

November 25, 2019

WORKSHOPS

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

Councilmember Paulsen was absent from workshops.

5:00-5:45 p.m. Proposed Transportation and Mobility Commission

Presenters: Shannon Williams, Active Transportation Planner, 487-7898; Jennifer Campos, Principal Transportation Planner, 487-7728

Summary

Staff provided Council with an overview of the establishment of a Transportation and Mobility Commission, including the proposed membership, scope and authority of the commission.

COUNCIL DINNER/ADMINISTRATIVE UPDATES (5:45 PM)

COUNCIL CONSENT AGENDA MEETING

Pledge of Allegiance

Call to Order and Roll Call

The regular meeting of the Vancouver City Council was called to order at 6:31 p.m. by Mayor McEnery-Ogle in the Council Chambers of City Hall, 415 W. 6th Street, Vancouver, Washington.

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

Absent: Paulsen

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

Citizen Communication (Items 1-9)

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

- Peter Fels, Vancouver, spoke regarding Item 2, and urged the Council to consider environmental impacts with all future construction projects and request bidders and contractors include information regarding how they intend to mitigate those impacts when being considered for contracts.

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

Consent Agenda (Items 1-9)

Council requested Item 7 be pulled from the Consent Agenda for separate discussion and consideration.

Motion by Councilmember Stober, seconded by Councilmember Lebowsky, and carried unanimously to approve Items 1-6 of the Consent Agenda.

Motion by Councilmember Hansen, seconded by Councilmember Stober, and carried unanimously to approve Items 8-9 of the Consent Agenda.

1. Bid Award for East Vancouver PH1 Sanitary Sewer Improvements

Staff Report 171-19

Summary

The East Vancouver PH1 project is proposed to be constructed under the Sewer Connection Incentive Program (SCIP). This project will provide reliable sewer service to 53 parcels by installing 3,190 linear feet of 8-inch gravity sewer mains in NE 141st, NE 142nd, NE 143rd, NE 123rd and NE 63rd Avenues, NE 42nd Street and Morrow Rd.

On October 22, 2019, the City received 9 bids for the subject project. The bids ranged between \$555,000 and \$1,080,000. The low bidder was responsive. The bids are as follows:

SUMMARY OF BIDS	
BIDDER	AMOUNT
Tapani, Inc., Battle Ground, WA	\$555,712.53

<i>Advanced Excavating Specialists, LLC, Longview, WA</i>	<i>\$667,074.78</i>
<i>NW Construction General Contractors, Battle Ground, WA</i>	<i>\$688,455.68</i>
<i>Rotschy, Inc., Vancouver, WA</i>	<i>\$703,639.02</i>
<i>Lee Contractors, LLC, Battle Ground, WA</i>	<i>\$722,585.93</i>
<i>Folden Construction, Vancouver, WA</i>	<i>\$747,503.38</i>
<i>Moore Excavation, Inc, Fairview, OR</i>	<i>\$865,737.81</i>
<i>Clackamas Construction, Inc, Boring, OR</i>	<i>\$1,030,788.16</i>
<i>Clark and Sons Excavating, Inc, Battle Ground, WA</i>	<i>\$1,077,729.80</i>
<i>Engineers' Estimate</i>	<i>\$630,000.00</i>

Based on the amount of the bid, this project will have a required minimum apprenticeship utilization of 3%.

Request: Award a construction contract for the East Vancouver PH1 Sanitary Sewer Improvement project to the lowest responsive and responsible bidder, Tapani, Inc. of Battle Ground, WA, at their bid price of \$555,712.53, which includes Washington State sales tax.

Sheryl Hale, Senior Engineering Supervisor, 487-7151

Motion approved the request.

2. **Amendment to a contract with MacKay Sposito to complete the design, public involvement, and provide construction support related to the SE 1st Street transportation improvement project**

Staff Report 172-19

Summary

In 2013, MacKay Sposito was selected as the most qualified firm to provide professional services to improve SE 1st Street between SE 164th Avenue and SE 192nd Avenue through a competitive selection process (RFQ 21-13). The City of Vancouver awarded a contract in the amount of \$942,571. The original contract was intended to use available grant funding and progress the design to the 75% level, however it was able to be advanced to the 90% level.

The City of Vancouver requested a fee proposal from MacKay Sposito for additional services to complete the plans and specifications and to provide as needed support during construction.

MacKay Sposito provided a proposal and fee schedule for additional professional services dated October 16, 2019 (attached). Amendment of the professional services agreement would increase the contract amount by \$296,784.01 to advance design from the 90% level to final bidding and construction documents, public involvement, and to provide as-needed support during construction. With the addition of this amendment, the total contract price will be \$1,239,355.01.

Request: Authorize the City Manager or his designee to execute Amendment 1 of the contract with MacKay Sposito for a revised total contract amount of \$1,239,355.01 for additional design, public involvement and construction support for the improvement of SE 1st Street between SE 164th Avenue and SE 177th Avenue. Council authorizes the City Manager to amend the contract as needed and to amend the value up to 10% of the not-to-exceed value stated herein.

Jeff Schmidt, Senior Civil Engineer, 487-7709

Motion approved the request.

3. **Washington Traffic Safety Commission Grant Agreement Renewal**

Staff Report 173-19

Summary

The Washington Traffic Safety Commission (WTSC), as the statewide administering organization for the National Highway Traffic Safety Administration, has awarded \$54,000 in grant funding for a regional initiative to reduce and prevent fatal traffic crashes. A total of \$10,800 will be available to Vancouver Police over 12 months to participate in high-visibility enforcement patrols as part of an evidence-based national program model.

Traffic safety affects everyone who lives or travels in Southwest Washington. Vancouver will partner with the Washington Traffic Safety Commission and local law enforcement agencies to participate in statewide high visibility enforcement campaigns throughout the year. Local law enforcement agencies will participate in a targeted outreach and education campaign that addresses risk factors often involved in fatal and serious injury crashes.

Washington Traffic Safety Commission funding is effective October 1, 2019– September 30, 2020 and will provide a total of \$54,000 for police overtime. Of the total amount, \$10,800 will be available to the Vancouver Police Department for officer overtime to participate in traffic safety

emphasis patrols. No match or retention funding is required.

Request: Authorize the City Manager or designee to execute an agreement approving the receipt of grant funds to enhance traffic safety.

*James McElvain, Vancouver Police Chief, 487-7473;
Brenda Tryon, VPD Management Analyst, 487-7497*

Motion approved the request.

4. **Amendment to RegJIN Intergovernmental Agreement**

Staff Report 174-19

Summary

On June 19, 2018, the City of Vancouver notified the RegJIN User Board of our intent to withdraw from RegJIN effective January 1, 2019.

The selection of the new RMS vendor (Mark43) occurred in 2018. After a comprehensive contract negotiations process with Mark43, implementation of the new system has begun. However, it will not be completed before our current agreement with RegJIN expires.

An extension in the RegJIN system is needed to maintain police RMS services until Mark43 is fully implemented.

Request: Approve and authorize the City Manager or his designee to s i g n Amendment No. 2 for RegJIN Participant Intergovernmental Agreement Regional Partner Agency – Full Entry.

Michael Whitney, Vancouver Police Commander, 487-7354

Motion approved the request.

5. **Commute Trip Reduction Program and Interlocal Agreements**

Staff Report 175-19

Summary

In 2006, the Washington Legislature passed the Commute Trip Reduