazard shall be reduced to a level equal to, or less than, the pre-violation hazard;
- b. The risk of personal injury resulting from the alteration shall be eliminated or minimized;
- c. Drainage patterns shall be restored to those existing before the alteration; and
- d. The hazard area and buffers shall be replanted consistent with pre-violation conditions with native vegetation sufficient to minimize the hazard. ~~If the critical area or buffer is on a site that meets the criteria of VMC 20.740.030(C)(1)(f)(i), the vegetation for replanting must be not only native but also fire resistant. A list of native, fire resistant species is available from the Planning Official.~~

D. *Site Investigations*. The ~~planning official~~ Shoreline Administrator is authorized to make site inspections and take such actions as are necessary to enforce this chapter. As a condition of the restoration plan, the applicant shall grant reasonable access to the property. (Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

20.740.100 Habitats of Local Importance.

A. *Eligibility and Approval Criteria*. Habitats of Local Importance are Fish and Wildlife Habitat Conservation Areas which are not designated as Priority Habitats and Species by the state but are designated as locally significant by the city. Criteria for designation include all of the following:

1. A need for protection exists due to a high diversity of fish or wildlife species, declining populations, scarcity of the habitat type, sensitivity to disturbance from human activity or development, or other unique local habitat functions.
2. The area is sufficient in size to support the species or habitat functions for which it is designated.
3. The designation will not compromise the ability of the city to achieve the goals of the Comprehensive Plan.
4. There is a proposed management strategy describing how the functions of the habitat will be protected after designation.

B. *Designation Process*. Habitats of Local Importance may be proposed by the property owner or the city and shall be designated according to a Type IV legislative procedure (VMC [20.210.070](#)). (Ord. M-3692 § 2, 2005)

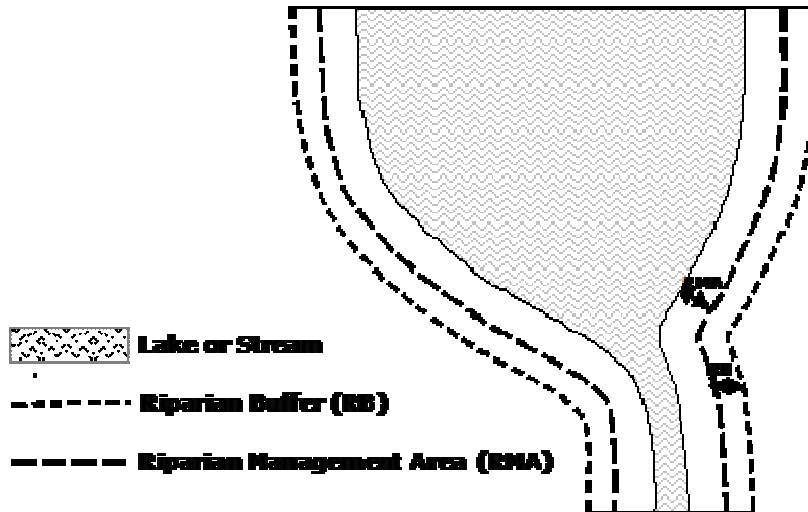
20.740.110 Fish and Wildlife Habitat Conservation Areas.

A. Designation.

1. Final designations shall be based on site conditions and other available data or information (~~See VMC 20.740.020(C)(1)~~). There are established in the city the following identified Fish and Wildlife Habitat Conservation Areas:

- a. Habitat used by any life stage of state or federally designated endangered, threatened, and sensitive fish or wildlife species. A current list of federally and state identified species is available from the Shoreline Administrator ~~planning official~~.
- b. *Priority Habitats and areas associated with Priority Species.* Current lists of Priority Habitats and Species and applicable Management Recommendations promulgated by the Washington Department of Fish and Wildlife are available from the Shoreline Administrator ~~planning official~~.
- c. Water bodies including lakes, streams, rivers, and naturally occurring ponds.
- d. *Habitats of Local Importance.* Fish and Wildlife Habitat Conservation Areas which are not designated as Priority Habitats and Species by the state but are designated as locally significant by the city in accordance with ~~VMC~~ Section 20.740.100.
- e. *Riparian Management Areas and Riparian Buffers.* The regulated areas include the land from the ordinary high water mark to a specified distance as measured horizontally in each direction. The Riparian Management Area is adjacent to the lake, stream or river, and the Riparian Buffer is adjacent to the Riparian Management Area.

**Figure 20.740.110-1
Riparian Management Area and Riparian Buffer**



(1) The Riparian Management Areas and Riparian Buffers are as follows:

Table TABLE 20.740.110-1. RIPARIAN MANAGEMENT AREAS & BUFFERS

DNR/Vancouver Stream Type	Description	Land Use Intensity ¹	RMA	RB ²
S	Shorelines-of-the-State	High/Moderate/Low	100'	75'
F	Lakes, streams, and rivers that contain fish habitat	High/Moderate/Low	100'	75'
Np or Ns, large	Streams and rivers that: (1) are not shorelines-of-the-state; (2) do not contain fish habitat; (3) are wider than 5' between the ordinary high water marks on the banks.	High/Moderate/Low	100'	75'
Np, small, connected	Streams and rivers that: (1) are not shorelines-of-the-state; (2) do not contain fish habitat; (3) are not more than 5' wide; (4) do connect via surface water to another stream or river (whether perennial or seasonal) even if the connection traverses a culvert, wetland, or other feature; and	High/Moderate Low	100' 100'	50' 25'

DNR/Vancouver Stream Type	Description	Land Use Intensity ¹	RMA	RB ²
	(5) are perennial			
Ns, small, connected	Streams and rivers that: (1) are not shorelines-of-the-state; (2) do not contain fish habitat; (3) are not more than 5' wide; (4) do connect via surface water to another stream or river (whether perennial or seasonal) even if the connection traverses a culvert, wetland, or other feature; and (5) are seasonal	High/Moderate Low	100' 100'	25' 0'
Np or Ns, small, not connected	Streams and rivers that: (1) are not shorelines-of-the-state; (2) do not contain fish habitat; (3) are not more than 5' wide; (4) do not connect via surface water to another stream or river; and (5) are either perennial or seasonal	High/Moderate/Low	25'	0'

¹ Refer to Table 20.740.140-1.

² The RB is the distance shown or the full extent of the 100-year floodplain, whichever is farther landward.

(A) When impervious surfaces from previous development completely functionally isolate the Riparian Management Area or the Riparian Buffer from the waterbody, the regulated riparian area shall extend from the ordinary high water mark to the impervious surfaces. If the waterbody is not completely physically isolated, but is completely functionally isolated, the Shoreline Administrator ~~planning official~~ may adjust the regulated riparian area to reflect site conditions and sound science.

2. *Habitat Location Information.* Information on the approximate location and extent of Habitat Conservation Areas is available from the Shoreline Administrator ~~planning official~~.

The habitat location information is based on:

- a. Washington Department of Fish and Wildlife Priority Habitat and Species Maps;
- b. Washington Department of Fish and Wildlife Anadromous and Resident Salmonid Distribution Maps in the Salmon and Steelhead Habitat Inventory Assessment Program (SSHIAP);
- c. Washington Department of Natural Resources Official Water Type Reference Maps;

- d. City-designated Habitats of Local Importance;
- e. Other information acquired by the city.

B. Additional Critical Areas Report Requirements.

1. A Critical Areas Report for a Riparian Management Area or Riparian Buffer shall include evaluation of the habitat functions using the Clark County Habitat Conservation Ordinance Riparian Habitat Field Rating Form or another habitat evaluation tool approved by the Washington Department of Fish and Wildlife.

a. In addition to the standards of (~~VMC~~ Section 20.740.050(F)), where a mitigation plan is required as part of the Critical Areas Report for a fish and wildlife habitat conservation area that involves a water body, Riparian Management Area or Riparian Buffer, the monitoring program protocol shall include where relevant to the impacted functions:

- 1. Observations and measurements of riparian integrity and quality (buffer width, riparian corridor continuity or fragmentation, species diversity, stand age, plant survival rates)
- 2. Large woody debris surveys
- 3. Streamflow monitoring
- 4. Water quality monitoring to detect pollution impacts
- 5. Biological monitoring (including fish surveys and benthic macroinvertebrate sampling)

2. If the clearing or development activity is in the Riparian Management Area, the Critical Areas Report shall contain the following information, if applicable, in addition to the general Critical Areas Report requirements of ~~VMC~~ Section 20.740.050:

- a. How the clearing or development activity constitutes a water-dependent, water-related or water-enjoyment use; or
- b. How the clearing or development activity cannot feasibly be located on the site outside of the Riparian Management Area; and
- c. How the proposal meets the Riparian Management Area width averaging standard (~~VMC~~ Section 20.740.110(C)(2)(c)); and
- d. How the proposal will not adversely affect the connectivity of habitat functions.

C. Performance Standards.

- 1. *General.*

- a. Development or clearing activities shall protect the functions of the Habitat Conservation Areas on the site. The activity shall result in no net loss of functions. Protection can be provided by avoiding (the preferred protection) or minimizing and mitigating as described in the general critical areas approval criteria (Section VMC 20.740.060). Functions include:
1. Providing habitat for breeding, rearing, foraging, protection and escape, migration, and over-wintering; and
 2. Providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, removing pollutants from water, and maintaining appropriate temperatures.
- b. An applicant shall replace any lost functions preferably by restoring or if not, then by enhancing other habitat functions, so long as the applicant demonstrates that enhancement of the other functions provides no net loss in overall functions and maintains habitat connectivity. An example of unavoidable loss of function would be interruption of a travel corridor in a Riparian Management Area or Buffer. To the maximum extent feasible, enhancement shall be undertaken on-site.
- c. If development or clearing activity is within a Priority Habitat and Species area the applicant shall follow Washington Department of Fish and Wildlife Management Guidelines, Management Recommendations or other standards approved by the Washington Department of Fish and Wildlife. Where there are no guidelines, recommendations or other standards, development or clearing may occur provided that:
1. The development or clearing results in no net loss of habitat function on the site; and
 2. Functionally significant habitat, defined as habitat that cannot be replaced or restored within 20 years, shall be preserved.
- d. Signs for Fish and Wildlife Conservation Areas
1. *Temporary markers.* The location of the outer perimeter of the fish and wildlife habitat conservation area shall be marked in the field, and such marking shall be approved by the Shoreline Administrator ~~planning official~~ prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.
 2. *Permanent signs.* Permanent signs shall be posted on public and private properties at an interval of one per lot for single family residential uses or at a maximum interval of 200 feet or as otherwise determined by the Shoreline Administrator ~~planning official~~, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the Shoreline Administrator ~~planning official~~: "The area beyond this sign is a fish and wildlife habitat conservation area. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information."

2. Riparian Management Areas and Riparian Buffers.

In addition to the standards in ~~VMC~~ Section 20.740.060 and ~~VMC~~ Section 20.740.110(C)(1) the standards in this section shall apply in Riparian Management Areas and Buffers.

a. *Riparian Buffer.* Development or clearing activity may occur in the Riparian Buffer, providing that:

1. The planned mitigation results in no net loss of riparian habitat functions on the site, and
2. Functionally significant habitat, defined as habitat that cannot be replaced or restored within 20 years, shall be preserved unless the activity meets the conditions of ~~VMC~~ Section 20.740.110(C)(2)(b). An example of habitat that cannot be replaced within 20 years would be a stand of mature trees or a peat bog.

b. *Riparian Management Area.* No development or clearing activity is allowed within the Riparian Management Area unless such activity is:

1. A water-dependent, water-related or water-enjoyment activity where there are no feasible alternatives that would have a less adverse impact on the Riparian Management Area or Riparian Buffer. The applicant shall minimize the impact and mitigate for any unavoidable impact to functions; Cost may be considered, but shall not be overriding; or
2. A road, railroad, trail, dike, or levee or a water, sewer, stormwater conveyance, gas, power, cable, fiber optic, or telephone facility that cannot feasibly be located outside of the Riparian Management Area, that minimizes impacts, and that mitigates for any unavoidable impact to functions. Cost may be considered, but shall not be overriding; or
3. Mitigation for activities allowed by this chapter, providing the activity provides no net loss of riparian habitat functions on the site.

c. *Modification of the Riparian Management Area Width.* The width of the Riparian Management Area may be modified (See ~~VMC~~ 20.170.080(B)(1)) if all the following are met:

1. The square footage of the area meeting the performance standards of the Riparian Management Area (~~VMC~~ Section 20.740.110(C)(2)(b)) is not reduced; and
2. There is no net loss of functions as a result of the averaging; and
3. Notwithstanding any other provision, the reduction of the Riparian Management Area width at any location may be no greater than 25%.

d. Owners of developed properties within the Riparian Management Area or Riparian Buffer are encouraged to enhance the area by planting native plants and to apply integrated pest management.

- e. Agricultural activities in the Riparian Management Area or Riparian Buffer are encouraged to develop farm conservation plans. (Ord. M-3931 § 25, 2009; Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

20.740.120 Frequently Flooded Areas.

VMC Chapter 20.740.120 Frequently Flooded Areas regulations apply within shoreline jurisdiction, but are not incorporated as part of this Shoreline Master Program.

~~A. *Designation.* Frequently Flooded Areas are the Areas of Special Flood Hazards identified by the Federal Insurance Administration and the Federal Emergency Management Agency (FEMA), respectively, in scientific and engineering reports entitled, Flood Insurance Study: Clark County, Washington and Incorporated Areas, Volumes 1 and 2 (Numbers 53011CV001A and 53011CV002A, respectively,) effective September 5, 2012 and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs and their digital version, DFIRMs) and any revisions thereto. The Flood Insurance Study (FIS), FIRMs and DFIRMs are available from the Planning Official, 415 West 6th Street, Vancouver, WA 98660. (See VMC 20.150.040 Meanings of Specific Words and Terms for definitions for Areas of Special Flood Hazards, Floodplain, Floodway, and Frequently Flooded Areas.)~~

~~Portions of channel migration zones located outside areas of special flood hazards are not designated as frequently flooded areas.~~

~~When base flood elevation (BFE) data has not been provided in frequently flooded areas (Zone A), the Planning Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source in order to administer the provisions of this chapter. This best available information for flood hazard area identification shall be the basis for regulation until a new FIRM/DFIRM is issued.~~

Figure 20.740.120-1. Frequently Flooded Areas/Areas of Special Flood Hazards



~~Adapted from Floodplain Management: A Local Administrator's Guide to the National Flood Insurance Program, Fifth Edition, FEMA Region 10~~

~~B. *Additional Critical Areas Report Requirements.* In addition to the Critical Areas Report requirements in VMC 20.740.050, the following information shall be submitted. Elevation data shall reference the NAVD 1988 Datum.~~

- ~~1. Base (100-year) flood elevation in relation to mean sea level. When base flood elevation has not been provided or is not available from an authoritative source, it shall be generated by the applicant for developments which contain at least 50 lots or 5 acres, whichever is less.~~
- ~~2. Elevation in relation to mean sea level, of the lowest floor (including basement) of all existing and proposed structures.~~

~~3. Elevation in relation to mean sea level to which any structure's lowest floor (including basement) is raised to be at least 1 foot above the base flood elevation or for nonresidential flood-proofed structures, the elevation in relation to mean sea level to which any structure is flood-proofed.~~

~~4. *Location of the channel migration zone.* See the Clark County Shoreline Inventory & Characterization Report, Volume 1, Lewis and Salmon Washougal Watersheds and Rural Areas, Map 27, Potential Channel Migration Zone (CMZ) Areas for general locations of channel migration zones. The actual location of the channel migration zone on site must be identified by a qualified professional and mapped in accordance with the submittal requirements of VMC 20.740.050.~~

~~5. *Description of strategies taken to avoid, minimize, and mitigate unavoidable impacts to public safety.* When the base flood elevation has not been provided or is not available from an authorized source (VMC 20.740.120(A)), the Critical Areas Report shall include a discussion of how and whether the proposed development would be reasonably safe from flooding. Historical data, high water marks, photographs of past flooding and other available information will be used as the basis for this discussion and conclusion.~~

~~6. Certification, documentation, and demonstration by a qualified professional of how the applicable standards of VMC 20.740.120(C) will be met. To support the "no rise" analyses required in VMC 20.740.120(C)(1), the documentation required in the most recently updated or amended FEMA Region 10 publication, Floodplain Management: A Local Floodplain Administrator's Guide to the National Flood Insurance Program shall be submitted.~~

~~C. *Performance Standards.* Except as noted, the following standards apply to all structures and development (including but not limited to the placement of manufactured homes, substantial improvement, roads, railroads, trails, dikes, levees, or water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone facilities) in all areas of special flood hazards and channel migration zones (CMZs). Additional restrictions apply in the floodway:~~

~~1. *Encroachments.*~~

~~a. *Designated Floodway: Prohibited Encroachments.* The following are prohibited in the floodway:~~

~~1. *Water wells (20.740.120(C)(4)(a)).*~~

~~2. *On-site waste disposal systems (20.740.120(C)(5)(a)).*~~

~~3. *Residential structures or other structures for human habitation including but not limited to:*~~

~~a. *Building envelopes within subdivisions (20.740.120(C)(9)(a)).*~~

~~b. *New construction or reconstruction of residential structures (20.740.120(C)(10)(b)(1)).*~~

~~c. *Placement or replacement of manufactured homes (all types) (20.740.120(C)(10)(b)(2)).*~~

~~d. Critical facilities housing vulnerable populations and emergency services(20.740.120(C)(12)(a)); and~~

~~e. Recreational vehicles (20.740.120(C)(13)(a)).~~

~~b. Designated Floodway: Allowed Eneroachments. In areas where the base flood elevation has been provided and a regulatory floodway has been designated, other eneroachments including but not limited to fill, new construction, replacement structures, substantial improvements and other development shall be prohibited unless:~~

~~1. Certification by a qualified professional (in this case, a registered professional engineer) is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed eneroachment would not result in a net increase in base flood elevation (less than 0.00 feet, rounded) or flood velocity during the occurrence of the base flood discharge. At a minimum, such “no rise” analyses shall include a step backwater analysis and a conveyance compensation analysis as required in the most recently updated or amended FEMA Region 10 publication, Floodplain Management: A Local Floodplain Administrator’s Guide to the National Flood Insurance Program; and~~

~~2. The applicable standards of VMC 20.740.120(C)(2-14) are also met.~~

~~c. No Designated Floodway: Allowed Eneroachments. In areas where the base flood elevation has been provided but a regulatory floodway has not been designated, no eneroachments including but not limited to new construction, substantial improvement, or other development (including fill) shall be permitted, unless:~~

~~1. The applicant has demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point; and~~

~~2. The applicable standards of VMC 20.740.120(C)(2-14) are also met.~~

~~d. Other Areas of Special Flood Hazards and CMZs. In areas of special flood hazards except the floodway or where the BFE has not been provided, or in channel migration zones, eneroachments, including but not limited to fill, new construction, replacement structures, substantial improvements and other development shall be prohibited, unless:~~

~~1. A qualified professional provides certification demonstrating that the proposed project would not result in a net loss of flood storage capacity; and~~

~~2. The applicable standards of VMC 20.740.120(C)(2-14) are also met.~~

~~2. *Property Damage.* Development shall not result in adverse impacts to other properties either upstream or downstream.~~

~~3. *Drainage.* Drainage paths around structures and on slopes shall be adequate to guide floodwaters around and away from proposed structures and adjacent properties.~~

~~4. *Water.*~~

~~a. Water wells are prohibited in the floodway.~~

~~b. In areas of special flood hazards except the floodway and in CMZs, water wells shall be constructed to withstand a 100-year flood without adversely impacting groundwater quality (WAC 173-160-171).~~

~~c. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.~~

~~5. *Waste.*~~

~~a. On-site waste disposal systems are prohibited in the floodway.~~

~~b. In areas of special flood hazards except the floodway and in CMZs, on-site waste disposal systems shall be located to avoid flood damage to them or release of contaminants from them during a base flood event.~~

~~c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.~~

~~6. *Construction Materials and Methods.*~~

~~a. Construction methods and practices shall minimize flood damage.~~

~~b. Construction materials and utility equipment shall be resistant to flood damage. For guidance on flood resistant materials see the most current FEMA Technical Bulletin 2, Flood Resistant Materials Requirements.~~

~~c. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during a base flood event. For guidance on the placement of building utility systems, see the most current FEMA Publication #348, Protecting Building Utilities from Flood Damage.~~

~~7. *Anchoring.* All new construction including substantial improvements and all types of manufactured homes shall:~~

~~a. Be elevated on a permanent foundation and securely anchored to an adequate foundation system to prevent flotation, collapse, or lateral movement.~~

~~b. Be installed or placed using methods and practices that minimize flood damage.~~ Manufactured home placement shall follow the guidance in the most current FEMA P-85, Protecting Manufactured Homes from Floods and Other Hazards.

~~8. Enclosed Areas Below the Base Flood Elevation.~~

~~a. Enclosed areas below the base flood elevation shall be used only for vehicle parking, building access, or storage.~~

~~b. New or substantially improved enclosed areas below the base flood elevation shall be constructed in accordance with:~~

~~1. VMC 20.740.120(C)(7), Anchoring~~

~~2. VMC 20.740.120(C)(10)(c)(2)(d), Residential Construction~~

~~3. VMC 20.740.120(C)(6)(b-c), Construction Materials and Methods~~

~~c. Enclosed areas below the BFE shall not be considered to be the lowest floor when they are not part of a basement and meet the requirements of VMC 20.740.120(C)(10)(d).~~

~~d. Crawlspace Construction.~~ Crawlspaces are a type of enclosed area below the BFE. Crawlspaces constructed at or above the lowest adjacent exterior grade are preferred. (Note: Insurance premiums for structures with below-grade crawlspaces will be higher than those with the interior elevation at or above the lowest adjacent exterior grade.) Refer to the most current FEMA Technical Bulletin 11, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas (available from the Planning Official) for more information. Crawlspaces:

~~1. Are prohibited in areas with flood velocities greater than five feet (5') per second unless designed by a qualified professional (in this case an architect or professional engineer).~~

~~2. Shall meet the requirements of VMC 20.740.120(C)(8)(a-c), Enclosed Areas below the BFE.~~

~~3. Shall not be considered "basements" for the purposes of VMC 20.740.120 when constructed according to the following standards:~~

~~a. The interior grade of a crawlspace below the base flood elevation must not be more than 2' below the lowest adjacent exterior grade.~~

~~b. The height of the below grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4' at any point.~~

~~c. The crawlspace must be equipped with a drainage system that removes floodwaters from the interior area of the crawlspace in a reasonable period of time after a base flood event.~~

~~9. Subdivisions:~~

~~a. All subdivisions shall be designed:~~

~~1. To ensure that no residential structure or other structures for human habitation are located in the floodway even though lots may extend into the floodway;~~

~~2. To avoid placement of any structures in areas of special flood hazards and in CMZs;~~

~~3. Where it is not possible to design a subdivision in a manner to avoid placement of any structures in areas of special flood hazards or CMZs, the subdivision shall be designed to minimize or eliminate potential flood damage.~~

~~b. All subdivisions shall have facilities such as sewer, gas, power, cable, fiber optic, telephone, stormwater and water systems located and constructed to minimize or eliminate flood damage. (See VMC 20.740.120(C)(2), Property Damage; VMC 20.740.120(C)(4), Water; VMC 20.740.120(C)(5), Waste; VMC 20.740.120(C)(6), Construction Materials and Methods; and VMC 20.740.120(C)(7), Anchoring.)~~

~~c. All subdivisions shall have adequate drainage provided to reduce exposure to flood damage. (See VMC 20.740.120(C)(3), Drainage.)~~

~~10. Residential Construction (including Manufactured Homes):~~

~~a. Residential Construction in the Floodway:~~

~~1. New construction and reconstruction of residential development including placement and replacement of all types of manufactured homes is prohibited in the floodway.~~

~~2. Existing residential structures and manufactured homes in the floodway are nonconforming, but may be repaired or improved, provided:~~

~~a. The repair or improvement does not increase the ground floor area of the structure; and~~

~~b. The repair or improvement does not result in adverse impacts to other properties either upstream or downstream; and~~

~~c. The cost of the repair or improvement does not exceed 50% of the market value of the structure either:~~

~~1. Before the start of repair or improvement where there is no damage to the structure; or~~

~~2. Before flood or other damage to the structure occurred.~~

~~d. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the Planning Official and which are the minimum necessary to assure safe living conditions may be excluded from the 50%.~~

~~e. Any project for improvement to a structure identified as a historic place may be excluded from the 50%.~~

~~b. Residential Construction in Other Areas of Special Flood Hazards and CMZs. In areas of special flood hazards except the floodway and in channel migration zones:~~

~~1. New residential construction and reconstruction, including all types of manufactured homes and other structures for human habitation shall meet all the provisions of this chapter, including VMC 20.740.120(C)(8) and (10)(c-d).~~

~~2. New placement or replacement of all types of manufactured homes shall meet the standards of VMC 20.740.120(C)(7), Anchoring.~~

~~3. Repair or Substantial Improvement. All provisions of this chapter (including the elevation standards of VMC 20.740.120(C)(8) and (10)(c-d)), all state and local health, sanitary, safety codes, and where applicable, historic preservation codes shall be met when the cost of repair or improvement of an existing residential structure exceeds 50% of the market value of the structure either:~~

~~a. Before the start of repair or improvement where there is no damage to the structure; or~~

~~b. Before flood or other damage to the structure occurred.~~

~~e. Elevation~~

~~1. BFE Established. The lowest floor (including basement) of new residential structures (including but not limited to reconstruction, substantial improvement, the placement or replacement of all types of manufactured homes) shall be elevated at least 1 foot above base flood elevation. Structures shall be elevated using means other than fill (such as extended foundation or other enclosure walls, piles, or columns) whenever feasible.~~

~~2. *No BFE.* In areas where the base flood elevation has not been provided or is not available from an authorized source (VMC 20.740.120(A) and .120(B)(5)) and the Critical Areas Report demonstrates to the satisfaction of the Planning Official that the proposed development would be reasonably safe from flooding, new residential construction (including but not limited to substantial improvement and the placement of manufactured homes) shall be elevated at least 2' above the highest adjacent grade. (Note: Failure to elevate at least 2' above the highest adjacent grade may result in higher insurance rates.)~~

~~d. *Fully Enclosed Areas Below Lowest Floor.* Fully enclosed areas below the lowest floor that are subject to flooding are prohibited unless designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must be certified by a qualified professional (in this case, a registered professional engineer or architect), or must meet or exceed the following minimum criteria:~~

- ~~1. Contain a minimum of 2 openings having a total net area of not less than 1 square inch for every 1 square foot of enclosed area subject to flooding;~~
- ~~2. The bottom of all openings are no higher than 1 foot above grade; and~~
- ~~3. Openings permit the automatic entry and exit of floodwaters even when equipped with screens, louvers, or other coverings or devices.~~

~~For guidance on flood openings, see FEMA Technical Bulletin 1-93, Openings in Foundation Walls.~~

~~11. *Non-Residential Construction.* New construction and substantial improvement of any nonresidential structure shall either be elevated (VMC 20.740.120(C)(11)(a or b)) or flood proofed (VMC 20.740.120(C)(11)(c)):~~

~~a. *Be Elevated: BFE Established.*~~

- ~~1. Have the lowest floor, including basement, elevated at least one foot above the base flood elevation; and~~
- ~~2. Meet the same standards for space below the lowest floor as described in 20.740.120(C)(8)(d) and VMC 20.740.120(C)(10)(d);~~

~~b. *Be Elevated: No BFE.*~~

- ~~1. In areas where the base flood elevation has not been provided or is not available from an authorized source (VMC 20.740.120(C)(2A) and (3.120(B)(5)) and the Critical Areas Report demonstrates to the satisfaction of the Planning Official that the proposed development would be reasonably safe from flooding, new nonresidential construction shall be elevated at least 2'~~

~~above the highest adjacent grade. Failure to elevate at least 2' above the highest adjacent grade may result in higher insurance rates; and~~

~~2. Meet the same standards for space below the lowest floor as described in 20.740.120(C)(8)(d) and VMC 20.740.120(C)(10)(d); or~~

~~e. *Be Flood-proofed.* Together with attendant utility and sanitary facilities shall:~~

~~1. Be flood-proofed so that below one foot (or more) above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water;~~

~~2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;~~

~~3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Planning Official as set forth in VMC 20.740.120(E).~~

~~12. *Critical Facilities.*~~

~~a. Critical facilities housing vulnerable populations and emergency services shall be prohibited in the floodway.~~

~~b. In areas of special flood hazard except the floodway and in CMZs, construction of new critical facilities shall be prohibited unless the applicant demonstrates that:~~

~~1. No feasible alternative site is available; and either:~~

~~a. The lowest floor, entrances, egresses, and to the extent feasible access routes are elevated to 3 feet above the base flood elevation or to the elevation of the 500-year flood, whichever is lower; or~~

~~b. The applicant demonstrates that other measures would ensure that in the event of a flood, the facility would remain safe and fully operational and that potentially harmful materials would not be displaced by or released into floodwaters. Such measures shall be conditions of approval of the Critical Areas Permit.~~

~~13. *Recreational Vehicles.*~~

~~a. Recreational vehicles shall be located outside the floodway.~~

~~b. Recreational vehicles in areas of special flood hazard except the floodway and in CMZs shall either:~~

- ~~1. Be on the site for fewer than 180 consecutive days;~~
- ~~2. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type water, sewer, stormwater, gas, power, cable, fiber optic, telephone, and security devices, and have no permanently attached additions; or~~
- ~~3. Meet the requirements of VMC 20.740.120(C)(7), Anchoring; VMC 20.740.120(C)(8), Enclosed Areas below the Base Flood Elevation; and VMC 20.740.120 (C)(10)(c), Elevation.~~

~~14. Alteration of Watercourse.~~

~~a. The planning official shall notify adjacent communities and the state coordinating agency, Washington State Department of Ecology, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.~~

~~b. Alteration or relocation of a watercourse shall be allowed only after:~~

- ~~1. Certification by a qualified professional that the alteration or relocation:~~
 - ~~a. Is the only feasible alternative or is part of a restoration project approved by the appropriate state or federal agencies;~~
 - ~~b. Will not diminish the flood-carrying capacity of the watercourse;~~
 - ~~c. Will not block side channels;~~
 - ~~d. Will be accomplished using soft armoring techniques wherever possible;~~
 - ~~e. Will avoid to the extent possible and then minimize and mitigate removal of vegetation including downed woody vegetation; and~~
 - ~~f. Will not endanger development in the channel migration zone.~~
- ~~2. The applicant provides assurance acceptable to the planning official of maintenance of the relocated channel such that the flood-carrying capacity of the watercourse is not diminished.~~

~~D. Variances and Minor Exceptions. Variances as interpreted in the National Flood Insurance Program are based on the principle that they pertain to a physical piece of property. They apply to the land and are not personal in nature, do not pertain to the structure, its inhabitants, or economic or financial circumstances. The development standards contained in VMC 20.740.120, Frequently Flooded Areas are required by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program (NFIP) to protect life and property from flood damage.~~

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~~Variances from the NFIP standards of VMC 20.740.120 shall meet the approval criteria and other requirements of VMC 20.740.120(D) in addition to any other applicable variance criteria or requirements (e.g., VMC 20.290 or VMC 20.760). Variances from the NFIP standards of VMC 20.740.120 shall be processed as Type I or II variances or shoreline variances as appropriate, not as Minor Exceptions (VMC 20.740.070).~~

~~Variances or minor exceptions from other critical area standards (any standards of VMC 20.740 not in Section VMC 20.740.120) shall meet the applicable criteria and follow the applicable procedures for the relief requested (VMC 20.740.070, VMC 20.290, or VMC 20.760)~~

~~1. NFIP variances may be allowed:~~

~~a. For Historic Structures. NFIP variances may be issued for the repair, reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the Washington Heritage Register, Washington's Heritage Barn Register, Washington's Historic Property Inventory Database, Clark County Cultural Resources Inventory, or Clark County Heritage Register, provided:~~

- ~~1. The proposed development will not preclude the structure's continued designation as a historic structure;~~
- ~~2. The variance is the minimum necessary to preserve the historic character and design of the structure; and~~
- ~~3. NFIP variance approval criteria at (VMC 20.740.120(D)(2)(a-d) are met.~~

~~b. From the Elevation Standard. An NFIP variance from the elevation standard may be issued for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood elevation. As the lot size increases the technical justification required for issuing the variance increases.~~

~~c. From the Flood-proofing Standard for Non-Residential Buildings. NFIP variances may be issued for nonresidential buildings to allow a lesser degree of flood-proofing than watertight or dry flood-proofing where it can be determined that such action:~~

- ~~1. Will have low damage potential;~~
- ~~2. Complies with all other NFIP variance criteria except VMC 20.740.120(D)(1)(a)(2);~~
- ~~3. Complies with VMC 20.740.120(C)(4), Water; VMC 20.740.120(C)(5), Waste; VMC 20.740.120(C)(7), Anchoring; and VMC 20.740.120(C)(9), Subdivisions.~~

~~d. For Allowed Development within the Floodway. NFIP variances may be issued for development within a floodway only when the requirements of VMC 20.740.120(C)(1)(b) are met.~~

~~2. *NFIP Variance Approval Criteria.* NFIP variances from elevation and flood-proofing standards, and for development in the floodway (VMC 20.740.120(D)(1)(a)(2-4) may be granted only if the applicant demonstrates that the requested action conforms to all of the following criteria:~~

- ~~a. The NFIP variance is the minimum necessary, considering the flood hazard, to afford relief.~~
- ~~b. The applicant has demonstrated good and sufficient cause.~~
- ~~c. Failure to grant the NFIP variance would result in exceptional hardship to the applicant.
(Exceptional hardship for an NFIP variance is described in a FEMA memorandum dated July 22, 1986 entitled Resource Materials on NFIP Variance Criteria available from the Planning Official.)~~
- ~~d. Granting the NFIP variance will not result in increased flood heights or velocities, additional threats to public safety, significantly increased property damage potential, extraordinary public expense, or conflict with existing local laws or ordinances.~~
- ~~e. Demonstration that the following factors have been considered:~~
 - ~~1. The danger that materials may be swept onto other lands to the injury of others;~~
 - ~~2. The danger to life and property due to flooding or erosion damage;~~
 - ~~3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
 - ~~4. The importance of the services provided by the proposed facility to the community;~~
 - ~~5. The necessity to the facility of a waterfront location, where applicable;~~
 - ~~6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~
 - ~~7. The compatibility of the proposed use with existing and anticipated development;~~
 - ~~8. The relationship of the proposed use to the comprehensive plan;~~
 - ~~9. The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
 - ~~10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and~~
 - ~~11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of facilities such as sewer, gas, electrical, stormwater, and water systems, and streets and bridges.~~

~~3. *Notices Required.* A notice to the applicant is required whenever a variance is approved, approved with conditions, or denied. Such notice shall include the decision and the reasons for the decision. When a variance from the elevation standard is approved or approved with conditions, such notice shall state that the structure will be permitted to be built with a lowest floor elevation below that normally required with respect to the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.~~

~~E. *Information to be Obtained and Maintained.*~~

~~1. For all new and substantially improved structures and development, the planning official shall complete Section B of a current elevation certificate and obtain and record on that certificate:~~

~~a. For elevated (rather than flood-proofed) structures and development, the actual (as-built) elevation in relation to mean sea level of the lowest floor (including basement), and whether or not the structure contains a basement.~~

~~b. For nonresidential, flood-proofed structures, the elevation to which the structure was flood-proofed. All flood-proofing certifications shall also be maintained.~~

~~c. Maintain all records pertaining to development in frequently flooded areas subject to the provisions of this chapter, VMC 20.740, for public inspection.~~

~~2. *Records of Variance Actions.* The planning official shall keep records of all variance actions and report any approved variances to the Federal Insurance Administration upon request.~~

~~3. *Records of Appeal Actions.* The planning official shall keep records of all appeal actions. (Ord. M 4020 § 2, 2012; Ord. M 4017 § 9, 2012; Ord. M 3844 § 2, 2007; Ord. M 3692 § 2, 2005)~~

20.740.130 Geologic Hazard Areas.

A. *Designation.* Designated or potential Geologic Hazard Areas include Landslide, Seismic, and Erosion Hazard Areas. With the exception of bank erosion hazard areas and fault rupture hazard areas, their potential locations are shown on maps available from the Shoreline Administrator ~~planning official~~. Final designations shall be based on site conditions and other available data or information ~~{See VMC 20.740.020(C)(1)}.~~

1. *Landslide Hazard Areas.* Potential landslide hazard areas are identified from the sources listed below.

a. Slopes greater than 25% on the property and adjacent areas within 100 feet, except engineered slopes such as cut and fill slopes along transportation routes (including trails), railroad and other berms, or dikes.

b. Areas of historic or active landslides, potential instability, or older landslide debris identified on the 1975 map by Allen Fiksdal of the Washington State Department of Natural Resources entitled, Slope Stability: Clark County Washington as revised or superseded, or identified from other available data or in the field by a qualified professional and adjacent areas within 100 feet.

2. *Seismic Hazard Areas.* Seismic Hazard Areas include Liquefaction or Dynamic Settlement, Ground Shaking Amplification, and Fault Rupture Hazard Areas.

a. *Liquefaction or Dynamic Settlement.* The following are designated Liquefaction or Dynamic Settlement Hazard Areas:

1. Areas with Low to Moderate, Moderate, Moderate to High, or High liquefaction susceptibility or Peat Deposits as indicated on the Alternative Liquefaction Susceptibility Map of Clark County, Washington based on Swanson's Groundwater Model by Stephen P. Palmer, Sammantha L. Magsino, James L. Poelstra, and Rebecca A. Niggemann, September, 2004, as revised or superseded.

2. Areas of fill (Fn) identified by the 1972 USDA Soil Conservation Service Soil Survey of Clark County Washington and by the Shoreline Administrator ~~planning official~~, based on other reliable evidence.

b. *Ground Shaking Amplification.* The following are designated Ground Shaking Amplification Hazard Areas:

Site Classes C to D, D, D to E, E and F as indicated on the Site Class Map of Clark County, Washington by Stephen P. Palmer, Sammantha L. Magsino, James L. Poelstra, and Rebecca A. Niggemann, September, 2004 as revised or superseded.

c. *Fault Rupture Hazard Areas.* Potential Fault Rupture Hazard Areas are faults identified on geological maps prepared and maintained by the Washington Department of Natural Resources (DNR), U.S. Geological Survey (USGS), Oregon Department of Geology and Mineral Industries (DOGAMI), Clark County, Washington, or identified from other available data or in the field by a qualified professional and adjacent areas within 100 feet.

3. *Erosion Hazard Areas.* Erosion Hazard Areas include Soil Erosion and Bank Erosion Hazard Areas.

a. *Soil Erosion Hazard Areas.* The following are designated Soil Erosion Hazard Areas:

Areas with soils identified as having a severe erosion hazard by the 1972 USDA Soil Conservation Service Soil Survey of Clark County Washington.

b. *Bank Erosion Hazard Areas.* Bank Erosion Hazard Areas are areas along lakes, streams, and rivers that are subject to regression or retreat due to lacustrine or fluvial processes and adjacent land within 100 feet.

B. *Additional Critical Areas Report Requirements.* In addition to the requirements of ~~VMC~~ Section 20.740.050, the following are Critical Areas Report requirements for development proposals in potential geologic hazard areas. These requirements may be adjusted as appropriate by the Shoreline Administrator ~~planning official~~. The Critical Areas Report will result in a conclusion as to whether the potential geologic hazard area is an actual geologic hazard area (See ~~VMC~~ Section 20.740.130(B)(6)). If it is, the Critical Areas Report requires additional information, mapping, and analysis (See ~~VMC~~ Section 20.740.130(B)(7)).

1. Identification of the site and project area (defined at VMC 20.150), topography in 2-foot contours (or other increment at the discretion of the Shoreline Administrator ~~planning official~~), gas, power, cable, fiber optic, telephone, sewer, water, and stormwater management facilities, wells, on-site septic systems, dikes, levees, and existing structures on the site plan required by ~~VMC~~ Section 20.740.050; and
2. Detailed review of field investigations, published data and references, data and conclusions from past geologic studies or investigations, site-specific measurements, tests, investigations, or studies, and the methods of data analysis and calculations that support the results, conclusions, and recommendations; and
3. Field investigation and evaluation of the areas on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100 feet of the site for landslide and bank erosion hazards; and
4. A description of the surface and subsurface geology, hydrology, drainage patterns, soils, and vegetation on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100 feet of the site for landslide and bank erosion hazards; and
5. Identification of the hazard area indicators that were found (if any) on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100 feet of the site for landslide and bank erosion hazards; and
6. Conclusion as to whether there is a geologic hazard area on site or for landslide and bank erosion hazards on or within 100 feet of the site; and
7. If a liquefaction, dynamic settlement, ground shaking amplification, fault rupture, or soil erosion hazard is found to exist on site or if a landslide or bank erosion hazard is found to exist on or within 100 feet of the site:

a. Label and show on the site plan required by ~~VMC~~ Section 20.740.050:

1. The location(s), extent, and type(s) of geologic hazard area(s) identified; and

2. The location(s) and extent of any area(s) that must be left undisturbed to protect the proposed development from damage or destruction and to protect the hazard area(s) from the impacts of the proposed development; and
3. The boundaries of the area that may be disturbed.
4. The dimension of the closest distance(s) between the geologic hazard area(s) and the project area.
5. The dimension of the closest distance(s) [See VMC 20.170.030(C)] between any nondisturbance area [~~VMC~~ Section 20.740.130(B)(7)(a)(2)] and the project area.

For bank erosion hazard areas, show these areas, boundaries, and dimensions based upon natural processes and, if applicable, proposed bank stabilization measures.

- b. Analysis of the erosion processes on site for soil erosion hazard areas and on or within 100 feet of the site for bank erosion hazard areas.
- c. Evaluation of the impact of the geologic hazard area(s) on the proposed development, other properties, and other critical areas.
 1. *Landslide hazard areas.* The impact of the run-out hazard of landslide debris from both upslope and downslope shall be included in the evaluation.
 2. *Bank erosion hazard areas.* Evaluation of impacts on other properties shall include properties both upstream and downstream of the subject property.
- d. Evaluation of the impact of the proposed development on the geologic hazard area(s).
- e. Assessments and conclusions regarding geologic hazard(s) for both existing and proposed (post-development) site conditions. The ultimate build-out scenarios must be considered and addressed in cases such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval.
- f. Written discussion of:
 1. The risk of damage or destruction from the geologic hazard(s) with respect to human health and safety; infrastructure; the proposed development; other properties (both upstream and downstream for bank erosion hazard areas); and other critical areas; and
 2. Whether and to what degree the proposed development would increase the risk from the geologic hazard(s), such as the occurrence of a landslide or the rate of regression.
- g. Recommendations for mitigation of impacts to protect:

1. Human health and safety;
 2. Infrastructure;
 3. The proposed development;
 4. Other properties (both upstream and downstream for bank erosion hazard areas);
 5. Other critical areas; and
 6. The hazard area during construction and for the anticipated life of the proposed development. The ultimate build-out scenarios must be considered and addressed in cases such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval.
- h. A demonstration of how the standards of ~~VMC~~ Section 20.740.130(C) applicable to each geologic hazard area will be met.

C. Performance Standards.

1. *Landslide, Soil Erosion, and Bank Erosion Hazard Areas.* Development in nondisturbance areas (~~VMC~~ Section 20.740.130(B)(7)(a)(2)) shall be prohibited. In other areas, development in landslide, soil erosion, and bank erosion hazard areas and their buffers [~~VMC~~ Section 20.740.130(C)(1)(j)] shall be prohibited except where the applicant has demonstrated compliance with or satisfaction of the following standards or requirements.

- a. The applicant has demonstrated that during construction and for the anticipated life of the proposed development, the proposed use(s), activity(ies), and structure(s):
 1. Will not increase the threat of the geological hazard beyond pre-development conditions; and
 2. Will not adversely impact other critical areas wherever feasible given the type of critical areas involved and the characteristics of the site; and
 3. Are designed so that the hazard to the proposed project is eliminated or mitigated to a level equal to or less than pre-development conditions; and
 4. The life safety risk is minimal or eliminated; and
 5. Are certified by a qualified professional as safe as designed and under anticipated conditions.

Landslide hazard areas may be eliminated through grading based on a Critical Areas Report which demonstrates that the slope will be stabilized prepared by a qualified professional (in this

case a licensed Engineering Geologist or Professional Engineer). The Critical Areas Permit shall be conditioned on a final inspection approval confirming that the grading and site are stable. At the applicant's expense, after site grading, (a) the qualified professional who prepared the Critical Areas Report shall provide inspection specifications; and (b) an inspector acceptable to the City Building Official shall inspect the grading and the site and submit a report to the City indicating whether the site is stable.

b. A plan for revegetation and landscape maintenance to ensure soil stabilization shall be developed and implemented in accordance with the mitigation plan requirements of ~~VMC~~ Section 20.740.050(F).

c. Clearing, grading, uprooting, or otherwise impairing the soil stabilizing function of vegetation shall be prohibited during the wet season (November 1st to May 1st), except as authorized under a valid state or federal permit or shoreline substantial development permit or shoreline statement exemption, a City Type I permit [~~VMC 20.740.040(A)(2)(f)~~].

d. Drainage patterns shall not be altered such that potential for damage or risk to the proposed project, the geologic hazard area, or other critical areas or buffers is increased.

e. The requirements of VMC 14.24, Erosion Control shall be met.

f. Trails shall be for pedestrian and nonmotorized vehicular use only and shall be the minimum width necessary to meet applicable regulations.

g. *Roads in Landslide and Bank Erosion Hazard Areas.* A road through or across a landslide or bank erosion hazard area shall meet the standards of ~~VMC~~ Section 20.740.130(C)(1)(a)-(f) and shall not be:

1. The sole access for a proposed subdivision (not including short subdivision) or critical facility;
2. Longer than 200 feet;
3. Steeper than a 15% grade.

h. *Markers and Signs in Landslide Hazard Areas.*

1. The boundary at the outer edge of landslide area tracts and easements shall be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.
2. The boundary at the outer edge of the furthest of the landslide hazard area, nondisturbance area [~~VMC~~ Section 20.740.130(B)(7)(a)(2)], or buffer shall be identified with temporary signs

prior to any site alteration. Such temporary signs shall be replaced with permanent signs prior to occupancy or use of the site.

3. These provisions may be modified by the Shoreline Administrator ~~planning official~~ as necessary to ensure protection of sensitive features or wildlife needs.

i. Bank Stabilization for Existing Development in Bank Erosion Hazard Areas.

1. Bank stabilization measures may be employed to protect an existing structure when a Critical Areas Report conclusively demonstrates all of the following:

- a. Bank erosion threatens an established use or existing structure(s); and
- b. The threatened structure(s) cannot be relocated landward of any nondisturbance area [~~VMC~~ Section 20.740.130(B)(7)(a)(2)]; and
- c. Where applicable, bank stabilization measures are necessary to the operation and location of water-dependent, water-related, or water enjoyment activities consistent with the City of Vancouver Shoreline Management Master Program; and
- d. Bank stabilization measures will not cause a significant adverse impact on upstream or downstream properties or an impact that cannot be mitigated without developing bank stabilization measures for those properties; and
- e. Bank stabilization measures will not cause a significant adverse impact on fish, wildlife, or their habitats protected by this chapter.

2. When bank stabilization is allowed, it shall be accomplished using beach nourishment, bioengineering (soft armoring) techniques, or a combination of the two. Other techniques may be used when an approved Critical Areas Report demonstrates conclusively that beach nourishment, bioengineering (soft armoring) techniques, or a combination of the two will not provide sufficient protection for the remaining useful life of the structure(s) to be protected.

3. When bank stabilization is allowed, the pertinent policies and regulations of the City of Vancouver Shoreline Management Master Program shall apply in addition to the requirements of this section. The terms and conditions of any other required state or federal permit or approval shall also apply.

j. *Buffer.* The following regulations apply to landslide and bank erosion hazard area buffers. No buffer is required for soil erosion hazard areas. Buffers may be included in nondisturbance areas [~~VMC~~ Section 20.740.130(B)(7)(a)(2)] and required planting and maintenance activities may be undertaken within them.

1. Buffer width shall be measured on a horizontal plane from a perpendicular line established at all edges of the geologic hazard area [See ~~VMC~~ Section 20.170.030(B) and (K)].
2. A vegetated buffer shall be maintained around all landslide and bank erosion hazard areas. No alteration to the buffer shall be undertaken without an erosion control plan approved pursuant to the provisions of VMC 14.24, Erosion Control and this chapter. New plantings shall consist of native vegetation. Maintenance shall be the responsibility of the property owner.
3. The minimum buffer width for bank erosion hazard areas shall be the distance recommended in an approved Critical Areas Report.
4. The minimum buffer width for landslide hazard areas shall be the greatest of the following distances:
 - a. 50 feet from all edges of the landslide hazard area; or
 - b. A distance of 1/3 the height of the slope at the top of the slope and a distance of 1/2 the height of the slope at the bottom of the slope [See VMC 20.170.030(J)]; or
 - c. The minimum distance(s) recommended in an approved Critical Areas Report.
5. A larger buffer width may be required for landslide and bank erosion hazard areas at the discretion of the Shoreline Administrator ~~planning official~~ when:
 - a. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts; or
 - b. The area has a severe risk of slope failure or downslope stormwater drainage impacts; or
 - c. The area is directly adjacent to a riparian management area or wetland; or
 - d. Recommended in an approved Critical Areas Report.
6. The buffer width for landslide hazard areas may be reduced to as little as the smallest of the distances identified in ~~VMC~~ Section 20.740.130(C)(1)(j)(4) at the discretion of the Shoreline Administrator ~~planning official~~ when the dimensions of the landslide hazard area are smaller than those distances.

2. Seismic Hazard Areas

- a. *Liquefaction or Dynamic Settlement Hazard Areas.* All building structures in liquefaction or dynamic settlement hazard areas shall comply with the requirements of VMC Title 17, Building and Construction. No buffer is required for liquefaction or dynamic settlement hazard areas.

b. *Ground Shaking Amplification Hazard Areas.* All building structures in ground shaking amplification hazard areas shall comply with the requirements of VMC Title 17, Building and Construction applicable to the NEHRP soil classification of the subject property. No buffer is required for ground shaking amplification hazard areas.

c. *Fault Rupture Hazard Areas.*

1. A road through or across a fault rupture hazard area shall not be:
 - a. The sole access for a proposed subdivision (not including short subdivision) or critical facility;
 - b. Longer than 200 feet’;
 - c. Steeper than a 15% grade.
2. Structures for human habitation and critical facilities shall be prohibited within fault rupture hazard areas and buffers.
3. Buffer.
 - a. Buffer width shall be measured on a horizontal plane from a perpendicular line established at all edges of the geologic hazard area [See VMC 20.170.030(B)].
 - b. The buffer width shall be the greater of the following distances:
 - i. 50 feet from all edges of a fault rupture hazard area, except where critical facilities are involved, the minimum buffer distance shall be 100 feet [See VMC 20.170.030(L)]; or
 - ii. The minimum distance recommended in an approved Critical Areas Report.
 - c. A larger buffer width may be required when the Shoreline Administrator ~~planning official~~ determines that the buffer is not adequate to protect the proposed development. (Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

20.740.140 Wetlands.

A. *Designating and Rating Wetlands.*

1. *Designating Wetlands.* Wetlands are those areas, designated in accordance with the approved federal wetland delineation manual and applicable regional supplements, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal

circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created (but not as mitigation for impacts to wetlands) from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds and landscape amenities or those wetlands created after July 1, 1990 that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands shall include those artificial wetlands intentionally created from nonwetland areas to mitigate conversion of wetlands.

Final designations shall be based on site conditions and other available data or information (~~see VMC 20.740.020(C)(1)~~).

2. *Wetland Ratings.* Wetlands shall be rated according to the Washington State Department of Ecology (Ecology) wetland rating system, Washington State Wetland Rating System for Western Washington – 2014 Update, Ecology Publication No. 14-06-029, October 2014, or as revised by Ecology. The rating system document contains the definitions and methods for determining if the criteria below are met. The most recent version of the rating system form must be used.

a. *Wetland Rating Categories.*

i. *Category I.* Category I wetlands are:

- A. Relatively undisturbed estuarine wetlands larger than one acre;
- B. Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program of the Department of Natural Resources;
- C. Bogs;
- D. Mature and old-growth forested wetlands larger than one acre;
- E. Wetlands that perform many functions well, scoring twenty-three points or more. These wetlands are those that:
 - 1. Represent unique or rare wetland types;
 - 2. Are more sensitive to disturbance than most wetlands;
 - 3. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or
 - 4. Provide a high level of functions.

ii. *Category II.* Category II wetlands function at a moderately high function, scoring between twenty and twenty-two points.

iii. *Category III.* Category III wetlands are:

A. Wetlands with a moderate level of functions, scoring between sixteen and nineteen points; and

B. Can often be adequately replaced with a well planned mitigation project.

iv. *Category IV.* Category IV wetlands have the lowest levels of functions (scoring fewer than sixteen points) and are often heavily disturbed. These are wetlands that should be able to be replaced, or in some cases improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

B. *Additional Critical Areas Report Requirements.* A critical areas report for wetlands shall be prepared according to the Washington State Wetland Rating System for Western Washington – 2014 Update, Ecology Publication No. 14-06-029, October 2014 or as revised by Ecology. The critical areas report shall contain an analysis of the wetlands including the following site- and proposal-related information:

1. A written assessment, data sheets and accompanying maps of any wetlands or buffers on the site including the following information:

a. Hydrogeomorphic (HGM) subclassification and Cowardin class;

b. Wetland category;

c. Wetland delineation and required buffers;

d. Existing wetland acreage;

e. Vegetative, faunal, and hydrologic characteristics;

f. Soil types and substrate conditions;

g. Topographic elevations, at one-foot contours; and

h. A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year – drift lines, algal layers, moss lines, and sediment deposits).

2. Functional evaluation for the wetland and buffer using Ecology's most current approved method and including the reference of the method and all data sheets.

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3. Proposed mitigation, if needed, including a discussion of alternatives and trade-offs inherent in the various alternatives (for example, where enhancement for one function would adversely affect another), a written description and accompanying maps of the mitigation area, including the following information:

- a. Existing and proposed wetland acreage;
- b. Existing and proposed vegetative and faunal conditions;
- c. Surface and subsurface hydrological conditions of existing and proposed wetlands and hydrologically associated wetlands including an analysis of existing hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas;
- d. Relationship to lakes, streams and rivers in the watershed;
- e. Soil type and substrate conditions;
- f. Topographic elevations, at one-foot contours;
- g. Required wetland buffers including existing and proposed vegetation;
- h. Identification of the wetland's contributing area; and
- i. A functional assessment of proposed mitigation to ensure no net loss of shoreline ecological function.

C. Performance Standards.

1. *General Requirements.* Development or clearing activities shall protect the functions of wetlands and wetland buffers on the site. ~~Activities and shall meet all of result in no net loss of wetland or buffer functions. Protection may be provided by avoiding (the preferred protection) or minimizing and mitigating as described in~~ the general critical areas performance standards (Section VMC 20.740.060).

a. *Wetlands.*

- i. In Category I wetlands only the following activities may be allowed if the applicant further demonstrates that avoiding all adverse impacts is not in the public interest or will deny all reasonable economic use of the site:

A. A road, railroad, trail, dike, or levee or a water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone facility that cannot feasibly be located outside of the wetland, that minimizes the impact, and that mitigates for any unavoidable impact to functions. Cost may be considered, but shall not be overriding; or

B. Trails and wildlife viewing structures; provided, that the trails and structures minimize the impact and are constructed so that they do not interfere with wetland hydrology and do not result in increased sediment entering the wetland.

ii. In Category II wetlands only the following activities may be allowed if the applicant further demonstrates that avoiding all adverse impacts is not in the public interest or will deny all reasonable economic use of the site:

A. Activities allowed in Category I wetlands pursuant to subsection (C)(1)(a)(i) of this section.

B. Enhancement and restoration activities aimed at protecting the soil, water, vegetation or wildlife.

C. Within shoreline jurisdiction (~~VMC 20.760.020~~ SMP Chapter 2), water-dependent, water-related or water-enjoyment activities where there are no feasible alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.

D. Where non-water dependent, related or enjoyment activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited unless the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and successfully avoid or result in less adverse impacts on a wetland on another site or sites in the city of Vancouver or Vancouver urban growth area.

iii. In Category III wetlands only the following activities may be allowed:

A. Activities allowed in Category II wetlands pursuant to subsection (C)(1)(a)(ii) of this section.

B. Other activities may be allowed if the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and avoid or result in less adverse impacts on a wetland or its buffer than alternative uses or designs (including reduction in the size, scope, configuration or density of the project).

iv. In Category IV wetlands activities and uses that result in impacts may be permitted in accordance with an approved critical areas report and mitigation plan if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full mitigation for the loss of acreage and functions shall be provided under the terms established pursuant to subsection (C)(2) of this section.

b. *Wetland Buffers.*

i. *Standard Buffer Widths.* Standard buffer widths are those determined by Ecology and described in Freshwater Wetlands in Washington State, Volume 2: Managing and Protecting Wetlands, Ecology Publication No. 05-06-008, April 2005 or as revised by Ecology. Buffer widths are based on wetland category, wetland characteristics and land use intensity.

A. Land use intensities are defined by the Land Use and Development Code VMC 20.400 Zoning Districts and application is uniform to all uses within a given zoning district~~are as follows:~~

Table 20.740.140-1. LAND USE INTENSITIES

Land Use Intensity	VMC Title 20 Zoning Districts
High	All Residential, Commercial, or Industrial Zones
Moderate	<u>Park or General Greenway Open Space Zones</u> Open Space Park or Open Space Greenway: General
Low	<u>Lettuce Fields Greenway, Vancouver Lake Greenway, or Natural Area Open Space Zones</u> Open Space Greenway: Lettuce Fields or Vancouver Lowlands; or Open Space Natural

B. Level of function for habitat based on the Washington State Wetland Rating System is as follows:

Table 20.740.140-2. RATING SYSTEM

Level of Function	Habitat Score in Rating System
High	8 – 9

Level of Function	Habitat Score in Rating System
Moderate	6 – 7
Low	3 – 5

C. Buffer widths are measured horizontally from the edge of the wetland (see VMC 20.170.030(B) and (H)) and are as follows:

~~1. Category I Wetlands.~~

Table 20.740.140 3. CATEGORY I WETLAND BUFFER WIDTHS

Wetland Characteristics	Land Use Intensity	Buffer Width
Wetlands of High Conservation Value	High	250'
	Moderate	190'
	Low	125'
Forested Wetlands	High	300'
High Habitat Function	Moderate	225'
	Low	150'
Moderate Habitat Function	High	150'

Wetland Characteristics	Land Use Intensity	Buffer Width
	Moderate	110'
	Low	75'
Low Habitat Function	High	100'
	Moderate	75'
	Low	50'
Other Category I Wetlands	High	300'
High Habitat Function	Moderate	225'
	Low	150'
Moderate Habitat Function	High	150'
	Moderate	110'
	Low	75'
Low Habitat Function	High	100'
	Moderate	75'
	Low	50'

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Wetland Characteristics	Land Use Intensity	Buffer Width

~~2. Category II Wetlands.~~

Table 20.740.140-4. CATEGORY II WETLAND BUFFER WIDTHS

Wetland Characteristics	Land Use Intensity	Buffer Width
High Habitat Function	High	300'
	Moderate	225'
	Low	150'
Moderate Habitat Function	High	150'
	Moderate	110'
	Low	75'
Low Habitat Function	High	100'
	Moderate	75'
	Low	50'

~~3. Category III Wetlands.~~

Table 20.740.140-5. CATEGORY III WETLAND BUFFER WIDTHS

Wetland Characteristics	Land Use Intensity	Buffer Width
Moderate Habitat Function	High	150'
	Moderate	110'
	Low	75'
Low Habitat Function	High	80'
	Moderate	60'
	Low	40'

~~4. Category IV Wetlands.~~

~~Table 20.740.140-6. CATEGORY IV WETLAND BUFFER WIDTHS~~

Wetland Characteristics	Land Use Intensity	Buffer Width
All Category IV Wetlands	High	50'
	Moderate	40'
	Low	25'

Table 20.740.140-3. Buffers Required to Protect Water Quality Functions

<u>Wetland Rating</u>	<u>Low Intensity Use</u>	<u>Moderate Intensity Use</u>	<u>High Intensity Use</u>
<u>Category I or II</u>	<u>50 ft.</u>	<u>75 ft.</u>	<u>100 ft.</u>
<u>Category III</u>	<u>40 ft.</u>	<u>60 ft.</u>	<u>80 ft.</u>

<u>Category IV</u>	<u>25 ft.</u>	<u>40 ft.</u>	<u>50 ft.</u>
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Table 20.740.140-4. Buffers Required to Protect Habitat Functions in Category I, II and III Wetlands

<u>Habitat Score in the Rating Form</u>	<u>Low Intensity Use</u>	<u>Moderate Intensity Use</u>	<u>High Intensity Use</u>
<u>5 points or less</u>	<u>See Table 40.450.030-2</u>	<u>See Table 40.450.030-2</u>	<u>See Table 40.450.030-2</u>
<u>6 or 7 points</u>	<u>75 ft.</u>	<u>110 ft.</u>	<u>150 ft.</u>
<u>8 or 9 points</u>	<u>150 ft.</u>	<u>225 ft.</u>	<u>300 ft.</u>
<u>Wetlands of High Conservation Value with a Habitat Score of 7 Points or Less</u>	<u>125 ft.</u>	<u>190 ft.</u>	<u>250 ft.</u>

D. All buffers shall be measured from the wetland boundary as surveyed in the field.

E. Areas which are completely functionally separated from a wetland and do not protect the wetland from adverse impacts may be excluded from buffers otherwise required.

ii. *Wetland Buffer Width Averaging.* The shoreline administrator may allow modification of the standard wetland buffer width in accordance with an approved critical areas report on a case-by-case basis by averaging buffer widths. Buffer width averaging shall not be used in combination with buffer width reduction ~~or a minor exception~~. Averaging of buffer widths (see VMC 20.170.080(B)(2)) may only be allowed where a qualified professional wetland scientist demonstrates that:

A. Such averaging will not reduce wetland functions or functional performance; and

B. The wetland varies in sensitivity due to existing physical characteristics, or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places; and

C. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

D. The buffer width is reduced by no more than twenty-five percent of the standard width and at no point to less than twenty-five feet.

iii. *Buffer Width Reduction Based on Reducing the Intensity of Impacts from Land Uses.* Buffer widths required for high intensity land uses may be reduced to those required for moderate land use intensity under the following conditions:

A. For wetlands with moderate or high habitat function:

1. A relatively undisturbed vegetated corridor at least one hundred feet wide is protected between the wetland and any other priority habitats and areas associated with priority species (~~VMC~~ Section 20.740.110(A)(1)(b)); and
2. Measures required to minimize the impacts of different land uses on wetlands are applied, as approved by the shoreline administrator. Such measures include, but ~~are~~ may not be limited to, ~~the examples summarized below~~ the measures listed in Table 20.740.140-5.

Table 20.740.140-5. ~~EXAMPLES OF MEASURES REQUIRED TO~~ MINIMIZE LAND USE IMPACTS

Examples of Disturbance	Uses and Activities that Cause the Disturbance	Examples of Measures to Minimize Impacts
Lights	Parking lots, warehouses, manufacturing, residential	Direct lights away from wetland
Noise	Manufacturing, residential, commercial	Locate activity that generates noise away from wetland
Toxic runoff	Parking lots, roads, manufacturing, residential, application of agricultural or landscaping chemicals	Route only treated runoff to a wetland Establish covenants limiting use of toxic chemicals within 150' of wetland Apply integrated pest management
Change in water regime	Impervious surfaces, lawns, tilling	Infiltrate or treat, detain, and disperse new runoff into buffer
Pets	Residential	Plant dense vegetation around buffer,

Examples of Disturbance	Uses and Activities that Cause the Disturbance	Examples of Measures to Minimize Impacts
		such as rose or hawthorn
Human disturbance	Residential, commercial, industrial	Plant dense vegetation around buffer, such as rose or hawthorn
Dust	Tilled fields	Utilize best management practices to control dust

B. For wetlands with low habitat function measures to minimize the impacts of different land uses on wetlands (subsection (C)(1)(b)(iii)(A)(2) of this section) are applied.

C. Buffer width reduction shall not be used in combination with buffer width averaging (subsection (C)(1)(b)(ii) of this section) ~~or a minor exception (VMC 20.740.070).~~

iv. *Buffer Maintenance.* Except as otherwise specified or allowed in accordance with this chapter, wetland buffers shall be maintained according to the approved critical areas permit.

v. *Buffer Uses.* The following uses may be permitted within a wetland buffer in accordance with the review procedures of this chapter; provided, they are not prohibited by any other applicable law or regulation and they are conducted in a manner so as to minimize impacts to the buffer and the wetland:

A. Activities allowed under the same terms and conditions as in the associated wetlands pursuant to subsection (C)(1)(a) of this section, provided trails shall be located in the outer twenty-five percent ~~to fifty percent~~ of the buffer when feasible and consistent with the public access provisions of this program.

B. Enhancement and restoration activities aimed at protecting the soil, water, vegetation or wildlife.

C. Passive recreation facilities including trails and wildlife viewing structures; provided, that the trails and structures are constructed with a surface that does not interfere with wetland hydrology.

~~D. Stormwater management facilities, limited to detention facilities, constructed wetlands, stormwater dispersion outfalls and bioswales, may be constructed in accordance with an approved critical areas report within the buffers of Category III or IV wetlands; provided, that:~~

- ~~1. No other location is feasible; and~~
- ~~2. The location of such facilities will not degrade the functions of the wetland or buffer.~~

D. Stormwater management facilities. Stormwater management facilities are not allowed in buffers of Category I or II wetlands. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of an LID, Runoff Treatment, or Flow Control BMP if all of the following criteria are met:

1. The wetland is classified as a Category III or a Category IV wetland with a habitat score of 3-5 points; and
2. There will be “no net loss” of functions and values of the wetland, and
3. The wetland does not contain a breeding population of any native amphibian species; and
4. The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the “Guide for Selecting Mitigation Sites Using a Watershed Approach,”; or the wetland is part of a priority restoration plan that achieves restoration goals identified in a Shoreline Master Program or other local or regional watershed plan; and
5. The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing; and
6. All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits; and
7. Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost would have to be compensated/replaced.

Stormwater LID BMPs required as part of new and redevelopment projects can be considered within wetlands and their buffers. However, these areas may contain features that render LID BMPs infeasible. A site-specific characterization is required to determine if an LID BMP is feasible at the project site.

c. *Signs and Fencing of Wetlands.*

- i. The location of the outer perimeter of the wetland and buffer shall be marked in the field, and such marking shall be approved by the shoreline administrator prior to the commencement

of permitted activities. Such field markings shall be maintained throughout the duration of the permit.

ii. A permanent physical demarcation along the upland boundary of the wetland buffer shall be installed and thereafter maintained. Such demarcation may consist of fencing, hedging or other prominent physical marking that allows wildlife passage, blends with the wetland environment, and is approved by the shoreline administrator.

iii. Permanent fencing of the wetland buffer on the outer perimeter shall be erected and thereafter maintained when there is a substantial likelihood of the presence of domestic grazing animals within the property unless the shoreline administrator determines that the animals would not degrade the functions of the wetland or buffer.

iv. Permanent signs shall be posted at an interval of one per lot for single-family residential uses or at a maximum interval of ~~two~~one hundred feet, or as otherwise determined by the shoreline administrator, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the shoreline administrator: "The area beyond this sign is a wetland or wetland buffer. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information."

2. *Compensatory Mitigation.* Compensatory mitigation for impacts to wetlands shall be provided pursuant to VMC 20.740.060 and shall be consistent with the Department of Ecology Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance, Version 1, Ecology Publication No. 06-06-011a March 2006, or as revised by Ecology. Watersheds are defined in VMC 20.740.020(C)(2) and Chapter 20.150 VMC.

a. *Mitigation for Lost or Affected Functions.* Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement and shall provide similar wetland or buffer functions as those lost, except when:

i. The lost wetland or buffer provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limited within a watershed through a formal Washington State watershed assessment plan or protocol; or

ii. Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

b. *Mitigation Actions.*

i. *Creation.* The manipulation of the physical, chemical or biological characteristics present to develop a wetland on an upland or deepwater site where a biological wetland did not previously

exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, hydric soils, and support the growth of hydrophytic plant species. Creation results in a gain in wetland acres and functions.

ii. *Reestablishment.* The manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches or breaking drain tiles. Reestablishment results in a gain in wetland acres and functions.

iii. *Rehabilitation.* The manipulation of the physical, chemical or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Activities could involve breaching a dike to reconnect wetlands to a floodplain, restoring tidal influence to a wetland, or breaking drain tiles and plugging drainage ditches. Rehabilitation results in a gain in wetland functions but not in wetland acres.

iv. *Enhancement.* The manipulation of the physical, chemical or biological characteristics of a biological wetland to increase or improve specific functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or wildlife habitat. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations to result in open water ponds, or some combination of these. Enhancement results in a change in certain wetland functions and can lead to a decline in other wetland functions. It does not result in a gain in wetland acres.

c. *Type and Location of Mitigation.* Compensatory mitigation for ecological functions shall be in kind. Compensatory mitigation shall be on site or within the impacted wetland's: (i) contributing area; (ii) stream reach; (iii) sub-watershed; or (iv) watershed. (Sub-watersheds and watersheds are identified on the Clark County Digital Atlas.) The mitigation site shall be where the greatest level of wetland functions can be achieved. Mitigation actions may be conducted in a different watershed when:

- i. Based on a determination of the natural capacity of the potential mitigation sites to mitigate for the impacts, there are no reasonable on-site or in-watershed opportunities, or those opportunities do not have a high likelihood of success. Consideration shall include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, and potential to impact riparian fish and wildlife habitat including connectivity; or
- ii. Watershed goals for water quality, flood or conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation at another site; or

iii. Credits from a certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.

d. *Mitigation Ratios.*

i. *Replacement Ratios.*

A. The replacement ratios shall apply to wetland mitigation that: (1) is for the same hydrogeomorphic subclass (e.g., riverine flow-through, depressional outflow or flats), and Cowardin class (e.g., palustrine emergent, palustrine forested or estuarine wetlands); (2) is on site; (3) is in the same category; (4) is implemented prior to or concurrent with alteration; and (5) has a high probability of success.

B. The replacement ratios are based on replacing the affected wetland with a compensation wetland of the same category, and hydrogeomorphic (HGM) subclass and Cowardin class.

C. The replacement ratios do not apply to the use of credits from a state-certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank's certification.

D. *Mitigation Ratios.* Mitigation ratios are as follows (see subsection (C)(2)(b) of this section for definitions of mitigation actions):

Table 20.740.140-8. MITIGATION REPLACEMENT RATIOS

Wetland Category and Type	Reestablishment or Creation	Rehabilitation	Reestablishment or Creation (R/C) plus Rehabilitation (RH)	Reestablishment or Creation (R/C) plus Enhancement (E)	Enhancement Only
Category I Bog	Not Considered Possible	6:1 Rehabilitation of a Bog	R/C Not Considered Possible	R/C Not Considered Possible	Case-by-Case
Category I Natural Heritage Site	Not Considered Possible	6:1 Rehabilitation of a Natural Heritage Site	R/C Not Considered Possible	R/C Not Considered Possible	Case-by-Case
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I Based on Score for	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1

Wetland Category and Type	Reestablishment or Creation	Rehabilitation	Reestablishment or Creation (R/C) plus Rehabilitation (RH)	Reestablishment or Creation (R/C) plus Enhancement (E)	Enhancement Only
Functions					
Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1

ii. *Adjustment of Replacement Ratios.* The shoreline administrator may adjust the replacement ratios to compensate for deviations from the requirements under subsection (C)(2)(d)(i)(A) of this section, subject to the following:

A. In most cases, adjustments to the replacement ratios will increase the required amount of mitigation. The required mitigation may be decreased under exceptional circumstances, for example, if programmatic out-of-kind mitigation yields watershed-scale benefits that would not be realized from in-kind mitigation, or if out-of-kind mitigation would protect irreplaceable wetlands.

e. *Mitigation Timing.* The mitigation shall be implemented prior to or concurrent with alterations. If mitigation is implemented after alteration is allowed, the Shoreline Administrator ~~planning official~~ may require additional mitigation to compensate for temporal losses of wetland functions.

f. *Buffers for Mitigation Wetlands.* Refer to Wetland Buffer Tables 20.740.140-3 through 20.740.140-6.

g. *Wetland Mitigation Banks.*

i. Credits from a wetland mitigation bank may be approved for use as mitigation for unavoidable impacts to wetlands when:

A. The bank is certified under Chapter 173-700 WAC;

B. The shoreline administrator determines that the wetland mitigation bank provides appropriate mitigation for the authorized impacts; and

C. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

ii. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

iii. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions. (Ord. M-4289 § 4, 2019; Ord. M-4191 § 2, 2017; Ord. M-4176 § 3, 2016; Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

~~The Vancouver Municipal Code is current through Ordinance M-4289, passed December 16, 2019.~~

~~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.~~

~~City Website: www.cityofvancouver.us~~

~~City Telephone: (360) 487-8711~~

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Section 7. The City of Vancouver Shoreline Master Program, Chapter 6 Specific Shoreline Use Regulations, Section 6.2 Shoreline Use, Modification, and Standards Table 6-1; Section 6.3.3.1 General Requirements; 6.3.3.4 Joint Use and Community Moorage Facilities; Section 6.3.4 Commercial Uses; Section 6.3.5 Forest Practices; Section 6.3.7 Institutional Uses; Section 6.3.9 Parking; Section 6.3.12 Signs; Section 6.4.2.2 Dredging; Section 6.4.2.3 Dredge Material Disposal; Section 6.4.5 Shoreline Stabilization – General; Section 6.4.9.1 Revetments – General, adopted by Ordinance M-3995 and as amended, are hereby amended to read as follows:

Table 6-1. Shoreline Use, Modification and Development Standards

Table 6-1 is to be used and understood together with the related policies and regulations of this Program.

“Uses” refers to uses, structures, and/or developments as applicable.

Setbacks are landward from the OHWM in the NT, UC, MI, HI, RC-RD, & RC-RL shoreline designations and waterward of the OHWM in the AQ Shoreline Designation.

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	AQ (Both)	NT (Both)	UC (Urban)	MI (Urban)	HI (Urban)	RC-RD (Rural)	RC-RL (Rural)
Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Shoreline Uses							
Agriculture							
Agriculture	X	X	C	P	P	P	P
• <i>Setback</i>	N/A	N/A	100'	100'	100'	100'	100'
• <i>Height</i>	N/A	N/A	35'	35'	35'	35'	35'
Aquaculture							
Aquaculture, General	P	X	C	C	C	C	C
• <i>Setback</i>	0'	N/A	50'	50'	50'	50'	50'
Boating Uses							
Motorized Boat Launches	P	X	C	C	P	P	P
• <i>Setback</i>	0'	N/A	0'	0'	0'	0'	0'
Non-motorized Boat Launches	P	C	P	P	P	P	P
• <i>Setback</i>	0'	0'	0'	0'	0'	0'	0'
Marinas	P	X	X	C	P	C	C
• <i>Setback</i>	0'	N/A	N/A	25'	25'	25'	25'
• <i>Height</i>							
- 0'-100' from OHWM	20'	N/A	N/A	25'	35'	25'	35'
- >100' from OHWM	20'	N/A	N/A	35'	45'	35'	45'
Docks, Piers, Mooring Buoys	P¹	X	P¹	P¹	P¹	P¹	P¹
• <i>Setback</i>	0'	NA	0'	0'	0'	0'	0'
Commercial Uses							
Water-dependent	C	X	X	P	P	C	C
• <i>Setback</i>	0'	N/A	N/A	0'	0'	0'	0'
• <i>Height</i>							
- 0'-100' from OHWM	35' ³	N/A	N/A	35'	35' ^{3,2}	35'	35'
- >100' from OHWM	35' ³	N/A	N/A	45'	60' ^{3,2}	45'	45'
Water-related, Water-enjoyment	X/C³	X	X	P	P	C	C
• <i>Setback</i>	N/A	N/A	N/A	25'	25' ³	25'	25'
• <i>Height</i>							
- 0'-100' from OHWM	35' ³	N/A	N/A	25'	35' ^{3,2}	35'	35'
- >100' from OHWM	35' ³	N/A	N/A	35'	45' ^{3,2}	45'	45'
Non-water-oriented	X	X	X	C⁴	C⁴	X	X
• <i>Setback</i>	N/A	N/A	N/A	100'	100' ³	N/A	N/A
• <i>Height</i>	N/A	N/A	N/A	2535'	2535' ^{3,2}	N/A	N/A
Forestry							
Log Storage	C	X	X	X	P	X	P
• <i>Setback</i>	0'	N/A	N/A	N/A	50'	N/A	50'

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Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Timber Harvest	X	X	C	P	P	P	P
• <i>Setback</i>	N/A	N/A	100'	100'	50'	100'	50'
Industrial Uses							
Water-dependent	P	X	X	X	P	X	X
• <i>Setback</i>	0'	N/A	N/A	N/A	0'	N/A	N/A
• <i>Height</i>							
- 0'-100' from OHWM	UNL	N/A	N/A	N/A	UNL	N/A	N/A
- >100' from OHWM	UNL	N/A	N/A	N/A	UNL	N/A	N/A
Water-related	X	X	X	X	P	X	X
• <i>Setback</i>	N/A	N/A	N/A	N/A	50'	N/A	N/A
• <i>Height</i>							
- 0'-100' from OHWM	N/A	N/A	N/A	N/A	UNL	N/A	N/A
- >100' from OHWM	N/A	N/A	N/A	N/A	UNL	N/A	N/A
Non-water-oriented	X	X	X	X	P	X	X
• <i>Setback</i>	N/A	N/A	N/A	N/A	100'	N/A	N/A
• <i>Height</i>	N/A	N/A	N/A	N/A	35'	N/A	N/A
Institutional Uses							
Water-dependent	C	X	C	P	P	C	C
• <i>Setback</i>	0'	N/A	0'	0'	0'	0'	0'
• <i>Height</i>							
- 0'-100' from OHWM	35'	N/A	25'	35'	35'	35'	35'
- >100' from OHWM	35'	N/A	35'	45'	35'	45'	45'
Water-related	X	X	X	P	P	C	X
• <i>Setback</i>	N/A	N/A	N/A	25'	25'	50'	NA
• <i>Height</i>							
- 0'-100' from OHWM	N/A	N/A	N/A	35'	45'	35'	N/A
- >100' from OHWM	N/A	N/A	N/A	45'	60'	35'	N/A
Non-water-oriented	X	X	X	PC⁴	PC⁴	X	X
• <i>Setback</i>	N/A	N/A	N/A	100'	100'	N/A	N/A
• <i>Height</i>	N/A	N/A	N/A	35'	35'	N/A	N/A
Mining							
Gravel Mining	C⁵	X	X	X	C⁵	C⁵	C⁵
• <i>Setback</i>	0'	N/A	N/A	N/A	200'	200'	200'
Hard Rock Mining	X	X	X	X	C⁵	C⁵	C⁵
• <i>Setback</i>	N/A	N/A	N/A	N/A	100'	100'	50'
Parking							
Primary Use	X	X	X	X	X	X	X
• <i>Setback</i>	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Accessory Use	X	X	P	P	P	P	P
• <i>Setback</i>	N/A	N/A	100'	100'	50'	100'	100'

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Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
• Height	N/A	N/A	35'	35'	35'	35'	35'
Recreational Uses							
Water-dependent	P	P ⁶	P	P	P	P	P
• Setback	0'	0'	0'	0'	0'	0'	0'
• Height	15'	15'	15'	35'	35'	35'	35'
Water-related/enjoyment (trails generally parallel to the shoreline, accessory bldgs)	C ⁶	C ⁶	P	P	P	P	P
• Setback	0'	50' ⁷	50' ⁷	50' ⁷	20'	20'	20'
• Height	15'	15'	15'	35'	35'	35'	35'
Public access connections generally perpendicular to the shoreline to water- related/enjoyment features (viewpoints, fishing piers)							
• Setback	0'	0'	0'	0'	0'	0'	0'
Non-water-oriented (golf courses, sports fields)	X	X	C	C	C	C	X
• Setback	N/A	N/A	100'	100'	100'	200'	N/A
• Height	N/A	N/A	25'	25'	25'	15'	N/A
Residential Uses							
Single-family ⁸	X	X	P	P	X	P	P
• Setback	N/A	N/A	100'	50'	N/A	100'	100'
• Height	N/A	N/A	35'	35'	N/A	35'	35'
• Density	N/A	N/A	In accordance with the underlying zoning				
Floating homes (new)	X	N/A	N/A	N/A	N/A	N/A	N/A
• Height	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Floating homes (existing) ⁹	P	N/A	N/A	N/A	N/A	N/A	N/A
• Height	Existing	N/A	N/A	N/A	N/A	N/A	N/A
Multifamily	X	X	X	P	P	X	X
• Setback	N/A	N/A	N/A	35'	35'	N/A	N/A
• Height	N/A	N/A	N/A	35'	35'	N/A	N/A
• Density	N/A	N/A	N/A	In accordance with the underlying zoning		N/A	N/A
Signs ^{16,7}							
Sign heights are regulated in accordance with VMC 20.960 or VMC 20.450 as applicable. Free-standing informational signs in the Aquatic SD are limited to 15' ¹⁰ .							
Agricultural	X	X	X	X	P	P	P
Fascia or Wall Signs	X	X	X	P	P	P	P
Free Standing Informational	P	P	P	P	P	P	P
High School Electronic Message	X	X	X	P	P	P	P
Monument	X	P	P	P	P	P	P

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Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Navigation	P	P	P	P	P	P	P
Transportation Uses							
Highways, Arterials, Railroads (parallel to OHWM)	C ¹¹	X	P	P ¹¹	P ¹¹	P	P
• <i>Right-of-Way Setback</i>	0'	N/A	200'	100' ¹¹	100' ¹¹	200'	200'
Secondary/Public Access Roads (parallel to OHWM)	X	X	P	P	P	P	P
• <i>Right-of-Way Setback</i>	NA	N/A	100'	50'	50'	100'	100'
Secondary/Public Access Roads (perpendicular to OHWM)	X	X	P	P	P	P	P
• <i>Setback</i>	N/A	N/A	Limited to the setback for the use the road is serving ¹²				
Bridges (perpendicular to shoreline)	C	C	C	P	P	C	C
• <i>Setback</i>	0'	0'	0'	0'	0'	0'	0'
Utility Uses							
Above-ground Utilities (parallel to shoreline)	C	C	P	P	P	P	P
• <i>Right-of-Way Setback</i>	0'	200'	100'	50'	50'	100'	100'
• <i>Structure Height</i>	15'	15'	35'	35'	UNL	15'	15'
• <i>Distribution Pole Height</i>	0'	45'	45'	45'	UNL	45'	45'
Electrical Transmission Lines	C	C	C	C	C	C	C
• <i>Tower Height</i>	UNL	UNL	UNL	UNL	UNL	UNL	UNL
Underground Utilities (parallel to shoreline)	C	C	P	P	P	P	P
• <i>Right-of-Way Setback</i>	0'	200'	100'	50'	50'	50'	50'
Underground Utilities (perpendicular to shoreline)	C	C	C	C	C	C	C
• <i>Right-of-Way Setback</i>	0'	0'	0'	0'	0'	0'	0'
Unclassified Uses							
Unclassified Uses	C	C	C	C	C	C	C
• <i>Setback</i>	0'	200'	100'	100'	100'	100'	100'
• <i>Height</i>	15'	15'	35'	35'	35'	35'	35'
Shoreline Modification							
Dredging and Dredge Material Disposal							
Non-maintenance Dredging	C	N/A	N/A	N/A	N/A	N/A	N/A
Maintenance Dredging	P	N/A	N/A	N/A	N/A	N/A	N/A
Dredge Material Disposal	C	X	X	C ¹³	C ¹³	C	C
Dredging & Disposal as part of Ecological Restoration/ Enhancement	P	C	P	P	P	P	P
Fill							
Speculative	X	X	X	X	X	X	X

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Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Other	C¹⁴	P¹⁵	P	P	P	P	P
Flood Control Works and In-stream Structures							
Dams, Dikes, & Levees	C	X	C	C	P	C	C
Instream structures	C	N/A	N/A	N/A	N/A	N/A	N/A
Shoreline Restoration							
Ecological Restoration / Enhancement / Mitigation	P	P	P	P	P	P	P
Shoreline Stabilization							
Bioengineered/Non-Structural	P	P	P	P	P	P	P
Structural	C	X	C	C	PC	C	C
Breakwaters, Jetties, Rock Weirs, and Groins	C	X	C	C	C	C	C

¹ ~~Docks associated with a commercial or industrial use~~ water-dependent Use permitted. Private residential docks permitted as community or joint-use only. See Section 6.3.3.4.

² See Section 6.3.4(7).

³ See Section 6.3.4(8). Allowed conditionally only on dock or pier structures located on the Columbia River from the Interstate 5 Bridge, downstream to the BNSF railroad bridge. See related policy Section 4.3.1(4).

⁴ ~~As part of mixed-use development only.~~ See Section 6.3.4(4), 6.3.7(2) and (4).

⁵ In Surface Mining Overlay areas only

⁶ Passive only

⁷ See Section 6.3.10(12, 13, and 14). Water-related/enjoyment features such as viewpoints, gazebos, or fishing piers may have a 0' setback when connected to a public access trail.

⁸ See Section 6.3.11.1 ~~(914)~~ for information about existing residential development on land.

⁹ See Section 6.3.11.2 ~~(4)~~ for information about existing floating homes.

¹⁰ Above Ordinary High Water Mark (OHWM)

¹¹ See 6.3.13(6).

¹² New roads may connect to existing roads within shoreline jurisdiction as long as the connection is landward of the existing road and the ordinary high water mark.

¹³ Permitted outside of channel migration zones.

¹⁴ See Section 5.6.2(11).

¹⁵ Permitted for restoration only; otherwise prohibited.

¹⁶ Sign requirements adopted with either a formally-approved master plan or through a Special Sign District under VMC 20.960.110 shall prevail over this section.

6.3.3.1 General Requirements

1. All boating uses, development and facilities shall protect the rights of navigation.
2. Boating uses, developments, and facilities shall locate on stable shorelines in areas where:

- a. There is adequate water mixing and flushing;
 - b. Such facilities will not adversely affect flood channel capacity or otherwise create a flood hazard;
 - c. Water depths are adequate to minimize spoil disposal, filling, beach enhancement, and other channel maintenance activities; and
 - d. Water depths are adequate to prevent the structure from grounding out at the lowest low water.
3. Boating uses, developments and facilities shall not be located:
- a. Along braided or meandering river channels where the channel is subject to change in alignment;
 - b. On point bars or other accretion beaches; or
 - c. Where new or maintenance dredging will be required;
 - d. In areas with important bank margin habitat for all life stages of aquatic species; or
 - e. Where wave action caused by boating use would increase bank erosion rates.
4. Marinas shall be designed to:
- a. Provide thorough flushing of all enclosed water areas;
 - b. Allow the free movement of aquatic life in shallow water areas; and
 - c. Avoid and minimize any interference with geo-hydraulic processes and disruption of existing shore forms.
 - d. All moorage facilities shall be constructed and maintained in a safe and sound condition. Those that are abandoned or unsafe shall be removed or repaired promptly by the owner or lessee.
5. Boating facilities shall be sited and designed to ensure no net loss of shoreline ecological functions, and shall meet DNR requirements and other state guidance if located in or over state-owned aquatic lands. On the Columbia River, boating facilities shall be sited waterward of -15 feet CRD to protect shallow water habitat ~~unless shallow water habitat will be created as mitigation~~ unless adverse impacts to shallow water habitat are addressed through mitigation to ensure no net loss. Mitigation can include, enhancement, creation and/or payment of mitigation bank credits, and comply with Section 6.4.4.
6. Boating facilities shall locate where access roads are adequate to handle the traffic generated by the facility and shall be designed so that lawfully existing or planned public shoreline access is not unnecessarily blocked, obstructed nor made dangerous.

7. Boating uses and facilities shall be located far enough from public swimming beaches, fishing, aquaculture harvest areas, and waterways used for commercial navigation to alleviate any adverse impacts, safety concerns and potential use conflicts.
8. Accessory uses at boating facilities shall be:
 - a. Limited to water-oriented uses, including uses that provide physical or visual shoreline access for substantial numbers of the general public; and
 - b. Located as far landward as possible while still serving their intended purposes.
9. Parking and storage areas shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas.
10. All marinas and public launch facilities shall provide restrooms/hand-sanitizing facilities for boaters' use that are designed, constructed and maintained to be clean, well lighted, safe and convenient for public use. One restroom and hand sanitizing facility shall be provided for every seventy-five (75) marina moorage slips or twenty (20) boat launch parking spaces.
11. Installation of boat waste discharge and disposal facilities such as pump-outs and portable dump stations shall be required at all marinas and public moorage facilities, and shall be provided at public boat launches to the extent possible. Such facilities shall include oil containment barriers when required by the US Coast Guard under provisions of the Clean Water Act. The locations of such facilities shall be considered on an individual basis in consultation with the Washington Departments of Health, Ecology, Natural Resources, Parks, and Fish and Wildlife, as necessary.
12. All utilities shall be placed at or below the dock surface, or below ground, as appropriate.
13. All signage shall adhere to the standards for signs in this chapter, VMC 20.960, and VMC 20.450, except that a marina or boat launch may have one advertising sign oriented towards the water that does not exceed twenty four (24) square feet in area and fifteen (15) feet in height above the OHWM.
14. Where appropriate, marinas and boat launch facilities shall install public safety signs, to include the locations of fueling facilities, pump-out facilities, and locations for proper waste disposal.
15. Boating facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals. Materials used for submerged portions, decking and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain or runoff. Wood treated with creosote, copper chromium, arsenic, pentachlorophenol or other similarly toxic materials is prohibited.

16. Boats shall be restricted from extended mooring on waters of the state except as allowed by state regulations and provided that lease or permission is obtained from the state and impacts to navigation and public access are mitigated.
17. No more than one private community or joint-use boating facility (boat launch, float, dock, pier, dock/pier combination, or mooring buoy) is allowed on a parcel or lot when a public facility is unavailable within ½-mile upstream or downstream of any property line and all applicable requirements are met.

6.3.3.4 Joint Use and Community Moorage Facilities

1. Community and joint use moorage facilities are defined (Chapter 8) and regulated as marinas (Section 6.3.3.3; defined in Chapter 8) if:
 - a. They provide commercial goods or services;
 - b. They have ten (10) or more slips;
 - c. Moorage is proposed to be leased to upland property owners; or
 - d. The proposal includes a boat launching facility other than a ramp.
2. Live-aboards are not allowed at joint-use or community moorages.
3. Covered moorage facilities associated with any residential development shall be prohibited.
4. Existing, legally-established, private recreational docks, piers, and floats for individual single-family developments are considered non-conforming uses and structures. If such dock or float is abandoned, becomes hazardous, or is removed for any reason, it may be replaced with only one joint-use or community facility that complies with the policies and regulations of this Program. All required permits and approvals shall be obtained prior to commencing construction.
5. A new private dock or pier serving an individual lot is prohibited.
6. New joint-use docks and piers serving two or more contiguous residential lots each having direct water frontage are allowed if no public marina or public boat launch is located within ½-mile upstream or downstream of any property line and all applicable requirements of this Program are met. Each residential lot proposed to have access to the joint-use dock must show development of the lot is capable of meeting the minimum development standards for zoning and the applicable provisions of Vancouver Shoreline Master Program.
7. New residential land divisions with shoreline frontage shall provide for community docks if there is an appropriate location for future construction of a dock. Proposed docks and piers shall include no more than one mooring space per dwelling unit. Where a new

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moorage facility is proposed within a residential waterfront development, only one community moorage facility may be allowed, but only after demonstrating that such use is appropriate for the waterbody and that no public moorage facility is available to residents within ½-mile of the perimeter of the development. All conditions of approval related to required access easements and dedications shall be identified on the face of the plat. In addition, the community dock easement shall be recorded with the County Auditor.

8. Applicants for community or joint-use residential docks and piers shall demonstrate and document that adequate maintenance of the structure, activities, and associated landward area will be provided by identified responsible parties. The applicant shall file a legally enforceable joint use agreement or other legal instrument prior to the issuance of any building permits. The documents shall at minimum address the following:
 - a. Apportionment of construction and maintenance expenses;
 - b. Easements and liability agreements; and
 - c. Use restrictions.
9. Only a single, community moorage facility shall be permitted in association with hotels, motels, and multi-family residences. No more than one (1) mooring slip per unit shall be allowed.
10. The dimensions of a joint use or community moorage facility dock or pier shall be no greater than necessary, and shall meet the development standards listed below.
 - a. Fixed-piers shall not be permitted for residential use on rivers. Floating docks shall be required in rivers and streams unless it can be demonstrated that fixed docks will result in substantially less impact on geo-hydraulic processes and flood hazards can be minimized or mitigated. A fixed pier, landward of a floating dock, which connects to the shore at one end and to the floating dock by a gangway at the other is allowed.
 - b. Piers/anchors and/or ramps shall extend waterward, perpendicular from the ordinary high water mark (OHWM), to a point where the water depth is sufficient to prevent damage to shallow-water habitat (-15 feet CRD on the Columbia River).
 - c. The moorage facility may extend into the waterbody the minimum distance necessary to allow for moorage of the boats anticipated but in no instance more than 300' beyond the OHWM.
 - d. The bottom of either the pier or landward edge of the ramp shall be elevated at least 2 feet above the plane of OHWM.

- e. Piers and ramps shall be no more than 8 feet in width. Finger piers shall be no more than 8 feet wide and 45 feet long. Piers, ramps and docks shall be constructed to allow a minimum of 60% light penetration over 60% of each structure.
- f. Skirting shall not be placed on piers, ramps, floating docks, or floats. Protective bumper material will be allowed along the outside edge of the float or floating dock as long as the material does not extend below the bottom edge of the float frame or impede light penetration.
- g. Shoreline concrete anchors must be placed at least 10 feet landward from the OHWM, and shall be sized no larger than 4-feet wide by 4-feet long, unless otherwise approved by National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries), the US Army Corps of Engineers (Corps), and Washington Department of Fish and Wildlife (WDFW).
- h. Overwater structures shall be located in water sufficiently deep to prevent the structure from grounding out at the lowest low water.
- i. Docks used for motor boats should be located where the water will be deeper than seven (7) feet at the lowest low water to avoid prop scour.
- j. All docks and floats shall include stops that serve to keep the floats off the lake bottom or river bed at low water levels. If a bulkhead-like base is proposed for a fixed pier or dock where there is net positive littoral drift, the base shall be built landward of the OHWM or protective berms. When plastics or other non-biodegradable materials are used in float, pier, or dock construction, precautions shall be taken to ensure their containment.
- k. Pilings must be structurally sound and cured prior to placement in the water. Pilings employed for docks, piers, or any other structure shall have a minimum vertical clearance of one foot above extreme high water. Pile spacing shall be the maximum feasible to minimize shading and avoid a “wall” effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.

6.3.4 Commercial Uses

- 1. Water-oriented commercial uses are preferred over nonwater-oriented commercial uses.
- 2. An applicant for a new commercial use or development shall demonstrate that the use or development will not cause a net loss of ecological function or adversely impact other shoreline resources or uses.
- 3. Loading, service areas, and other accessory uses shall be located landward of a commercial structure or underground whenever possible, but shall in no case be

waterward of the structure. Loading and service areas shall be screened from view with native plants.

4. ~~Where allowed, n~~Nonwater-oriented commercial uses may be ~~permitted~~allowed only as part of a mixed-use development that:

- a. As part of a mixed-use development that includes water-oriented uses and has a formally-approved master plan that complies with this Program, including having demonstrated consistency with the policies of Section 3.2 if its proposed location is on a shoreline of statewide significance, where there is a substantial public benefit with respect to the goals and policies of this Program such as providing public access and/or ecological restoration; or

~~Has a formally-approved master plan that complies with this Program, including having demonstrated consistency with the policies of Section 3.2 if its proposed location is on a shoreline of statewide significance;~~

- b. Where navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Act's objectives such as providing public access and ecological restoration; or ~~Includes water-oriented uses; and~~
- c. If the site is physically separated from the shoreline by another property or public right-of-way. Provides a significant public benefit such as public access and/or ecological restoration.

5. Nonwater-oriented commercial uses meeting the conditions of Section 6.3.4(4) and located in a High Intensity shoreline designation on the Columbia River between the eastern boundary of Wintler Park and the railroad bridge (Columbia River Shoreline Enhancement Plan District) may occupy:

- a. Up to 85% of the total frontage length of all parcels in the master-planned development (regardless of ownership); or
- b. Up to 85% of the project area within shoreline jurisdiction of all parcels in the development (regardless of ownership).

6. Nonwater-oriented commercial uses meeting the conditions of Section 6.3.4(4) and not located in a High Intensity shoreline designation on the Columbia River between the eastern boundary of Wintler Park and the railroad bridge (Columbia River Shoreline Enhancement Plan District) may occupy:

- a. Up to 25% of the total frontage length of all parcels in the master-planned development (regardless of ownership); or

- b. Up to 25% of the total project area within shoreline jurisdiction of all parcels in the master-planned development (regardless of ownership).
- 7. When a new, mixed-use commercial development meets all applicable provisions of Section 6.3.4 (Commercial Uses), Section 5.8.1 (Visual Access), and this Program and:
 - a. Is located in a High Intensity shoreline designation on the Columbia River between the eastern boundary of Wintler Park and the railroad bridge (Columbia River Shoreline Enhancement Plan District);
 - b. Has a formally-approved master plan that complies with this Program including having demonstrated consistency with the policies of Section 3.2 (Shorelines of Statewide Significance);
 - c. Includes water-oriented uses;
 - d. Provides public access to the shoreline;
 - e. Restores degraded shorelines; and
 - f. Building heights for commercial development in the High Intensity shoreline designation in Table 6-1 may be increased in accordance with the underlying zoning.
- 8. Water oriented commercial use is allowed on a dock or pier as a conditional use only under the follow circumstances:
 - a. The commercial dock or pier is located between the I-5 Bridge and the BNSF railroad bridge;
 - b. The commercial use of the dock or pier is included in a formally approved master plan that complies with this Program;
 - c. All uses shall be water-dependent, water-related or water-enjoyment;
 - d. There are design elements that link the site back to historic uses.
 - e. A dock or pier associated with an existing commercial building located on such dock or pier may be maintained, rebuilt, replaced and/or relocated as follows:
 - i. A rebuilt or replaced dock or pier shall not occupy a larger footprint then the dock or pier as it existed on March 15, 2018.
 - ii. A commercial building may be rebuilt, replaced or relocated on top of the dock or pier only when the applicant of a shoreline conditional use permit demonstrates the following:

1. The development shall include design elements that are reflective of the local maritime history and structures on the site, and enhance the public's experience along the city's waterfront.
2. The height of the structure shall not exceed 65 feet measured from ordinary high water mark.
3. The building shall not occupy a footprint that is larger than the footprint of the building existing on March 15, 2018. The building footprint may shift from its current location on the dock or pier as needed to comply with public access requirements of this program and/or existing or future state highway right-of-ways.
4. The building located on the dock or pier shall be positioned to maintain public access to the dock or pier and to the shoreline consistent with this Program and the policies set forth in the Vancouver City Center Vision (VCCV) Subarea Plan.

6.3.5 Forest Practices

1. Commercial harvest of timber undertaken on shorelines shall comply with the applicable policies and provisions of the Forests and Fish Report (U.S. Fish and Wildlife Service, et al., 1999) and the Forest Practices Act, RCW 76.09 as amended, and any regulations adopted pursuant thereto (WAC 222), as administered by the Department of Natural Resources.
2. When timberland is to be converted to another use, such conversion shall be clearly indicated on the Forest Practices application. Failure to indicate the intent to convert the timberland to another use on the application will result in subsequent conversion proposals being reviewed pursuant to Conversion Option Harvest Plan. Failure to declare intent to convert on the application shall provide adequate grounds for denial of subsequent conversion proposals for a period of six years from date of Forest Practices application approval per RCW 76.09.060(3)(d), (e) and (f), RCW 76.09.460, and RCW 76.09.470.
3. With respect to timber situated within two hundred (200) feet landward of the OHWM within shorelines of the statewide significance, Ecology or the City shall allow only selective commercial timber cutting, so that no more than thirty percent (30%) of the merchantable trees may be harvested in any ten- (10-) year period of time; provided that other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions, or silviculture practices necessary for regeneration render selective logging ecologically detrimental; and provided further, that clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this chapter may be permitted. Exceptions to this standard shall be allowed by conditional use only.

4. For the purposes of this Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered forest practices and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this Program, including vegetation conservation.
5. A forest practice that only involves timber harvest is not a development under the Act and is not subject to the Shoreline Master Program. A forest practice that includes activities other than timber harvest are a development under the Act and may require a Substantial Development Permit, as required by WAC 222-50-020

6.3.7 Institutional Uses

1. Water-oriented institutional uses and developments are preferred.
2. Where allowed, nonwater-oriented institutional uses may be permitted as part of a mixed-use development provided that a significant public benefit such as public access and/or ecological restoration are provided.
3. Loading, service areas, and other accessory uses shall be located landward of a primary structure or underground whenever possible, but shall in no case be waterward of the structure. Loading and service areas shall be screened from view with native plants.
4. ~~Where a~~ Non-water-oriented institutional uses are allowed ~~as a conditional use only if~~, the following ~~must be~~ is demonstrated:
 - a. A water dependent use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features of the site, or due to the site's separation from the water;
 - b. The proposed use does not displace a current water-oriented use and will not interfere with adjacent water-oriented uses; and
 - c. The proposed use will be of substantial public benefit by increasing the public use, enjoyment, ecological function, and/or access to the shoreline.
5. Over-water structures housing public safety equipment for public agency use to protect people, property, and the environment may be allowed as a conditional use and may be increased in number or expanded. See Section 6.3.3.3(10) and (11).

6.3.9 Parking

1. Parking as a primary use is prohibited in all shoreline areas.
2. Temporary storage of vehicles for import or export in port areas shall not be considered parking.
3. Temporary storage of vehicles for import or export in port areas is prohibited over water.

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4. Where parking is allowed as accessory to a permitted use, whenever feasible it should ~~shall~~ be located landward of the primary structure as far as possible or within the primary structure.

6.3.12 Signs

1. Free-standing signs shall be for only informational purposes such as directional, navigational, educational/interpretive, and safety purposes, unless otherwise allowed under this Program and as specified in Table 6-1.
2. Signs for commercial purposes shall be limited to fascia or wall signs and as regulated by VMC Chapter 20.960, unless otherwise provided for in this chapter for specific uses.
3. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access corridors to the shoreline.
4. Overwater signs or signs on floats or pilings shall be prohibited, except when related to navigation or a water-dependent use.
5. Illuminated signs shall be limited to informational, directional, navigational or safety purposes and shielded so as to eliminate glare when viewed from surrounding properties or watercourses.
6. Sign requirements adopted with either a formally-approved master plan or through a Special Sign District under VMC 20.960.110 shall prevail over the provisions of this section.

6.4.2.2 Dredging

1. Dredging shall be avoided where possible. Dredging shall be permitted only where it is demonstrated that the proposed water-dependent or water-related uses will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines unless one or more of these impacts cannot be avoided. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of shoreline ecological functions.
2. Maintenance dredging of established navigation channels and basins shall be restricted to managing previously dredged and/or existing authorized location, depth and width.
3. Dredging shall be prohibited between the OHWM and minus fifteen (-15) feet CRD, unless adverse impacts to shallow water habitat is addressed through mitigation to no net loss. Mitigation can include, enhancement, creation and/or payment of mitigation bank credits. ~~and comply with Section 6.44. shallow water habitat will be created to mitigate for the dredging project.~~

4. Dredging activity is prohibited in the following locations:
 - a. Along net positive drift sectors and where geohydraulic-hydraulic processes are active and accretion shore forms would be damaged, altered, or irretrievably lost;
 - b. In shoreline areas with bottom materials that are prone to significant sloughing and refilling due to currents or tidal activity which result in the need for continual maintenance dredging;
 - c. In habitats identified as critical to the life cycle of officially designated or protected fish, shellfish, or wildlife.
5. Dredging techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only the amount of dredging necessary shall be permitted.
6. Dredging shall be permitted only:
 - a. For navigation or navigational access;
 - b. In conjunction with a water-dependent use of water bodies or adjacent shorelands;
 - c. As part of an approved habitat improvement project;
 - d. To improve water flow or water quality, provided that all dredged material shall be contained and managed so as to prevent it from reentering the water;
 - e. In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist; or
 - f. To acquire sand and gravel for commercial purposes from within the Columbia River.
7. Dredging for fill is prohibited except where the material is necessary for restoration of shoreline ecological functions.

6.4.2.3 Dredge Material Disposal

1. ~~Dredge material disposal shall be avoided where possible.~~ Dredge disposal shall be permitted only where it is demonstrated that the proposed water-dependent or water-related uses will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of shoreline ecological functions. Environmentally sound beneficial uses of suitable dredge material are encouraged as an alternative to conventional placement practices, when feasible.

2. Near shore or landside disposal of dredge materials shall not be located upon, adversely affect, or diminish:
 - a. Stream mouths, wetlands, or significant plant communities (approved mitigation plans may justify exceptions);
 - b. Prime agricultural land except as enhancement;
 - c. Natural resources including but not limited to sand and gravel deposits, timber, or natural recreational beaches and waters except for enhancement purposes;
 - d. Designated or officially recognized wildlife habitat and concentration areas;
 - e. Water quality, quantity, and drainage characteristics; and
 - f. Public access to shorelines and water bodies.
3. Dredged material shall be disposed of on land only at sites reviewed and approved by the USACOE and the Shoreline Administrator. Applicants shall demonstrate that the proposed site will ultimately be suitable for a use permitted by this Program. Disposal shall be undertaken such that:
 - a. The smallest possible land area is affected, unless dispersed disposal is authorized as a condition of permit approval for soil enhancement or other purposes;
 - b. Shoreline ecological functions and processes will be preserved, including protection of surface and ground water;
 - c. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property; and
 - d. Sites will be adequately screened from view of local residents or passersby on public right-of-ways to the maximum extent practicable.
4. The following conditions shall apply to land disposal sites:
 - a. Springs and aquifers shall be identified and protected.
 - b. Containment dikes and adequate settling basins shall be built and maintained so that the water discharged from the site carries a minimum of suspended sediment. Required basins shall be designed to maintain at least one foot of standing water at all times to encourage proper settling.
 - c. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands, and drainage ways.

- d. There shall be a single point of ingress and egress for removal of the de-watered material.
 - e. Runoff shall be directed through grassy swales or other treatment features that assures protection of water quality and a location that maximizes circulation and fishing.
 - f. Sites shall be revegetated with appropriate native species as soon as possible to retard erosion and restore wildlife habitat and other critical areas functions;
 - g. Vegetation shall be maintained by the property owner;
 - h. Dredge materials deposited upland and not part of a permitted dike or levee shall constitute fill, and when deposited within shoreline jurisdiction, shall comply with the fill regulations; and
 - i. The applicable requirements of VMC 14.24, 14.25, and 14.26 shall be met.
5. Dredged material shall be disposed of in water only at sites approved by the USACOE and the Shoreline Administrator. Disposal techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only if:
- ~~a. Land disposal is infeasible, less consistent with this Program, or prohibited by law;~~
 - a. ~~b.~~ Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible;
 - b. ~~c.~~ Offshore habitat will be protected, restored, or enhanced;
 - c. ~~d.~~ Adverse effects on water quality or biologic resources from contaminated materials will be mitigated;
 - d. ~~e.~~ Shifting and dispersal of spoil will be minimal; and
 - e. ~~f.~~ Water quality will not be adversely affected.
6. The deposition of dredged materials in water or wetlands shall be permitted only in approved, open water disposal sites and:
- a. To improve wildlife habitat;
 - b. To correct material distribution problems adversely affecting fish habitat;
 - c. To create, expand, rehabilitate, or enhance a beach when permitted under this Program and any required state or federal permit; or
 - d. When land deposition is demonstrated to be more detrimental to shoreline resources than water deposition.

6.4.5 Shoreline Stabilization – General

1. New shoreline stabilization to protect new residential development is prohibited. For other types of new development new shoreline stabilization is prohibited unless it can be demonstrated through a geotechnical analysis by a qualified professional that:
 - a. The proposed use cannot be developed without shore protection; or
 - b. Shore protection is necessary to restore ecological functions; or
 - c. Shore protection is necessary for a hazardous substance remediation project.
2. New or expanded shore stabilization shall:
 - a. Be designed using best available science and in accordance with applicable Ecology and WDFW guidelines;
 - b. Not result in a net loss of shoreline ecological functions;
 - c. Not cause significant erosion or beach starvation;
 - d. Not be located where valuable geohydraulic, hydraulic, or biological processes are sensitive to interference and critical to shoreline conservation;
 - e. Document that alternative solutions (including relocation or reconstruction of existing structures) are not feasible or do not provide sufficient protection;
 - f. Demonstrate that future stabilization measures would not be required on the project site or adjacent properties; and
 - g. Be certified by a qualified professional.
3. New or expanded structural shoreline stabilization for existing primary structures, including roads, railroads, and public facilities is prohibited unless there is conclusive evidence documented by a geotechnical analysis that there is a significant possibility that the structure will be damaged within three years as a result of shoreline erosion caused by stream processor waves, and only when significant adverse impacts are mitigated to ensure no net loss of shoreline ecological functions and/or processes.
4. Where a geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, the analysis may still be used to justify more immediate authorization for shoreline stabilization using bioengineering approaches.
5. Replacement of an existing shoreline stabilization structure with a similar structure is permitted if there is a demonstrated need to protect existing primary uses, structures or public facilities including roads, bridges, railways, and utility systems from erosion

caused by stream undercutting or wave action; provided that, the existing shoreline stabilization structure is removed from the shoreline as part of the replacement activity. Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the structure is a residence that was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. New or expanded shore stabilization shall be designed in accordance with applicable Ecology and WDFW guidelines and certified by a qualified professional.

6. ~~Shoreline stabilization projects that meet the criteria of Section 2.3.2(18) require a statement of exemption (Section 2.3.3) and if exempt will be regulated under RCW 77.55.181. Stabilization projects that do not meet these criteria will be regulated by this Program.~~ Shoreline stabilization projects that are part of a fish habitat enhancement project meeting the criteria of RCW 77.55.181 are shall be consistent with the provisions set forth in 2.1.1 and 2.3.2. exempt and will be regulated under the state process set forth in RCW 77.55.181. Stabilization projects that are not part of such a fish enhancement project will be regulated by this Program.
7. Small-scale or uncomplicated shoreline stabilization projects (for example, tree planting projects) shall be reviewed by a qualified professional to ensure that the project has been designed using best available science.
8. Large-scale or more complex shoreline stabilization projects (for example, projects requiring fill or excavation, placing objects in the water, or hardening the bank) shall be designed by a qualified professional using best available science. The applicant may be required to have a qualified professional oversee construction or construct the project.
9. Standards for new stabilization structures when found to be necessary include limiting the size to the minimum necessary to achieve the stabilization objective, using measures to assure no net loss of shoreline ecological functions, using soft approaches, and mitigating for impacts.

6.4.9.1 Revetments - General

1. Revetments must be in support of an allowable shoreline use that is in conformance with the provisions of this Program, unless it can be demonstrated that such activities are necessary and in the public interest for the maintenance of shoreline environmental resources.
2. Design of revetments shall include and provide improved access to public shorelines whenever possible and appropriate. All forms of revetments shall be constructed and maintained in a manner that does not reduce water quality and/or fisheries habitat.
3. Design of the proposed revetment shall incorporate proper consideration of:
 - a. Data on local geophysical conditions;

- b. Data on stream flow, velocity, and/or flood capacity; and
 - c. Effects on adjacent properties.
4. ~~Bank revetments, where permitted, shall be placed at the extreme edge or bank of the shoreline.~~ Construction below ordinary high water mark is not considered fill when needed to construct the revetment. Revetments, where permitted, shall minimize encroachment waterward of the ordinary high water mark. In the Columbia River, adverse impacts to shallow water habitat between the OHWM and minus fifteen (-15) feet CRD shall be mitigated to ensure no net loss of ecological function. Mitigation can include enhancement, creation and/or payment of mitigation bank credits. Placement of revetments waterward of the OHWM are not considered fill.
 5. Revetments shall only be used when habitat-friendly alternatives are not feasible.

Section 8. The City of Vancouver Shoreline Master Program, Chapter 7 Administration and Enforcement, Section 7.1 General Provisions; Section 7.2.2 City Hearing Examiner; Section 7.2.3 City Planning Commission; Section 7.2.4 City Council; Section 7.2.5 State Department of Ecology and Attorney General; Section 7.3 Master Program Amendments; Section 7.4.1 Administrative Interpretations; Section 7.4.2 Statement of Exemption; Section 7.4.3 Shoreline Substantial Development Permits; Section 7.4.4 Shoreline Conditional Use Permits; Section 7.4.5 Shoreline Variance Permits; Section 7.4.7 Hearings; Section 7.4.8.3 Appeal Review Process; Section 7.4.8.4 State Shoreline Hearings Board; Section 7.4.9 Notification to Ecology and the Attorney General; Section 7.4.10 Ecology Review; Section 7.5.2 Requirement for Restoration Plan; Section 7.8 Rescission of Permits, adopted by Ordinance M-3995 and as amended, are hereby amended to read as follows:

7.1 General Provisions

1. Except as specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to RCW 90.58, the Act and this Program.
 2. Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e), WAC 173-27-040, and Section 2.3-2 of this Program shall not require a Shoreline Substantial Development Permit (SDP) but shall conform to the
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policies and regulations of this Program and the Act and shall obtain a Statement of Exemption (SOE) (Sections 2.3~~3~~ and 7.4~~2~~~~7~~).

3. Classification of a use or development as permitted does not necessarily mean the use/development is allowed. It means the use/development may be allowed subject to review and approval by the City and/or Ecology. The City may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of a project with the Act and this Program.
4. To be authorized under this Program, all uses and developments shall be planned and carried out in a manner that is consistent with the City codes and this Program regardless of whether a shoreline substantial development permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.
5. Applicants requesting review for permits or statement of exemption under this Program have the burden to prove that the proposed development or activity is consistent with the criteria that must be met before a permit or statement of exemption is granted.
6. Applicants shall submit all information and documentation determined by the Shoreline Administrator as necessary to process an application
7. The City shall not issue any permit for development within the shoreline jurisdiction until approval has been granted pursuant to this Program.
8. A development or use that does not comply with the bulk, dimensional, and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.
9. A development or use that is listed as a conditional use pursuant to this Program, or is an unlisted use, must obtain a Shoreline Conditional Use Permit (SCUP) even if the development or use does not require a substantial development permit.
10. Issuance of a Shoreline Substantial Development Permit, Shoreline Variance (SV) or Shoreline Conditional Use Permit does not constitute approval pursuant to any other federal, state or City laws or regulations.
11. All shoreline permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Shoreline Administrator, documenting compliance with bulk and dimensional policies and regulations of this Program. The Shoreline Administrator may attach conditions to the approval as necessary to assure consistency with ~~the~~ RCW 90.58 and this Program. Such conditions may include a requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.
12. Proposed actions that would alter designated critical areas or their buffers, as established by this Program (Chapters 5.3 and 5A) shall be reviewed for compliance with this

Program. If required, the applicable critical area report and/or mitigation plan and/or habitat management plan shall be submitted as part of the development application or request for statement of exemption. The critical area review shall be conducted and processed in conjunction with the highest threshold of review that is applicable to the primary development proposed:

- a. Statement of Exemption;
 - b. Land Use Permit or Building Permit;
 - c. Excavation, Grading, Clearing and Erosion Control Permit;
 - d. SEPA Threshold Determination;
 - e. Shoreline Substantial Development Permit;
 - f. Shoreline Conditional Use Permit;
 - g. Shoreline Variance; or
 - h. Revisions to Shoreline Permits.
13. Habitats of Local Importance may be proposed by the property owner or the City (Chapter 5A, ~~VMC~~ Section 20.740.100) and shall be designated according to a Type IV legislative procedure (~~VMC~~ Chapter 5A, Section 20.210.070).
14. The final decision on a shoreline permit (Type II application) Shoreline Conditional Use or Shoreline Variance (Type III application) shall be made within 120 calendar days after the date of a fully complete determination is made per VMC 20.210. However, per RCW 47.01.485(1) to the greatest extent practicable, a final determination on all permits required for a project on a state highway as defined in RCW 46.04.560 shall be made no later than 90 days after a fully complete determination is made per VMC 20.210.

7.2.2 City Hearing Examiner

1. The City Hearing Examiner shall be responsible for making final determinations on appeals of:
 - a. Statements of Exemption;
 - b. Shoreline Substantial Development Permits; and
 - c. Revisions to Statements of Exemption and Shoreline Substantial Development Permits.
2. The City Hearing Examiner shall be responsible for making recommendations to Ecology on:

- a. Applications for Shoreline Conditional Use Permits;
 - b. Applications for Shoreline Variances; and
 - c. Applications for ~~Shoreline Substantial Development Permits in conjunction with a required~~ Shoreline Conditional Use Permit or Shoreline Variance. The Hearing Examiner shall make a decision on a Shoreline Substantial Development Permit or Shoreline Permit Exemption when submitted with a Shoreline Conditional Use or Variance. Both the decision on the Substantial Development Permit and recommendation to Ecology on the Conditional Use or Variance shall be sent to Ecology per the requirements of this SMP.
3. The City Hearing Examiner shall be responsible for rescinding approved Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances (Section 7.8).
 4. On Type IV quasi-judicial applications such as planned developments processed per VMC Title 20, the Hearing Examiner shall make recommendation to City Council on shoreline permits, when review is consolidated with the Type IV application.

7.2.3 City Planning Commission

The City Planning Commission shall be responsible for hearing and making recommendations for action to the City Council on the following types of matters:

1. Amendments to the Shoreline Master Program. Any of the provisions of this Program may be amended as provided for in WAC 173-26-100 and 173-26-104.
2. Review and adjustments. Periodic review of this Program shall be conducted as required by state law and regulations RCW 90.58.080(4). Adjustments shall be made as necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with WAC 173-26-090 and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.
3. Type IV quasi-judicial applications such as planned developments processed per VMC Title 20.

7.2.4 City Council

1. The City Council shall consider appeals of the Hearing Examiner decision on proposals that include Shoreline Conditional Use Permits, Shoreline Variances, and SSDPs processed in conjunction with SCUPs and/or SVs.
2. The City Council shall be responsible for making final determinations on amendments to the Shoreline Master Program at the local level. The local plan shall be adopted by ordinance. The Council shall enter findings and conclusions setting forth the factors it

considered in reaching its decision. The Program adopted by the City Council shall be submitted to Ecology for review and adoption. Ecology must approve all master programs before they become effective.

3. When submitted with a Type IV quasi-judicial applications such as planned developments processed per VMC Title 20, the City Council shall make a decision on a Shoreline Substantial Development Permit or Shoreline Permit Exemption and shall make a recommendation to Ecology on a Shoreline Condition Use or Variance. Both the decision on the Substantial Development Permit and the recommendation to Ecology on the Conditional Use or Variance shall be sent to Ecology per the requirements of this SMP.

7.2.5 State Department of Ecology and ~~Attorney General~~

1. The duties and responsibilities of Ecology shall include, but are not limited to the following:
 - a. Reviewing and approving Program amendments prepared by the City pursuant to WAC 173-26-120 (State Process for Approving/Amending Shoreline Master Programs).
 - b. Reviewing and petitioning for review of the City's Statement of Exemption and Shoreline Substantial Development Permit decisions.
 - c. Final approval and authority to condition or deny Shoreline Conditional Use Permits and Shoreline Variance Permits filed by the City.

7.3 Master Program Amendments

1. This Program shall be periodically reviewed no later than eight (8) years following its approval by Ecology and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with ~~WAC 173-26~~ requirements in RCW 90.58.080 and WAC 173-26-090 and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public. The Program shall be consistent with the City comprehensive plan and development regulations adopted under RCW 36.70A and other local requirements.
2. Any of the provisions of this Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Amendments or revision to this Program, as provided by law, do not become effective until approved by Ecology.
3. Proposals for shoreline re-designation (i.e., amendments to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in WAC 173-22-040.

7.4.1 Administrative Interpretations

1. Interpretation, enforcement, and administration of this Program shall be in conformance with the provisions of WAC 173-26-140. The City establishes the following procedures for processing Administrative Interpretations:
 - a. Application. Any person may request in writing the Shoreline Administrator's interpretation of a code provision of this Program when it pertains to a specific property or project by means of a Type I application pursuant to Section 20.210.040 VMC.
 - b. The Shoreline Administrator may independently initiate an interpretation of any conflicting or unclear provisions of this Program.
 - c. Consultation with the Ecology. Prior to issuing an interpretation, the Shoreline Administrator shall formally consult with the Ecology to insure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines.
 - d. Catalog. To ensure that the Shoreline Administrator's interpretations are applied consistently over time, the Shoreline Administrator shall catalog these interpretations. The Shoreline Administrator shall retain and maintain the catalog of interpretations.

7.4.2 Statement of Exemption

1. Any person requesting an exemption from the substantial development permit review procedures shall submit a completed application for Shoreline Exemption to the Shoreline Administrator.
2. Proposals for Statements of Exemption shall comply with the provisions of Section 2.3.3.
3. Applications for Statements of Exemption under section 2.3.3 are to be processed using the Type I review procedures as set forth in VMC 20.210.040. The Shoreline Administrator shall forward documentation of decisions on Statements of Exemption to Ecology as required by Section ~~7.92.3.3~~ and WAC 173-27-~~050+30~~ or its successor.

7.4.3 Shoreline Substantial Development Permits

1. Applications for Shoreline Substantial Development Permits are to be processed using the Type II review procedures as set forth in VMC 20.210.050, **WITH THE EXCEPTION THAT THE PUBLIC COMMENT PERIOD SHALL BE AT LEAST 30 DAYS (WAC 173-27-110(2)(e))**.
2. Applications shall be reviewed, and shall only be approved if the application conforms with the criteria for approval found in WAC 173-27-150 and this Program, including the provisions of Section 2.2.

3. In addition, upon completion of the local appeal period, the Shoreline Administrator shall forward the application and decision to Ecology in compliance with the provisions of 7.4.9; ~~Ecology~~ and WAC 173-27-130 or its successor.

7.4.4 Shoreline Conditional Use Permits

1. Shoreline Conditional Use Permits are required for any proposed use or development which is listed as a conditional use in this program and for any use not specifically addressed in this program. A Shoreline Conditional Use Permit cannot be used to allow any use or structure specifically prohibited by this program.
2. Shoreline Conditional Use Permit Review Procedures
 - a. Applications for Shoreline Conditional Use Permits are to be processed using the Type III review procedures as set forth in VMC 20.210.060 and VMC 20.210.120 except that the Hearing Examiner shall make a recommendation to Ecology.
 - b. Applications shall be reviewed, and shall only be approved if the application conforms with the criteria for approval found in WAC 173-27-160 and this Program, including the provisions of Section 2.7.
 - c. Upon completion of the local appeal period, the Shoreline Administrator shall forward the application and ~~decision~~ recommendation to Ecology in compliance with the provisions of 7.4.9; ~~Ecology~~ and WAC 173-27-130 or its successor.

7.4.5 Shoreline Variance Permits

1. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.
2. Shoreline Variance Permit Review Procedures
 - a. Applications for Shoreline Variance Permits are to be processed using the Type III review procedures as set forth in VMC 20.210.060 and VMC 20.210.120 except that the Hearing Examiner shall make a recommendation to Ecology.
 - b. Applications shall be reviewed, and shall only be approved if the application conforms to the criteria for approval found in WAC 173-27-170 and this Program, including the provisions of Section 2.6.
 - c. In addition, upon completion of the local appeal period, the Shoreline Administrator shall forward the application and ~~decision~~ recommendation to

Ecology in compliance with the provisions of 7.4.9, ~~Ecology~~ and WAC 173-27-130 or its successor.

7.4.7 Hearings

1. Applications which require an open-record hearing shall be considered by the Hearing Examiner. When an open-record hearing is required, all other land use permit applications for a specific site or project shall be considered concurrently, including any accompanying environmental appeal, under VMC 20.210. Therefore, in this situation, applications for which the Shoreline Administrator has authority shall be transferred to the jurisdiction of the Hearing Examiner to allow consideration of all land use actions concurrently.
2. Any decision or ruling of the Hearing Examiner ~~on a shoreline substantial development permit not processed in conjunction with an SCUP or SV may be appealed to the State Shorelines Hearing Board~~ may be appealed per Section 7.4.8.
3. The Planning Commission may hold an open-record hearing on ~~amendments to the SMP including map amendments and~~ Type IV quasi-judicial applications including planned developments, forward a recommendation to the City Council. The City Council shall conduct an open-record hearing on same, make a decision on a Shoreline Development Permit or Statement of Exemption and make a recommendation on a Shoreline Conditional Use or Variance, and forward a final recommendation/decision to Ecology. ~~Ecology's decision on an SMP amendment may be appealed to the Growth Management Hearings Board (GMHB) (See Section 7.8.4.5).~~

7.4.8.3 Appeal Review Process

1. General. All complete appeals submitted shall be scheduled for review at a public hearing such that a final decision can be rendered within 60 calendar days for closed-record appeals, and within 90 calendar days for open-record appeals. Further extensions are permitted upon mutual agreement of the appellant, the applicant, and the Shoreline Administrator. If a final decision is not reached within this time, the Shoreline Administrator shall so notify the appellant and shall provide a reason for the delay and an estimated date of final decision issuance.
2. Statement of Exemption
 - a. Venue. Appeals of the Shoreline Administrator's decision on a Statement of Exemption are conducted before the Hearing Examiner in an open record proceeding.
 - b. Notice. At least 10 calendar days prior to the hearing date, notice shall be sent by mail to the appellant.
 - c. Decision Timeline. The Hearing Examiner shall issue a decision within 14 calendar days of the close of the record

- d. Further Local Review. The decision of the Hearing Examiner is the final ~~and may not be appealed~~ local appeal.

3. Shoreline Substantial Development Permit

- a. Venue. Appeals of the Shoreline Administrator's decision on a Shoreline Substantial Development Permit are conducted before the Hearing Examiner in an open record proceeding.
- b. Notice. At least 10 calendar days prior to the hearing date, notice shall be sent by mail to:
 - i. The applicant and all owners of the site that is the subject of the application;
 - ii. All parties of record;
 - iii. Any neighborhood or community organization recognized by the City Council and whose boundaries include the site;
 - iv. Any person who has submitted a written request to be notified; and
 - v. The appellant and all parties to the appeal.
- c. Decision Timeline. The Hearing Examiner shall issue a decision within 14 calendar days of the close of the record
- d. Further Local Review. No additional local review is provided. ~~However, within 21 days of the issuance of the Hearing Examiner's decision, further appeal may be filed with Superior Court and/or the State Shorelines Hearings Board.~~

4. Shoreline Variances, Shoreline Conditional Use Permits, and Substantial Development Permits Processed in Conjunction with Such Permits

- a. Venue. Appeals of the Hearing Examiner's decision on Shoreline Variances, Shoreline Conditional Use Permits and Substantial Development Permits Processed in Conjunction with such permits are conducted before the City Council in a closed record proceeding.
- b. Notice. At least 10 calendar days prior to the hearing date, notice shall be sent by mail to:
 - i. The applicant and/or appellant and all owners of the site that is the subject of the application;
 - ii. All parties of record;
 - iii. Any neighborhood or community organization recognized by the City Council and whose boundaries include the site;

- iv. Any person who provided oral or written testimony entered into the record at the public hearing.
 - v. Anyone who requested in writing a notification of the decision on a particular matter; and
 - vi. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the city that includes provision for such notice or which is otherwise entitled to such notice.
- c. Decision Timeline. The City Council shall issue a decision within 14 calendar days of the close of the record.
 - d. Further Local Review. No additional local review is provided, ~~in the case of Shoreline Conditional Use Permits and Shoreline Variances. The city is making a recommendation to Ecology. Ecology's final decision may be appealed by filing an appeal with Superior Court and/or the State Shorelines Hearings Board.~~
The City Council decision on any Substantial Development Permit processed in conjunction with a Shoreline Conditional Use Permit or Shoreline Variance may be appealed separately to the State Shoreline Hearings Board.

7.4.8.4 State Shoreline Hearings Board

1. Appeals of any final permit decision may be made to the Shorelines Hearing Board as governed by the procedures established in RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings).
2. Such appeals must be filed within twenty-one (21) days from the date of filing of the permit decision ~~was filed~~.
3. The provisions of this section shall apply to any final order, requirement, permit, decision, or determination on land use proposals made by the Shoreline Administrator, Hearing Examiner or City Council on appeal. These ~~may include, but are not limited to,~~ Shoreline Substantial Development Permits, ~~Statements of Exemption,~~ Shoreline Conditional Use Permits, Shoreline Variances, and Shoreline Revisions.

7.4.9 Notification to Ecology and the Attorney General

1. ~~2.~~ The Shoreline Administrator shall notify Ecology and the Attorney General of any ~~Statement of Exemption,~~ Substantial Development Permit decision and/or recommendation on a, Conditional Use or Variance Permit ~~decisions~~ made by the Shoreline Administrator (or Hearing Examiner or City Council when required), whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a Substantial Development Permit and either Conditional Use or

Variance Permit are required for a development, the submittal of the permits shall be made concurrently. The Shoreline Administrator shall file the following with Ecology and the Attorney General by return receipt requested by mail:

- a. A copy of the complete application per WAC 173-27-180;
 - b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);
 - c. The final decision or recommendation of the City;
 - d. The permit data sheet per WAC 173-27-990;
 - e. Affidavit of public notice; and
 - f. Where applicable, the documents required by the State Environmental Policy Act (RCW 43.21C).
2. 4. When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.
 3. ~~5.~~ Ecology shall review the documentation provided by the Shoreline Administrator for completeness. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the City and the applicant in writing. Ecology will not act on Conditional Use or Variance Permit submittals until the material requested in writing is received.

7.4.10 Ecology Review

1. Ecology may petition for review of the City's decision on a ~~Statement of Exemption or a~~ Shoreline Substantial Development Permit to the Shorelines Hearings Board. Such petition must be commenced within twenty one (21) days from the date of filing of the City's ~~the final decision was filed~~.
2. Ecology shall make a final decision approving, approving with conditions, or disapproving a Shoreline Conditional Use Permit or Shoreline Variance Permit and convey its decision to the City and the applicant within thirty (30) days of the date of submittal by the City ~~of filing by the City~~. The Shoreline Administrator will notify those interested persons having requested notification of such decision.
3. Ecology shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA, the criteria listed in this Program and the provisions of WAC 173-27-160 for

conditional use permits, WAC 173 27-170 for variances and WAC 173-27-210 relating to minimum standards for conditional use and variance permits.

4. Appeals of Ecology decisions on Shoreline Conditional Use Permits and Shoreline Variance Permits shall be made to the Shorelines Hearing Board as specified in Section 7.4.8.4.

7.5.2 Requirement for Restoration Plan

1. In the event the City initiates enforcement action under this Program or files a complaint in court, the City may require a restoration plan consistent with the requirements of this Program. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in Chapter 5A, VMC 20.740.090(C). The Shoreline Administrator shall, at the violator's expense, seek expert advice in determining whether the plan restores the affected area to its pre-existing condition or, where that is not possible, restores the functions of the affected area. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.
2. Minimum Performance Standards for Restoration
 - a. For alterations to frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:
 - i) The structure and functions of the critical area or buffer prior to violation shall be restored, including water quality and habitat functions;
 - ii) The soil types and configuration prior to violation shall be replicated;
 - iii) The critical area and buffers shall be replanted with native vegetation (a list of native species is available from the Shoreline Administrator). ~~If the critical area or buffer is on a site that meets the criteria of Chapter 5A, VMC 20.740.030(B)(1)(f)(1), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the Shoreline Administrator; and~~
 - iv) Information demonstrating compliance with the requirements in Chapter 5A, VMC 20.740.050(F) Mitigation Plan Requirements shall be submitted to the Shoreline Administrator.

- b. For alterations to frequently flooded and geologic hazard areas, the following minimum performance standards shall be met for the restoration of a critical area or buffer, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:
 - i) The hazard shall be reduced to a level equal to, or less than, the pre-violation hazard;
 - ii) The risk of personal injury resulting from the alteration shall be eliminated or minimized;
 - iii) Drainage patterns shall be restored to those existing before the alteration; and
 - iv) The hazard area and buffers shall be replanted consistent with pre-violation conditions with native vegetation sufficient to minimize the hazard. ~~If the critical area or buffer is on a site that meets the criteria of Chapter 5A, VMC 20.740.030(B)(1)(f)(1), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the Shoreline Administrator.~~
3. As a condition of the restoration plan, the applicant shall grant reasonable access to the property.

7.8 Rescission of Permits

1. This section applies to requests or decisions to rescind Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances.
2. The Hearing Examiner shall have the power to rescind or modify approved Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances in accordance with the Type III procedures of VMC 20.210.060 and VMC 20.210.120.
3. City staff or any other persons who are aggrieved by activities undertaken under a shoreline permit may request in writing that the Hearing Examiner rescind or modify the permit.
4. Upon receipt of a request for rescission, the Shoreline Administrator shall schedule a public hearing for the next Hearing Examiner meeting where the review can be accommodated and the required notice given.
5. Notice of Public Hearing.
 - a. The Shoreline Administrator shall publish a notice of the rescission hearing at least fourteen days before the hearing date.

- b. The Shoreline Administrator shall mail notice of the hearing to the party to which the permit was issued, the owner of the property for which the permit was issued, the person or persons who requested the Hearing Examiner rescind the permit and any persons who requested notice of the hearing in writing at least ten days before the hearing date.
- c. The notice shall include the following information:
 - i. The name of the permit holder and, if applicable, the project name.
 - ii. The street address of the subject property and a description of the property in non-legal terms sufficient to identify the location.
 - iii. A brief description of the issues.
 - iv. The date, time and place of the public hearing.
 - v. A statement of the right of any person to participate in the public hearing by providing written statements before or at the hearing and orally at the hearing.
- 6. The Hearing Examiner shall hold a public hearing before deciding whether to rescind or add conditions to the permit. Any person can submit written statements or speak. At the hearing, the Hearing Examiner may request such additional information as is reasonably necessary to evaluate whether the permit or variance should be rescinded.
- 7. After the public hearing has concluded, the Hearing Examiner shall decide whether to rescind, modify, or add conditions to the permit.
 - a. The decision may be made at the same public meeting as the public hearing or at another public meeting. The Hearing Examiner shall issue a decision within fourteen days of closure of the public record.
 - b. The decision shall be based on the decision criteria in Section 7.8(13).
 - c. If the Hearing Examiner decides to rescind the permit, the Hearing Examiner may require restoration or reclamation of the property and may set time limits for the completion of these activities.
 - d. The Hearing Examiner shall adopt findings of fact and conclusions which support the decision and any required conditions.
- 8. Unless appealed to City Council, the decision of the Hearing Examiner and the findings of fact and conclusions shall be reduced to writing and mailed by the Shoreline Administrator to the permit holder, the property owner, Ecology and the Washington State Attorney General within fourteen days of the date of the decision.
- 9. Effect of Decision.

- a. Unless appealed to the City Council, the decision of the Hearing Examiner is the final decision of the City.
 - b. If the Hearing Examiner rescinds the permit, all activity authorized by the Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance Permit shall immediately cease, unless the decision maker grants a period of time to complete the activity or reclaim the site or a court authorizes continued operation during an appeal.
10. Appeal of decision to City Council. The City Council shall hold a public hearing before deciding whether to uphold or overturn a Hearing Examiner's decision to rescind or add conditions to the permit. Any person can submit written statements or speak. At the hearing, members of the City Council may request such additional information as is reasonably necessary to evaluate whether the permit should be rescinded.
- a. After the public hearing has concluded, the City Council shall decide whether to uphold or overturn the Hearings Examiner's decision to rescind, modify, or add conditions to the permit. The City Council shall also have the authority to modify the decision of Hearings Examiner.
 - b. The decision may be made at the same public meeting as the public hearing or at another public meeting. The City Council shall issue its decision within 90 days of the filing of an appeal of a rescission,
 - c. The decision shall be based on the decision criteria in Section 7.8(13).
 - d. If the City Council upholds or modifies the Hearing Examiner decision to rescind the permit, the City Council may require restoration or reclamation of the property and may set time limits for the completion of these activities.
 - e. In its decision on the appeal of the Hearing Examiner decision, the City Council shall adopt findings of fact and conclusions which support the decision and any required conditions.
11. The decision of the City Council on the appeal of the Hearing Examiner decision shall include the findings of fact and conclusions shall be reduced to writing and mailed by the Shoreline Administrator to the permit holder, the property owner, Ecology and the Washington State Attorney General within twelve days of the date of the decision.
12. Effects of Decision.
- a. The decision of the City Council on the appeal of a Hearing Examiner decision on the rescission may be appealed to the Washington State Shorelines Hearings Board as provided in RCW 90.58.180 and Chapter 461-08 WAC.
 - b. If, on appeal, the City Council rescinds the permit, all activity authorized by the

Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Or Shoreline Variance Permit shall immediately cease, unless the City Council grants a period of time to complete the activity or reclaim the site or a court authorizes continued operation during an appeal.

13. Criteria for ~~Reeission~~ Rescission.

- a. The Hearing Examiner or City Council, on appeal, may rescind or modify a permit upon finding that one or more of the following criteria are met.
 - i. The permit approval was obtained by fraud or through the provision of misleading application material.
 - ii. The permit is being exercised contrary to the terms or conditions of approval or in violation of law.
 - iii. The use or activity for which approval was granted is being exercised so as to be detrimental to the public health, safety, or welfare.

14. Ecology may initiate permit rescission. Under the provisions of RCW 90.58.140(8), if Ecology is of the opinion that noncompliance exists, Ecology shall provide written notice to the City and the permittee. If Ecology is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the City has taken no action to rescind the permit, Ecology may petition the Shoreline Hearings Board for a rescission of the permit upon written notice of the petition to the City and the permittee if the request by Ecology is made to the Hearings Board within fifteen days of the termination of the thirty-day notice to the City.

Section 9. The City of Vancouver Shoreline Master Program, Chapter 8, Definitions, adopted by Ordinance M-3995 and as amended, are hereby amended to read as follows:

D

- 46. Date of Filing** – means the date of actual receipt by Ecology of the City’s decision on a substantial development permit. For a variance or conditional use permit, the date of filing is the date Ecology’s decision is transmitted to the City. For a variance or conditional use permit decision in conjunction with a shoreline substantial development permit decision, the date of filing is the date Ecology’s decision is transmitted to the City.
- 47. Development** - a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this Program at any state of water level. “Development” does not include

dismantling or removing structures if there is no other associated development or re-development.

N

126a. Non-conforming Lot - A nonconforming lot may be developed if permitted by other land use regulations of the city and so long as such development conforms to all other requirements of this Program and the Act.

S

185. Substantial Development - "Substantial development" shall mean any development of that the total cost or fair market value ~~exceeds five thousand seven hundred and eighteen dollars (\$5,718)~~ seven thousand forty-seven dollars (\$7,047), or as adjusted by the State Office of Financial Management, or any development that materially interferes with the normal public use of the water or shorelines of the state, except as specifically exempted pursuant to RCW 90.58.030(3)(e).

Section 10. The City of Vancouver Shoreline Master Program, Appendix A Unofficial Shoreline Designation Maps, adopted by Ordinance M-3995 and as amended, are hereby amended as shown in Exhibit 1.

Section 8. 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 9. Effective Date. This ordinance shall take effect fourteen days from the date of Ecology's approval and written notice of final action to the City, in accordance with RCW 90.58.090.

Read first time:

Ayes: Councilmembers

Nayes: Councilmembers

Absent: Councilmembers

Read second time:

PASSED by the following vote:

Ayes: Councilmembers

Nayes: 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

EXHIBITS

Exhibit 1: City of Vancouver Shoreline Master Program Appendix A: New Unofficial Shoreline Designation Maps

ORDINANCE - 134

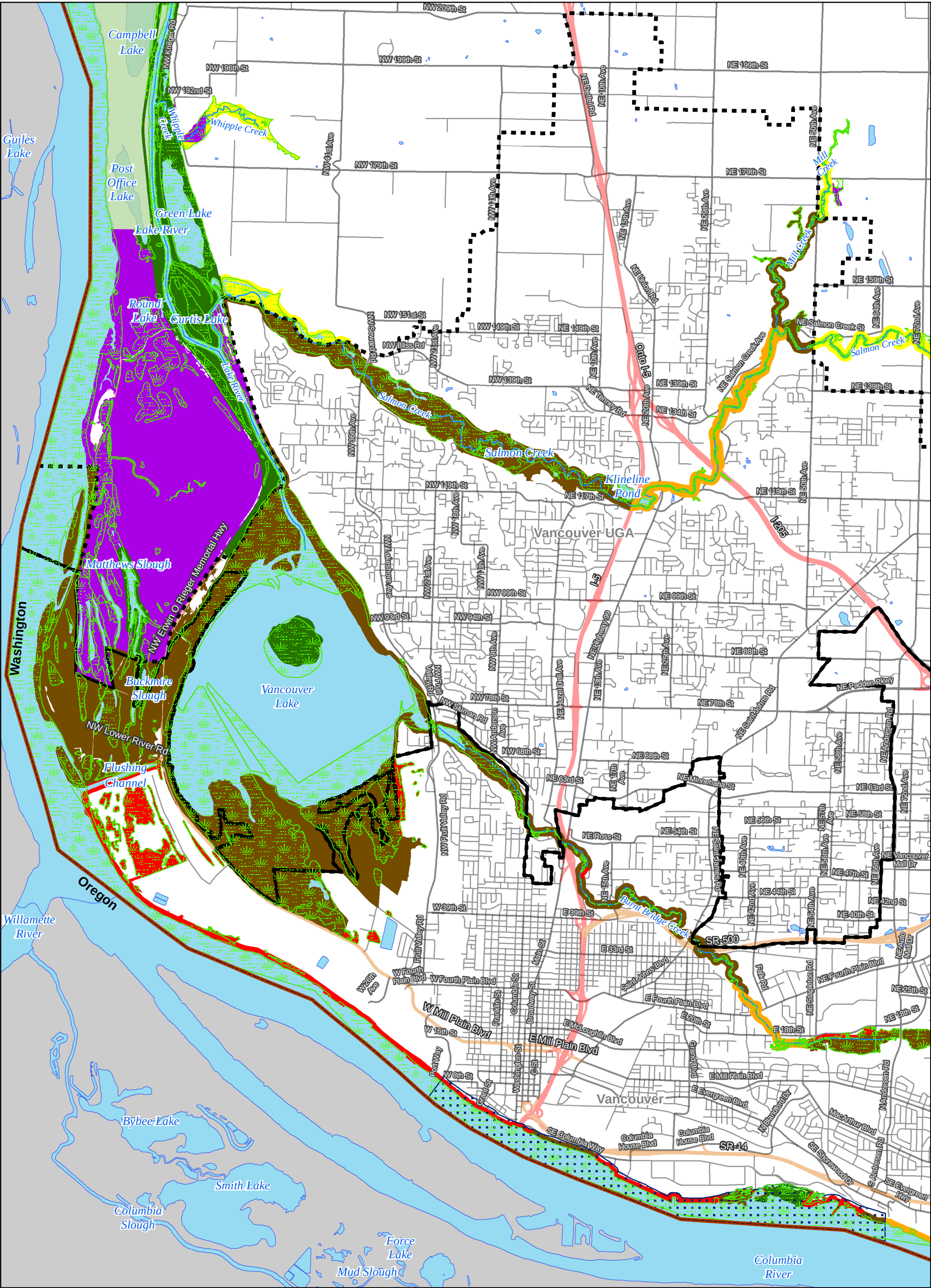
SUMMARY

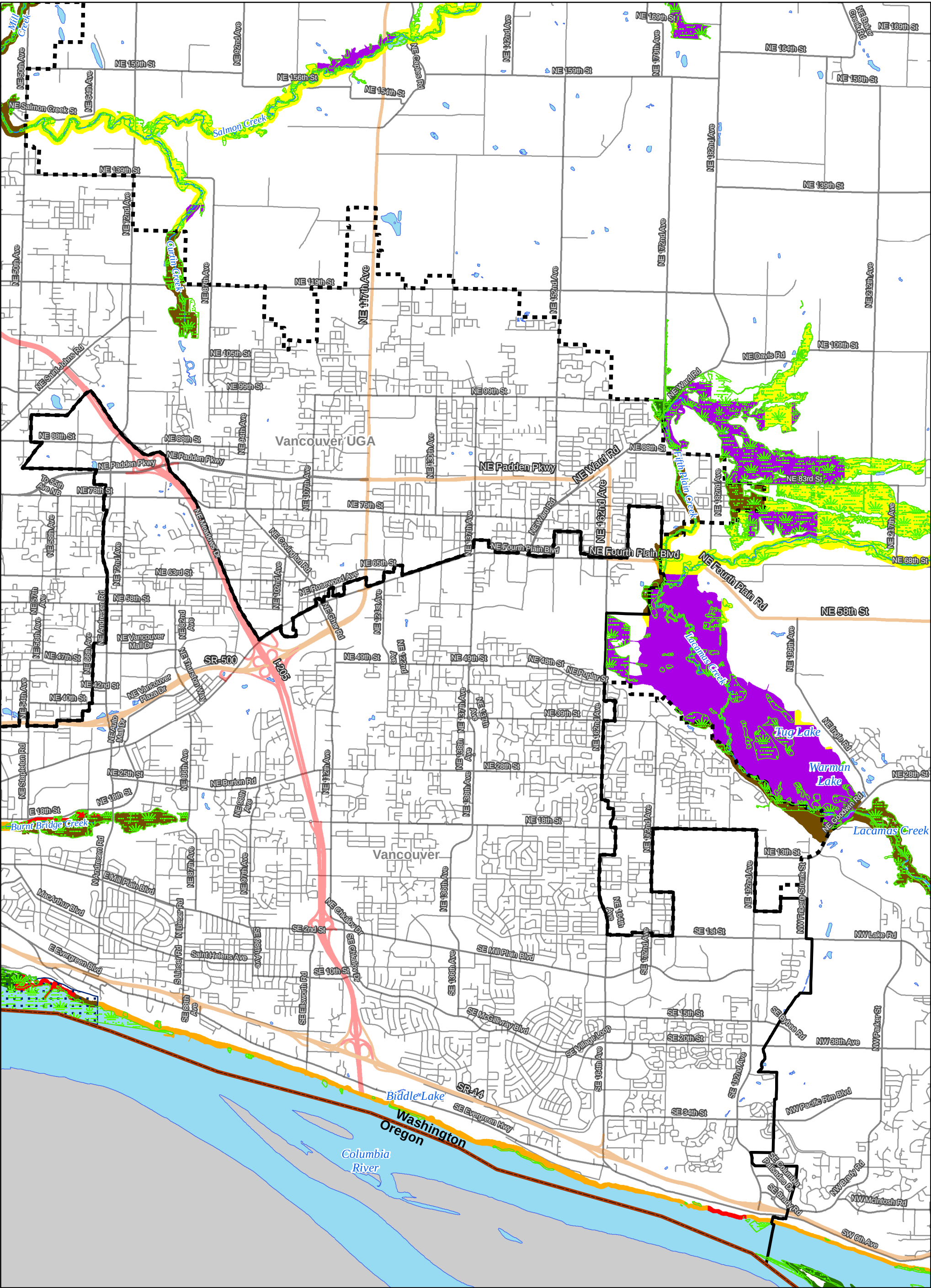
ORDINANCE NO. _____

AN ORDINANCE relating to the Shoreline Master Program periodic review as required by Revised Code of Washington (“RCW”) Chapter 90.58, the Shoreline Management Act; amending the City of Vancouver Shoreline Master Program (SMP) Chapter 2 Applicability, Shoreline Permits and Exemptions, Section 2.1 Applicability; Section 2.3 Exemptions from a Shoreline Substantial Development Permit; Chapter 3, Shoreline Master Program Goals and Policies, Section 3.6 Flood Prevention and Flood Damage Minimization; Chapter 4 Shoreline Designations, Section 4.3 Shoreline Designations; Chapter 5 General Shoreline Use and Development Regulations, Section 5.1 General Shoreline Use and Development Regulations; Section 5.3 Critical Areas Protection; Section 5.4 Public Access; Section 5.6 Site Planning and Development; Section 5.7 Vegetation Conservation; Section 5.9 Water Quality and Quantity; Chapter 5A VMC 20.740, Critical Areas Protection; Chapter 6 Specific Shoreline Use Regulations, Section 6.2 Shoreline Use, Modification, and Standards Table 6-1; Section 6.3 Use-specific Development Regulations; Section 6.4 Shoreline Modification Regulations; Chapter 7 Administration and Enforcement, Section 7.1 General Provisions; Section 7.2 Administrative Authority and Responsibility; Section 7.3 Master Program Amendments; Section 7.4 Permitting Procedures; Section 7.5 Enforcement; Section 7.8 Rescission of Permits; Chapter 8, Definitions; and Appendix A Unofficial Shoreline Designation maps; subject to approval by the Washington State Department of Ecology (Ecology); providing for severability; and providing for an effective date.

ORDINANCE - 135

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).





Shoreline Designations

- Aquatic
- Natural
- Urban Conservancy
- Medium Intensity
- High Intensity
- Rural Conservancy Residential
- Rural Conservancy Resource Land
- USFWS National Wildlife Refuges*

 Associated Wetlands**

 City Limits

 Urban Growth Areas

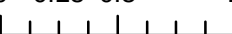
 Columbia River Shoreline Enhancement Plan District

 County Boundary

* Private development in RNWR is regulated under the Rural Conservancy Residential provisions of this SMP

** Definitive presence will be determined on a project basis.

0 0.25 0.5 1 Miles



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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:

\$ 10,579,885.50 this 5th day of April 2021.

MAYOR



AUDITING OFFICER

COUNCILMEMBER

COUNCILMEMBER

DATE	INCLUSIVE CHECK NUMBERS	CHECK TOTAL
March 16, 2021 - March 29, 2021	Accounts Payable Checks (see attached)	\$ 7,596,048.04
March 16, 2021 - March 29, 2021	Hansen City Payments (see attached)	\$ 17,645.10
March 16, 2021 - March 29, 2021	Visa Refunds (see attached)	\$ 942.00
March 16, 2021 - March 29, 2021	Payroll Checks (see attached)	\$ 2,965,250.36
TOTAL		\$ 10,579,885.50

INVOICE PAYMENTS REPORT

Payment Category	Payment	Check	Payment	Payment	Payment Payee	Payment Memo if applicable
Supplier Payment	Manual Wire	No Reference	3/2/2021	79,264.20	Bank Of America N.A. - Remit-To: Account Analysis	
Supplier Payment	Manual Wire	No Reference	3/8/2021	165,014.45	Blue Cross Blue Shield of Oregon	
Supplier Payment	Manual Wire	No Reference	3/8/2021	204.68	Keybank National Association	
Supplier Payment	Manual Wire	No Reference	3/8/2021	14,644.90	Washington Dental Service	
Supplier Payment	Manual Wire	No Reference	3/12/2021	10,215.23	Bank Of America N.A. - Remit-To: Charlotte NC	
Supplier Payment	Manual Wire	No Reference	3/15/2021	771,682.57	State of Washington Department of Retirement System (PERS)	
Supplier Payment	Manual Wire	No Reference	3/16/2021	88,772.19	Blue Cross Blue Shield of Oregon	
Supplier Payment	Manual Wire	No Reference	3/16/2021	512,210.77	Clark County - Remit-To: Clark County - Treasurer Vancouver	
Supplier Payment	Manual Wire	No Reference	3/16/2021	31,390.85	Gallagher Bassett Services Inc	
Supplier Payment	Manual Wire	No Reference	3/17/2021	77,480.30	Symetra Life Insurance Company	
Supplier Payment	Manual Wire	No Reference	3/17/2021	965.20	VSP Vision Care Inc	
Supplier Payment	Manual Wire	No Reference	3/18/2021	993.00	State of Washington Department of Licensing - Remit-To: DOL - Seattle Remit	
Supplier Payment	Manual Wire	No Reference	3/19/2021	129,394.29	Blue Cross Blue Shield of Oregon	
Supplier Payment	Manual Wire	No Reference	3/19/2021	23,552.00	Washington Dental Service	
Supplier Payment	Manual Wire	No Reference	3/22/2021	30,330.73	Gallagher Bassett Services Inc	
Supplier Payment	Manual Wire	No Reference	3/22/2021	331,038.56	Kaiser Permanente - Remit-To: Kaiser Permanente	
Supplier Payment	Manual Wire	No Reference	3/25/2021	75.00	HRA VEBa Plan	
Supplier Payment	Manual Wire	No Reference	3/25/2021	7,624.47	ICMA 401A	
Supplier Payment	Manual Wire	No Reference	3/25/2021	188,074.73	ICMA Corp	
Supplier Payment	Manual Wire	No Reference	3/25/2021	26,439.37	ING	
Supplier Payment	Manual Wire	No Reference	3/25/2021	560.50	Oregon SDU	
Supplier Payment	Manual Wire	No Reference	3/25/2021	918.00	State of Washington Department of Licensing - Remit-To: DOL - Seattle Remit	
Supplier Payment	Manual Wire	No Reference	3/25/2021	57,461.69	State of Washington Department of Retirement System (PERS)	
Supplier Payment	Manual Wire	No Reference	3/25/2021	995.21	Vancouver Fire Command Officers	
Supplier Payment	Manual Wire	No Reference	3/25/2021	24,482.69	Vancouver Firefighters Union Health & Welfare Trust	
Supplier Payment	Manual Wire	No Reference	3/25/2021	5,489.38	Washington SDU	
Supplier Payment	Manual Wire	No Reference	3/25/2021	29,726.88	Washington State Firefighters	
Supplier Payment	Manual Wire	No Reference	3/25/2021	18,568.33	Western States Health & Welfare Trust	
Supplier Payment	Manual Wire	No Reference	3/26/2021	28,027.70	Gallagher Bassett Services Inc	
Supplier Payment	Manual Wire	No Reference	3/26/2021	588.52	Internal Revenue Service	
Supplier Payment	Manual Wire	No Reference	3/26/2021	841,133.33	Internal Revenue Service	
Supplier Payment	Manual Wire	No Reference	3/26/2021	290.00	Minnesota Department of Revenue	
Supplier Payment	Manual Wire	No Reference	3/26/2021	103.38	State of Arizona	
Supplier Payment	Manual Wire	No Reference	3/29/2021	11,960.23	Bank Of America N.A. - Remit-To: Charlotte NC	
Supplier Payment	Manual Wire	No Reference	3/29/2021	159,256.73	Blue Cross Blue Shield of Oregon	
Procurement Card Payment	Manual Wire	No Reference	3/29/2021	507,075.23	CoV Procurement Card	
Supplier Payment	Manual Wire	No Reference	3/29/2021	24,630.12	State of Oregon Department of Revenue	
Supplier Payment	Manual Wire	No Reference	3/29/2021	764,882.02	State of Washington Department of Retirement System (PERS)	
Supplier Payment	Manual Wire	No Reference	3/29/2021	15,631.40	Washington Dental Service	
Expense Payment	Direct Deposit	EFT-00093706	3/18/2021	180.00	Ian Crawford	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00093707	3/18/2021	121.00	Kris Aponte	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00093708	3/18/2021	102.98	Patsy Newton	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00093709	3/18/2021	204.63	Russell Stacks	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00093710	3/18/2021	222.22	Brad Davidson	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00093711	3/18/2021	162.00	DJ Maguire	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00093712	3/18/2021	289.00	Leo Jochim	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00093713	3/18/2021	117.03	Ryan Laddusaw	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00093714	3/18/2021	30.00	Isidoro Flores	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00093715	3/18/2021	224.43	Tony Davidson	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00093716	3/18/2021	179.99	Mike Shrum	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00093717	3/18/2021	274.50	Justin Box	Employee Reimbursement
Supplier Payment	EFT	EFT-00093718	3/18/2021	1,483.24	State of Washington Consolidated Technology Services	
Supplier Payment	EFT	EFT-00093719	3/18/2021	40,772.55	State of Washington Auditor's Office	
Supplier Payment	EFT	EFT-00093720	3/18/2021	5,775.00	JCI Jones Chemicals Inc	
Supplier Payment	EFT	EFT-00093721	3/18/2021	542.00	George Elevator Service LLC	
Supplier Payment	EFT	EFT-00093722	3/18/2021	677.13	Emerald Services Inc	
Supplier Payment	EFT	EFT-00093723	3/18/2021	10,452.70	Otak Inc	
Supplier Payment	EFT	EFT-00093724	3/18/2021	7,044.92	Metro Overhead Door Inc	
Supplier Payment	EFT	EFT-00093725	3/18/2021	16,125.55	Clark County - Remit-To: Clark County - Treasurer Vancouver	
Supplier Payment	EFT	EFT-00093726	3/18/2021	3,791.19	Boys and Girls Clubs of Southwest Washington	
Supplier Payment	EFT	EFT-00093727	3/18/2021	1,489.50	Mead and Hunt Inc	
Supplier Payment	EFT	EFT-00093728	3/18/2021	2,114.68	Halme Excavating Inc	
Supplier Payment	EFT	EFT-00093729	3/18/2021	2,770.98	Lifeline Connections	

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INVOICE PAYMENTS REPORT

Payment Category	Payment	Check	Payment	Payment	Payment Payee	Payment Memo if applicable
Supplier Payment	EFT	EFT-00093730	3/18/2021	8,481.54	Consolidated Supply Co	
Supplier Payment	EFT	EFT-00093731	3/18/2021	14,976.58	MacKay Sposito Inc	
Supplier Payment	EFT	EFT-00093732	3/18/2021	450.00	Rapid Response Bio Clean	
Supplier Payment	EFT	EFT-00093733	3/18/2021	3,043.58	CUES Inc	
Supplier Payment	EFT	EFT-00093734	3/18/2021	608,643.62	Operations Management International Inc	
Supplier Payment	EFT	EFT-00095428	3/25/2021	68.12	Legal Shield	
Supplier Payment	EFT	EFT-00095429	3/25/2021	12,169.47	Allegiance Benefit Plan Management Inc	
Supplier Payment	EFT	EFT-00095430	3/25/2021	917.40	Vancouver Command Guild	
Expense Payment	Direct Deposit	EFT-00095431	3/25/2021	77.25	Jesse Chick	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00095432	3/25/2021	175.00	Christopher Roberts	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00095433	3/25/2021	171.00	Jason Craft	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00095434	3/25/2021	163.65	Robert Weber	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00095435	3/25/2021	130.07	James Correll	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00095436	3/25/2021	189.48	Leland Brown	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00095437	3/25/2021	150.00	Jeff Lindsley	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00095438	3/25/2021	182.00	Eric Gundlach	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00095439	3/25/2021	195.11	Brittany Bridger	Employee Reimbursement
Supplier Payment	EFT	EFT-00095440	3/25/2021	5,716.65	Emerald Services Inc	
Supplier Payment	EFT	EFT-00095441	3/25/2021	21,719.70	Share Inc	
Supplier Payment	EFT	EFT-00095442	3/25/2021	15,894.24	Lee Contractors LLC	
Supplier Payment	EFT	EFT-00095443	3/25/2021	560.00	Rotschy Inc	
Supplier Payment	EFT	EFT-00095444	3/25/2021	94,726.01	Clark County - Remit-To: Clark County - Treasurer Vancouver	
Supplier Payment	EFT	EFT-00095445	3/25/2021	579.27	Praxair Distribution Inc	
Supplier Payment	EFT	EFT-00095446	3/25/2021	4,950.00	Avolve Software Corp	
Supplier Payment	EFT	EFT-00095447	3/25/2021	4,656.00	Picard Corp	
Supplier Payment	EFT	EFT-00095448	3/25/2021	25.58	McKesson Medical Surgical Inc	
Supplier Payment	EFT	EFT-00095449	3/25/2021	2,694.23	Eagle Newspaper Inc	
Supplier Payment	EFT	EFT-00095550	3/26/2021	976.50	Allegiance Benefit Plan Management Inc	
Supplier Payment	Check	20999	3/17/2021	180.00	Accenture LLP	
Supplier Payment	Check	21000	3/17/2021	2.98	Airgas, Inc	
Supplier Payment	Check	21001	3/17/2021	7,437.50	Allegiance Benefit Plan Management Inc	
Supplier Payment	Check	21002	3/17/2021	303.52	Annas Consultants Inc	
Supplier Payment	Check	21003	3/17/2021	252.55	Aramark Uniform & Career Apparel LLC - Remit-To: Aramark - Pasadena	
Supplier Payment	Check	21004	3/17/2021	7,116.46	Arborscape Ltd Inc	
Supplier Payment	Check	21005	3/17/2021	315.03	Archaeological Services LLC	
Supplier Payment	Check	21006	3/17/2021	8,122.82	AT & T Mobility II LLC	
Supplier Payment	Check	21007	3/17/2021	2,185.52	Bound Tree Medical LLC	
Supplier Payment	Check	21008	3/17/2021	13,360.00	Bullard Law P. L.	
Supplier Payment	Check	21009	3/17/2021	1,241.30	Castle Tire Disposal LLC	
Supplier Payment	Check	21010	3/17/2021	6,633.59	CECO Inc	
Supplier Payment	Check	21011	3/17/2021	26,404.23	CH2M Hill Inc - Remit-To: CH2M - Dallas	
Supplier Payment	Check	21012	3/17/2021	87.00	City of Vancouver - Remit-To: COV Main	
Supplier Payment	Check	21013	3/17/2021	367.07	Clark County - Remit-To: Clark County - Treasurer Seattle	
Supplier Payment	Check	21014	3/17/2021	1,159.79	Clark Public Utility District No. 1	
Supplier Payment	Check	21015	3/17/2021	745.94	Clark Public Utility District No. 1	
Supplier Payment	Check	21016	3/17/2021	731.79	Clark Public Utility District No. 1	
Supplier Payment	Check	21017	3/17/2021	1,601.07	Clark Public Utility District No. 1	
Supplier Payment	Check	21018	3/17/2021	41.02	Clark Public Utility District No. 1	
Supplier Payment	Check	21019	3/17/2021	455.27	Clark Public Utility District No. 1	
Supplier Payment	Check	21020	3/17/2021	584.61	Clark Public Utility District No. 1	
Supplier Payment	Check	21021	3/17/2021	349.72	Clark Public Utility District No. 1	
Supplier Payment	Check	21022	3/17/2021	1,095.47	Clark Public Utility District No. 1	
Supplier Payment	Check	21023	3/17/2021	540.81	Code Publishing Co	
Supplier Payment	Check	21024	3/17/2021	11,295.40	Columbia Resource Company	
Supplier Payment	Check	21025	3/17/2021	114.90	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	21026	3/17/2021	151.10	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	21027	3/17/2021	188.27	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	21028	3/17/2021	101.10	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	21029	3/17/2021	13.68	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	21030	3/17/2021	109.90	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	21031	3/17/2021	108.27	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	21032	3/17/2021	24.79	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	21033	3/17/2021	1,435.00	Crandall Arambula PC	

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INVOICE PAYMENTS REPORT

Payment Category	Payment	Check	Payment	Payment	Payment Payee	Payment Memo if applicable
Supplier Payment	Check	21034	3/17/2021	3,873.18	Distinctive Landscape LLC	
Supplier Payment	Check	21035	3/17/2021	16,697.36	DKS Associates Inc	
Supplier Payment	Check	21036	3/17/2021	275.00	ERF Company Inc	
Supplier Payment	Check	21037	3/17/2021	182.60	Eric Atwell	
Supplier Payment	Check	21038	3/17/2021	267.50	Eric Thomas Lanciault	
Supplier Payment	Check	21039	3/17/2021	1,700.00	Examworks Inc	
Supplier Payment	Check	21040	3/17/2021	280.24	Fazio Bros Sand Co Inc	
Supplier Payment	Check	21041	3/17/2021	1,135.14	Gordon Tilden Thomas & Cordell LLP	
Supplier Payment	Check	21042	3/17/2021	917.00	Harper Houf Peterson Righellis Inc	
Supplier Payment	Check	21043	3/17/2021	83,850.00	Harris Communications, Inc	
Supplier Payment	Check	21044	3/17/2021	719.60	Herren Printing Co	
Supplier Payment	Check	21045	3/17/2021	8,750.00	Hyas Group LLC	
Supplier Payment	Check	21046	3/17/2021	626.36	JLA Public Involvement	
Supplier Payment	Check	21047	3/17/2021	86.00	Kaiser Permanente	
Supplier Payment	Check	21048	3/17/2021	7,090.00	Kearns & West Inc	
Supplier Payment	Check	21049	3/17/2021	1,403.00	Keating Bucklin & McCormack Inc PS	
Supplier Payment	Check	21050	3/17/2021	2,029.50	Keller Associates Inc	
Supplier Payment	Check	21051	3/17/2021	1,084.00	Kurita America Inc - Remit-To: US Water - Minneapolis	
Supplier Payment	Check	21052	3/17/2021	71,170.80	L.N. Curtis & Sons - Remit-To: Supplier L.N. Curtis & Sons	
Supplier Payment	Check	21053	3/17/2021	643.51	Langley's Ace Inc	
Supplier Payment	Check	21054	3/17/2021	11,211.25	LSW Architects PC	
Supplier Payment	Check	21055	3/17/2021	8,491.27	Marquam Group LTD	
Supplier Payment	Check	21056	3/17/2021	271,686.85	Mercy Corps Northwest	
Supplier Payment	Check	21057	3/17/2021	990.00	Michael Vernon Tom	
Supplier Payment	Check	21058	3/17/2021	1,141.46	Mobes Business Forms	
Supplier Payment	Check	21059	3/17/2021	1,491.30	Municipal Emergency Services Inc - Remit-To: Municipal Emergency Services - Chicago	
Supplier Payment	Check	21060	3/17/2021	3,044.96	NAVEX Global Inc - Remit-To: NAVEX Global Inc	
Supplier Payment	Check	21061	3/17/2021	1,247.40	Net Transcripts Inc	
Supplier Payment	Check	21062	3/17/2021	248.00	Northwest Cascade Inc	
Supplier Payment	Check	21063	3/17/2021	4,288.17	Northwest Natural Gas Company - Remit-To: NW Natural - Portland	
Supplier Payment	Check	21064	3/17/2021	1,114.07	Otis Elevator	
Supplier Payment	Check	21065	3/17/2021	32.50	Pacifica Law Group LLP	
Supplier Payment	Check	21066	3/17/2021	45.00	Parkeon	
Supplier Payment	Check	21067	3/17/2021	122.24	Physio-Control Inc - Remit-To: Stryker Medical	
Supplier Payment	Check	21068	3/17/2021	23,028.48	PPC Solutions Inc	
Supplier Payment	Check	21069	3/17/2021	346.50	Quick Caption Inc	
Supplier Payment	Check	21070	3/17/2021	997.28	Rigert Landscaping Co	
Supplier Payment	Check	21071	3/17/2021	6,747.03	Salazar Architect Inc	
Supplier Payment	Check	21072	3/17/2021	1,587.10	Sharon Rice	
Supplier Payment	Check	21073	3/17/2021	173.30	Shred It USA LLC	
Supplier Payment	Check	21074	3/17/2021	371.50	Software House International SHI - Remit-To: SHI - Dallas	
Supplier Payment	Check	21075	3/17/2021	10.36	Stericycle Inc	
Supplier Payment	Check	21076	3/17/2021	3,205.93	Streamline Audio LLC	
Supplier Payment	Check	21077	3/17/2021	32,830.04	Summit Law Group	
Supplier Payment	Check	21078	3/17/2021	7,500.00	The Water Research Foundation	
Supplier Payment	Check	21079	3/17/2021	730.62	Towing & Recovering Services Inc	
Supplier Payment	Check	21080	3/17/2021	1,815.00	Triangle Resources Inc	
Supplier Payment	Check	21081	3/17/2021	15.45	United Parcel Service	
Supplier Payment	Check	21082	3/17/2021	229.00	Vast Data Concepts	
Supplier Payment	Check	21083	3/17/2021	1,852.85	Veritext LLC - Remit-To: Veritext LLC	
Supplier Payment	Check	21084	3/17/2021	5,389.68	Waste Connections of Washington - Remit-To: Waste Connections - Vancouver	
Supplier Payment	Check	21085	3/17/2021	21,284.34	Webqa Inc	
Supplier Payment	Check	21086	3/17/2021	3,714.60	Williams Kastner & Gibbs PLLC - Remit-To: Williams Kastner - Seattle	
Supplier Payment	Check	21087	3/17/2021	95.00	Willis Towers Watson Insurance Services West inc	
Supplier Payment	Check	21088	3/17/2021	141.67	XPO Logistics Enterprise Services, Inc - Remit-To: XPO - Portland	
Supplier Payment	Check	21089	3/17/2021	40.69	Ziply Fiber	
Supplier Payment	Check	21090	3/17/2021	12,044.52	Northwest Staffing Resources Inc - Remit-To: NW Staffing - Portland	
Customer Refund	Check	21091	3/17/2021	906.32	JEANETTE BADER	Refund for overpayment of cobra benefits
Ad Hoc Payment	Check	21092	3/17/2021	60.51	Accurate Electric Unlimited, Inc	MPE-296365
Ad Hoc Payment	Check	21093	3/17/2021	861.78	APS Inc	maintenance AR folding machine 1/2021 through 1/2022
Ad Hoc Payment	Check	21094	3/17/2021	54.60	Archibald,Vince and Becky	Utility Refunds: 0062070100-03
Ad Hoc Payment	Check	21095	3/17/2021	79.62	Barnes,Wendy	Utility Refunds: 0030071000-21
Ad Hoc Payment	Check	21096	3/17/2021	11.59	Brown,Michael D	Utility Refunds: 0015024100-03

INVOICE PAYMENTS REPORT

Payment Category	Payment	Check	Payment	Payment	Payment Payee	Payment Memo if applicable
Ad Hoc Payment	Check	21097	3/17/2021	1,526.18	Carlie Latimer	CMI-294721
Ad Hoc Payment	Check	21098	3/17/2021	82.00	CARTIER, MAKENZIE	Summer activity cancelled due to COVID 2007578.03
Ad Hoc Payment	Check	21099	3/17/2021	550.00	CENTRAL CATHOLIC HIGH SCHOOL	VOUCHER 2008146.030
Ad Hoc Payment	Check	21100	3/17/2021	1,888.67	Clark Co Emergency Medical Svcs Dist #2	210311
Ad Hoc Payment	Check	21101	3/17/2021	7,940.30	CLog Pro	Inv #16632- SCIP contractor pmt for Favorite
Ad Hoc Payment	Check	21102	3/17/2021	58.40	Crown Electric	MPE-291243
Ad Hoc Payment	Check	21103	3/17/2021	20.00	Current Home Technologies	refund overpmt alarm inv #99430061
Ad Hoc Payment	Check	21104	3/17/2021	4,336.00	Earthworks Excavating Services	Inv #WA40-21 (SCIP contractor pmt for Lester)
Ad Hoc Payment	Check	21105	3/17/2021	173.00	Eaton,Douglas P and Carol	Utility Refunds: 0149001050-01
Ad Hoc Payment	Check	21106	3/17/2021	59.51	Eric Olson Electric Inc	MPE-296801
Ad Hoc Payment	Check	21107	3/17/2021	2,955.00	Evergreen Assets LLC	LUP-80926
Ad Hoc Payment	Check	21108	3/17/2021	74.39	Garrett Ginter	MPE-296743
Ad Hoc Payment	Check	21109	3/17/2021	57.26	Hamberg,Teresa	Utility Refunds: 0147010700-02
Ad Hoc Payment	Check	21110	3/17/2021	20.00	Hopworks Urban Brewrey	refund overpmt alarm inv #99424140
Ad Hoc Payment	Check	21111	3/17/2021	53.59	HSR Capital - Harris Town Villiage	Utility Refunds: 0002000112-01
Ad Hoc Payment	Check	21112	3/17/2021	165.32	Jones,Gayle	Utility Refunds: 0114008202-05
Ad Hoc Payment	Check	21113	3/17/2021	97.55	Josi Jimenez	210209 Treefund
Ad Hoc Payment	Check	21114	3/17/2021	128.39	Kenneth Sutherland	FRI-295540
Ad Hoc Payment	Check	21115	3/17/2021	95.34	Kruzhkov,Yelena	Utility Refunds: 0002000111-02
Ad Hoc Payment	Check	21116	3/17/2021	400.00	LUCIA RUIZ ANGON	VOUCHER 2008181.058
Ad Hoc Payment	Check	21117	3/17/2021	509.48	Matthew Bashaw	20201221
Ad Hoc Payment	Check	21118	3/17/2021	5,901.30	Nates Plumbing Inc	Inv #33020 - SCIP contractor pmt for Susan George
Ad Hoc Payment	Check	21119	3/17/2021	2,495.00	New Tradition Homes Inc	WTR-296758
Ad Hoc Payment	Check	21120	3/17/2021	37.28	Norma Martinez	refund parking permit COV010297
Ad Hoc Payment	Check	21121	3/17/2021	4,552.80	Pacific Siteworks LLC	Inv #1364 - SCIP contractor pmt for Gonzales
Ad Hoc Payment	Check	21122	3/17/2021	27.46	Palisch Homes at Austin Heritage LLC	Utility Refunds: 0002000111-02
Ad Hoc Payment	Check	21123	3/17/2021	125.66	Phillips, Frank J	Utility Refunds: 0000001720-02
Ad Hoc Payment	Check	21124	3/17/2021	78.62	Phillips, Frank J and Brenda	Utility Refunds: 0000001720-02
Ad Hoc Payment	Check	21125	3/17/2021	51.07	Proline Plumbing & Sewer	MPE-295839
Ad Hoc Payment	Check	21126	3/17/2021	50.00	Quick Shop Mini Mart #9	refund overpmt alarm inv #99428964
Ad Hoc Payment	Check	21127	3/17/2021	147.64	Resound Energy LLC	MPE-296832
Ad Hoc Payment	Check	21128	3/17/2021	49.84	Revin Homes Inc	Utility Refunds: 0002000112-01
Ad Hoc Payment	Check	21129	3/17/2021	144.86	R Louis Elliott	Utility Refunds: 0050002710-02
Ad Hoc Payment	Check	21130	3/17/2021	1,402.00	Romano Development Korban Roma	LUP-80340
Ad Hoc Payment	Check	21131	3/17/2021	90.51	Rummer, Brian A	Utility Refunds: 0000002285-02
Ad Hoc Payment	Check	21132	3/17/2021	76.00	Starbucks	refund CIVICGOV
Ad Hoc Payment	Check	21133	3/17/2021	758.80	Steve Volk	20200315
Ad Hoc Payment	Check	21134	3/17/2021	36.34	Susan Lapierre	Utility Refunds: 0054081004-03
Ad Hoc Payment	Check	21135	3/17/2021	100.00	Sydney Baias	refund overpmt CIVICGOV
Ad Hoc Payment	Check	21136	3/17/2021	292.63	Varapon Nelson	201203 Treefund
Ad Hoc Payment	Check	21137	3/17/2021	296.00	Vasily Vergulyanets	LUP-80937
Ad Hoc Payment	Check	21138	3/17/2021	92.12	Wendy Barnes and Erin Webb	Utility Refunds: 0030071000-21
Supplier Payment	Check	21139	3/25/2021	8,329.13	Aflac	
Supplier Payment	Check	21140	3/25/2021	5,085.03	AFSCME Local #307	
Supplier Payment	Check	21141	3/25/2021	22,690.92	IAFF Local #452	
Supplier Payment	Check	21142	3/25/2021	712.50	IAM Local #1374	
Supplier Payment	Check	21143	3/25/2021	8,860.75	Life Insurance Company of North America	
Supplier Payment	Check	21144	3/25/2021	575.00	MFS Service Center Inc	
Supplier Payment	Check	21145	3/25/2021	4,045.55	OPEIU Local #11	
Supplier Payment	Check	21146	3/25/2021	514.05	Teamsters Local #58	
Supplier Payment	Check	21147	3/25/2021	297.50	UA Local #290	
Supplier Payment	Check	21148	3/25/2021	10,912.70	Vancouver Police Officer Guild	
Supplier Payment	Check	21149	3/25/2021	2,449.20	Western Conference of Teamsters	
Supplier Payment	Check	21150	3/25/2021	1,128.40	Western Metal Industry Pension Plan	
Ad Hoc Payment	Check	21151	3/24/2021	66.99	Bethany and Vlaysiae Souriyavong	Utility Refunds: 0000001778-02
Ad Hoc Payment	Check	21152	3/24/2021	133.01	Bethany Souriyavong	Utility Refunds: 0000001778-02
Ad Hoc Payment	Check	21153	3/24/2021	200.00	Blackline Inc	Utility Refunds: 0000009154-03 Consolidated refund created from multiple refunds
Ad Hoc Payment	Check	21154	3/24/2021	59.51	Blairco Inc	MPE-295996
Ad Hoc Payment	Check	21155	3/24/2021	53.00	Braganza	refund overpmt CIVICGOV inv #77029632
Ad Hoc Payment	Check	21156	3/24/2021	48.66	Bryant, Mary	Utility Refunds: 0015006608-23
Ad Hoc Payment	Check	21157	3/24/2021	87.00	Central Industrial Park LLC - 6000 NE 88th St Bldg BC	refund overpmt CIVICGOV
Ad Hoc Payment	Check	21158	3/24/2021	83.14	Diane L and Karen L Folgarelli Trustees	Utility Refunds: 0094000800-07
Ad Hoc Payment	Check	21159	3/24/2021	1,144.17	Evergreen School District 112	Utility Refunds: 0023067906-03

INVOICE PAYMENTS REPORT

Payment Category	Payment	Check	Payment	Payment	Payment Payee	Payment Memo if applicable
Ad Hoc Payment	Check	21160	3/24/2021	52.45	Greenhalgh,Dennis and Maryann	Utility Refunds: 0000001319-02
Ad Hoc Payment	Check	21161	3/24/2021	71.97	Haisch,Mary Ann	Utility Refunds: 0012044000-01
Ad Hoc Payment	Check	21162	3/24/2021	143.18	Hayden,Ashley A and Bradley T	Utility Refunds: 0074020332-05
Ad Hoc Payment	Check	21163	3/24/2021	150.00	Kayla Victor	Claim Payment - DOL: 01/11/21 - Risk
Ad Hoc Payment	Check	21164	3/24/2021	20.00	Khue Nguyen	refund overpmt alarm invoice #99431242
Ad Hoc Payment	Check	21165	3/24/2021	5.80	Mackin,Timothy J and Marva C	Utility Refunds: 0000008803-02
Ad Hoc Payment	Check	21166	3/24/2021	123.00	Natalie Paul	Utility Refunds: 0000002293-03
Ad Hoc Payment	Check	21167	3/24/2021	17.04	Pamela J Wise	Utility Refunds: 0046068686-05
Ad Hoc Payment	Check	21168	3/24/2021	112.74	Personal Rep for the Estate of Thelma L Garris,Erik Allen Garris	Utility Refunds: 0030040900-13
Ad Hoc Payment	Check	21169	3/24/2021	140.67	Raquel Anaya	Utility Refunds: 0088080025-18
Ad Hoc Payment	Check	21170	3/24/2021	8,867.43	Renaissance at 29th Utility Billing West	Utility Refunds: 0111040950-03
Ad Hoc Payment	Check	21171	3/24/2021	1,596.68	Rogue Real Estate	Utility Refunds: 0135005000-01
Ad Hoc Payment	Check	21172	3/24/2021	117.74	Shuell,Jessica	Utility Refunds: 0091043200-10
Ad Hoc Payment	Check	21173	3/24/2021	1,273.37	Tatyana Moysyuk	Claim Payment - DOL: 01/13/21 - Risk
Ad Hoc Payment	Check	21174	3/24/2021	373.17	The Phillips Group	Utility Refunds: 0002000111-02 Consolidated refund created from multiple refunds
Ad Hoc Payment	Check	21175	3/24/2021	99.39	The Phillips Group	Utility Refunds: 0033067800-26
Ad Hoc Payment	Check	21176	3/24/2021	187.61	The Phillips Group	Utility Refunds: 0032049500-01
Ad Hoc Payment	Check	21177	3/24/2021	151.29	Tonder,Julia B	Utility Refunds: 0097001238-01
Ad Hoc Payment	Check	21178	3/24/2021	296.00	Travis Lewis	PIR-80944
Ad Hoc Payment	Check	21179	3/24/2021	270.89	Wilson,Ryan and Tamra	Utility Refunds: 0146002935-05
Ad Hoc Payment	Check	21180	3/24/2021	196.71	Xu,Li	Utility Refunds: 0140012030-01
Ad Hoc Payment	Check	21181	3/24/2021	98.73	Yong Joon Heo	Utility Refunds: 0137001536-04
Supplier Payment	Check	21182	3/24/2021	88.36	Advance Stores Company Incorporated	
Supplier Payment	Check	21183	3/24/2021	129.10	Advance Stores Company Incorporated - Remit-To: Advance Auto Parts - Atlanta	
Supplier Payment	Check	21184	3/24/2021	14,120.59	Advantel Incorporated	
Supplier Payment	Check	21185	3/24/2021	231.00	Allegiance Benefit Plan Management Inc	
Supplier Payment	Check	21186	3/24/2021	183.12	Aramark Uniform & Career Apparel LLC - Remit-To: Aramark - Pasadena	
Supplier Payment	Check	21187	3/24/2021	1,555.54	Arborscape Ltd Inc	
Supplier Payment	Check	21188	3/24/2021	7,987.06	Blairco Inc	
Supplier Payment	Check	21189	3/24/2021	5,083.89	Bound Tree Medical LLC	
Supplier Payment	Check	21190	3/24/2021	5,865.00	Bullard Law P. L.	
Supplier Payment	Check	21191	3/24/2021	17,350.16	CECO Inc	
Supplier Payment	Check	21192	3/24/2021	1,206.36	Cellco Partnership - Remit-To: Cellco - Dallas	
Supplier Payment	Check	21193	3/24/2021	2,000.00	Clark County Historical Society	
Supplier Payment	Check	21194	3/24/2021	3,045.00	Clark County - Remit-To: Clark County Public Health	
Supplier Payment	Check	21195	3/24/2021	164.38	Clark County - Remit-To: Clark County - Treasurer Seattle	
Supplier Payment	Check	21196	3/24/2021	7,630.17	Columbia West Engineering	
Supplier Payment	Check	21197	3/24/2021	109.95	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	21198	3/24/2021	6,250.00	CPS HR Consulting	
Supplier Payment	Check	21199	3/24/2021	615.35	Distinctive Landscape LLC	
Supplier Payment	Check	21200	3/24/2021	8,706.06	Gallagher Bassett Services Inc	
Supplier Payment	Check	21201	3/24/2021	691.09	Genuine Parts Company - Remit-To: NAPA - Los Angeles	
Supplier Payment	Check	21202	3/24/2021	11,838.30	Herrera Environmental Consultants Inc	
Supplier Payment	Check	21203	3/24/2021	703.68	Iron Mountain Inc - Remit-To: Iron Mountain - New York	
Supplier Payment	Check	21204	3/24/2021	94,894.40	L.N. Curtis & Sons - Remit-To: Supplier L.N. Curtis & Sons	
Supplier Payment	Check	21205	3/24/2021	79.16	Langley's Ace Inc	
Supplier Payment	Check	21206	3/24/2021	3,257.10	Mather and Sons Pump Service Inc	
Supplier Payment	Check	21207	3/24/2021	6,964.21	McFarlanes Bark Inc	
Supplier Payment	Check	21208	3/24/2021	1,718.95	Municipal Emergency Services Inc - Remit-To: Municipal Emergency Services - Chicago	
Supplier Payment	Check	21209	3/24/2021	7,834.01	Murray Smith Inc	
Supplier Payment	Check	21210	3/24/2021	63.88	Northwest Cascade Inc	
Supplier Payment	Check	21211	3/24/2021	11,377.56	Northwest Natural Gas Company - Remit-To: NW Natural - Portland	
Supplier Payment	Check	21212	3/24/2021	2,831.72	Oregon Commercial Heating Inc	
Supplier Payment	Check	21213	3/24/2021	589.42	OSPinsight International Inc	
Supplier Payment	Check	21214	3/24/2021	3,270.00	Petty Cash Custodian - Remit-To: Greg Raquer	
Supplier Payment	Check	21215	3/24/2021	3,628.80	PPC Solutions Inc	
Supplier Payment	Check	21216	3/24/2021	271.02	Precor Commercial Fitness	
Supplier Payment	Check	21217	3/24/2021	399.00	Professional Translators and Multicultural Experts Inc	
Supplier Payment	Check	21218	3/24/2021	779.18	Proforce Marketing Inc	
Supplier Payment	Check	21219	3/24/2021	856.50	Purple Communications Inc	
Supplier Payment	Check	21220	3/24/2021	10,724.74	Qwest Corp - Remit-To: Qwest Corp- Seattle	
Supplier Payment	Check	21221	3/24/2021	17,025.00	Ralph Anderson and Associates	
Supplier Payment	Check	21222	3/24/2021	2,450.58	Roth Staffing Companies LP - Remit-To: Ultimate Staffing Services	

INVOICE PAYMENTS REPORT

Payment Category	Payment	Check	Payment	Payment	Payment Payee	Payment Memo if applicable
Supplier Payment	Check	21223	3/24/2021	20,031.94	Scott Edwards Architecture LLP	
Supplier Payment	Check	21224	3/24/2021	647.50	Sharon Rice	
Supplier Payment	Check	21225	3/24/2021	743.00	Software House International SHI - Remit-To: SHI - Dallas	
Supplier Payment	Check	21226	3/24/2021	20,430.00	Southwest Washington Humane Society	
Supplier Payment	Check	21227	3/24/2021	9,801.25	SP Plus Corporation	
Supplier Payment	Check	21228	3/24/2021	253.32	Stericycle Inc	
Supplier Payment	Check	21229	3/24/2021	8,575.00	StreamlineAM LLC	
Supplier Payment	Check	21230	3/24/2021	457.99	Streamline Audio LLC	
Supplier Payment	Check	21231	3/24/2021	1,029.00	Terracon Consultants Inc	
Supplier Payment	Check	21232	3/24/2021	6,250.00	Trauma Intervention Programs	
Supplier Payment	Check	21233	3/24/2021	2,811.71	Triple J Enterprises	
Supplier Payment	Check	21234	3/24/2021	21,679.50	TV Etc ESD 112	
Supplier Payment	Check	21235	3/24/2021	2,679.00	Tyree Oil Inc	
Supplier Payment	Check	21236	3/24/2021	15.45	United Parcel Service	
Supplier Payment	Check	21237	3/24/2021	23,389.50	Vancouver Watersheds Council	
Supplier Payment	Check	21238	3/24/2021	232.60	Walter E Nelson Company	
Supplier Payment	Check	21239	3/24/2021	2,538.09	Waste Management - Remit-To: Waste Management Los Angeles	
Supplier Payment	Check	21240	3/24/2021	205.77	Western Equipment Distributors - Remit-To: Western Equipment - Los Angeles	
Supplier Payment	Check	21241	3/24/2021	1,143.00	Willis Towers Watson Insurance Services West inc	
Supplier Payment	Check	21242	3/24/2021	8,248.47	Wilson Oil Inc	
Supplier Payment	Check	21243	3/24/2021	1,322.68	WW Grainger Inc	
Supplier Payment	Check	21244	3/24/2021	5,997.15	YOLO Washington LLC	
Supplier Payment	Check	21245	3/24/2021	55,792.00	Angelo Property CO., LP	
Supplier Payment	Check	21246	3/24/2021	942.33	Broadway Investors LLC	
Supplier Payment	Check	21247	3/24/2021	9,785.79	Brown & Wilson Partnership LLC	
Supplier Payment	Check	21248	3/24/2021	380,573.34	Clark Public Utility District No. 1	
Supplier Payment	Check	21249	3/24/2021	8,696.13	Esther Short Commons LLP	
Supplier Payment	Check	21250	3/24/2021	500.00	Nagra & Atwal Corporation	
Supplier Payment	Check	21251	3/24/2021	4,417.72	National Park Service - Remit-To: National Park Service - Pearson Lease	
Customer Refund	Check	21252	3/24/2021	4,231.37	LIFELINE CONNECTIONS	Refund for 4th quarter due to the Marshall Center being closed.
Customer Refund	Check	21253	3/24/2021	323.48	VANCOUVER SCHOOL DISTRICT	Refund for the balance of 2nd quarter SRO from 2020
			SUBTOTAL	7,596,048.04		
Hansen			3/22/2021	849.55	City Payments	Posted 03-15-21 to 03-21-21
Hansen			3/29/2021	16,795.55	City Payments	Posted 03-22-21 to 03-28-21
			SUBTOTAL	17,645.10		
Visa			3/22/2021	623.00	Miscellaneous	Parks Class Refunds - FCC 03-15-21 to 03-21-21
Visa			3/22/2021	0.00	Miscellaneous	Parks Class Refunds - MCC 03-15-21 to 03-21-21
Visa			3/22/2021	0.00	Miscellaneous	Parks Class Refunds - Special Events 03-15-21 to 03-21-21
Visa			3/22/2021	0.00	Miscellaneous	Parks Class Refunds - WREC 03-15-21 to 03-21-21
			3/29/2021	286.00	Miscellaneous	Parks Class Refunds - FCC 03-22-21 to 03-28-21
			3/29/2021	33.00	Miscellaneous	Parks Class Refunds - MCC 03-22-21 to 03-28-21
			3/29/2021	0.00	Miscellaneous	Parks Class Refunds - Special Events 03-22-21 to 03-28-21
			3/29/2021	0.00	Miscellaneous	Parks Class Refunds - WREC 03-22-21 to 03-28-21
			SUBTOTAL	942.00		
			TOTAL	7,614,635.14		

**City of Vancouver
Payroll Council Report
March 16, 2021 - March 29, 2021**

[illegible]

\$ 2,965,250.36

Disposition of Real Property

900 W. Evergreen Blvd. (Fire Station #1)

VANCOUVER
CITY HALL



April 5, 2021

Vancouver City Council Public Hearing

Linda Carlson, Property Management Specialist

Recommended Council Action

Adopt a resolution for the disposition of real property located at 900 W. Evergreen Blvd. and approve a purchase and sale agreement with West Evergreen LLC.

Prior Council Review

- Declaration as Surplus Real Property – March 16, 2015
- Council Workshop – August 6, 2018
- Council Retreat – March 1, 2019
- Approval of disposition method – December 7, 2020

Key Points

- The former Fire Station 1 is located at 900 W. Evergreen Boulevard and consists of a 14,500 square foot building on 0.88 acres.
- Sale of the property will facilitate adaptive reuse of the site and surrounding properties under common ownership
- The property was appraised in July 2020 for \$1,425,000; “as-is” value reduced to \$1,255,000 based on presence of asbestos and leaking roof.
- Negotiated sale price of \$1,325,000 exceeds appraised value.
- Buyer commits to a minimum of \$300,000 of improvements to the building within 18 months; right to repurchase

Key Points (cont')

- Buyer owns multiple properties in vicinity
- By selling to the abutting owner as provided for in city code, facilitates, over time, renovation and adaptive reuse several buildings in their ownership to create a more vibrant employment district in a historically industrial area of downtown.

Key Points



- Purchaser – current holdings



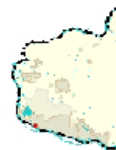
- Subject Site



Disposition of Real Property – 900 W. Evergreen Blvd. - 6



City of Vancouver Fire Station 1



Legend

- Building Footprints
- Taxlots
- County Outline
- Roads
- ImageOrtho
- Red: Band_1
- Green: Band_2
- Blue: Band_3
- World Street Map

Notes:

Assessor Parcel 50440-000

158.6 0 79.31 158.6 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
Clark County, WA GIS - <http://gis.clark.wa.gov>

This map was generated by Clark County's "MapsOnline" website. Clark County does not warrant the accuracy, reliability or timeliness of any information on this map, and shall not be held liable for losses caused by using this information.

Next Steps/Timeline

- Hold public hearing
- Consider approval of resolution authorizing disposition
- Execute documents to finalize transaction
- Closing to occur no later than May 15, 2021
- Net proceeds from sale placed in facilities reserve to support reinvestment in future fire station replacement

Questions and Discussion

- Linda Carlson, Property Management Specialist
- 360-487-8423



Disposition of Real Property – 900 W. Evergreen Blvd - 9



Staff Report 054-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 4/5/2021

SUBJECT Approval of Disposition Real Property located at 900 West Evergreen Blvd. and approval of Purchase and Sale Agreement

Key Points

- The former Fire Station 1 is located at 900 W. Evergreen Boulevard and consists of a 14,500 square foot building on 0.88 acres.
- City Council declared the former Fire Station 1 surplus to the City on March 16, 2015, per Resolution No. M-3852 and approved the method of disposition as direct negotiations with abutting property owner, West Evergreen LLC, on December 7, 2020, per Resolution No. M-4107.
- In early 2019, Josh Oliva, manager of West Evergreen LLC, and whose various business interests own several adjacent and nearby properties, approached the City with an offer to purchase and renovate the building and property for re-use as creative office space.
- The property was appraised in July 2020 for \$1,425,000 "as-is" value. After further review by the appraiser with consideration of asbestos remediation and roof repair, the assessed value has been reduced to \$1,255,000.
- The Oliva family owns property at 911 W. 11th Street, adjacent to Fire Station 1 and several other properties in the immediate vicinity, and has shared plans to, over time, renovate and adaptively reuse several buildings in their ownership to create a more vibrant employment district in a historically industrial area of downtown.

Strategic Plan Alignment

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

Goal 8, Objective 8.2: Strengthen neighborhood business districts.

Present Situation

Council approved an ordinance (M-3923) which allows for disposition of real property that has been declared surplus. The ordinance has 2 steps; first Council must declare the property as surplus and second Council approves the disposition of the property. This action is step two of the process.

The City of Vancouver utilized this property for public safety (Fire Station) upon its purchase in 1968 until 2018 when a new station was constructed.

With the re-location of Fire Station #1, the property is no longer being put to any municipal use by the City of Vancouver. Disposition of this site to West Evergreen LLC will provide fair market value to the City of Vancouver and further the goal of making downtown a vibrant destination.

The City was approached by Josh Oliva, whose family controls adjacent parcels and other properties in the immediate vicinity of the site, to purchase and renovate the building and property for creative office use, as part of a broader plan to revitalize other properties in their control for offices and residences, resulting in a more active entrepreneurial district.

The City's surplus and disposition regulations permit direct negotiations with abutting property owners of city property to be disposed. City staff is recommending approval of disposition of the property and approval of a purchase and sale agreement with West Evergreen LLC. As part of the due diligence, asbestos was discovered on the site and it was determined that the roof needed replacement. With this information, the appraiser reviewed the appraisal and reduced the value to \$1,255,000. The negotiated sale price of \$1,325,000 exceeds adjusted appraised value.

The parcel submitted for Council review for approval of disposition is attached in a detailed report and a map is attached. This parcel is identified as City of Vancouver Old Fire Station #1.

Advantage(s)

1. Approving this property for disposition will allow for potential development within the downtown core and ultimately place this parcel within the tax base. It will also generate revenue to the City.
2. Approval of purchase and sale agreement with abutting property owner will allow for City interests beyond sale price to be discussed transparently
3. The abutting property owner has a proven record of delivering high quality projects that have resulted in a significant increase in community vitality.

Disadvantage(s)

No disadvantages identified.

Budget Impact

Replenishes the City's General Fund for a portion of the capital invested in replacement Fire Station 1

Prior Council Review

- Declaration as Surplus Real Property – March 16, 2015
- Council Workshop – August 6, 2018

- Council Retreat – March 1, 2019
- Approval of disposition method – December 7, 2020

Action Requested

On Monday, April 5, 2021, following a public hearing, adopt a resolution approving disposition of the real property located at 900 West Evergreen Blvd. and approve Purchase and Sale Agreement between City of Vancouver and West Evergreen LLC.

Linda Carlson, Property Management Specialist, 360-487-8423; Chad Eiken, Community and Economic Development Director, 360-487-7882

ATTACHMENTS:

- ▢ Resolution
- ▢ Legal Description and sketch
- ▢ Property Disposition Report
- ▢ Map
- ▢ Purchase and Sale Agreement
- ▢ Presentation

DATE: APRIL 5, 2021

RESOLUTION NO. _____

A RESOLUTION of the City of Vancouver authorizing disposition of certain real property located at 900 West Evergreen Blvd.

WHEREAS, in 1968 the City of Vancouver acquired the real property located at 900 West Evergreen Blvd., commonly known as Fire Station #1, and described in the attached Exhibit A which is incorporated herein by this reference (hereinafter the "Property"); and

WHEREAS, the real property on Exhibit A has been declared surplus to the needs of the City as per Resolution No. M-3853

WHEREAS, the method of disposition for the real property on Exhibit A has been approved as per Resolution No. M-4107;

WHEREAS, the Council has determined that the Property should be disposed of:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VANCOUVER:

The real property described in Exhibit A shall be disposed of pursuant to the terms described in the Purchase and Sale Agreement that accompanies Staff Report No. _____. The City Manager is hereby authorized to execute all legal documents necessary to effect the sale of the property on the terms described.

Passed by the City Council of the City of Vancouver at its regular meeting on the 5th day of April 2021.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

PARCEL NO. 3

A PORTION OF
ESTHER SHORT INDUSTRIAL PROJECT
DEPT. OF URBAN RENEWAL
VANCOUVER, WASHINGTON

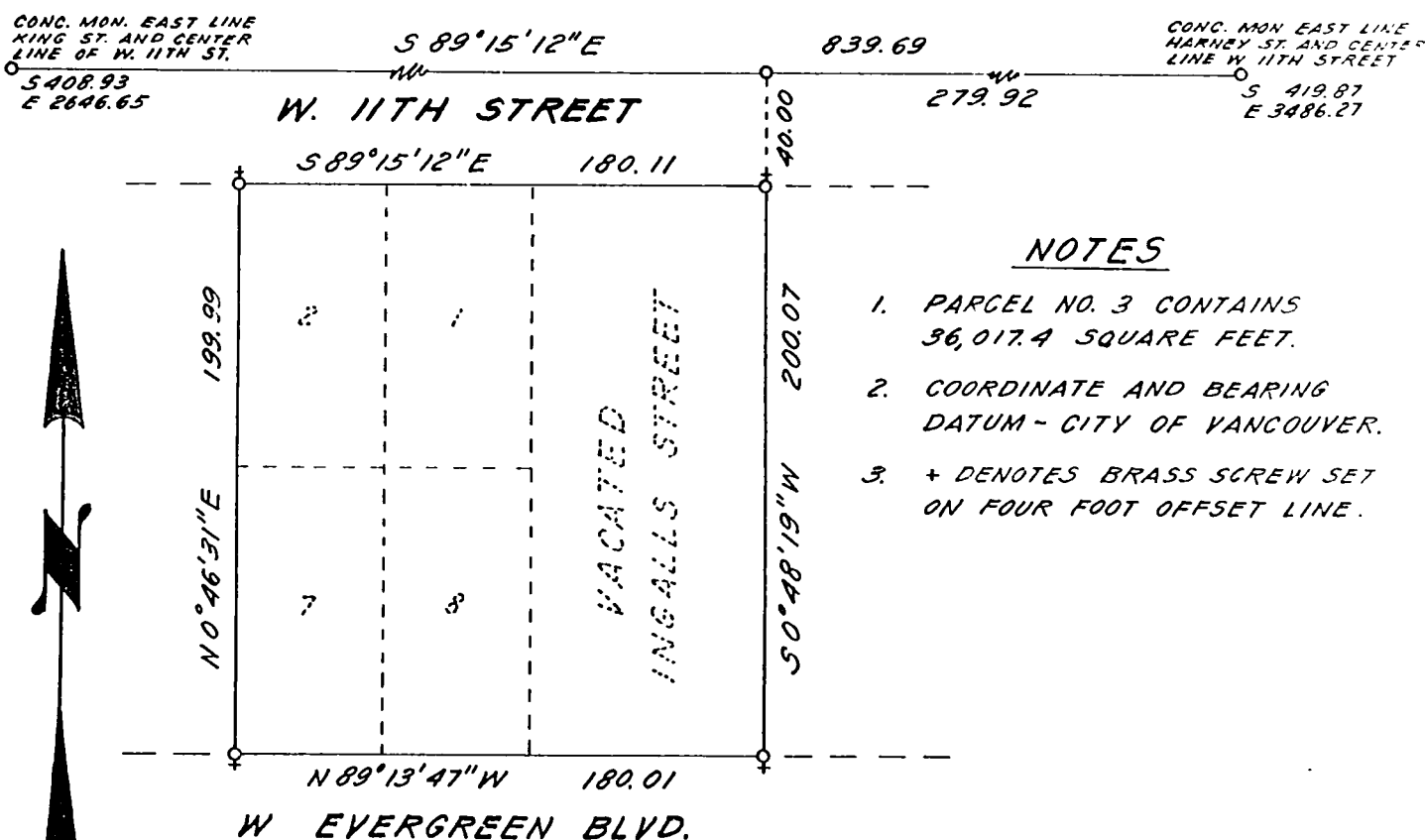
SCALE: 1" = 60'

PARCEL NO. 3

NOVEMBER, 1967

DESCRIPTION

LOTS 1, 2, 7 AND 8 OF BLOCK "P" OF WHIPPLE'S ADDITION TO THE CITY OF VANCOUVER ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME "A" OF PLATS, AT PAGE 53, CLARK COUNTY, WASHINGTON, TOGETHER WITH A PORTION OF VACATED INGALLS STREET.



I HEREBY CERTIFY THAT THIS MAP AS SHOWN
IS A TRUE RETURN FROM THE FIELD AND
THAT THE DELINEATION IS CORRECT TO THE
BEST OF MY KNOWLEDGE AND BELIEF.

I. M. Greenwood

I. M. GREENWOOD - PROF. LAND SURVEYOR

RECORDS OF CLARK COUNTY
SURVEYOR

BK M, Pg 100

DISPOSITION PROPERTY REPORT

April 5, 2021

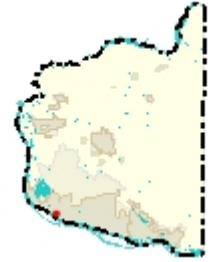
The City of Vancouver is requesting that the parcel (Subject parcel) below be approved for disposition by the City as per Ordinance M-3923.

The parcel up for discussion is Assessor's Parcel 50440-000:

- The subject parcel is a 36,000 square foot (0.83 acres) improved parcel located at 900 West Evergreen Boulevard – commonly referred to as Old Fire Station 1. The improvements on this parcel consist of a 14,635 square foot Fire Station. A map designating exact location is attached as Exhibit "A";
- The City of Vancouver has utilized this property for Public Safety (Fire Station) since its purchase in 1968. Total assessed value of the parcel is \$1,231,600. This parcel has not been on the tax rolls since 1968.
- To our knowledge, there are no deed restrictions on the Subject Parcel.
- The funds utilized to purchase the real property were from the general fund.
- Proceeds from this sale should be credited to the general fund.
- Upon completion of a Long Range Facility Plan for the City's Fire Department, it was determined that Station 1 should be rebuilt and moved to a more suitable parcel. The City has purchased property and built a new Fire Station #1 which opened in February 2018. With the re-location of Fire Station 1, the Subject Parcel will no longer be put to any municipal use by the City of Vancouver.
- Staff recommends that this Subject Parcel should be disposed of as surplus real property.
- Council approved method of disposition of the Subject Parcel as negotiation with abutting property owner (West Evergreen LLC) at its December 7, 2020 council meeting. This will allow the opportunity to achieve development within the downtown core
- The Subject site is currently zoned CX (City Center). This zoning district has been designed to provide for a concentrated mix of retail, office, civic and housing uses in downtown Vancouver. The site is generally level with excellent access and good exposure and is surrounded by mixed-uses, including residential, retail and office buildings as well as civic uses. It has been determined that the highest and best use of the Subject site is for commercial office use/development. The property was appraised in in July 2020 for \$1,425,000 "as-is" value. After further review by the appraiser with consideration of asbestos remediation and roof repair, the assessed value has been reduced to **\$1,255,000**.



City of Vancouver Fire Station 1



Legend

- Building Footprints
- Taxlots
- County Outline
- Roads
- ImageOrtho
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3
- World Street Map

Notes:

Assessor Parcel 50440-000

1: 952



158.6 0 79.31 158.6 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
Clark County, WA. GIS - <http://gis.clark.wa.gov>

This map was generated by Clark County's "MapsOnline" website. Clark County does not warrant the accuracy, reliability or timeliness of any information on this map, and shall not be held liable for losses caused by using this information.

PURCHASE AND SALE AGREEMENT

BETWEEN: West Evergreen, LLC, a Washington limited liability company
915 W 11th Street
Vancouver, WA 98660

("BUYER")

AND: City of Vancouver, a municipal corporation
415 W 6th Street
Vancouver, WA 98668

("SELLER")

RECITALS:

Seller desires to sell to Buyer and Buyer desires to purchase from Seller the land and improvements located at 900 W. Evergreen Blvd., Vancouver, Washington, further described as Clark County Assessor parcel 50440-000, consisting of approximately 0.88 acres and approximately 14,500 square feet of gross building area, being the property formerly known as Fire Station #1.

All of said property is located in Vancouver, Clark County, Washington, and is more particularly described in Exhibit "A," attached hereto and incorporated herein by reference (the "Property"), the purchase of which is subject to the terms and conditions contained herein.

AGREEMENT:

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed:

1. Sale and Purchase. Buyer agrees to purchase the Property from Seller and Seller agrees to sell the Property to Buyer for the sum of ONE MILLION, THREE HUNDRED TWENTY FIVE THOUSAND AND NO/100 DOLLARS (\$1,325,000.00) ("Purchase Price").
2. Earnest Money; Payment of Purchase Price. Upon execution of this Agreement by both parties, Buyer agrees to deposit with Clark County Title Company, Jacque Bauman, 1400 Washington St., Suite 100, Vancouver, WA 98660 ("Escrow Agent"), earnest money in the amount of ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) in the form of cash or promissory note ("Earnest Money"). The Earnest Money will be deposited in an interest-bearing account that provides no penalties for early or immediate withdrawal. The interest accruing on the Earnest Money shall be credited to the Purchase Price at Closing (defined in Closing and Closing Date section). In the event Closing does not occur, the Earnest Money and all of the accumulated interest shall be disbursed in accordance with the provisions of Section 16. At Closing, Buyer shall pay, by immediately available funds, the

remaining Purchase Price due after credit for Earnest Money and interest thereon is given.

3. Conditions.

a) Closing of the sale of the Property is expressly conditioned upon approval by the Vancouver City Council following a public hearing.

b) Buyer shall have 15 days from the effective date of this Agreement to conduct due diligence investigations and analysis of the Property and all information pertaining to the Property ("Due Diligence Period"). If Buyer determines, for any reason, that Buyer does not wish to acquire the Property and notifies Seller by 5:00 p.m. (PST/PDT) on the last day of the Due Diligence Period of its election to terminate this Agreement, the Earnest Money deposit shall be returned to Buyer, this Agreement shall become void, and there shall be no further obligation or liability on either of the parties hereto, except as otherwise specifically provided herein. Buyer's failure to deliver notice to Seller of its election to terminate this Agreement prior to 5:00 p.m. (PST/PDT) on the last day of the Due Diligence Period shall be deemed a waiver of Buyer's right to terminate this Agreement pursuant to this Paragraph 3(b).

4. Close of Escrow. Closing shall occur no later than 10 days following satisfaction of the Conditions described in Section 3 above.

As used in this Agreement, "Close," "Closing," or "Closed," shall mean the date on which all of the necessary documents have been deposited with the Escrow Agent and the Escrow Agent has: (a) disbursed the Purchase Price to Seller; (b) recorded on behalf of Buyer the Statutory Warranty Deed ("Deed") for the Property; (c) issued or authorized the issuance of the Title Insurance Policy referred to in Section 9 of this Agreement; and (d) complied with all other escrow instructions of Buyer or Seller imposed as a condition of Closing.

5. Warranty Deed. This Agreement is for conveyance of fee title. Title shall be conveyed by Statutory Warranty Deed free of encumbrances or defects except those specifically approved by Buyer in writing.

6. Seller's Representations. Notwithstanding Section 3, Seller warrants and makes the following representations all of which shall survive closing:

(a) Seller has no actual knowledge of the release or presence of any Hazardous Material on, in, from or onto the Property, with the exception of those certain roofing materials found to contain asbestos as identified on the Bulk Sample Analysis Report prepared by Certified Environmental Consulting, LLC, dated December 23, 2020, which report has been reviewed by both Buyer and Seller;

(1) For purposes of this Agreement, the term "Hazardous Material" means any hazardous or toxic substance, material or waste, including, but not limited to, those substances, materials and wastes listed in the United

States Department of Transportation Hazardous Materials Table (49 C.F.R. § 172.101) or by the United States Environmental Protection Agency as hazardous substances (40 C.F.R. pt. 302 and amendments thereto) or in the Washington Hazardous Waste Management Act (Ch. 70.105D RCW) or the Model Toxics Control Act (Chs. 70.105D RCW, 82.21 RCW), and such other substances, materials and wastes as become regulated or subject to cleanup authority under any Environmental Laws but excluding petroleum products.

(b) Seller has not received actual notice of any liens or other legal actions to be assessed, or which anyone claims or has a right to claim, against the Property;

(c) Seller does not know of, and has not received, actual notice from any governmental agency of any violation of law relating to the Property;

(d) Seller is not a foreign person as that term is defined in IRC 1445 and, at Closing, Seller will deliver a certificate of non-foreign status in form required by IRS regulations;

7. Acceptance of Property. Subject to Buyer's inspection condition described above in Section 3, Buyer accepts the Property and improvements thereon in their present condition, "AS IS, WHERE IS," including, but not limited to, any defects, problems or conditions as presently exist, known or unknown, including latent defects.
8. Continuation and Survival of Representations and Warranties. All representations and warranties by the respective parties contained in this Agreement or made in writing pursuant to this Agreement are intended to and will remain true and correct as of the time of closing, will be deemed to be material and will survive the execution and delivery of this Agreement and the delivery of the Deed and transfer of title. Such representations and warranties, however, are not assignable and do not run with the land, except as may be expressly provided herein or contained in a written instrument signed by the party to be charged.
9. Title Insurance. At Closing, the Escrow Agent shall issue Buyer an ALTA owner's policy of title insurance, insuring the vesting of fee title to the Property in Buyer in the amount of the Purchase Price, subject only to the Permitted Encumbrances. Seller shall pay the premium for standard title insurance coverage. Any additional premium charged for extended title insurance coverage shall be the responsibility of Buyer if it desires to obtain extended title insurance coverage.
10. Waiver. Neither Seller's nor Buyer's waiver of the breach of any covenant under this Agreement will be construed as a waiver of the breach of any other covenants or as a waiver of a subsequent breach of the same covenant.
11. Non-merger. The terms and provisions of this Agreement, including, without limitations, all indemnification obligations, will not merge in, but will survive, the closing of the transaction contemplated under this Agreement.

12. Pro Rations at Closing. Prorates for rents, current year's property taxes, water, sewer, other utility charges, and other periodic expenses attributable to the Property shall be completed as of the date of closing. Seller and Buyer shall jointly request Escrow Agent to prorate all utility charges as part of the closing, including water and sewer.
13. Closing Costs. Buyer and Seller shall equally pay all escrow and closing costs. Buyer shall be solely responsible for the costs of recording.
14. Possession. Buyer shall be entitled to possession on date of closing.
15. Successor Interests. This Agreement is binding upon and shall inure to the benefit of the parties and their respective heirs, successors, legal representatives, and assigns.
16. Remedies. If the transaction fails to close through fault of the Seller or Buyer, the aggrieved party may, at his election, seek such remedies as are available to him at law or in equity, including but not limited to, specific performance of this Agreement.
17. Prior Agreements. This Agreement is the entire, final, and complete Agreement of the parties pertaining to the sale and purchase of the Property and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives insofar as the Property is concerned. This offer supersedes any and all prior offers by Buyer or Seller.
18. Headings. The paragraphs throughout this Agreement are for convenience and reference only, and words contained therein shall in no way be held to explain, modify, or aid in the construction or meaning of the provisions of this Agreement.
19. Access to the Property. Buyer shall, from and after the execution hereof by Seller, have the right to ingress and agree to go in, on, or over the Property for the purpose of making such tests and examinations as he may desire. Buyer shall repair any and all damage, if any, caused by the Buyer.
20. No Assignment. Buyer may not assign this Agreement or any of Buyer's rights hereunder without the prior approval of Seller, at the Seller's sole discretion.
21. Notices. Any notice required under this Agreement shall be deemed given when actually delivered or when deposited in the United States mail, as certified mail with postage prepaid, and addressed as set forth in this Agreement.
22. Real Estate Commission. There is no real estate commission or brokerage fee associated with this transaction.
23. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state of Washington.
24. Option to Repurchase.

(a) In the event that Buyer fails to initiate or substantially complete construction of the Physical Improvements (as defined in subsection (b) below) on or before the Construction Completion Date (a "Fundamental Breach"), then Seller may exercise its option to re-purchase the Property by delivering written notice of such intent, together with an earnest money deposit of TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) to the Escrow Agent, with a copy of such notice to Buyer. If Seller exercises its repurchase rights as set forth herein, the price for such repurchase shall be ONE MILLION THREE HUNDRED TWENTY FIVE THOUSAND AND NO/100 DOLLARS (\$1,325,000.00) (the "Repurchase Price"), subject to any adjustment for Physical Improvements as described in subsection (b) below. The repurchase of the Property shall be consummated through the Escrow Agent, at a time determined by Seller no later than ninety (90) days after the delivery of the Seller's notice that it intends to exercise its repurchase rights. The Repurchase Price shall be payable in cash or other immediately available funds. Title to the Property shall be conveyed by Buyer to Seller by statutory warranty deed, subject to all real estate taxes, installments of special assessments, easements, restrictions, covenants and conditions of record, except delinquent real property taxes or installments of special assessments. Any mortgage or liens, including potential mechanics liens or other liens outstanding on the Property, shall be discharged by Buyer at the Closing hereunder. Current real property taxes and installments of special assessments shall be prorated as of the date of Closing. The costs of closing and title shall be paid by Seller.

(b) Physical Improvements. As used herein, "Physical Improvements" means and includes interior and exterior improvements to buildings, site, fixtures and attachments, as well related infrastructure improvements that directly improve the subject Property itself, the actual value of which shall be a minimum of \$300,000.00 (inclusive of Washington State Sales Tax). "Physical Improvements" does not include the cost of permitting, consulting services, drafting of plans or construction documents, or any similar type of cost that is related to improvement of the Property but does not add direct value to the Property. It is the understanding of the parties hereto that Buyer will incur such improvement-related costs, but that these shall not count towards the \$300,000.00 of actual physical improvements that must be made to the subject Property before the Construction Completion Date. In the event of a Fundamental Breach, if Seller exercises its option to re-purchase the Property, Seller shall add to the Repurchase Price the estimated value of those Physical Improvements, if any, actually constructed on the Property, as determined by a disinterested, third-party appraiser. Buyer and Seller agree that in such event, however, any increase to the Repurchase Price shall not exceed \$299,999.99.

(c) Construction Completion Date; Option Term. Buyer agrees to substantially complete construction of the Physical Improvements no later than 18 months after the date of Closing of the sale of the subject Property ("Construction Completion Date"). It is understood that while Buyer must substantially complete construction of at least \$300,000.00 worth of Physical Improvements on the Property by this date, construction of improvements in excess of \$300,000.00 can and may continue after

the Construction Completion Date. Seller must initiate Seller's option to repurchase the Property no later than the Construction Completion Date; if Seller fails to initiate its repurchase option by delivering notice to the Escrow Agent in accordance with subsection (a) above, then Seller's option to repurchase shall expire and be of no further effect. So long as Seller exercises its option in this manner prior to the Construction Completion Date, any failure on Buyer's part to consummate the repurchase, or any occurrence outside of Seller's control that shall cause Closing of the repurchase of the Property to take place more than 90 days after Seller's notice to the Escrow Agent as provided in subsection (a) shall not thereby void Seller's right to repurchase the Property, and Seller shall be entitled to specific performance under this Agreement.

IN WITNESS WHEREOF, the parties have executed this instrument, which shall become effective as of the date of the last signature hereto below.

Buyer agrees to buy the property on the terms and conditions herein.

BUYER: West Evergreen, LLC, a Washington limited liability company

By: _____
Josh Oliva, Manager DATE

Seller agrees to sell the property on the terms and conditions herein.

SELLER: CITY OF VANCOUVER
a municipal corporation

By: _____
Eric Holmes, City Manager DATE

APPROVED AS TO FORM:

JONATHAN YOUNG
City Attorney
City of Vancouver

Address for notices:

SELLER: Linda Carlson
City of Vancouver
PO Box 1995
Vancouver, WA 98668-1995
Telephone: (360) 487-8423
FAX: (360) 487-8496

BUYER: Josh Oliva
West Evergreen, LLC
915 W 11th Street
Vancouver, WA 98660
Telephone: (360) 213-2222
E-mail: josho@hspre.com

Exhibit “A”

LEGAL DESCRIPTION

Abbreviated Legal: WHIPPLES ADDN LOTS 1,2,7 & 8 BLK P

Full Legal Description to be provided by Title Company



Staff Report 046-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 4/5/2021

SUBJECT Creating a refund process for business license surcharge fees for eligible businesses for 4/1/2021 – 3/31/2022

Key Points

- Effective 4/1/2020 through 3/31/2021, Council authorized business license and surcharge fee suspension for all businesses due to the public health threat posed by the sudden outbreak of the novel coronavirus (COVID-19). The City worked with its partner at the Washington State Department of Revenue Business Licensing Service (BLS) to suspend fees during the eligible time period and to refund those that had already been paid for that year.
- Pandemic-related restrictions on business activity in certain industries continue and will likely continue for a number of months to negatively impact business viability in those industries.
- City desires to financially support businesses that have traditionally served large numbers of consumers indoors, simultaneously. These businesses are among those most severely impacted by the pandemic, are likely to remain subject to some of the longest restrictions, and are particularly well-situated to utilize the business license surcharge savings to support increased consumer safety.

Strategic Plan Alignment

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

Present Situation

The City generates approximately \$5.5 million annually from the business license fee and surcharge (BLS) program. The revenue is dedicated to funding existing police officer positions and funding the increased level of street pavement management program.

Effective 4/1/2021, all businesses will be required to continue registration and payment of City business license fees through Washington State Department of Licensing.

From 4/1/2021 through 3/31/2022, businesses in several eligible categories will receive a refund from the City for 2021 fees and surcharges already paid. Eligible businesses will be required to complete a City of Vancouver BLS Refund application form to receive the refund. The State of Washington's application processing system has limited flexibility and cannot accommodate significant deviations from the current program. Refund applications will, therefore, be processed manually by the City of Vancouver Business License division in the Finance department.

The eligibility for this program targets businesses that have traditionally served large numbers of consumers indoors, simultaneously. Specifically:

- Restaurants, Taverns, Breweries, Wineries and Distilleries;
- Fitness and Training Facilities;
- Movie Theatres, Theaters & Performing Arts; and
- Bowling Facilities.

Specific Washington State Guidance documents that identify which businesses are included in the above categories are identified in attachments A-E to the attached Ordinance.

These businesses are among those most severely impacted by the pandemic, are likely to remain subject to some of the longest restrictions and are particularly well-situated to utilize BLS savings to support increased consumer safety.

Advantage(s)

Supports local businesses in most negatively impacted by the pandemic industries.

Disadvantage(s)

Reduces revenues to the City of Vancouver.

Budget Impact

It is estimated that City revenues will have a one-time negative impact of approximately \$500,000 from implementation of this refund program. This reduction in revenues is expected to be offset by restricted spending, revenues in excess of estimates for the biennium, and local government relief provided through the American Rescue Plan Act of 2021.

Prior Council Review

Workshop on March 8, 2021.

Action Requested

On Monday, April 5, 2021, subject to second reading and public hearing, approve the ordinance.

Natasha Ramras, Chief Financial Officer, 360-487-8484

ATTACHMENTS:

- ▣ Ordinance

03/22/21
04/05/21

ORDINANCE NO. _____

AN ORDINANCE regarding the Business License Fee Surcharge (VMC 5.04.095) program; providing for refunds of the business license fee surcharge for new business license applications and annual license renewals for eligible businesses; providing for implementation of such refund program; defining eligibility criteria; providing for an immediate effective date; and providing for a sunset date on March 31, 2022.

WHEREAS the City adopted the employee business license fee surcharge codified at VMC Chapter 5.04.095 in 2006 by Ordinance M-4192, which has been subsequently amended by Ordinances M-4109 (2014), M-4140 (2015), M-4192 (2017), and M-4293 (2020); and

WHEREAS, on March 13, 2020, the City of Vancouver declared a civil emergency pursuant to Washington State Constitution Article VI, Section 11, Revised Code of Washington Chapter 38.52, and Vancouver Municipal Code Chapter 2.12, due to the public health threat posed by sudden outbreak of the novel coronavirus (COVID-19), and Declaration of Civil Emergency No. 2020-01 was ratified and affirmed by Resolution M-4061 (2020); and

WHEREAS, Ordinance M-4293 (2020) suspended the business license fee and business license surcharge fee for all business license renewals and new business license applications from April 1, 2020 through March 31, 2021; and

ORDINANCE - 1

WHEREAS, the COVID-19 pandemic has caused a global economic slowdown, resulting in reductions in business activity and continues to adversely impact certain sectors of the local business community that supports the City's economic vitality; and

WHEREAS, the City Council of the City of Vancouver desires to help mitigate the severe adverse financial impacts experienced by businesses most impacted by the current pandemic, and protect the health and safety of consumers, by offering a refund program in business license surcharge for eligible businesses. Specifically, businesses in industries most severely impacted by the pandemic, that have traditionally served large numbers of consumers indoors, simultaneously. Those businesses are likely to remain subject to some of the longest restrictions, and are particularly well-situated to utilize the business license fee surcharge savings to support increased consumer safety.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Creation of a Refund Program of the Business License Fee Surcharge for Eligible Businesses. The Vancouver City Council hereby adopts the recitals set forth above and those contained in SR _____ in support this Ordinance.

Section 2. Refund of the Business License Fee Surcharge for Eligible Businesses. The business license fee surcharge adopted by Ordinance M-3774, which was last amended by Ordinance M-4192 and is codified at Vancouver Municipal Code 5.04.095, shall be refunded to Eligible Businesses submitting new business license applications or renewing their city business licenses as specified herein.

Section 3. Eligibility Criteria. An "Eligible Business" qualified for the refund program set forth herein is one that (1) belongs to one of the eligible industries listed in Section 3(A), (2)

ORDINANCE - 2

has paid the business license base fee and business license fee surcharge; and (3) follows the refund request process set forth in Section 3(B).

A. Eligible Industries. The following businesses are eligible to participate in the program:

- i. **Restaurants, Taverns, Breweries, Wineries and Distilleries** subject to the Washington State Guidance Document entitled “Eating and Drinking Establishment COVID-19 Requirements” as updated on March 5, 2021, a copy of which is attached as Exhibit A and incorporated by this reference as if set forth fully herein;
- ii. **Fitness and Training Facilities** subject to the Washington State Guidance Document entitled “Fitness and Training COVID-19 Requirements” as updated in January 2021, a copy of which is attached as Exhibit B and incorporated by this reference as if set forth fully herein;
- iii. **Movie Theaters** subject to the Washington State Guidance Document entitled “Movie Theaters COVID-19 Requirements” as updated February 1, 2021, a copy of which is attached as Exhibit C and incorporated by this reference as if set forth fully herein;
- iv. **Theaters & Performing Arts Facilities** subject to the Washington State Guidance Document entitled “Theater & Performing Arts COVID-19 Requirements” as updated in January 11, 2021, a copy of which is attached as Exhibit D and incorporated by this reference as if set forth fully herein; and
- v. **Bowling Facilities** subject to the Washington State Guidance Document entitled “Bowling COVID-19 Requirements” as updated in January 2021, a copy of which

is attached as Exhibit E and incorporated by this reference as if set forth fully herein.

B. Refund Request Process. The business license fee and business license fee surcharge applicable for April 1, 2021- March 31, 2022 shall be paid to the Washington State Department of Revenue Business Licensing Service. Eligible Businesses can then request a refund for the business license surcharge fees paid directly from the City of Vancouver Business License Division in the Finance department by filling out the Refund Request form. Requests for refunds must be received by the City of Vancouver Business License Division on or before March 31, 2022.

Section 4. Effective date. This Ordinance is necessary in furtherance of an emergency and shall become effective immediately upon passage.

Section 5. All provisions of this ordinance will sunset on March 31, 2022. Thereafter, the provisions of this Ordinance shall be given no further force of effect.

Read first time:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Read second time:

PASSED by the following vote:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

SIGNED this _____ day of _____, 2021.

Anne McEnery-Ogle, Mayor

Attest:

Approved as to form:

Natasha Ramras, City Clerk

Jonathan Young, City Attorney

ORDINANCE - 5

SUMMARY

ORDINANCE NO. _____

AN ORDINANCE regarding the Business License Fee Surcharge (VMC 5.04.095) program; providing for refunds of the business license fee surcharge for new business license applications and annual license renewals for eligible businesses; providing for implementation of such refund program; defining eligibility criteria; providing for an immediate effective date; and providing for a sunset date on March 31, 2022.

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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

Eating and Drinking Establishment COVID-19 Requirements

Eating and Drinking Establishment COVID-19 Requirements

Summary of March 5, 2021 changes:

1. Renames this guidance document from Restaurant, Tavern, Brewery, Winery and Distillery to Eating and Drinking Establishment.
2. Includes night clubs in the list of business types included in this guidance.
3. Clarifies food is required to be offered at these businesses.
4. Clarifies while some live entertainment is permitted pursuant to the theater and performing arts guidance document, dancing is prohibited.

Summary of January 11, 2021 changes:

1. Phase 1: Restaurants and Bars are closed for indoor dine-in service. Outdoor and open-air dining and to-go service are permitted, provided that all outdoor/open-air dining must comply with the requirements of the Outdoor and Open-air Seating Guidance [here](#).
2. Phase 2: Indoor seating is permitted at 25% capacity as long as long as physical distance between customers at adjacent tables can be achieved.
3. For all phases:
 - Table size for is limited to a maximum of six (6) people with a maximum of two households per table.
 - Alcohol service is prohibited after 11 pm (food service may continue past 11 pm).

Eating and drinking establishments must adopt a written procedure that is at least as strict as the requirements in this document and that complies with the appropriate safety and health requirements and guidelines established by the Washington State Department of Labor & Industries and the Washington State Department of Health.

For purposes of this document an eating and drinking establishment includes, but is not limited to, restaurants, cafes, food courts, breweries, brewpubs, taverns, wine bars, wineries, distilleries, tasting rooms, private clubs and night clubs, or other establishments where food is offered/sold.

Prior to recommencing on-site services, all business owners are required to develop at each establishment, a comprehensive COVID-19 exposure control, mitigation, and recovery plan which must be adhered to. A site-specific COVID-19 monitor shall be designated at each location to monitor the health of individuals and enforce the COVID-19 job site safety plan. A copy of the plan must be available at all locations and available for inspection by state and local authorities. Failure to meet this requirement may result in sanctions up to, and including, license suspension.

All eating and drinking establishments can refer to [Department of Health guidance](#) for additional recommendations.

Phase 1

1. Indoor seating is prohibited. Outdoor and open-air seating and to-go service are permitted, provided that all outdoor/open-air dining must comply with the requirements of the Outdoor and Open-air Seating Guidance [here](#).
2. For liquor licensees who want to add outdoor seating to their premises, please go to the Washington State Liquor and Cannabis Board (WSLCB) website, [here](#), to access the Liquor Alterations Request Form. Please submit completed forms to liquoralterations@lcb.wa.gov.

Phase 2

3. Indoor seating is permitted at 25% capacity if physical distance between individuals sitting at adjacent tables (as noted below) can be achieved. This includes food courts.

All Phases

4. Liquor licensees must offer food service. Food may be sold or provided free-of-charge in at least one of the following ways:
 - a. Onsite food: At a minimum, food service should include a combination of small serving food items such as a mix of hors d'oeuvre type foods, cheeses, fruits, vegetables, deli-style meats, chips, pretzels, nuts, popcorn, crackers, or similar items. Food may be prepackaged for individual sale and consumption or prepared off-site for plating for the customer.
 - b. Offsite food: Customers may bring food from an outside business. The liquor licensee must post in a visible place, a list of multiple local restaurants or food trucks where customers can purchase food during hours of operation. The list shall include names, addresses, contact information, and hours of operation for each restaurant or food truck named.
5. Table size is limited to a maximum of six (6) people and a maximum of two (2) households.
6. Tables must be placed so that customers at adjacent tables are seated a minimum of 6 feet away from each other, or there must be a physical barrier or wall at least standing height tall separating booths or tables.
7. If the establishment does not offer table service (i.e. wait staff), they must have protocols in place to ensure adequate social distancing at food and/or drink pick-up stations, and within their seating area.
8. Alcohol service, delivery, and consumption, including beer, wine, and spirits, must end at 11:00 p.m. Food service may continue past 11 pm.
9. No bar area seating is permitted. This is the area with a bar table/counter where patrons sit or stand side-by-side. If an establishment has bar area seating it must be closed off to prohibit use. Counter-style seating is permitted in other areas of the establishment (indoors or outdoors). Six feet of distance is required between other tables.
10. Customers must wear a face covering anytime they are not actively eating or drinking. This includes when arriving or leaving, while going to the restroom, and while they are seated at tables and talking.
11. Single use menus or reusable menus that are sanitized after each use are required.
12. Minimize the number of staff serving any given table. It is strongly recommended that one staff person take a table's order, bring all of their beverages/food/utensils, take their payment, etc.
13. Hand sanitizer should be available at entry for all staff and patrons (assuming supply availability).

14. Any condiments typically left on the table (ketchup, soy sauce, etc.) must be single-use or sanitized after each use.
15. Buffets and salad bars are permitted and must follow [Department of Health guidance](#).
16. All establishments must have implemented a plan to ensure proper physical distancing in lobby/waiting areas/payment counters.
17. Standing is prohibited in any area of the establishment, except when engaging in allowable entertainment activities or while in the lobby/waiting area. In these instances, 6 feet of distance between patrons must be maintained.
18. Please see [Indoor Entertainment Guidance](#) for allowable activities such as darts, billiards, and arcade games, etc.
19. Please see [Theater and Performing Arts Guidance](#) for allowable live entertainment. Dancing is prohibited.

Safety and Health Requirements

All eating and drinking establishment owners have a general obligation to maintain a safe and healthy workplace in accordance with state and federal law and safety and health rules for a variety of workplace hazards. Employers must specifically ensure operations follow the main Labor & Industries COVID-19 requirements to protect workers. COVID-19 workplace and safety requirements can be found [here](#).

Additional information is available at [Novel Coronavirus Outbreak \(COVID-19\) Resources](#) and [Paid Leave under the Washington Family Care Act and the Families First Coronavirus Response Act](#).

Exhibit B

Fitness and Training COVID-19 Requirements

Fitness and Training COVID-19 Requirements

Summary of changes in the January 2021 update:

- New phase 1 and 2 requirements detailed; some fitness and training activities reopened with new restrictions and new occupancy calculations.
- Outdoor fitness classes and non-staffed fitness facilities added to the guidelines.
- Several indoor sporting activities removed from this document and added to the [Professional Sports and Other Sporting Activities](#), document, including gymnastics, non-contact dance, non-contact cheer, climbing, tennis, volleyball, basketball, and soccer.
- Safety and health requirements updated to current language at the end of the document.

Included here:

Staffed indoor fitness studios, individual sports and fitness training, group fitness, gyms, and multi-use indoor fitness facilities providing private instruction and access to personal fitness training and/or specialized equipment, including but not limited to weight and resistance training, cardio exercise equipment, martial arts without contact, yoga, squash and racquetball and similar personal training, group training, or independent fitness services.

Unstaffed indoor fitness facilities in locations such as hotels and apartment buildings.

Outdoor group fitness classes.

Not included here:

Pools. Pool and water recreation facilities should follow the [Department of Health's COVID-19 guidance for staffed pools](#) and the [Governor's Phased Guidance for water recreation](#).

Indoor or outdoor sporting activities such as gymnastics, non-contact dance, non-contact cheer, martial arts with contact including competitions, climbing, tennis, volleyball, basketball and soccer. Except as otherwise specified in this guidance, indoor and outdoor competitive sporting activities, such as professional, amateur, or organized team sports and outdoor group fitness classes should follow the guidance for [Professional Sports and Other Sporting Activities](#).

All indoor fitness training facilities operating must adopt a written procedure for employee safety and customer interaction that is at least as strict as this procedure and complies with the safety and health requirements below.

No business may operate until it can meet and maintain all the requirements in this document, including providing materials, schedules and equipment required to comply. Additional considerations may be adopted, as appropriate.

Limited Use of Facility and Business Adaptations

Access to indoor fitness and training facilities is limited by the size of the facility:

Phase 1:

- All facilities must calculate allowable customer occupancy by dividing the room size or available floor space by 500 square feet per person.
- The minimum 500 square feet per person occupancy must be calculated and enforced by the

facility for every room in a facility where indoor fitness and training occurs. Each room where indoor fitness and training occurs must be monitored to ensure the 500 square feet per person maximum occupancy is not exceeded.

- Face coverings are required at all times.
- Individuals may use the facilities for less than an hour at a time. One-on-one instruction and group instruction classes limited less than an hour at a time. Capacity determined by square footage per person.
- Stationary fitness equipment must be arranged such that users are not facing each other, regardless of the distance between users.
- Squash and racquetball courts open only for individual use and facilities must allow 30 minutes of non-use between each session.
- Outdoor group fitness classes limited to a maximum of 20 participants per class at a time in stable cohorts of 5. Face coverings required at all times. Outdoor structures, in order to be considered outdoors, should have no more than two walls to provide appropriate ventilation unless they meet this ventilation requirement; structures can have three walls if another opening exists that is large enough to create cross ventilation. For detailed guidelines please consult [Open Air and Outdoor Seating requirements](#).
- Unstaffed indoor fitness facilities (examples include apartment and hotel fitness centers) allowed one user per room, scheduled in advance, face coverings required, use of the facilities for no longer than 45 minutes at a time.

Phase 2:

- The occupancy of the facility may not exceed 25 percent of the fire code occupancy rating, or 200 people max, whichever is less.
- Squash and racquetball courts open for games. Facilities must allow 30 minutes of non-use between each session.
- Outdoor group fitness classes limited to a maximum of 30 participants. Face coverings required at all times. Outdoor structures, in order to be considered outdoors, should have no more than two walls to provide appropriate ventilation unless they meet this ventilation requirement; Structures can have three walls if another opening exists that is large enough to create cross ventilation.
- Unstaffed indoor fitness facilities allowed one user per room or up to 4 users from the same household, scheduled in advance, face coverings required.

No in-facility child care services will be permitted, unless consistent with Department of Health guidance for [Child Care, Youth Development, and Summer Day Camps](#). Children in child care do not count toward the overall occupancy limit for the purpose of calculating fitness facility occupancy and the minimum required square footage per person.

Safety and Health Requirements all phases

Stay home when sick or if a close contact of someone with COVID-19

Staff and participants should be required to stay home if they feel unwell, show any signs of COVID-19, or are a close contact of a confirmed case. Screening should consider [symptoms listed by the CDC](#). Any person with symptoms of COVID-19 or who is a close contact of someone with confirmed COVID-19 should not be allowed to participate and should contact his or her primary care provider or other appropriate health-care professional.

Masks

Masks required for staff and participants at all times.

Physical Distance

A minimum of 6 feet of physical distance must be maintained between staff and clients at all times where possible. This distance should be increased when clients are engaged in high-intensity aerobic activities. A minimum of six feet of distance must be maintained among participants when not engaged in fitness and training activities.

Hygiene

Staff and participants to practice good hygiene including washing their hands frequently and covering their sneezes and coughs. Wash hands often with soap and water for at least 20 seconds before and after practice, especially after touching shared objects or blowing your nose, coughing, or sneezing. Avoid touching your eyes, nose, and mouth. If soap and water are not readily available, use a hand sanitizer that contains 60-95% alcohol content. Cover all surfaces of your hands and rub them together until they are dry.

Provide handwashing or hand sanitizing stations at training and contest locations.

Limit the use of locker rooms to handwashing and restroom use only. Showers should not be used due to potential spread of aerosolized droplets. If use of locker rooms for changing is necessary, maximize ventilation and use tape, spots, or cones to signal 6 feet of distance for participants who need to change. If locker rooms are used cleaning protocols must be included in the facility safety plan. Limit occupancy of the locker rooms to avoid crowding.

Cleaning

Clean high touch surfaces and disinfect shared equipment before and after each use. Ensure restrooms are cleaned and disinfected regularly. Current CDC guidance for cleaning and disinfection for COVID-19 states that disinfectants should be registered by the EPA for use against the COVID-19. Find the current list here: [List N: Disinfectants for Use Against SARS-CoV-2 \(COVID-19\)](#). Disinfectants based on hydrogen peroxide or alcohol are safer than harsher chemicals. The University of Washington has a [handout with options for safer cleaning and disinfecting products that work well against COVID-19](#).

Ventilation

Ventilation is important to have good indoor air quality. Ensure that ventilation systems operate properly. Increase air circulation and ventilation as much as possible by opening windows and doors. Offer more outside time, open windows often and adjust mechanical ventilation systems to bring in as much outside air as possible. Increase filters to MERV 13 if the HVAC can accommodate. Use of fans for cooling is acceptable. In indoor spaces, fans should only be used when windows or doors are open to the outdoors in order to circulate indoor and outdoor air. They should blow away from people. Outdoors locations are preferred to indoors locations, and should be utilized to the greatest extent possible to allow for maximum fresh air circulation and social distancing. Outdoor temporary structures may be used. Outdoor structures, in order to be considered outdoors, should have no more than two walls to provide appropriate ventilation unless they meet this ventilation requirement; structures can have three walls if another opening exists that is large enough to create cross ventilation. For detailed guidelines please consult [Open Air and Outdoor Seating requirements](#).

Records and Contact Tracing

Keep contact information for staff and participants to assist with contact tracing in the event of a possible exposure. Contact information must be kept on file for 28 days after each class or use of the facilities.

Employees

Employers must specifically ensure operations follow the main Labor & Industries COVID-19 requirements to protect workers. COVID-19 workplace and safety requirements can be found [here](#).

Exhibit C

Movie Theaters COVID-19 Requirements

Movie Theaters COVID-19 Requirements

Summary of February 1, 2021 changes:

- **New Phase 1 and Phase 2 requirements detailed**
- **Safety and health requirements updated at end of the document**

Movie theaters are permitted to operate, provided all requirements in this document are met. For purposes of this guidance, movie theaters include both corporate and independently owned theaters or any venue that screens movies with an audience. Each movie theater must adopt a written procedure for operations at least as protective as the specific requirements outlined below and complies with all employee safety and health requirements.

Movie theaters must ensure strict adherence to all measures established by the Governor's guidance, the Department of Labor & Industries (L&I), Coronavirus (COVID-19) Prevention: General Requirements <https://lni.wa.gov/forms-publications/F414-164-000.pdf>, and the Washington State Department of Health Workplace and Employer Resources & Recommendations <https://www.doh.wa.gov/Coronavirus/Workplace> (DOH).

Phase 1

Private rentals for individual households of no more than 6 people permitted. General admission prohibited.

Phase 2:

Movie theaters in Phase 2 can operate at 25% capacity (per fire marshal code) or 200 people, whichever is less, as long as six feet of physical distancing between households can be maintained.

General Requirements

1. Pursuant to the [Secretary of Health's Order 20-03](#), face coverings must always be worn. However, face coverings may be removed for the limited purpose and limited time period necessary to consume food and beverages, which can only be done while seated in the theater.
2. Ticket lines should be configured to ensure appropriate physical distancing is maintained at all times. Options include visible markers, barriers, tape, etc.
3. Tickets sales should be available online or via phone whenever feasible to reduce the need to stand in line for tickets.
4. Configure ticket sales systems to facilitate appropriate physical distancing.
5. Lines to enter a theatre should be minimized whenever possible. If lines are unavoidable, six feet physical distancing must be maintained.
6. Adequate numbers of employees should be available to direct patron traffic and enforce physical distancing in lines.
7. Limit and stagger screening times to reduce overcrowding between screenings, particularly in common areas, restrooms, and concession areas.
8. Close any on- site lounges, play areas, or other areas where people may congregate.
9. To the extent possible, reconfigure restrooms, for example by blocking stalls or urinals, to ensure appropriate physical distancing can be maintained at all times. As patrons may need to line up to enter restrooms, use visual indicators such as tape to identify appropriate physical distancing.

10. Use of employee breakrooms should be limited. As face coverings cannot be worn during eating/drinking, limit the number of employees in a breakroom at any one time to ensure distancing can be maintained. Clean countertops and tables between uses.
11. Any retail food service at theaters must follow the guidance for [restaurants](#).
12. Provide sufficient hand sanitizing stations for customers.
13. Ensure each theater is properly cleaned/sanitized between uses.
14. Adjust mechanical ventilation systems to bring in as much outside air as possible. Increase filters to MERV 13 if the HVAC can accommodate. Keep doors and windows open where possible and utilize fans to improve ventilation.

Exhibit D

Theater & Performing Arts COVID-19 Requirements

THEATER & PERFORMING ARTS

COVID-19 Requirements

Theaters and performing arts are permitted to operate, provided the general and discipline-specific requirements in this document are met and followed. The theatre and performing arts organization must adopt a written procedure for operation that is at least as strict as the procedures below and complies with all safety and health requirements.

A. General Indoor and Outdoor Theater and Performing Arts Organizations and Performing Arts Events:

This section includes guidance that all indoor and outdoor theater and performing arts organizations must follow. Additional requirements may also be required depending on the discipline.

Phase 1: Indoor: Private rentals/tours/performances for individual households of no more than six people are permitted. All individuals must wear face coverings. Maximum capacity is 25% of the venue or space.

Phase 1: Outdoor: Ticketed events only. Groups of 10 people are permitted, but are limited to two households per group. Groups must be physically distanced six feet apart and maintain six feet of physical distance from others at all times. All individuals in attendance must wear a face covering. A minimum of 20 feet of physical distancing is required between artists/performers and the audience. A maximum of 75 individuals including artists, crew, and audience members may be in the designated area. There is a two-hour time limit on all performances/events.

Phase 2: Indoor: Maximum capacity is 25% of the venue/space or 200 people, whichever is less. Groups with a maximum of six people are permitted. Each group must be physically distanced six feet apart and maintain six feet of separation from others at all times. All individuals in attendance must wear a face covering. A minimum of 20 feet of physical distancing is required between artists/performers and the audience. There is a two-hour time limit on all performances/events.

Phase 2: Outdoor: Groups of up to 15 people are permitted, but are limited to two households per group. Groups must be physically distanced six feet apart and maintain six feet of separation from others at all times. All individuals in attendance must wear a face covering. A minimum of 20 feet of physical distancing is required between artists/performers and the audience. A maximum 200 individuals including artists, crew, and audience may be in the designated area. There is a three-hour time limit on all performances/events.

B. Discipline-specific Requirements:

1. Dance and Movement:

Phase 1 Rehearsals: A minimum of 500 square feet per dancer is required. If there are two or more people per a barre, each dancer must maintain a radius of six feet of physical distancing and all dancers must face the same direction. A maximum length of 45 minutes per rehearsal session with 30-minute breaks between sessions is required.

Phase 2 Rehearsals: The maximum capacity is 25% of the room/venue/space. All other requirements in Phase 1 must be followed.

Phase 1 Performances/Recitals:

- **Indoor:** Prohibited.
- **Outdoor:** Must follow “Dance and Movement: Phase 1 Rehearsals” requirements plus the general requirements in “Part A – Phase 1: Outdoor.”

Phase 2 Performances/Recitals:

- **Indoor:** Must follow the “Dance and Movement: Phase 1 Rehearsals” requirements plus the general requirements in “Part A – Phase 2: Indoor.”
- **Outdoor:** Must follow the “Dance and Movement: Phase 1 Rehearsals” requirements plus the general requirements in “Part A – Phase 2: Outdoor.”

2. Choral/Vocal/Opera/Musical Theatre/ Comedy/Spoken Word/Poetry Readings or Slams

Phase 1 and Phase 2 Rehearsals:

1. **Indoor and Outdoor:** Solo singers and performers in a rehearsal setting may rehearse without a face covering, so long as they are at least 15 feet physically distanced from the pianist/accompanist and others. If a speaker decides not to wear a face covering, it is recommended that a Plexiglas 3-sided barrier is used during the rehearsal. The barrier must be disinfected after every use.

All group performance activities that involve singing require everyone to wear a three-layer surgical mask and maintain at least 9 feet (12 feet is recommended) of physical distance from others. Group singing/choirs are limited to no more than 15 individuals. Rehearsals may be held indoors for up to 45 minutes at a time with 30-minute breaks in between to allow for air exchange.

Phase 1 Performances/Recitals:

- **Indoor:** Prohibited.
- **Outdoor:** Must follow “Phase 1 and Phase 2 Rehearsals: Choral/Vocal/Opera/Musical Theatre/Comedy/Spoken Word/Poetry Readings or Slams” requirements plus the general requirements in “Part A – Phase 1: Outdoor.”

Phase 2 Performances/Recitals:

- **Indoor:** Must follow “Phase 1 and Phase 2 Rehearsals: Choral/Vocal/Opera/Musical Theatre/Comedy/Spoken Word/Poetry Readings or Slams” requirements plus the general requirements in “Part A – Phase 2: Indoor.”
- **Outdoor:** Must follow “Phase 1 and Phase 2 Rehearsals: Choral/Vocal/Opera/Musical Theatre/Comedy/Spoken Word/Poetry Readings or Slams” requirements plus the general requirements in “Part A – Phase 2: Outdoor.”

3. Orchestra/Instrumental

Phase 1 and 2 Rehearsals:

1. **Indoor and Outdoor:** All physical distancing requirements are section/instrument specific:
 - **String and percussion instruments** must maintain a minimum of six feet of physical distancing.
 - **Brass & woodwind instruments** must maintain a minimum of 9 feet of physical distancing and use a bell cover.

- **Vocalists** refer to guidelines for “Phase 1 and Phase 2 Rehearsals: Choral/Vocal/Opera/Musical Theatre/Comedy/Spoken Word/Poetry Readings or Slams.”

Rehearsals are a maximum of 45 minutes at a time with 30-minute breaks in between to allow for air exchange. All are required to wear masks. For instruments that require mouth-to-instrument connection, musicians are not required to wear a mask while playing, but during long periods of rest and breaks, masks are required.

Phase 1 Performances/Recitals:

2. **Indoor:** Prohibited.
3. **Outdoor:** Must follow “Phase 1 and Phase 2 Rehearsals: Orchestra/Instrumental” requirements plus the general requirements in “Part A – Phase 1: Outdoor.”

Phase 2 Performances/Recitals:

- **Indoor:** Must follow “Phase 1 and Phase 2 Rehearsals: Orchestra/Instrumental” requirements plus the general requirements in “Part A – Phase 2: Indoor.”
- **Outdoor:** Must follow “Phase 1 and Phase 2 Rehearsals: Orchestra/Instrumental” requirements plus the general requirements in “Part A – Phase 2: Outdoor.”

C. Venue Requirements and Guidelines:

The venue must provide clear communications to renters, artistic partners, event producers, and other visiting groups prior to arrival regarding the venue sanitation and safety expectations. In addition, the venue must post signage outside and inside of the venue that clearly outlines which spaces may be used by renters.

Sanitation & Safety Expectations: The venue shall:

- Designate a point of contact to ensure the “Healthy Washington – Roadmap to Recovery” Proclamation 20-25.12 (et seq.) and requirements per Department of Labor and Industries (L&I) and Health Department, are met with a written safety plan specific to each venue that meets the minimum requirements as set forth by the Healthy Washington plan.
- Provide clear communications to patrons prior to arrival regarding safety expectations.
- Post signage outdoors and inside that declares expectations for the visitors to enter the venue, including caution to physical distance, wash hands, use hand sanitizer, wear a face covering, and other safety precautions.
- Clean daily and adhere to the Centers for Disease Control and Prevention (CDC) recommendations for cleaning and sanitation of public facilities are followed. Clean and sanitize all occupied areas between performances.
- Frequently sanitize high touch surfaces including counter tops, doors, elevator buttons, and workstations, particularly during events.
- Install sanitation stations throughout the venue, including backstage and office spaces, that include hand sanitizer and wipes.
- Require all individuals to wear face coverings in accordance with state, county, and venue regulations.
- Consider shield-guards/physical protection guards between public and staff (concessions, box office, reception, retail).

- Promote the ventilation of interior spaces. HVAC systems will be maintained and operated following [ASHRAE recommendations](#) to the best of each facility's capability. Circulation of outdoor air will be increased to the safest extent possible.
- Evaluate and adjust when possible, audience flow and general lobby spaces to maximize physical distancing and minimize engagement of high touch surfaces.
- Train and strategically place staff or volunteers to encourage flow and physical distancing of visitors.

Patron Safety Expectations: The venue shall:

- Strive to secure patron contact information to facilitate contact tracing (if selling reserved seating).
- Require all to wear face coverings in accordance with state, county, and venue regulations.
- Send protocols in advance to patrons when feasible.
- Encourage patrons to download digital tickets or use print-at-home ticketing when possible.
- Consider the use of digital programs and reduce exchange of printed materials.
- Identify, control, and limit congregation points in venues where staff and visitors may come into proximity.

Employee Safety Expectations (all staff including front-of-house, backstage, artists, volunteers): The venue shall:

- Sanitize and prepare the venue before allowing employees to return to work.
- Reorganize workspaces to maximize physical distancing and/or encourage continued remote work.
- Provide disinfecting wipes and hand sanitizer throughout work areas for personal use and to sanitize workstations, equipment, and limit sharing when possible.
- Provide and train use of personal protective equipment required for personnel per L&I as well as OSHA and CDC recommendations, based upon duties.
- Consider job hazard assessment for artists and personnel for each venue and event.
- Regularly review safety procedures with staff, updating as indicated by public health officials and industry standards.
- Provide training and security protocols for employees to address patrons who do not cooperate with safety protocols.
- Prohibit Backstage visitors and prohibit the greeting of audience members at the stage door following performances.
- Require everyone to wear face coverings in accordance with state, county, and venue regulations.

Food Service and Retail: Food service, restaurants, gift shop, and other retail operations in performing arts venues and at events will operate according to phase-specific guidelines outlined in the [“Retail”](#) and [“Eating and Drinking”](#) in sections of the Healthy Washington guidelines.

Exhibit E

Bowling COVID-19 Requirements

Bowling

COVID-19 Requirements

Summary of January 2021 changes:

- **New Phase 1 and Phase 2 requirements detailed**
- **Safety and health requirements updated to current language at the end of the document**

All bowling facilities operating must adopt a written procedure for employee safety and customer interaction that is at least as strict as these requirements and complies with the safety and health requirements below.

Phase 1:

- Private rentals/tours for individual households of no more than 6 people permitted maximum for the entire facility. General admission prohibited.
- Arcades and amusement and/or redemption activities closed.

Phase 2:

- The facility may not exceed 25 percent of the fire code occupancy rating.

For all phases:

- Two bowlers per lane.
- No spectators allowed.
- Bowlers must maintain 6 feet of distance between bowlers in other lanes and in other areas of the facility.
- Sharing of equipment is not allowed.
- Shoes and balls, including finger holes, must be disinfected after every use.
- Restaurants and pro-shops adhere to required guidelines for food service and retail for the phase that their respective region is in.
- Mask use required at all times.

Safety and Health Requirements

Safety and Health Requirements all phases

Stay home when sick or if a close contact of someone with COVID-19

Staff and participants should be required to stay home if they feel unwell, show any signs of COVID-19, or are a close contact of a confirmed case. All coaches and students should be screened for signs/symptoms of COVID-19 prior to a workout. Screening should consider [symptoms listed by the CDC](#). Any person with symptoms of COVID-19 or who is a close contact of someone with confirmed COVID-19 should not be allowed to participate and should contact his or her primary care provider or other appropriate health-care professional.

Those who are excluded from training or contests due to [COVID-19 symptoms](#) or because they are [close contacts](#) must follow DOH and local public health isolation and quarantine guidance before returning to

training or contests. People with underlying health conditions should consult with their medical provider regarding participation in athletic activities.

Masks

Masks required for staff and participants at all times.

Physical Distance

Physical distance of 6 feet must be maintained between staff and participants and participants and each other at all times where possible, with exceptions for training and medical personnel and volunteers performing their medical duties. Six feet of distance must be maintained among participants when not engaged in fitness and training activities.

Hygiene

Staff and participants to practice good hygiene including washing their hands frequently and covering their sneezes and coughs. Wash hands often with soap and water for at least 20 seconds before and after practice, especially after touching shared objects or blowing your nose, coughing, or sneezing. Avoid touching your eyes, nose, and mouth. If soap and water are not readily available, use a hand sanitizer that contains 60-95% alcohol content. Cover all surfaces of your hands and rub them together until they are dry. Participants should not share water bottles, uniforms, towels, or snacks.

Provide handwashing or hand sanitizing stations for participants.

Limit the use of locker rooms to handwashing and restroom use only. Showers should not be used due to potential spread of aerosolized droplets. If use of locker rooms for changing is necessary, maximize ventilation and use tape, spots, or cones to signal 6 feet of distance for participants who need to change. If locker rooms are used cleaning protocols must be included in the sporting activity safety plan. Stagger entry to the changing area and use of these facilities as appropriate with members of the same team or training cohort only. Limit occupancy of the locker rooms to avoid crowding.

Cleaning

Clean high touch surfaces and disinfect shared equipment before and after each use. Ensure restrooms are cleaned and disinfected regularly. Current CDC guidance for cleaning and disinfection for COVID-19 states that disinfectants should be registered by the EPA for use against the COVID-19. Find the current list here: [List N: Disinfectants for Use Against SARS-CoV-2 \(COVID-19\)](#). Disinfectants based on hydrogen peroxide or alcohol are safer than harsher chemicals. The University of Washington has a [handout with options for safer cleaning and disinfecting products that work well against COVID-19](#).

Ventilation

Ventilation is important to have good indoor air quality. Ensure that ventilation systems operate properly. Increase air circulation and ventilation as much as possible by opening windows and doors. Offer more outside time, open windows often and adjust mechanical ventilation systems to bring in as much outside air as possible. Increase filters to MERV 13 if the HVAC can accommodate. Use of fans for cooling is acceptable. In indoor spaces, fans should only be used when windows or doors are open to the outdoors in order to circulate indoor and outdoor air. They should blow away from people.

Records and Contact Tracing

Keep contact information for staff and participants to assist with contact tracing in the event of a possible exposure. Contact information must be kept on file for 28 days after each use of the facilities.

Employees

Employers must specifically ensure operations follow the main Labor & Industries COVID-19 requirements to protect workers. COVID-19 workplace and safety requirements can be found [here](#).



Staff Report 055-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 4/5/2021

SUBJECT 2021 CDBG / HOME Funding Allocation and Action Plan Approval

Key Points

- The City is required by the US Department of Housing and Urban Development to adopt an annual Action Plan describing how federal Community Development Block Grant (CDBG) and HOME Investment Partnership Program funds will be allocated.
- Resources available for the 2021 program year (July 1, 2021–June 30, 2022) include \$1,306,414 in CDBG funds and \$688,711 in HOME funds.
- A 27-person review committee composed of community representatives and City staff prioritized the applications and has provided funding recommendations for the 2021 Action Plan.
- Recommended funding supports projects that correspond with the 5-year Consolidated Plan goals and respond to the impacts of COVID-19 on vulnerable community members or the broader economic downturn caused by the pandemic.
- Estimated outcomes of 2021 CDBG and HOME projects include 180 people receiving public services; 80 new business owners receiving technical assistance; 1 public facility improvement; 1 new affordable housing unit produced; 10 homeowner housing units preserved; and 85 households receiving rental assistance.
- These numbers are in addition to the 1,944 individuals receiving public services and 445 business receiving technical assistance through the CDBG-CV funds.

Strategic Plan Alignment

Goal 3, Objective 3.2: Improve services available to underserved or vulnerable residents.

Present Situation

The Department of Housing and Urban Development (HUD) requires an annual Action Plan that outlines how the City intends to allocate its CDBG and HOME resources. The proposed draft of the 2021 Action Plan is attached and available at www.cityofvancouver.us/cdbg.

CDBG and HOME awards made through the 2021 Action Plan process must be consistent with the goals and objectives included in the City's 2019-2023 Consolidated Plan related to Affordable Housing, Public Services, Economic Development, and Public Facilities and Infrastructure.

The City allocates the majority of its annual CDBG and HOME funding to community partners through a competitive application process as described in the 5-year Consolidated Plan. The following describes the 2021 Action Plan process and funding recommendations.

Responding to COVID-19

The revised recommendations focus on vulnerable community members and/or the broader economic downturn caused by the pandemic. For a description of how each project contributes to the COVID-19 response, see the project descriptions attached to the resolutions. The agencies have confirmed their ability to implement the projects under the public health emergency conditions in place now and will serve additional people or households where increased funding has been recommended.

Separate from the 2021 CDBG and HOME funds, the City has received an additional \$1,127,065 in CDBG funds (CDBG-CV) from the second round allocated under the federal Coronavirus Aid, Relief and Economic Security (CARES) Act. See the "CDBG Coronavirus Response" staff report dated April 5, 2021 for the proposed use of CDBG-CV funds.

2021 Funds available

An estimated \$1,306,414 in CDBG and \$688,711 in HOME funds is available for the 2021 program year starting July 1, 2021 and ending June 30, 2022. While 2021 entitlement amounts have been confirmed by HUD, available funds are subject to change based on program income and spending from previous years' projects.

Application and prioritization process

The application process for 2021 CDBG and HOME funds began in October of 2020. A 27-person volunteer committee composed of community representatives and City staff completed the prioritization process. The committee reviewed grant proposals, attended applicant presentations, scored and prioritized the projects, and suggested funding options.

2021 CDBG awards

Proposed funding awards for 2021 CDBG (\$1,306,414) which supports the following priorities. A list of funding awards and project descriptions are attached.

- **Public services (\$200,701, 15%):** Case management for homeless and at-risk youth; homeless outreach; housing intake and diversion services; and financial literacy/first-time homebuyer education.
- **Business assistance (\$77,200, 6%):** Technical assistance, grants and loans for small business owners. (Note: CDBG-CV funding will provide an additional \$390,577)
- **Public Facilities Improvements (\$25,000, 2%).**
- **Housing services (\$124,118, 10%):** Case management to help households experiencing or at risk of homelessness find and maintain rental housing. Paired with HOME-funded rental assistance.
- **Administration and Implementation (\$329,395 25%):** Staff and administrative costs to carry out the CDBG program and projects. The amount of CDBG funds that may be used

for administration is capped by federal guidelines.

- **City housing rehab program (\$250,000, 19%):** Loans to low-income homeowners to assist with needed repairs that address health, safety and livability issues.
- **City Set-Aside for Fourth Plain Commons Community Center (\$300,000, 23%).**

2021 HOME awards

Proposed funding awards for 2021 HOME (\$688,711) supports the following priorities. A list of funding awards and project descriptions are attached.

- **Rental assistance (\$499,840, 73%):** Assistance with security deposits, rent and utilities to help households experiencing or at risk of homelessness afford housing. Paired with CDBG-funded housing services.
- **Housing projects (\$120,000, 17%):** Construction of multifamily housing for seniors and low-income families. These projects will now be funded through the Affordable Housing Fund.
- **Administration (\$68,871, 10%):** Staff and administrative costs to carry out the HOME program and projects. The amount of HOME funds that may be used for administration is capped by federal guidelines.

Advantage(s)

Projected outcomes of the recommended 2021 projects are shown in the table that follows. The recommended awards would allow the City to continue making progress toward meeting the five-year projected outcomes from the 2019-2023 Consolidated Plan. Note that projects funded in one program year may be implemented and/or completed in subsequent program years.

Projected Outcomes

Project Type	Outcome Measure	Total Benefit
Public Services	Individuals	180
Business Assistance	Businesses	80
Public Facilities	Individuals	5000
Housing Services and Rental Assistance	Households	85
Housing Projects	Units Created	1
Housing Rehab Program	Units Rehabbed	10

Disadvantage(s)

None of note.

Budget Impact

The proposed funding recommendations are supported by the City's federal CDBG and HOME entitlements and program income. There will be minimal impact on the City's budget.

Prior Council Review

March 1, 2021, City Council workshop, 2021 Action Plan funding recommendations.

Action Requested

On Monday, April 5, 2021, following a public hearing, adopt a resolution approving and adopting the 2021 Community Development Block Grant and HOME Investment Partnerships Action Plan, and authorizing the City Manager to execute agreements on behalf of the City of Vancouver, consistent with the 2021 CDBG and HOME Council approved funding awards.

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

ATTACHMENTS:

- ▣ 2021 CDBG & HOME Action Plan Project Descriptions 2021
- ▣ CDBG & HOME Proposed Award Recommendations 2021
- ▣ Action Plan - Resolution
- ▣ Exhibit A - 2021 CDBG and HOME Action Plan
- ▣ Action plan memorandum
- ▣ 2021 Funding Plan - Public Hearing 4.5.2021 - *separate cover*

2021 CDBG/HOME Action Plan
Project Description

The 2021 CDBG and HOME proposed action plan is the result of an application process spanning five months. The Notice of Funds Available (NOFA) was published October 16 and closed December 7, 2020. A scoring committee of 27 community members attended agency presentations and reviewed the applications. These recommendations are the result of their work and support. All recommended projects are consistent with the 5-year Consolidated Plan goals and/or respond to the impacts of COVID-19 on vulnerable community members or the broader economic downturn caused by the pandemic.

PUBLIC SERVICES PROJECTS

Agency	Faith Partners for Housing
Project	Home Share Program
Consolidated Plan Goal	Public Services
Funding Request	CDBG: \$50,701
Funding Recommendation	CDBG: \$50,701
Description	Staffing for program development and implementation of a home share program, matching homeowners with individuals in need of affordable housing. Due to the economic effects of COVID-19 on individuals, the increased affordable housing stock is needed.
Estimated Beneficiaries	40 individuals
Location Description	Services available to residents citywide

Agency	New Life Friends Church
Project	Lord's Gym Recovery Program
Consolidated Plan Goal	Public Services
Funding Request	CDBG: \$75,000
Funding Recommendation	CDBG: \$75,000
Description	Staffing to support a housing program for individuals in recovery. This program will help prevent or address potential increase in homelessness; and serve the currently homeless population that is vulnerable to COVID-19
Estimated Beneficiaries	100 people
Location Description	The Rock Recovery House and Good Samaritan Recovery House

Agency	Restored and Revived
Project	Restored and Revived Mentorship Program
Consolidated Plan Goal	Public Services
Funding Request	CDBG: \$75,000
Funding Recommendation	CDBG: \$75,000

Description	Staffing to support case management to clients who are transitioning into the community from jails and institutions. Services include groups, exercise classes, peer mentorship and strategies to adjust and adapt to the mental health challenges of COVID-19.
Estimated Beneficiaries	40 people
Location Description	Services available to residents citywide

BUSINESS ASSISTANCE PROJECTS

Agency	Partners in Careers
Project	Fruit Valley Village - Microenterprise Support
Consolidated Plan Goal	Economic Development
Funding Request	CDBG: \$77,200
Funding Recommendation	CDBG: \$77,200
Description	Micro-enterprise training to support pop-up markets and contract with the Chamber of Commerce to provide business startup technical assistance.
Estimated Beneficiaries	80 business new owners
Location Description	Services available to residents citywide

PUBLIC FACILITIES IMPROVEMENT

Agency	Washington Timbers FC
Project	Harmony Sports Complex Bathroom Remodel
Consolidated Plan Goal	Public Facilities and Infrastructure
Funding Request	CDBG: \$25,000
Funding Recommendation	CDBG: \$25,000
Description	Remodel of the only two bathroom units at the Harmony Sports complex. This project is part of a larger \$4.5 million safety improvement project that is leveraging \$2.5 million of County money.
Estimated Beneficiaries	5000 individuals
Location Description	Services available to residents citywide

HOUSING SERVICES/RENTAL ASSISTANCE

Agency	Consumer Voices are Born, Inc.
Project	HARPS Enhanced Sustainability Project
Consolidated Plan Goal	Affordable Housing
Funding Request	CDBG: \$110,994 HOME: \$139,056
Funding Recommendation	CDBG: \$18,000 HOME: \$72,000

Description	Rental assistance and housing services/case management to assist participants exiting or diverting from inpatient psychiatric and/or substance use disorder treatment. This project will address health and economic impacts of COVID-19 by providing rental assistance and access to medical care such as vaccines.
Estimated Beneficiaries	10 households
Location Description	Services available to residents citywide

Agency	Janus Youth
Project	The Nest – Rental Assistance and Housing Services
Consolidated Plan Goal	Affordable Housing
Funding Request	CDBG: \$60,000 HOME:\$100,000
Funding Recommendation	CDBG: \$32,000 HOME:\$128,000
Description	Rental assistance and housing services/case management to help chronically homeless youth (young adults) and their families access and maintain housing. These programs address immediate affordability by providing rental assistance and self-sufficiency services.
Estimated Beneficiaries	30 households
Location Description	Services available to residents citywide

Agency	Second Step Housing
Project	Transitional Housing Program
Consolidated Plan Goal	Affordable Housing
Funding Request	CDBG: \$30,000 HOME: \$95,000
Funding Recommendation	CDBG: \$25,000 HOME: \$100,000
Description	Transitional housing program for individuals and households who may have lost work or been evicted due to COVID-19. Providing services and rental assistance while households seek to regain self-sufficiency.
Estimated Beneficiaries	20 households
Location Description	Services available to residents citywide

Agency	Second Step Housing
Project	TBRA Program
Consolidated Plan Goal	Affordable Housing
Funding Request	CDBG: \$20,000 HOME: \$65,000

Funding Recommendation	CDBG: \$17,000 HOME: \$68,000
Description	Rental assistance and housing services/case management to help people experiencing homelessness access and maintain housing.
Estimated Beneficiaries	10 households
Location Description	Services available to residents citywide

Agency	Share
Project	ASPIRE – Rental Assistance and Housing Services
Consolidated Plan Goal	Affordable Housing
Funding Request	CDBG: \$50,000 HOME: \$200,000
Funding Recommendation	CDBG: \$32,118 HOME: \$131,840
Description	Share ASPIRE provides rapid re-housing (RRH) services to quickly house individuals and families experiencing homelessness and facilitate stability going forward.
Estimated Beneficiaries	15 households
Location Description	Services available to residents citywide

HOUSING PROJECTS

Agency	Mercy Housing
Project	PeaceHealth Family Housing
Consolidated Plan Goal	Affordable Housing
Funding Recommendation	HOME: \$120,000
Description	Community Housing Development Organization (CHDO) mandatory set-aside to develop affordable multi-family housing in a lot adjacent to PeaceHealth Medical Campus on Fourth Plain Blvd. Total project will produce 70 units of housing.
Estimated Beneficiaries	1 City restricted affordable unit
Location Description	Lot near PeaceHealth Medical Campus on Fourth Plain

CITY SET-ASIDES

Agency	City of Vancouver
Project	Administration and Implementation
Funding Recommendation	2021 CDBG Administration: \$260,168 2021 CDBG Implementation: \$69,227 2021 HOME Administration: \$68,871
Description	Staff and administrative costs to carry out CDBG and HOME activities.

Agency	City of Vancouver
Project	Housing Rehabilitation Program
Consolidated Plan Goal	Affordable Housing
Funding Recommendation	CDBG: \$250,000
Description	Loans of up to \$25,000 for low-income homeowners to make needed repairs.
Estimated Beneficiaries	10 units/households
Location Description	Services available to residents citywide

Agency	City of Vancouver
Project	Fourth Plain Commons Community Center
Funding Recommendation	CDBG: \$300,000
Consolidated Plain Goal	Public Facilities
Description	Development costs for construction of the community center at Fourth Plain Commons.
Location Description	Fourth Plain Corridor

Recommendations for 2021 CDBG and HOME Awards

These project prioritizations have been recommended by a committee of 27 community members. For further project details please refer to Attachment- 2021 Action Plan Project. Please note:

- 2021 CDBG total funding equals \$1,306,414, including \$5,575 of 2020 program income to support public services
- HOME recommendations use all \$688,711 of the 2021 allocation, primarily supporting rental assistance.

Project	Sponsor	Award	Funding Source	Individuals Served
PUBLIC SERVICES - (Must be COVID related)				
Home Share Program	Faith Partners for Housing	\$50,701	2021 CDBG	40
Lord's Gym Recovery Program	New Life Friends Church	\$75,000	2021 CDBG	100
Restored and Revived Mentorship Program	Restored and Revived	\$75,000	2021 CDBG	40
Total 2021 CDBG Awarded		\$200,701	-	180
Business Assistance/				
Fruit Valley Village - Microenterprise Support	Partners in Careers	\$77,200	2021 CDBG	80
Total 2021 CDBG Awarded		\$77,200	-	80
Non-Profit/Public Facility Improvement				
Harmony Sports Complex Bathroom Remodel	Washington Timbers FC	\$25,000	2021 CDBG	5000
Total 2021 CDBG Awarded		\$25,000	-	5000
Housing Services and Rental Assistance				
Project	Sponsor	2021 CDBG Award	2021 HOME Award	Households
HARPS Enhanced Sustainability Project	Consumer Voices Are Born Inc.	\$18,000	\$72,000	10
Nest-TRBA	Janus Youth Programs, Inc.	\$32,000	\$128,000	30
Second Step Housing -- Transitional Housing Program	Second Step Housing	\$25,000	\$100,000	20
Second Step Housing -- TBRA Program	Second Step Housing	\$17,000	\$68,000	10
Share ASPIRE	Share	\$32,118	\$131,840	15
Total 2021 CDBG and HOME Awarded		\$124,118	\$499,840	85
Housing Projects				
PeaceHealth Family Housing	Mercy Housing	\$120,000	HOME	1
Total 2021 HOME Awarded		\$120,000	-	1
City Set Aside Funds (Not in NOFA)				
Administration	City of Vancouver	\$260,168	2021 CDBG	-
Implementation	City of Vancouver	\$69,227	2021 CDBG	-
Administration (HOME)	City of Vancouver	\$68,871	HOME	-
Housing Rehabilitation Project	City of Vancouver	\$250,000	2021 CDBG	10 Homes
Fourth Plain Commons Community Center	City of Vancouver	\$300,000	2021 CDBG	-
Total 2021 CDBG and HOME set-asides		\$948,266	-	-

*For additional information please visit <https://www.cityofvancouver.us/ced/page/community-development-block-grant-cdbg-and-home-programs>

4/5/2021

RESOLUTION NO. _____

A RESOLUTION relating to the adoption of the City's Community Development Block Grant (CDBG) and HOME Investment Partnerships Annual Action Plan for the 2021 program year; authorizing the City Manager to execute agreements on behalf of the City of Vancouver consistent with the CDBG and HOME Investment Partnerships Annual Action Plan; providing for severability and an effective date.

WHEREAS, the City Council recognizes the importance of providing community development funds for housing and programs that improve the lives of the low-income citizens of the city of Vancouver; and

WHEREAS, the City of Vancouver received its 2021 program year (07-01-21 to 06-30-22) allocation for Community Development Block Grant (CDBG) and HOME Investment Partnership funds through the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the City anticipates having approximately \$1,300,839 in CDBG funds and \$688,711 in HOME funds for the 2021 program year; and

WHEREAS, the dollar amounts are subject to change based on project timing and final contracting requirements; and

WHEREAS, the COVID-19 pandemic has negatively affected the national and local economy; and

WHEREAS, the CDBG and HOME funds will be used to help prevent, prepare for and respond to the negative effects of COVID-19 and other community priorities; and

RESOLUTION - 1

WHEREAS, a grant review committee composed of community members and City staff participated in the initial review process and prioritization of applications; and

WHEREAS, the committee's prioritization have determined the projects that make up the 2021 Action Plan; and

WHEREAS, the City Council reviewed the initial Action Plan funding awards via a workshop on March 1, 2021; and

WHEREAS, adoption of the Action Plan is required to receive and award HUD funding for the 2021 program year.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY OF VANCOUVER:

Section 1. The recitals set forth above are adopted as findings supporting the action of the City Council in adopting this resolution.

Section 2. The 2021 Community Development Block Grant and HOME Investment Partnerships Annual Action Plan, attached as Exhibit A and incorporated by reference, is hereby approved and adopted.

Section 3. The City Manager is hereby authorized to execute agreements on behalf of the City of Vancouver, consistent with the CDBG and HOME Investment Partnerships Annual Action Plan.

Section 4. Severability. If any section, sentence, clause or phrase of this resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this resolution.

RESOLUTION - 2

Section 5. Effective Date. This resolution shall be effective immediately upon adoption.

PASSED BY THE FOLLOWING VOTE:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Signed this _____ day of _____, 2021.

Anne McEnerny Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

RESOLUTION - 3



Draft

**2021 City of Vancouver
Action Plan**

Program Year July 1, 2021- June 30, 2022

Public Hearings:

April 5, 2021 – Public Hearing

City of Vancouver

Anne McEnerny-Ogle, Mayor

Eric Holmes, City Manager

City Council

Bart Hansen, Council Member

Linda Glover, Council Member

Ty Stober, Council Member

Laurie Lebowsky, Council Member

Erik Paulsen, Council Member

Sarah J. Fox, Council Member

Community and Economic Development

Chad Eiken, Director

Teresa Brum, Economic Development and
Implementation Manager

Community Development Block Grant (CDBG) & HOME Program

Peggy Sheehan, Program Manager

Bryan Monroe, Associate Planner

Andrew Westlund, Assistant Planner

Craig Frantz, Housing Rehab Specialist

Executive Summary

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

The 2021 City of Vancouver Action Plan covers the third year of the 2019-2023 Consolidated Plan for Housing and Community Development. The Consolidated Plan is a 5-year plan that determines community needs, resources, priorities, and proposed activities to be undertaken through funding provided by the Community Development Block Grant (CDBG), the HOME Investment Partnerships (HOME) Programs and other Department of Housing and Urban Development (HUD) programs. The Consolidated Plan is updated annually through Action Plans. Action Plans provide information to the public regarding proposed funding allocation for programs and projects for the upcoming program year. 2021 marks Vancouver's 19th year as a CDBG entitlement jurisdiction and the 13th year receiving HOME funds. This year will be another unusual year due to the COVID-19 pandemic. In response to 2020 outbreak of COVID-19 the federal government passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act provided \$5 billion nationally in supplemental CDBG funding for grants to prevent, prepare for and respond to coronavirus (CDBG-CV grants). Additionally, the CARES Act provides CDBG grantees with regulatory flexibilities that make it easier to disperse CDBG-CV funding. The City of Vancouver has received funds from two tranches of CDBG-CV funding, the first round of \$769,471 has been approved and executed with HUD and was added to the 2019 Action Plan to speed up distribution of funds for urgent need. The second round of funds totaling \$1,127,065 has been recommended for allocation and will be added to the 2020 Action Plan upon HUD approval. By adding funds to prior year action plans it allows for the money to be distributed as soon as the HUD agreement is executed, speeding up COVID-19 response efforts.

2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

The City of Vancouver identified the following four goal categories through the Consolidated Plan process:

- Increase and preserve affordable housing opportunity for low-income households and people who are experiencing homelessness.
- Public Services to reduce poverty, increase stability, and prevent and address homelessness for individuals and families. Where possible, support existing community initiatives and target funding to align with City strategic planning efforts.
- Economic Development increases economic opportunity by supporting small businesses. Public Facilities and Infrastructure create and preserve buildings and spaces that serve the public.

3. Evaluation of past performance

The 2021 Action Plan is the third year of the 5-year Consolidated Plan. The table below outlines the progress made under each program goal.

Projected outcomes for 2020 activities are still ongoing. Final outcome totals will be reported with the Consolidated Annual Performance Evaluation Report (CAPER) in September 2021.

Goal	Outcomes	5-yr Plan Total	2019	2020	2021
Affordable Housing	New Rental Units	165 units	0 units	0*	1 unit
Affordable Housing	Rental Rehab	100 units	0 units	0*	0*
Affordable Housing	Homeowner Rehab	0 units	0 units	6 units	10 units
Affordable Housing	New Homeowner housing units	10 units	0 units	0*	0*
Affordable Housing	Homebuyer assistance	8 units	0 units	0*	0*
Affordable Housing	Rental Assistance	250 households	45 households	119 Households*	85 households
Public Services	Services to low/moderate income persons	29,715 persons	5,028 persons	1,253 persons*	180 persons
Economic Development	Increase economic opportunity	150 businesses	50 businesses	725*	80 businesses

Public Facilities	Benefits low/moderate income persons	21,375 persons	144 persons	0*	5000 individuals
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* 2020 CDBG and HOME funds for have been focused on public services and economic development for the Covid-19 pandemic response. In the interim funding for affordable housing construction, acquisition and rehabilitation projects have been shifted to alternative sources such as the Vancouver Affordable Housing Fund.

4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

Vancouver follows a detailed citizen participation plan. All citizens are encouraged to participate in the Action Plan development and review process including low- and moderate-income people, minority and non-English-speaking persons, people with disabilities or HIV/AIDS, homeless persons/agencies, and residents of public and assisted housing developments.

The 2021 application cycle participation process began in October 2020 with a Columbian newspaper publication of the “Notice of Funding Availability”. The notice outlined the available funding for the CDBG and HOME programs and invited interested parties to attend an informational workshop. The notice of available funding, funding application guide, 5-year Consolidated Plan, and Citizen Participation Plan were also posted for reference on the City of Vancouver website. The City also issued a general press release that distributes to various media outlets and formats in the Vancouver- Portland area.

The City’s public participation plan requires that the Action Plan hearing is advertised in The Columbian newspaper at least 30 days before the date of the hearing.

The notice includes:

- Anticipated amount of assistance (including grants funds and program income)
- Range of activities that may be undertaken
- Estimated amount that will benefit low- and moderate-income persons
- Summary of the contents and purpose of the Action Plan
- List of the locations where copies of the entire proposed plan may be examined.

A public hearing notice and request for comments was published in the Columbian newspaper on March 5, 2021. The request for comments expires on April 5, 2021 at 5PM. The draft Action Plan information and request for comments was posted on the city website and posted on City social media formats. A City Council workshop was conducted on March 1, 2021. The hearing information was posted on the City webpage at: <https://www.cityofvancouver.us/ced/page/community-development-block-grant-cdbg-and-home-programs>. (Due to the closure of public facilities during the Covid-19 pandemic placing copies of the 2021 Action Plan in libraries and community centers was not possible).

5. Summary of public comments

No comments have been received at this time.

6. Summary of comments or views not accepted and the reasons for not accepting them

All public comments will be accepted.

7. Summary

Over one year into the Covid-19 pandemic and substantial negative impacts are still affecting the community. In person meetings and access to public buildings are still restricted. Despite city staff providing instructions to the public on how to participate virtually online it is expected that public participation may be lower than in past years.

PR-05 Lead & Responsible Agencies – 91.200(b)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

Describe the agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
CDBG Administrator	VANCOUVER	Department of Community and Economic Development
HOME Administrator	VANCOUVER	Department of Community and Economic Development

Narrative

The City of Vancouver is responsible for administration of CDBG and HOME programs in compliance with the HUD regulations and has responsibility for the final allocation of funds for program activities. The CDBG and HOME funds received from HUD are intended to benefit low and moderate-income individuals, households, and businesses.

Consolidated Plan Public Contact Information

Peggy Sheehan-Programs Manager
Community and Economic Development Department
City of Vancouver
415 W 6th Street
PO BOX 1995
Vancouver WA 98668

AP-10 Consultation – 91.100, 91.200(b), 91.215(I)

1. Introduction

Vancouver works with several public and private organizations in areas such as housing, economic development, homelessness and public services. The community needs far exceed the funding resources available to the City. Consulting with local community service providers helps to foster consensus on the local priority issues.

Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(I))

The City of Vancouver enhances coordination of public, private, and non-profit housing providers, human service agencies, and social service providers through the following actions:

- Appointing the commissioners for the Vancouver Housing Authority Board (PHA).
- Continuing to work with regional jurisdictions including Clark County and the Vancouver Housing Authority to prioritize housing needs, provide services, and maximize the use of federal, state, and local funds for affordable housing, community development, and related services.
- Continuing to participate in coordinated efforts for shelter and services assisting homeless individuals and families.
- Attendance by City Council members on the Council for the Homeless board and local Clark County Community Action Advisory Board.
- Participation by City staff on the committees that provide direction for the Clark County Homeless Action Plan and other planning initiatives.
- Participation by City staff in local service provider coalition meetings and workgroups.
- Consultation with the Washington State Housing Commission.
- Hosting and facilitating homelessness workgroups.
- Administrator for Vancouver Affordable Housing Fund.
- Administrator for Multi-family Tax Exemption projects.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

City of Vancouver staff participates with the Council for the Homeless and area service providers to enhance the community's comprehensive Continuum of Care system to end homelessness. This partnership, known as the Coalition of Service Providers, includes the collaborative efforts of more than 40 community groups, faith communities, government agencies and homeless service providers. The coalition meets regularly to discuss community issues related to homelessness, best practices, and opportunities for collaboration. Staff attends bi-monthly coalition meetings and participates in subgroups dedicated to improving data management, youth access, homelessness prevention, and assessment coordination and updating the Clark County Homeless Action Plan. City staff members are also represented on the Coalition's decision-making body (the CoC Steering Committee).

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

City of Vancouver staff members serve on our local Continuum of Care's decision-making body (CoC Steering Committee). The CoC Steering Committee meets every month and has primary responsibility for ensuring that Homeless Management Information System (HMIS) is fully funded with appropriate policies and procedures. The CoC Steering Committee also works closely with Clark County (ESG recipient) to allocate funds and monitor outcomes. In addition, a Vancouver City Council member serves on the Clark County Community Action Advisory Board which makes allocation decisions for ESG and other local funds dedicated to serve people who are homeless.

2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdiction's consultations with housing, social service agencies and other entities

The public hearing date and details of the draft 2021 Action plan were distributed to over 200 community agencies and partners That included request for comment prior to the City Council hearing on April 5, 2021.

Identify any Agency Types not consulted and provide rationale for not consulting

No agency types are specifically excluded from consultation.

Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	Council for the Homeless	The majority of efforts to improve public health and address homelessness are organized through Clark County, so close collaboration between the City and the County are essential.
Consolidated Plan	Clark County	The majority of efforts to improve public health and address homelessness are organized through Clark County, so close collaboration between the City and the County are essential.
Analysis of Impediments to Fair Housing Choice	City of Vancouver	Fair housing is a complement to the other goals of affordability and inclusion listed in the Consolidated Plan.
Consolidated Plan	City of Vancouver	The Consolidated Plan is a 5-year plan that determines community needs, resources, priorities, and proposed activities to be undertaken through funding provided by the Community Development Block Grant (CDBG), the HOME Investment Partnerships (HOME) Programs and other Department of Housing and Urban Development (HUD) programs.
Fourth Plain Forward	City of Vancouver	Fourth Plain Forward plan is a multi-year City initiative to improve the portion of East Fourth Plain Boulevard known as Vancouver's "international business district" The initiative is focused on strengthening and growing small businesses, creating opportunities for entrepreneurs, improving the corridor's safety and appearance, and promoting equitable and inclusive development.
Homeless Action Plan	Council for the Homeless	A Plan created with input and feedback from members of the general community including key leaders and stakeholders, homeless service providers and individuals experiencing homelessness.

AP-12 Participation – 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

Vancouver follows a detailed citizen participation plan. All citizens are encouraged to participate in the Action Plan development and review process including low- and moderate-income people, minority and non-English-speaking persons, people with disabilities or HIV/AIDS, homeless persons/agencies, and residents of public and assisted housing developments.

The 2021 application cycle participation process began in October 2020 with a Columbian newspaper publication of the “Notice of Funding Availability.” The notice outlined the available funding for the CDBG and HOME programs and invited interested parties to attend an informational workshop. The notice of available funding, funding application guide, 5-year Consolidated Plan, and Citizen Participation Plan were also posted on the City of Vancouver website. The City also issued a press release that distributes to various media outlets and formats in the Vancouver- Portland area.

The City’s public participation plan requires that:

The Action Plan shall be advertised in The Columbian newspaper at least 30 days before the date of the public hearing. The notice must include:

- Anticipated amount of assistance (including grants funds and program income)
- Range of activities that may be undertaken
- Estimated amount that will benefit low- and moderate-income persons
- Summary of the contents and purpose of the Action Plan
- List of the locations where copies of the entire proposed plan may be examined.

A public hearing notice and request for comments was published in the Columbian newspaper on March 5, 2021. The request for comments expired on April 5, 2021. The draft Action Plan and request for comments was posted on the city website and published through City social media formats. On March 1, City Council was provided memo outlining the expected funding resources and uses of the funding in the Action Plan. A City Council workshop was conducted on March 1, 2020. The hearing information was posted on the City webpage at: <https://www.cityofvancouver.us/ced/page/community-development-block-grant-cdbg-and-home-programs>. (Due to the closure of public facilities during the Covid-19 pandemic placing copies of the 2021 Action Plan in libraries and community centers was not possible).

Expected Resources

AP-15 Expected Resources – 91.220(c)(1,2)

Introduction

The City of Vancouver is responsible for administration of CDBG and HOME programs in compliance with the HUD regulations and has responsibility for the final allocation of funds for program activities. HUD has released the 2021 annual entitlements as noted in the anticipated resources and uses tables below.

In addition to the 2021 CDBG and HOME entitlements listed in the table below the City of Vancouver has received an additional \$1,127,065 CDBG-CV funds through the national CARES ACT stimulus package. These funds are being allocated under the 2020 Action Plan to expedite dispersal. All CDBG-CV funds are intended specifically to mitigate the impacts of the Covid-19 virus. Early discussion at the federal and local level has focused on the use of CDBG-CV stimulus dollars to support public services and impacted businesses.

Proposed uses for the additional CDBG-CV funding would broadly include:

Public Services:

Provision of public services to address the impacts of the coronavirus, which may include but is not limited to services concerned with homelessness, employment, health, education, childcare and welfare (excluding provision of income payments).

Business Assistance:

Provide aid to private for-profit businesses and microenterprises impacted by the coronavirus, which may include but is not limited to grants, loans, and technical assistance. Staff will conduct a public process as required via the Citizen Participation Plan for any additional funds received.

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 3				Expected Amount Available Remainder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	Public-Federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	\$1,300,839	\$5,575		\$1,306,414	\$3,712,297	
HOME	Public-Federal	Acquisition Homebuyer Assistance Homeowner Rehab Multifamily Rental Rehab New construction for ownership TBRA	\$688,711	0	0	\$688,711	\$1,421,386	
OTHER-Local AHF	Public-Local	Affordable Housing Production Affordable Housing Preservation Homelessness Prevention Implementation	\$6,000,000	0	\$6,000,000	\$6,000,000	\$12,000,000	

Table 1 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

In 2016, Vancouver passed Proposition 1, a local property tax measure designated for affordable housing construction and preservation, homelessness prevention, and rental assistance. The tax provides \$6 million per year for affordable housing projects. The tax will sunset in 2023. The City of Vancouver may apply CDBG and HOME funding in combination with Proposition 1 affordable housing funding to meet community needs. The City intends to allocate Affordable Housing Funds to affordable housing projects and purpose 2021 CDBG and HOME funding for COVID-19 recovery efforts.

Vancouver has taken action to assist other agencies and organizations in applying for available funds and leveraging other resources to implement housing strategies and programs. Vancouver works with representatives from the private lending community, financial experts, and private and non-profit housing developers and consultants who can provide technical expertise in packaging development proposals. Vancouver has submitted letters of support and verification of consistency for project applications, which support the goals and objectives found in the Housing and Community Development Plan. The City of Vancouver also offers funds to support Low Income Housing Tax Credit projects. The City of Vancouver has worked with the Housing Finance Commission to consider changes to the tax credit allocation method. The CDBG and HOME applications strongly encourage leveraging funds by awarding additional rating points based on the amount of committed matching funds. At this point in the application process projects funded with program year 2021 CDBG and HOME funds have a total of \$7,353,892 in committed matching funds. HUD funds account for approximately 21% of total secured funding for all proposed projects. The amount of matching funds is expected to increase as projects move forward, especially for housing construction projects.

If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

In January 2018 the City of Vancouver purchased an approximately 25,000 square foot building, located at 2018 Grand Boulevard in central Vancouver, for a price of \$4.3 million. The City relocated an existing center for homeless persons (previously located at the Friends of the Carpenter facility in downtown Vancouver). Due to the COVID-19 pandemic this day shelter has been closed for operation and the City is now exploring whether to sell the property. In the interim the site is being used by SEAMAR as a clinic for low income persons.

The City also owns 12 acres of land in a 205-acre area that is being redeveloped for future housing, office, and amenities. The area is called the Heights District and is currently in the planning stages. The draft EIS has been issued and will be open for public comment until the end of May. Affordable and mixed income residential uses are proposed with the plan. One of the plan goals is to have 25% of the new residential units be income-based units.

In March 2021 the City of Vancouver along with Clark County and the Vancouver Housing Authority funded the purchase of an existing 63 room hotel located 9201 NE Vancouver Mall Drive. The Vancouver

Housing Authority will repurpose this hotel to provide shelter for people experiencing homelessness. The total purchase price was \$5.5 million and renovations to building are expected to cost another \$750,000. This shelter will be operated in partnership with Vancouver Housing Authority and expected to be available for occupancy in August 2021

Annual Goals and Objectives

AP-20 Annual Goals and Objectives

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Affordable Housing	2019	2023	Affordable Housing Public Housing Homeless		Increase and preserve affordable housing	CDBG: \$374,118 HOME: \$619,840 AHF: \$6,000,000	Homeowner Housing Rehabilitated: 10 Housing Units Tenant Based Rental Assistance: 85 households assisted
2	Public Services	2019	2023	Homeless Non-homeless Special Needs Non-Housing Community Development		Reduce poverty, increase stability	CDBG: \$200,701	Public service activities for Low/Moderate Income Housing Benefit: 40 Homelessness prevention: 140
3	Economic Development	2019	2023	Non-housing Community Development		Increase economic opportunity	CDBG: \$77,200	Businesses assisted: 80
4	Public Facilities and Infrastructure	2019	2023	Homeless Non-Housing Community Development		Create and preserve public infrastructure	CDBG: \$25,000	Individuals Benefit: 5000

Table 2 – Goals Summary

Goal Descriptions

1	Goal Name	Affordable Housing
	Goal Description	Increase and preserve affordable housing opportunity for low-income households and people who are homeless. <i>Needs addressed:</i> Increase and preserve affordable housing <i>Typical uses:</i> New rental units constructed, existing rental units rehabilitated, homeowner housing rehabilitation, homebuyer assistance, tenant based rental assistance.
2	Goal Name	Public Services
	Goal Description	Reduce poverty, increase stability, and prevent and address homelessness for individuals and families. Where possible, support existing community initiatives and target funding to align with City strategic planning efforts. <i>Needs addressed:</i> Increase and preserve affordable housing / Reduce poverty, increase stability <i>Typical uses:</i> Staffing costs for programs serving low income residents. Emergency grants or loans.
3	Goal Name	Economic Development
	Goal Description	Increase economic opportunities by supporting small businesses. <i>Needs addressed:</i> Increase economic opportunity <i>Typical uses:</i> Staff costs for business assistance programs. Emergency grants or loans for business assistance.
4	Goal Name	Public Facilities and Infrastructure
	Goal Description	Create and preserve buildings and spaces that serve the public. <i>Needs addressed:</i> Create and preserve public infrastructure <i>Typical uses:</i> Construction, maintenance and rehab costs for buildings that provide services to low income residents. Due to the COVID-19 pandemic the City has not funded any public facility or infrastructure projects for the 2020 project year.

Projects

AP-35 Projects – 91.220(d)

Introduction

Vancouver organizes a volunteer committee comprised of community and City program staff members to prioritize annual application funding. The committee application scores guide the prioritization of projects. Prioritized applications are then presented to Vancouver City Council. This year housing application allocations will be reduced (back-filled by other funding sources) while public services, economic development, and rental assistance applications will be given greater priority to prevent, prepare for, and respond to effects of the coronavirus on the local community. The following section describes proposed projects for funding, subject City Council approval, and the resources available in the annual allocation. This Action Plan is consistent with the statutory goals outlined in the strategies and the priority needs listed in the 2019-2023 Consolidated Plan.

Projects

Public Service Applications

Project	Sponsor	Award	Individuals Served
Home Share Program	Faith Partners for Housing	\$50,701	40
Lord's Gym Recovery Program	New Life Friends Church	\$75,000	100
Restored and Revived Mentorship Program	Restored and Revived	\$75,000	40

Economic Development Applications

Project	Sponsor	Award	Individuals Served
Fruit Valley Village - Microenterprise Support	Partners in Careers	\$77,200	80

Public Facility Improvement Applications

Project	Sponsor	Award	Individuals Served
Harmony Sports Complex Bathroom Remodel	Washington Timbers FC	\$25,000	5,000

Housing Services and Rental Assistance

Project	Sponsor	2021 CDBG Award	2021 HOME Award	Households
HARPS Enhanced Sustainability Project	Consumer Voices Are Born Inc.	\$18,000	\$72,000	10
Nest-TRBA	Janus Youth Programs, Inc.	\$32,000	\$128,000	30
Second Step Housing -- Transitional Housing Program	Second Step Housing	\$25,000	\$100,000	20
Second Step Housing -- TBRA Program	Second Step Housing	\$17,000	\$68,000	10
Share ASPIRE—TBRA Program	Share	\$32,118	\$131,840	15

Housing Projects

Project	Sponsor	2021 HOME Award	Households
PeaceHealth Family Housing	Mercy Housing	\$120,000	1

City Set-Aside Funds

Administration	City of Vancouver	\$260,168	-
Implementation	City of Vancouver	\$69,227	
Administration (HOME)	City of Vancouver	\$68,871	-
Housing Rehabilitation Project	City of Vancouver	\$250,000	10 Units
Fourth Plain Commons Community Center	City of Vancouver	\$300,000	-

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The primary obstacle to addressing underserved needs is available financial resources. Allocation priorities were chosen based on:

- Consistency with HUD objectives for CDBG/HOME programs.
- Alignment with the City of Vancouver Consolidated Plan goals.
- Project review committee weighted scoring analysis.
- COVID-19 preparation and response.

AP-38 Project Summary

Project Summary Information

PUBLIC SERVICES PROJECTS

Agency	Faith Partners for Housing
Project	Home Share Program
Consolidated Plan Goal	Public Services
Funding Request	CDBG: \$50,701
Funding Recommendation	CDBG: \$50,701
Description	Staffing for program development and implementation of a home share program, matching homeowners with individuals in need of affordable housing. Due to the economic effects of COVID-19 on individuals, the increased affordable housing stock is needed.
Estimated Beneficiaries	40 individuals
Location Description	Services available to residents citywide

Agency	New Life Friends Church
Project	Lord's Gym Recovery Program
Consolidated Plan Goal	Public Services
Funding Request	CDBG: \$75,000
Funding Recommendation	CDBG: \$75,000
Description	Staffing to support a housing program for individuals in recovery. This program will help prevent or address potential increase in homelessness; and serve the currently homeless population that is vulnerable to COVID-19
Estimated Beneficiaries	100 people
Location Description	The Rock Recovery House and Good Samaritan Recovery House

Agency	Restored and Revived
Project	Restored and Revived Mentorship Program
Consolidated Plan Goal	Public Services
Funding Request	CDBG: \$75,000
Funding Recommendation	CDBG: \$75,000
Description	Staffing to support case management to clients who are transitioning into the community from jails and institutions. Services include groups, exercise classes, peer mentorship and strategies to adjust and adapt to the mental health challenges of COVID-19.
Estimated Beneficiaries	40 people
Location Description	Services available to residents citywide

BUSINESS ASSISTANCE PROJECTS

Agency	Partners in Careers
Project	Fruit Valley Village - Microenterprise Support
Consolidated Plan Goal	Economic Development
Funding Request	CDBG: \$77,200
Funding Recommendation	CDBG: \$77,200
Description	Micro-enterprise training to support pop-up markets and contract with the Chamber of Commerce to provide business startup technical assistance.
Estimated Beneficiaries	80 business new owners
Location Description	Services available to residents citywide

PUBLIC FACILITIES IMPROVEMENT

Agency	Washington Timbers FC
Project	Harmony Sports Complex Bathroom Remodel
Consolidated Plan Goal	Public Facilities and Infrastructure
Funding Request	CDBG: \$25,000
Funding Recommendation	CDBG: \$25,000
Description	Remodel of the only two bathroom units at the Harmony Sports complex. This project is part of a larger \$4.5 million safety improvement project that is leveraging \$2.5 million of County money.
Estimated Beneficiaries	5000 individuals
Location Description	Services available to residents citywide

HOUSING SERVICES/RENTAL ASSISTANCE

Agency	Consumer Voices are Born, Inc.
Project	HARPS Enhanced Sustainability Project
Consolidated Plan Goal	Affordable Housing
Funding Request	CDBG: \$110,994 HOME: \$139,056
Funding Recommendation	CDBG: \$18,000 HOME: \$72,000
Description	Rental assistance and housing services/case management to assist participants exiting or diverting from inpatient psychiatric and/or substance use disorder treatment. This project will address health and economic impacts of COVID-19 by providing rental assistance and access to medical care such as vaccines.
Estimated Beneficiaries	10 households
Location Description	Services available to residents citywide

Agency	Janus Youth
Project	The Nest – Rental Assistance and Housing Services
Consolidated Plan Goal	Affordable Housing
Funding Request	CDBG: \$60,000 HOME: \$100,000
Funding Recommendation	CDBG: \$32,000 HOME: \$128,000
Description	Rental assistance and housing services/case management to help chronically homeless youth (young adults) and their families access and maintain housing. These programs address immediate affordability by providing rental assistance and self-sufficiency services.
Estimated Beneficiaries	30 households
Location Description	Services available to residents citywide

Agency	Second Step Housing
Project	Transitional Housing Program
Consolidated Plan Goal	Affordable Housing
Funding Request	CDBG: \$30,000 HOME: \$95,000
Funding Recommendation	CDBG: \$25,000 HOME: \$100,000
Description	Transitional housing program for individuals and households who may have lost work or been evicted due to COVID-19. Services and rental assistance for households seeking to regain self-sufficiency.
Estimated Beneficiaries	20 households
Location Description	Services available to residents citywide

Agency	Second Step Housing
Project	TBRA Program
Consolidated Plan Goal	Affordable Housing
Funding Request	CDBG: \$20,000 HOME: \$65,000
Funding Recommendation	CDBG: \$17,000 HOME: \$68,000
Description	Rental assistance and housing services/case management to help people experiencing homelessness access and maintain housing.
Estimated Beneficiaries	10 households
Location Description	Services available to residents citywide

Agency	Share
Project	ASPIRE – Rental Assistance and Housing Services
Consolidated Plan Goal	Affordable Housing
Funding Request	CDBG: \$50,000 HOME: \$200,000
Funding Recommendation	CDBG: \$32,118 HOME: \$131,840
Description	Share ASPIRE provides rapid re-housing (RRH) services to quickly house individuals and families experiencing homelessness and facilitate stability going forward.
Estimated Beneficiaries	15 households
Location Description	Services available to residents citywide

HOUSING PROJECTS

Agency	Mercy Housing
Project	PeaceHealth Family Housing
Consolidated Plan Goal	Affordable Housing
Funding Recommendation	HOME: \$120,000
Description	Community Housing Development Organization (CHDO) mandatory set-aside to develop affordable multi-family housing in a lot adjacent to PeaceHealth Medical Campus on Fourth Plain Blvd. Total project will produce 69 units of housing.
Estimated Beneficiaries	1 household
Location Description	Lot near PeaceHealth Medical Campus on Fourth Plain

CITY SET-ASIDES

Agency	City of Vancouver
Project	Administration and Implementation
Funding Recommendation	2021 CDBG Administration: \$260,168 2021 CDBG Implementation: \$69,227 2021 HOME Administration: \$68,871
Description	Staff and administrative costs for CDBG and HOME activities.

Agency	City of Vancouver
Project	Fourth Plain Commons Community Center
Funding Recommendation	CDBG: \$300,000
Consolidated Plain Goal	Public Facilities
Description	Development costs for construction of the community center at Fourth Plain Commons.
Location Description	Fourth Plain Corridor

AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

The City does not currently distribute assistance strictly by geographic area. In the past the City has designated certain areas of focus through Neighborhood Revitalization Strategy Areas (NRSA). At present there are no designated NRSA's in Vancouver.

Discussion

Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Introduction

The City of Vancouver partners with the Vancouver Housing Authority (VHA) and several non-profit and for-profit agencies to assist in projects designed to provide affordable rental and homeowner housing opportunities. As a result of the COVID-19 pandemic the City of Vancouver has shifted housing projects funding to rental assistance and special projects. Funding for housing projects will be provided through other sources. HOME funds will be used to support the production of one affordable housing through the 2021 CHDO set-aside.

One Year Goals for the Number of Households to be Supported	
Homeless	85 households
Non-Homeless	11 households
Special-Needs	0
Total	96 households

Table 3 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	85 households
The Production of New Units	1 household
Rehab of Existing Units	10 households
Acquisition of Existing Units	0
Total	96 households

Table 4 - One Year Goals for Affordable Housing by Support Type

AP-60 Public Housing – 91.220(h)

Introduction

Vancouver partners with the Vancouver Housing Authority (VHA) and several non-profit agencies to assist in projects designed to provide affordable rental and homeowner housing, including assistance to people with disabilities and homeless individuals and families.

The program year funding includes providing Housing Choice Vouchers in the form of tenant based rental assistance and project based rental assistance to residents of Vancouver.

Actions planned during the next year to address the needs to public housing

Prior to 2019 the Vancouver Housing Authority (VHA) had converted all of its public housing units under the Rental Assistance Demonstration program and no longer operated public housing units. In 2019 VHA reintroduced 28 units of Public Housing with the Caples Terrace project which houses homeless youth and youth that have aged out of foster care. Public Housing funds were used for the construction of Caples Terrace and 2020 will mark the first year the project will receive public housing operating subsidy. VHA is also working to complete a renovation of Central Park Place and designate some of the units within that development as public housing. Central Park Place is located on the Veteran Affairs Campus and provides housing to homeless veterans.

VHA also partners with local non-profits to develop new public housing units to better assist residents. Housing Initiative is currently constructing a new 46-unit development targeting individuals with behavioral health challenges called The Elwood. Construction on the project commenced in February of 2020 and is expected to be completed by early 2021. All 46 units at The Elwood will be designated as public housing. Additionally, VHA is partnering with Columbia Non-Profit Housing to designate 29 units at Englund Manor Senior Apartments as public housing and complete a small rehabilitation project.

Actions to encourage public housing residents to become more involved in management and participate in homeownership

To encourage public housing residents to become more involved in the work of the VHA, residents are encouraged to participate with the VHA Resident Advisory Board (RAB). The RAB meets several times a year to discuss and provide input on VHA initiatives. The VHA has a Resident Commissioner who is appointed by the mayor of Vancouver and serves on the VHA Board of Commissioners. The Resident Commissioner must be housed in public housing or receive a Section 8 Housing Choice Voucher. Homeownership is encouraged for those individuals in Public Housing and Section Family Self-Sufficiency programs. Family Self-Sufficiency (FSS) participants create a success plan to use training, education and other community resources to become self-sufficient within five years. As part of the FSS program any increase in the tenant's share of rent due to increases in income are paid into an escrow account that become available to the participant upon the successful completion of their success plan. Many participants use the escrow account for the down payment on a home.

If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

The VHA is not a troubled housing authority. The VHA is rated as a high-performing agency by the U.S. Department of Housing and Urban Development.

AP-65 Homeless and Other Special Needs Activities – 91.220(i)

Introduction

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs, and

Addressing the emergency shelter and transitional housing needs of homeless persons

The City of Vancouver will continue to partner with Share's Outreach program and Council for the Homeless' Housing Solutions Center, which are the two major local organizations that conduct outreach to the current homeless population. Additionally, the City of Vancouver will use other funding sources (Affordable Housing Fund, CDBG-CV) to support temporary shelters. The City has also partnered with the Vancouver Housing Authority to acquire a 63-room hotel to convert to a non-congregate shelter.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

The City of Vancouver funds several organizations that assist people who are currently experiencing homelessness and are transitioning to permanent housing and independent living. The programs funded at Janus Youth are designed to assist homeless youth and young people exiting the foster home system to develop life skills and achieve independent housing through case management and rental assistance. The proposed Revived and Restored mentorship program will provide case management to clients who are transitioning into the community from jails and institutions. All rental assistance programs funded by the City prioritize transitioning individuals out of homelessness. One hundred percent of the households served are projected to be off the street, temporary shelters, fleeing domestic violence or transitioning from mental health institutions.

In response to the COVID-19 crisis the 2021 housing production funding allocation has been shifted to increase funding for five tenant based rental assistance housing services programs to stabilize and transition at risk and homeless households.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

The City of Vancouver has entered into an agreement with the Homelessness Prevention Consortium, which brings together a number of local agencies that work to prevent homelessness through short-term rental assistance. This assistance specifically targets vulnerable people who might have a temporary crisis, such as losing a job, a sudden illness, or the breakdown from a relationship. Additionally, this assistance is open to anyone who qualifies. The Consortium asserts that the provision of several months of rental assistance is a much more cost-effective way to prevent homelessness in contrast to providing services to people who have an eviction on record and are currently experiencing homelessness. HOME funded rental assistance will be used to help low-income households plug gaps in income that might occur as the result of serious illness, relationship breakdown, or other emergency income circumstances. CDBG funds will be used to staff case management programs for individuals in TBRA programs, mentorship programs for those existing jail, and individuals in addiction recovery.

AP-75 Barriers to affordable housing – 91.220(j)

Introduction:

Clark County is still experiencing a significant demand for rental units with vacancy rates of 4.7 percent and continually increasing rents. Unemployment rates have spiked in the last year, due to the pandemic, reaching a high of 13.1% in June 2020. The loss of income for these households has created a significant barrier to maintaining housing. Once the eviction moratorium ends, households who have fallen behind on rent may become homeless. Approximately half of all renters in our community are considered cost-burdened (spend 30% or more of their income on housing). The 2020 fourth quarter multifamily report from Colliers International indicates the City of Vancouver had a year over year rent increase of 4.2%. The recent COVID-19 crisis has had a significant negative impact on the local economy. With the Governor's "Stay at Home" proclamation, social distancing practices, and closures of non-essential businesses it is expected that there will be a significant increase in the need for rental assistance and affordable housing sources. The City of Vancouver recognizes the importance of housing in fostering a healthy and livable community. Vancouver is committed to promoting safe, affordable housing and reducing homelessness through the City's funding, partnership, and policy efforts.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

Continuing efforts to remove barriers include:

- Management and implementation of the affordable housing levy funding.
- Implementation of a development fee waiver for affordable housing.
- Land use code revisions to reduce barriers for affordable housing development.
- Expansion of the local multi-family tax exemption program.
- Serve residents at an income lower than the established of the surrounding metropolitan statistical area- area median income.

AP-85 Other Actions – 91.220(k)

Introduction:

The City of Vancouver has multiple strategies to meet the needs of the community. Although the CDBG and HOME fund contributions are small, they are a very important funding component.

Actions planned to address obstacles to meeting underserved needs

Several projects proposed for funding under the 2021 Action Plan address the goal of meeting underserved needs. Janus Youth will provide rental assistance to homeless and at-risk youth aging out of foster care. The Lord's Gym Mentorship program will assist individuals transitioning into the community from jails and institutions with group, fitness, and case management activities. The Consumer Voices are Born HARPS program will provide rental assistance and services to support individuals with significant behavioral and mental health concerns.

Actions planned to foster and maintain affordable housing

The City of Vancouver uses the state Multi-Family Housing Tax Exemption provisions to encourage new private multi-housing development and redevelopment within designated target areas to accommodate future population growth and encourage affordable housing. Housing projects using the affordability option must provide 20% of the total units as income restricted in which tenants pay no more 30% of their income for housing costs.

The exemptions last for 8, 10, or 12 years based on the level of income they chose to serve (100, 80 or 60 % area median income).

The City of Vancouver also uses a voter approved levy of \$42 million to fund projects that benefit very low-income households within the city who earn 50 percent or less of the area median income. Through 2023, the City will make funding available to community partners for projects and programs that:

- Build and preserve long-term affordable housing in Vancouver
- Provide temporary shelter to people experiencing homelessness
- Provide rental assistance and services to help households avoid an eviction or access a rental unit

Actions planned to reduce lead-based paint hazards

The City continues to require lead-based testing for houses during housing quality and safety inspections and for any rental assistance units and rehabilitation construction on structures built before 1978.

Actions planned to reduce the number of poverty-level families

The City of Vancouver continues to fund various types of assistance from rental assistance, substance abuse recovery, new and rehabilitated affordable housing units and business assistance to help stabilize at risk populations and move them forward into self-sufficiency.

Actions planned to develop institutional structure

City Council members and other city staff members serve on various nonprofit agency boards including service providers, economic development companies and chambers of commerce.

City of Vancouver Council members are also participants of the Community Action Advisory Board which awards various community funding to nonprofit agencies for homelessness prevention and other basic services. The City also participates in the coordination of social services, job training and housing programs through the Continuum of Care and Community Action Advisory Board.

Actions planned to enhance coordination between public and private housing and social service agencies

The City of Vancouver has a wide variety of programs and involve partnerships between public housing providers and private developers. The City continues to create and utilize new and innovative funding sources such as the local Affordable Housing Fund and Multifamily Tax Exemption programs that are available to private developers and public housing agencies allow the City to further supplement CDBG and HOME funding.

Program Specific Requirements

AP-90 Program Specific Requirements – 91.220(l)(1,2,4)

Introduction:

Community Development Block Grant Program (CDBG)

Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. <i>The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed</i>	\$0
2. <i>The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan</i>	\$0
3. <i>The amount of surplus funds from urban renewal settlements</i>	\$0
4. <i>The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan.</i>	\$0
5. <i>The amount of income from float-funded activities</i>	\$0
<i>Total Program Income</i>	\$0

Other CDBG Requirements

1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	90%

HOME Investment Partnership Program (HOME)

Reference 24 CFR 91.220(l)(2)

1. A description of other forms of investment being used beyond those identified in Section 92.205 is as follows:

The City of Vancouver does not use HOME funds other than dictated by 92.205.

2. A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:

The 2021 Action Plan does not propose any new HOME projects that require resale or recapture guidelines.

3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:

The 2021 Action Plan does not propose any new HOME projects that require resale or recapture guidelines.

4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:

The City of Vancouver does not anticipate using HOME funds in this manner.

MEMORANDUM

DATE: March 17, 2021

TO: Eric Holmes, City Manager

CC: Chad Eiken, Director CED
Teresa Brum, Manager, Economic Development

FROM: Peggy Sheehan, Community and Economic Development Programs Manager

RE: 2021 Program Year CDBG/HOME Action Plan submission to HUD

Key Points

- The Department of Housing and Urban Development (HUD) requires an annual Action Plan that outlines how the City intends to allocate CDBG and HOME resources.
- CDBG and HOME projects awarded funding through the 2021 Action Plan process must be consistent with the goals and objectives established in the City's 5-year Consolidated Plan (2019-2023).
- The Department of Housing and Urban Development (HUD) requires two public hearings per year to solicit and receive public comments on the HUD programs administered by the City of Vancouver.
- The public hearing for the 2021 Action Plan, before submitting to HUD, is scheduled April 5, 2021.

Present Situation

Prior to submitting the annual CDBG/HOME Action Plan to HUD, the Vancouver City Council reviews and approves the recommended funding allocations at a public hearing. The posted public notice period and scheduled public hearing for the Action Plan satisfies a HUD requirement for public comment and participation.

The process for 2021 CDBG and HOME application funds began in October of 2020. The City received 36 proposals with funding requests totaling approximately \$6.7 million. (many of these proposals were funded by other sources such as the Affordable Housing Fund and CARES Act CDBG-CV funding)

A volunteer committee composed of community representatives and City staff reviewed the grant proposals, attended the applicant presentations, and then scored and provided a prioritized list the projects. A full list of recommended projects and funding awards, with by a brief description of each project, is provided with the Action Plan Resolution. A list of the proposed projects that did not receive a funding recommendation is also provided.

Attached is the Executive Summary for the 2021 Action plan submittal to HUD. The summary contains information on the funding amounts, the goals and progress toward meeting the Consolidated Plan 5-year outcome expectations, and a summary of the public outreach. For additional please go to <https://www.cityofvancouver.us/ced/page/community-development-block-grant-cdbg-and-home-programs>.

Next steps

April 5, 2021	Public hearing to adopt 2021 Action Plan
May 17, 2020	Deadline to submit final 2021 Action Plan to HUD

Attachments

2021 CDBG/HOME Action Plan Executive Summary

Executive Summary

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

The 2021 City of Vancouver Action Plan covers the third year of the Vancouver 2019-2023 Consolidated Plan for Housing and Community Development. The Consolidated Plan is a 5-year plan that determines community needs, resources, priorities, and proposed activities to be undertaken through funding provided by the Community Development Block Grant (CDBG), the HOME Investment Partnerships (HOME) Programs and other Department of Housing and Urban Development (HUD) programs. The Consolidated Plan is updated annually through Action Plans. Action Plans provide information to the public regarding proposed funding allocation for programs and projects for the upcoming program year. 2021 marks Vancouver's 19th year as a CDBG entitlement jurisdiction and the 13th receiving HOME funds. This year will be another unusual year due to the COVID-19 pandemic. In response to 2020 outbreak of COVID-19 the federal government passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act provided \$5 billion nationally in supplemental CDBG funding for grants to prevent, prepare for and respond to coronavirus (CDBG-CV grants). Additionally, the CARES Act provides CDBG grantees with regulatory flexibilities that make it easier and faster to disperse CDBG-CV funding. The City of Vancouver has received funds from two tranches of CDBG-CV funding, the first round of \$769,471 has been approved and executed with HUD and was added to the 2019 Action Plan to speed up use of funds for urgent need. The second round of \$1,127,065 of funds has been recommended for allocation and will be added to the 2020 Action Plan upon HUD approval. By adding funds to prior year action plans it allows for the money to be distributed as soon as the HUD agreement is executed, speeding up COVID-19 response efforts.

2. Summarize the objectives and outcomes identified in the Plan

The City of Vancouver identified the following four goal categories through the Consolidated Plan process:

- Increase and preserve affordable housing opportunity for low-income households and people who are experiencing homelessness.
- Public Services to reduce poverty, increase stability, and prevent and address homelessness for individuals and families. Where possible, support existing community initiatives and target funding to align with City strategic planning efforts.
- Economic Development increases economic opportunity by supporting small businesses. Public Facilities and Infrastructure create and preserve buildings and spaces that serve the public.

3. Evaluation of past performance

The 2021 Action Plan is the third year of the 5-year Consolidated Plan. The table below outlines the progress made under each program goal. Projected outcomes for 2020 activities are still ongoing. Final outcome totals will be reported with the Consolidated Annual Performance Evaluation Report (CAPER) in September 2021.

Goal	Outcomes	5-yr Plan Total	2019	2020	2021
Affordable Housing	New Rental Units	165 units	0 units	0*	1 unit
Affordable Housing	Rental Rehab	100 units	0 units	0*	0*
Affordable Housing	Homeowner Rehab	0 units	0 units	6 units	10 units
Affordable Housing	New Homeowner housing units	10 units	0 units	0*	0*
Affordable Housing	Homebuyer assistance	8 units	0 units	0*	0*
Affordable Housing	Rental Assistance	250 households	45 households	119 Households*	85 households
Public Services	Services to low/moderate income persons	29,715 persons	5,028 persons	1,253 persons*	180 persons
Economic Development	Increase economic opportunity	150 businesses	50 businesses	725*	80 businesses
Public Facilities	Benefits low/moderate income persons	21,375 persons	144 persons	0*	5000 individuals

* 2020 CDBG and HOME funds for affordable housing construction, acquisition and rehabilitation projects have been focused on public services and economic development for the Covid-19 pandemic response. Funding for affordable housing construction, acquisition and rehabilitation projects have been shifted to alternative sources such as the Vancouver Affordable Housing Fund.

4. Summary of Citizen Participation Process and consultation process

Vancouver follows a detailed citizen participation plan. All citizens are encouraged to participate in the Action Plan development and review process including low- and moderate-income people, minority and non-English-speaking persons, people with disabilities or HIV/AIDS, homeless persons/agencies, and residents of public and assisted housing developments.

The 2021 application cycle participation process began in October 2020 with a Columbian newspaper publication of the "Notice of Funding Availability". The notice outlined the available funding for the CDBG and HOME programs and invited interested parties to attend an informational workshop. The notice of available funding, funding application guide, 5-year Consolidated Plan, and Citizen Participation Plan were also posted for reference on the City of Vancouver website. The City also issued a general press release that distributes to various media outlets and formats in the Vancouver- Portland area.

The City's public participation plan requires that the Action Plan hearing is advertised in The Columbian newspaper at least 30 days before the date of the hearing.

The notice shall include:

- Anticipated amount of assistance (including grants funds and program income)
- Range of activities that may be undertaken
- Estimated amount that will benefit low- and moderate-income persons
- Summary of the contents and purpose of the Action Plan
- List of the locations where copies of the entire proposed plan may be examined.

A public hearing notice and request for comments was published in the Columbian newspaper on March 5, 2021. The request for comments expires on April 5, 2021 at 5PM. The draft Action Plan information and request for comments was posted on the city website and posted on City social media formats. A City Council workshop was conducted on March 1, 2021. The hearing information was posted on the City webpage at: <https://www.cityofvancouver.us/ced/page/community-development-block-grant-cdbg-and-home-programs>. (Due to the closure of public facilities during the Covid-19 pandemic placing copies of the 2021 Action Plan in libraries and community centers was not possible).

5. Summary of public comments

No comments have been received at this time. Comments will be accepted before and during the public hearing.

6. Summary of comments or views not accepted and the reasons for not accepting them

All public comments on the Action Plan will be accepted.

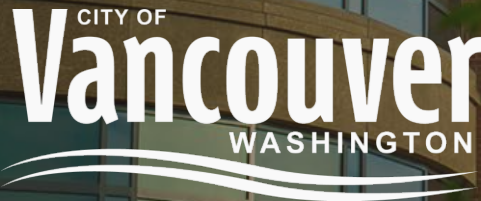
7. Summary

A summary of all comments received during the public hearing process will be created and forwarded to HUD for review.

The background of the slide features a photograph of Vancouver City Hall, a modern building with a curved facade and large glass windows. The words "VANCOUVER CITY HALL" are visible on the building's facade. In the foreground, there are vibrant pink flowers, likely petunias, which are slightly out of focus, adding a touch of color and life to the urban scene.

2021 Action Plan and AHF Approval

Community Development Block Grant (CDBG),
HOME Investment Partnerships Program
Affordable Housing Fund (AHF)



April 5, 2021

Vancouver City Council Public Hearing

Peggy Sheehan, Community Development Programs Manager

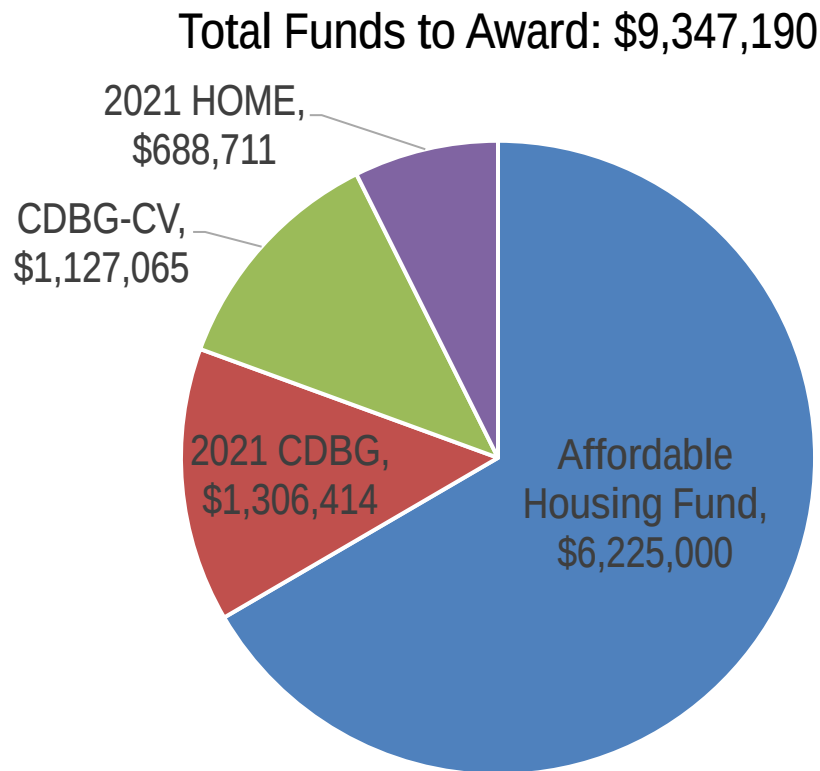
Bryan Monroe, Associate Planner

Andrew Westlund, Assistant Planner

Presentation Overview

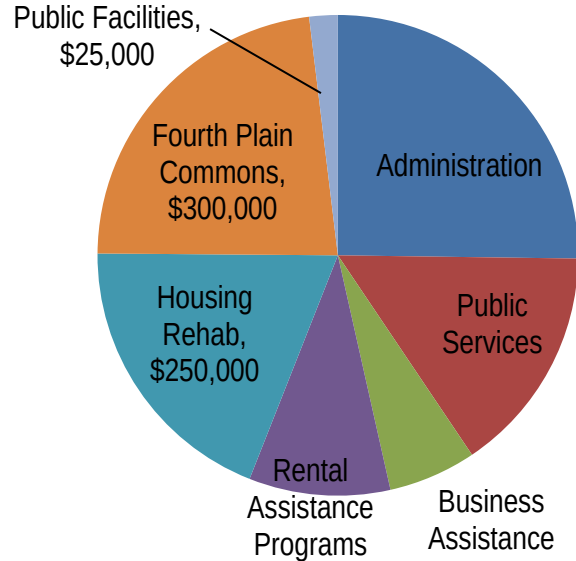
- Funding Sources Overview
 - What Funding Available
- CDBG,CDBG-CV and HOME Action Plan recommendations
- AHF funding recommendations
- Council Requested Action

Summary of Fund Sources for Awards

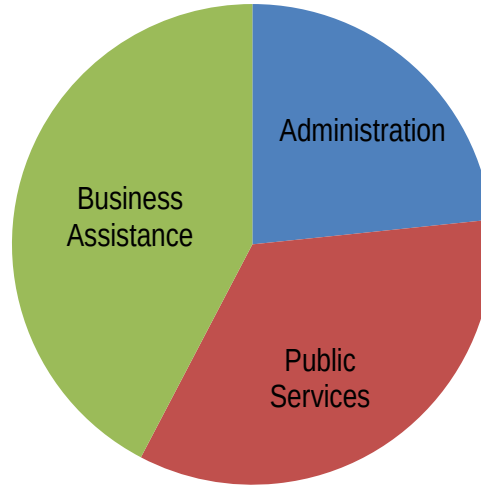


Summary of Action Plan funding sources and uses

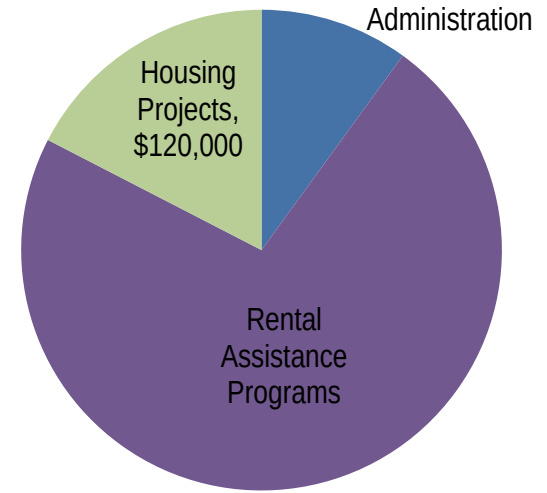
2021 CDBG: \$1,306,414



CDBG-CV: \$1,127,065



2021 HOME: \$688,711



Administration:	\$661,508
Public Services:	\$587,484
Business Assistance:	\$554,240
Rental Assistance Programs:	\$623,958

Public Services – CDBG & CDBG-CV*

Sponsor	Recommended Funding	Anticipated # Served
Boys and Girls Club of SW Washington	\$50,000	135
Bridgeview Housing	\$41,787	650
Council for the Homeless	\$75,000	134
Faith Partners for Housing	\$50,701	40
Janus Youth Programs. Inc.	\$75,000	115
New Life Friends Church	\$75,000	100
NW Furniture Bank	\$20,000	480
Partners in Careers	\$74,996	80
Restored and Revived	\$75,000	40
Share	\$50,000	350
Totals	\$587,484	2124

Small Business Assistance- CDBG & CDBG-CV*

Agency	Recommended Funding	Anticipated # Served
Clark College	\$188,825	40
Vancouver Chamber of Commerce	\$125,000	275
Hispanic Metropolitan Chamber of Commerce	\$75,000	30
Mercy Corps Northwest	\$88,215	100
Partners in Careers	\$77,200	80
Total	\$554,240	525

Public Facility Improvements- CDBG

Project	Sponsor	Recommended Funding	Anticipated # Served
Harmony Sports Complex Bathroom Remodel	Washington Timbers FC	\$25,000	5000

Housing Projects- HOME

Project	Sponsor	Recommended Funding	60% AMI Units Produced
PeaceHealth Family Housing	Mercy Housing	\$120,000	1

- Mercy Housing meets the HOME CDHO requirements

Housing Services and Rental Assistance

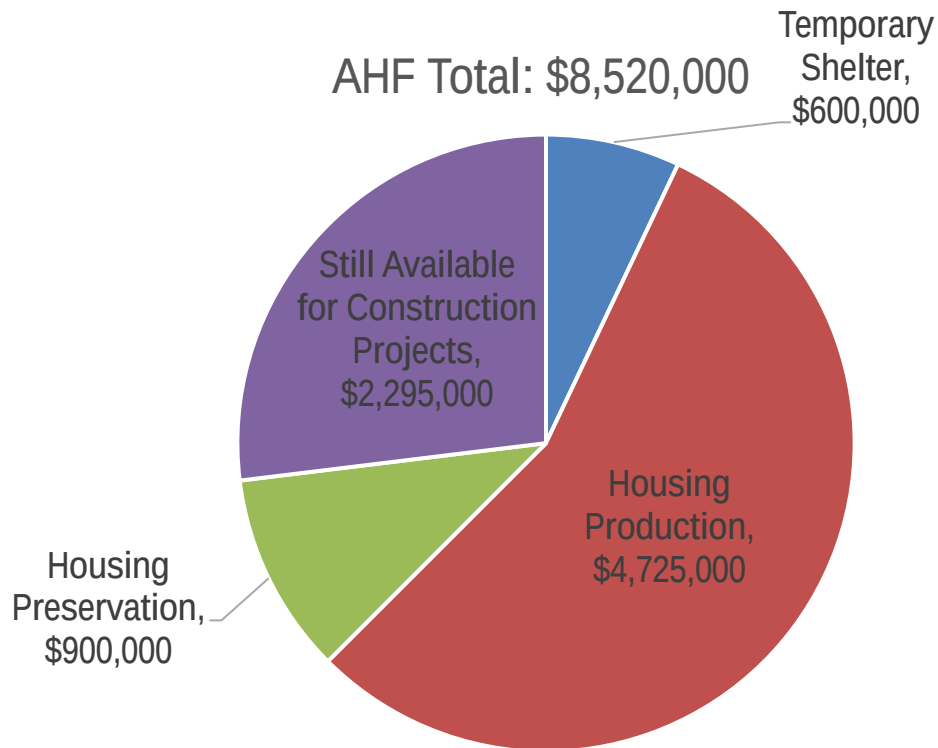
Agency	Recommended CDBG Award	Recommended HOME Award	Est. Households Served
Janus Youth	\$32,000	\$128,000	30
Second Step Housing	\$25,000	\$100,000	20
Consumer Voices are Born, Inc.	\$18,000	\$72,000	10
Second Step Housing	\$17,000	\$68,000	10
Share	\$32,118	\$131,840	15
TOTAL	\$124,118	\$499,840	85*

*Providers state that all participants served are exiting homelessness. They will either be living on the street, in a car, in a place not meant for habitation, in a temporary shelter, fleeing domestic violence or being discharged to the street from an institution.

City Set-Asides for Admin and Projects

Project	Recommended Funding
Administration and Implementation (CDBG)	\$329,395
Administration and Implementation (CDBG-CV)	\$263,242
Administration (HOME)	\$68,871
Housing Rehabilitation Project (CDBG)	\$250,000
Fourth Plain Commons Community Center (CDBG) –Will be combined with \$300,000 of unused 2017 and 2018 CDBG funds	\$300,000
Total Recommended for City Set-Aside Funding	\$1,211,508

AHF Summary of Funding and Uses



Temporary Shelter Projects- AHF

Project	Recommended Funding	Anticipated # Served
Outsiders Inn at St. Paul Shelter	\$202,277	175
Share's WHAT Shelter	\$200,250	75
XChange Recovery From Homeless to Recovery and Sustainability Phase 2	\$197,473	350
Temporary Shelter Award Totals	\$600,000	600

Housing Projects- AHF

Project	Recommended Funding	AMI Eligible Units
Ginn Gives 65th Avenue Apartments	\$975,000	13
Ginn Gives 138th Ave Townhomes	\$225,000	3
Lifeline Connections Recovery Home for Mothers	\$125,000	9
Mercy Housing PeaceHealth Family Housing	\$200,000	3
Proud Ground Permanently Affordable Homeownership	\$250,000	3
Second Step Housing - Acquisition	\$900,000	26
Minority Coalition Property Acquisition	\$300,000	3
Vancouver Housing Authority Fruit Valley Commons-Modernization	\$700,000	18
Vancouver Housing Authority 31 st St. Tiny Home Project	\$250,000	4
Vancouver Housing Authority Central Park Preservation	\$200,000	5
Vancouver Housing Authority Fourth Plain Commons	\$1,500,000	20
Housing Projects Award Totals	\$5,625,000	107



Council action requested

- Approve 2021 Action Plan
- Approve use of CDBG-CV funds (\$1,127,065) to amend 2020 Action Plan for immediate use
- Approve use of Affordable Housing Fund for Housing and Temporary Shelter projects
 - \$5,625,000 for Housing Production and Preservation
 - \$600,000 for Temporary Shelter
 - \$2,295,000 set aside for Tax Credit projects

Questions and Discussion

- Peggy Sheehan, Community Development Programs Manager
- peggy.sheehan@cityofvancouver.us, 360-487-7952



Staff Report 056-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 4/5/2021

SUBJECT 2020 and 2021 Affordable Housing Fund Project Awards

Key Points

- Proposed 2020 and 2021 Affordable Housing Fund awards totaling \$600,000 would support three temporary shelter service projects. The funding would help address homelessness for an estimated 600 individuals by providing temporary shelter, case management, services and outreach.
- Proposed 2020 and 2021 Affordable Housing Fund awards totaling \$5.625 million would support housing production and preservation projects. The projects would add 279 new units serving low-income families and individuals in treatment for mental health or substance abuse and preserve 142 existing units for low income families and homeless individuals.
- The proposed \$5.625 million for housing production and preservation projects will produce at total of 107 City restricted affordable housing units for households at or less than 50% AMI.

Strategic Plan Alignment

Goal 3, Objective 3.2: Improve services available to underserved or vulnerable residents.

Present Situation

Council action is requested to approve proposed Affordable Housing Fund awards for three temporary shelter services projects and 11 housing production and preservation projects.

Proposed 2020 and 2021 Temporary Shelter Services Awards

The Affordable Housing Fund Administrative and Financial Plan includes an annual allocation of \$300,000 for temporary shelter projects and services to prevent or address homelessness. The City released a request for applications in October 2020 for eligible projects, combining 2020 and 2021 funds for a total of \$600,000 for temporary shelter projects. These projects provide temporary shelter, case management and services to help participants work toward self-sufficiency.

The City received three applications, from Outsiders Inn, Share's Women's Housing and Transition (WHAT) program and XChange Recovery. A review committee made up of 27 community members and City employees has recommended awards of \$202,277 for Outsiders Inn, \$200,250 for Share and \$197,473 for XChange Recovery. The three projects would serve an estimated 300 individuals in shelter and another 300 through street outreach. See attached summaries for a detailed description of each project.

Proposed 2020 and 2021 Temporary Shelter Services Projects

Project	Sponsor	Award	Individuals Served
Outsiders Inn at St. Paul Shelter	Outsiders Inn	\$202,277	175
Share's WHAT Shelter	Share	\$200,250	75
From Homeless to Recovery and Sustainability	Xchange Recovery	\$197,473	50 housed 300 outreach
Temporary Shelter Award Totals		\$600,000	600

Proposed 2020 and 2021 Housing Production and Preservation Awards

Proposed awards totaling \$5.625 million would support 11 housing production and preservation projects that were prioritized by the prioritization committee.

The \$5.625 million to support these projects is available from 2020 and 2021 levy years. There is also an additional \$2.295 million reserved for eligible low-income housing tax credit projects, project cost over runs due to increased cost and other projects. Mercy-PeaceHealth Family Housing and Central Park Place were selected as Federal Low-Income Housing Tax Credit Projects.

The projected outcome of the Affordable Housing Fund awards is 421 units (279 new, 142 preserved) serving households earning up to 50% AMI. Of these 421 units, 107 will be City covenanted to maintain affordable housing stock. Two of the projects (Mercy-PeaceHealth Family Housing, and Central Park Place) previously received Affordable Housing Fund awards and require the additional funding to move forward. The City will place affordability covenants on additional 50% AMI units for projects that receive an increased award. See attached summaries for a detailed description of each project.

Proposed 2020 and 2021 Housing Production and Preservation Projects

Project	Sponsor	Award	Total Units	City Units
65th Avenue Apartments	Ginn Gives	\$975,000	50	13
138th Ave Townhomes	Ginn Gives	\$225,000	9	3
Recovery Home for Mothers	Lifeline Connections	\$125,000	9	9
PeaceHealth Family Housing	Mercy Housing	\$200,000	69	3
Permanently Affordable Homeownership	Proud Ground	\$250,000	3	3
Second Step Housing - Acquisition	Second Step Housing	\$900,000	26	26
Property Acquisition for AFH housing SMI homeless	The Minority Coalition	\$300,000	3	3

individuals				
Fruit Valley Commons-Modernization	Vancouver Housing Authority	\$700,000	18	18
31st St. Tiny Home Project	Vancouver Housing Authority	\$250,000	4	4
Central Park Preservation	Vancouver Housing Authority	\$200,000	124	5
Fourth Plain Commons	Vancouver Housing Authority	\$1,500,000	106	20
Housing Project AHF Fund Totals		\$5,625,000	421	107

Advantage(s)

1. Provide shelter, case management, and services to an estimated 300 people who are homeless and outreach to help an estimated 300 people experiencing homelessness gain shelter and access self-sufficiency services to increase long-term housing stability.
2. Support the construction of 173 units serving and families earning up to 50% AMI, and the preservation of 142 units for low income families and very low-income homeless individuals.
3. Allow the five housing production and preservation projects to receive other funding the developers have applied for. The Affordable Housing Funds are "first in" funding, which would be needed for the project to access other sources of funds.
4. Will maximize the impact of City funds by leveraging federal tax credits and other sources of funding. The \$5.625 million from the Affordable Housing Fund supports housing production and preservation projects that will total more than \$85 million in improvements.

Disadvantage(s)

None.

Budget Impact

The proposed \$600,000 for temporary shelter services and \$5.625 million for housing production and preservation projects is provided by Affordable Housing Fund revenues.

Prior Council Review

March 1, 2021, City Council workshop – Proposed Affordable Housing Fund awards

Action Requested

On Monday, April 5, 2021, following a public hearing, adopt a resolution adopting the proposed 2020 and 2021 Affordable Housing Fund awards for temporary shelter services, housing production, and housing preservation, and authorizing the City Manager to execute agreements on behalf of the City of Vancouver, consistent with the Affordable Housing Fund 2020 and 2021 Council approved funding awards.

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

ATTACHMENTS:

- ▢ AHF Proposed Award Recommendations
- ▢ 2021 AHF Project Descriptions
- ▢ Resolution - 2020-2021 Affordable Housing Funds

Recommendations for Affordable Housing Fund Awards

These project prioritizations have been recommended by a committee of 27 community members. For further project details please refer to Attachment- 2021 Action Plan Project. Please note:

•AHF is recommending funding \$6,225,000 for temporary shelter operating expenses and affordable housing production and preservation

Project	Sponsor	Award	Funding Source	Individuals Served
Temporary Shelter Projects				
Outsiders Inn at St. Paul Shelter	Outsiders Inn	\$202,277	AHF	175
Share's WHAT Shelter	Share	\$200,250	AHF	75
From Homeless to Recovery and Sustainability Phase 2	Xchange Recovery	\$197,473	AHF	50 housed 300 outreach
Temporary Shelter Award Totals		\$600,000	-	600
Housing Projects				
Project	Sponsor	Award	Total Units	City Units
65th Avenue Apartments	Ginn Gives	\$975,000	50	13
138th Ave Townhomes	Ginn Gives	\$225,000	9	3
Recovery Home for Mothers	Lifeline Connections	\$125,000	9	9
PeaceHealth Family Housing	Mercy Housing	\$200,000	69	3
Permanently Affordable Homeownership	Proud Ground	\$250,000	3	3
Second Step Housing - Acquisition	Second Step Housing	\$900,000	26	26
Property Acquisition for AFH housing SMI homeless individuals	The Minority Coalition	\$300,000	3	3
Fruit Valley Commons-Modernization	Vancouver Housing Authority	\$700,000	18	18
31st St. Tiny Home Project	Vancouver Housing Authority	\$250,000	4	4
Central Park Preservation	Vancouver Housing Authority	\$200,000	124	5
Fourth Plain Commons	Vancouver Housing Authority	\$1,500,000	106	20
Housing Project AHF Fund Totals		\$5,625,000	421	107

*For additional information please visit <https://www.cityofvancouver.us/ced/page/affordable-housing-fund>

2020/2021 AHF Project Recommendations
Project Description

The proposed 2020 and 2021 AHF project recommendations are the result of an application process spanning five months. The Notice of Funds Available (NOFA) was published October 16 and closed December 7, 2021. A scoring committee of 27 community members attended agency presentations and reviewed the applications. These recommendations are the result of their work and support. All recommended funding supports projects that are consistent the Admin and Financial Plan and support either homelessness prevention or affordable housing production and preservation.

TEMPORARY SHELTER

Agency	Outsiders Inn
Project	Outsiders Inn Shelter at St. Paul Church
Admin Plan Goal	Homelessness Prevention/Services
Funding Request	AHF: \$243,000
Funding Recommendation	AHF: \$202,277
Description	25-27 bed men's shelter for individuals experiencing homelessness. Services include case management, food, and resource connection. Additional COVID-19 related services include hygiene, PPE, COVID-19 testing and connection to resources for quarantine services as needed.
Location Description	St. Paul Lutheran Church- Downtown

Agency	Share
Project	WHAT Shelter
Admin Plan Goal	Homelessness Prevention/Services
Funding Request	AHF: \$200,250
Funding Recommendation	AHF: \$200,250
Description	Funding for staff, beds, showers, laundry facilities, meals, and supportive services for up to 18 single women experiencing homelessness.
Location Description	St. Luke's Episcopal Church- Uptown

Agency	XChange Recovery
Project	From Homeless to Recovery and Sustainability
Admin Plan Goal	Homelessness Prevention/Services
Funding Request	AHF: \$197,473

Funding Recommendation	AHF: \$197,473
Description	Support staffing for Peer Support Counselors and operating costs. Program supports individuals experiencing homelessness who choose to participate in a structured supportive transitional housing program that assists them in maintaining their sobriety. Project will house 50 individuals and serve 300 with outreach for a total of 350.
Location Description	Multiple houses citywide

HOUSING PROJECTS

Agency	Ginn Gives
Project	65th Avenue Apartments
Admin Plan Goal	Housing Production
Funding Request	AHF: \$975,000
Funding Recommendation	AHF: \$975,000
Description	Development of a new 50-unit affordable rent apartment building located at 2929 NE 65th Avenue. Thirteen of the units will be set aside for those earning 50% or less of AMI, 12 units 80% AMI or less, and 25 market rate units.
Location Description	2929 NE 65th Avenue

Agency	Ginn Gives
Project	138th Ave Townhomes
Admin Plan Goal	Housing Production
Funding Request	AHF: \$225,000
Funding Recommendation	AHF: \$225,000
Description	Provide funding for 9 affordable, townhouse style apartments on property located at the northwest corner of NE 138th Ave. and NE 18th Street. At least 3 of the units will be reserved for tenants that earn 50% or less of AMI, 1 unit affordable to 80% AMI, and 5 market rate units.
Location Description	NE 138th Ave. and NE 18th Street

Agency	Lifeline Connections
Project	Recovery Home for Mothers
Admin Plan Goal	Housing Production
Funding Request	AHF: \$125,000
Funding Recommendation	AHF: \$125,000

Description	Purchase and renovate a single-family home in Vancouver to serve as a sober-living recovery residence for up to six women and six children at a time. Serves will support an especially vulnerable portion of the homeless population, women with substance use disorders who have young children in their care.
Location Description	To be identified

Agency	Mercy Housing
Project	PeaceHealth Family Housing
Admin Plan Goal	Housing Production
Funding Request	AHF: \$200,000
Funding Recommendation	AHF: \$200,000
Description	Development of a 69 unit affordable housing complex. All units will be affordable to individuals making 50% AMI or lower. Already funded with \$750,000 of AHF. The additional funding will secure another 3 units of City restricted affordable housing.
Location Description	NE 5 th Ave and NE 93rd Ave

Agency	Proud Ground
Project Name	Down Payment Assistance
Consolidated Plan Goal	Housing Production
Funding Request	AHF: \$250,000
Description	Down payment assistance and case management to three first-time homebuyers earning less than 80% AMI.
Estimated Beneficiaries	3 First Time Homebuyers
Location Description	Services available to residents citywide

Agency	Second Step Housing
Project	Acquisition
Admin Plan Goal	Housing Production
Funding Request	AHF: \$900,000
Funding Recommendation	AHF: \$900,000
Description	Purchase existing market-rate rental property, consisting of 26 units, to be converted to affordable housing units.
Location Description	6305 & 6409 Kansas Street

Agency	The Minority Coalition
Project	Property Acquisition for AFH housing SMI homeless individuals
Admin Plan Goal	Housing Production
Funding Request	AHF: \$300,000
Funding Recommendation	AHF: \$300,000

Description	Acquire a house for chronically homeless individuals with Severe Mental Illness. Services and program model will deliver services in a culturally sensitive manner. House will produce at least 3 units of housing for individuals experiencing mental health or behavioral health concerns.
Location Description	To be identified

Agency	Vancouver Housing Authority
Project	Fruit Valley Commons-Modernization
Admin Plan Goal	Housing Preservation
Funding Request	AHF: \$700,000
Funding Recommendation	AHF: \$700,000
Description	Exterior renovation and site enhancements at Fruit Valley Commons. Funds will be leveraged with VHA Funds and Private Debt to modernize the property and address energy efficiency and site accessibility. Project will support the preservation of 18 units of affordable housing.
Location Description	1900 Fort Vancouver Way, Vancouver

Agency	Vancouver Housing Authority
Project	31st St. Tiny Home Project
Admin Plan Goal	Housing Production
Funding Request	AHF: \$200,000
Funding Recommendation	AHF: \$200,000
Description	Production of 4 tiny home units. All four units will be affordable to individuals earning 50% AMI or less.
Location Description	31 st Street

Agency	Vancouver Housing Authority
Project	Central Park Place Apartments
Admin Plan Goal	Housing Preservation
Funding Request	AHF: \$200,000
Funding Recommendation	AHF: \$200,000
Description	Rehabilitation of existing 124-unit development that houses veterans experiencing homelessness, disabled individuals, and individuals experiencing chronic homelessness. Two additional units to be created during renovation. Funds will help support increased costs for the project and preserve an additional 5 units of covenanted affordable housing.
Location Description	1900 Fort Vancouver Way, Vancouver

Agency	Vancouver Housing Authority
Project	Fourth Plain Commons
Admin Plan Goal	Housing Production
Funding Request	AHF: \$1,500,000
Funding Recommendation	AHF: \$1,500,000
Description	106 unit Low Income Housing Tax Credit Project. Funding will support 20 covenanted units affordable to individuals earning 50% AMI or less.
Location Description	2220 Norris Road

04/05/2020

RESOLUTION NO. _____

A RESOLUTION relating to low-income housing; providing for adoption of 2020 and 2021 funding awards for the Affordable Housing Fund and authorizing the City Manager to execute agreements on behalf of the City of Vancouver consistent with Affordable Housing Fund 2020 and 2021 Council approved funding awards; providing for Severability and an Effective Date.

WHEREAS, in June 2016 Council adopted, by resolution, the Affordable Housing Fund Administrative and Financial Plan (A & F Plan) and updated the A & F Plan in October 2017 and June 2020;

WHEREAS, the A & F Plan provides funding among four program areas: Housing Production, Housing Preservation, Homelessness Prevention, and Implementation;

WHEREAS, the City of Vancouver released a request for applications for projects to be supported with the 2020-2021 Affordable Housing Funds for Housing Production, Housing Preservation and Homelessness Prevention;

WHEREAS, the project review committee recommended funding awards for eleven housing projects totaling \$5,625,000;

WHEREAS, the project review committee also recommended funding three Temporary Shelter projects to address homelessness totaling \$600,000;

WHEREAS, the total recommended award of Affordable Housing Funds is \$6,225,000 with an additional \$2,295,000 available to support Federal Low Income Housing Tax Credit and other projects;

RESOLUTION - 1

WHEREAS, the recommended awards would support construction or preservation of 107 City restricted affordable units and provide shelter services to an estimated 600 individuals experiencing homelessness;

WHEREAS, the recommended awards are based on community needs, actual applications received, and recommendations from the review committee.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY OF VANCOUVER:

Section 1. The recitals set forth above are adopted as findings supporting the action of the City Council in adopting this resolution.

Section 2. Use of the Affordable Housing Fund for Homelessness Prevention:

The Affordable Housing Fund awards totaling \$600,000 for shelter operating projects, attached hereto and incorporated by reference, are hereby approved.

Section 3. Use of the Affordable Housing Fund for Housing Production and Housing Preservation projects;

The Affordable Housing Fund awards totaling \$5,625,000 for housing production and preservation projects, attached hereto and incorporated by reference, are hereby approved and adopted.

Section 4. The City Manager is hereby authorized to execute agreements on behalf of the City of Vancouver, consistent with the Affordable Housing Fund 2020 and 2021 Council approved funding awards.

Section 5. **Severability.** In any section, sentence, clause or phrase of this resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this resolution.

RESOLUTION - 2

Section 6. **Effective Date.** This Resolution shall become effective immediately after final adoption.

ADOPTED at regular session of the Council of the City of Vancouver, this _____ day of _____, 2021.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

RESOLUTION - 3



Staff Report 057-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 4/5/2021

SUBJECT 2020 Action Plan Amendment for CDBG-CV Funds

Key Points

- The City has received an additional \$1,127,065 in CDBG funds (CDBG-CV) from the second round of COVID-19 response funding allocated under the federal Coronavirus Aid, Relief and Economic Security (CARES) Act.
- CDBG-CV funds must be used to prevent, prepare for, or respond to COVID-19.
- Staff is proposing to use the CDBG-CV funds for public services that serve people impacted by COVID-19 and technical assistance to businesses negatively affected by COVID-19.
- The CDBG-CV funding priorities will be added to the HUD-approved 2020 Action Plan. This allows the City to spend the CDBG-CV funds as soon as Council approves the priorities.
- Estimated outcomes of CDBG-CV projects include 1,944 people receiving public services and 445 business owners assisted.

Strategic Plan Alignment

Goal 3, Objective 3.2: Improve services available to underserved or vulnerable residents.

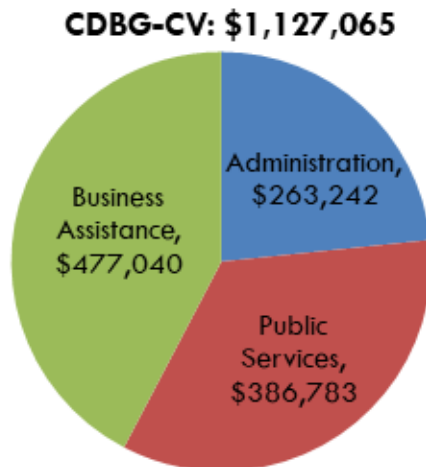
Present Situation

Separate from the 2021 CDBG and HOME entitlement, the City has received an additional \$1,127,065 in CDBG funds (CDBG-CV) from the second round of funding allocated under the federal Coronavirus Aid, Relief and Economic Security (CARES) Act. The CDBG-CV funds must be used to prevent, prepare for, or respond to COVID-19 and its community impacts.

Staff have completed a competitive application process starting October 16, 2020, and ending December 7, 2020. Applications submitted during that time were reviewed, scored and prioritized by a committee of 27 community members and City staff. The following recommendations are based on those prioritizations.

Proposed CDBG-CV funding priorities

Based on emerging community needs and feedback from City leadership and external stakeholders, staff is proposing to spend the \$1,127,065 in CDBG-CV funds for public services and small business assistance as described in the chart below. Projects have been reviewed and prioritized to move forward to contracting upon Council approval. The chart below illustrates how CDBG-CV funds will be used. **See attached list of CDBG-CV project recommendations for additional details about each project.**



Award process

The application process for 2021 CDBG, CDBG-CV, HOME and AHF began in October of 2020. A 27-person volunteer committee composed of community representatives and City staff completed the prioritization process. The committee reviewed grant proposals, attended applicant presentations, scored and prioritized the projects, and suggested funding options. Projects recommended for CDBG-CV are able to move forward with contracting upon Council and HUD approval.

Advantage(s)

\$1,127,065 will be used for services designed to meet the needs of residents and businesses impacted by COVID-19, the remaining dollars will be used to fund City staff and other City costs.

Disadvantage(s)

None.

Budget Impact

The proposed funding recommendations are supported by the City's federal CDBG-CV allocation.

Prior Council Review

March 1, 2021 City Council Funding Plan Workshop

Action Requested

On Monday, April 5, 2021, following a public hearing, adopt a resolution approving and adopting the 2020 Action Plan amendment to include the CDBG-CV funding priorities, and authorizing the City Manager to execute agreements on behalf of the City of Vancouver, consistent with the CDBG-CV Amendment Council approved funding awards.

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

ATTACHMENTS:

- ▢ CDBG-CV Proposed Award Recommendations
- ▢ 2020 Action Plan CDBG-CV Amendment Project Descriptions
- ▢ Resolution - CDBG-CV

Recommendations for CDBG-CV Awards

These project prioritizations have been recommended by a committee of 27 community members. For further project details please refer to Attachment- 2021 Action Plan Project. Please note:

- CDBG-CV has allocated the total award amount of \$1,127,065.

Project	Sponsor	Award	Funding Source	Individuals Served
PUBLIC SERVICES - (Must be COVID related)				
Youth Violence Prevention and Intervention	Boys and Girls Club of SW Washington	\$50,000	CDBG-CV	135
Outreach and Navigation Services	Bridgeview Housing	\$41,787	CDBG-CV	650
Dynamic Diversion	Council for the Homeless	\$75,000	CDBG-CV	134
Oak Bridge Case Management	Janus Youth Programs. Inc.	\$75,000	CDBG-CV	115
Mattress Project	NW Furniture Bank	\$20,000	CDBG-CV	480
The Plaza at Fruit Valley Village -Community Garden Staffing	Partners in Careers	\$74,996	CDBG-CV	80
Share Outreach	Share	\$50,000	CDBG-CV	350
Total CDBG-CV Awarded		\$386,783	-	1944
Business Assistance/				
Clark East- SND Business Support Framework	Clark College	\$188,825	CDBG-CV	40
Small Business Assistance	Greater Vancouver Chamber of Commerce	\$125,000	CDBG-CV	275
Small Business Technical Assistance Program	Hispanic Metropolitan Chamber of Commerce	\$75,000	CDBG-CV	30
Vancouver Small Business Recovery	Mercy Corps Northwest	\$88,215	CDBG-CV	100
Total CDBG-CV Awarded		\$477,040	-	445
City Set Aside Funds (Not in NOFA)				
Administration	City of Vancouver	\$225,413	CDBG-CV	-
Implementation	City of Vancouver	\$37,829	CDBG-CV	-
Total CDBG-CV City Set-Asides		\$263,242	-	-

*For additional information please visit <https://www.cityofvancouver.us/ced/page/community-development-block-grant-cdbg-and-home-programs>

2020 Action Plan CDBG-CV Amendment
Project Description

The 2020 Action Plan CDBG-CV Amendment is the result of an application process spanning five months. The Notice of Funds Available (NOFA) was published October 16 and closed December 7, 2021. A scoring committee of 27 community members attended agency presentations and reviewed the applications. These recommendations are the result of their work and support. All recommended funding supports projects that are consistent with the 5-year Consolidated Plan goals and/or respond to the impacts of COVID-19 on vulnerable community members or the broader economic downturn caused by the pandemic. Staff are recommending amending the 2020 Action Plan with these projects to allow the funds to be used upon approval.

PUBLIC SERVICES PROJECTS

Agency	Boys and Girls Clubs of SW Washington
Project	Youth Violence Prevention and Intervention
Consolidated Plan Goal Supported	Public Services
Funding Request	CDBG-CV: \$50,000
Funding Recommendation	CDBG-CV: \$50,000
Description	Staffing for youth violence prevention mentoring program serving high-risk youth. Providing food distribution, a virtual Clubhouse, and in-person services to youth with additional mental health supports in response to COVID-19.
Estimated Beneficiaries	135 individuals
Location Description	O.K. Clubhouse and Teen Turf Club in Bagley Downs neighborhood, Fruit Valley Elementary in Fruit Valley neighborhood, Heights O.K. 2 Clubhouse at Skyline Crest and virtually citywide.

Agency	Bridgeview Housing
Project	Outreach and Navigation Services
Consolidated Plan Goal	Public Services
Funding Request	CDBG-CV: \$41,787
Funding Recommendation	CDBG-CV: \$41,787
Description	Staffing to provide connections to employment supports, education services and health and nutritional resources. Staff will also be used to address increased calls from families in crisis from domestic violence, addiction, mental health, and other emergent needs, due to COVID-19.
Estimated Beneficiaries	650 people
Location Description	Services available to residents citywide

Agency	Council for the Homeless
Project	Dynamic Diversion Project
Consolidated Plan Goal	Public Services
Funding Request	CDBG-CV: \$75,000
Funding Recommendation	CDBG-CV: \$75,000
Description	Staffing for program to provide housing search and barrier reduction coaching to people experiencing homelessness. Program will help Prevent or address potential increase in homelessness; and serve the currently homeless population that is vulnerable to COVID-19.
Estimated Beneficiaries	134 people
Location Description	Services available to residents citywide

Agency	Janus Youth
Project	Oak Bridge Case Management
Consolidated Plan Goal	Public Services
Funding Request	CDBG-CV: \$75,000
Funding Recommendation	CDBG-CV: \$75,000
Description	Staffing for emergency shelter of youth who have run away, are experiencing homelessness, are victims of sex-trafficking, or are at-risk on the streets. This project will help prevent or address potential increase in homelessness; and serve the currently homeless population that is vulnerable to COVID-19
Estimated Beneficiaries	115 youth
Location Description	Services available to residents citywide

Agency	NW Furniture Bank
Project	Mattress Project
Consolidated Plan Goal	Public Services
Funding Request	CDBG-CV: \$20,000
Funding Recommendation	CDBG-CV: \$20,000
Description	Staffing to support the distribution of furniture to low income individuals who have secured housing but have no means to furnish it. This program will help mitigate the negative economic impacts of COVID-19 on low income individuals.
Estimated Beneficiaries	480 people
Location Description	Services available to residents citywide

Agency	Partners in Careers
Project	The Plaza at Fruit Valley Village -Community Garden Staffing
Consolidated Plan Goal	Public Services

Funding Request	CDBG-CV: \$74,996
Funding Recommendation	CDBG-CV: \$74,996
Description	Staffing to support to start a community garden, build micro-enterprise skills and provide nutrition instruction for participants. Program will support individuals in surrounding community who are experiencing increase food insecurity and poverty rate due to COVID-19.
Estimated Beneficiaries	80 people
Location Description	Fruit Valley Neighborhood

Agency	Share
Project	Outreach
Consolidated Plan Goal	Public Services
Funding Request	CDBG-CV: \$50,000
Funding Recommendation	CDBG-CV: \$50,000
Description	Staffing to support homeless outreach case management, which provides essential supplies, referrals, transportation, and housing assistance to people experiencing homelessness. This program will help prevent or address potential increase in homelessness; and serve the currently homeless population vulnerable to COVID-19.
Estimated Beneficiaries	350 people
Location Description	Services available to residents citywide

BUSINESS ASSISTANCE PROJECTS

Agency	Clark College
Project	Clark East- SND Business Support Framework
Consolidated Plan Goal	Economic Development
Funding Request	CDBG-CV: \$188,825
Funding Recommendation	CDBG-CV: \$188,825
Description	Staffing to provide entrepreneurial support to the City of Vancouver's residents through targeted business counseling, and services. Services include individualized business counseling that addresses the persistent inequities of impact of the pandemic on systemically non-dominant small business owners.
Estimated Beneficiaries	40 business owners
Location Description	Services available to residents citywide

Agency	Greater Vancouver Chamber of Commerce
Project	Small Business Assistance
Consolidated Plan Goal	Economic Development
Funding Request	CDBG-CV: \$125,000
Funding Recommendation	CDBG-CV: \$125,000
Description	Staffing to deliver outreach efforts to businesses and offer free services to effectively assess needs, provide the right counsel, tools, and resources appropriate to the business to help navigate the negative effects of COVID-19
Estimated Beneficiaries	275 business owners
Location Description	Services available to residents citywide

Agency	Hispanic Metropolitan Chamber
Project	Small Business Technical Assistance Program
Consolidated Plan Goal	Economic Development
Funding Request	CDBG-CV: \$75,000
Funding Recommendation	CDBG-CV: \$75,000
Description	Staffing to provide one-on-one business technical assistance to Latinos and other small business owners, or prospective business owners, in the City of Vancouver. Services include assistance developing business plans and outreach strategies to respond to COVID-19.
Estimated Beneficiaries	30 business owners
Location Description	Services available to residents citywide

Agency	Mercy Corps NW
Project	Small Business Recovery
Consolidated Plan Goal	Economic Development
Funding Request	CDBG-CV: \$88,215
Funding Recommendation	CDBG-CV: \$88,215
Description	Staffing to provide small business education, technical assistance, and access to capital to aspiring entrepreneurs and low-income business owners. The proposed project is designed to help jump start small businesses that may have been dormant or slowed during COVID-19 pandemic.
Estimated Beneficiaries	100 business owners
Location Description	Services available to residents citywide

04/05/2021

RESOLUTION NO. _____

A RESOLUTION relating to the adoption of the City of Vancouver Community Development Block Grant COVID-19 (CDBG-CV) funding allocation plan for inclusion in the 2020 Action Plan; authorizing the City Manager to execute agreements on behalf of the City of Vancouver consistent with the CDBG and HOME Investment Partnerships Annual 2020 Action Plan, providing for severability and an effective date.

WHEREAS, the City of Vancouver received an allocation of \$1,127,065 in CARES Act Community Development Block Grant (CDBG-CV) funds through the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the City Council recognizes the importance of providing timely assistance funding in response to the COVID-19 pandemic; and

WHEREAS, a community scoring committee has reviewed and prioritized projects that prevent, prepare for or respond to COVID-19; and

WHEREAS, funding will be awarded to community partners for public services and business assistance projects that respond to COVID-19;

WHEREAS, the CARES Act provides CDBG grantees with timing flexibilities that make it easier to use CDBG-CV grants; and

WHEREAS, the City will amend the 2020 Action Plan to add the CDBG-CV funding allocation plan; and

WHEREAS, the City Council reviewed the initial CDBG-CV funding awards via a workshop on March 1, 2021; and

RESOLUTION - 1

WHEREAS, adoption of the CDBG-CV funding plan is required to receive and award HUD funding.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY OF VANCOUVER:

Section 1. The recitals set forth above are adopted as findings supporting the action of the City Council in adopting this resolution.

Section 2. The Community Development Block Grant COVID-19 (CDBG-CV) funding allocation plan, attached as Exhibit A and incorporated by reference, is hereby approved and incorporated into the 2019 Action Plan.

Section 3. Authorizing for the City Manager to execute agreements on behalf of the City of Vancouver consistent with the CDBG and HOME Investment Partnerships Annual 2019 Action Plan.

Section 4. Severability. If any section, sentence, clause or phrase of this resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this resolution.

Section 5. This resolution shall be effective immediately upon adoption.

RESOLUTION - 2

PASSED BY THE FOLLOWING VOTE:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Signed this _____ day of _____, 2021.

Anne McEnerny Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

RESOLUTION - 3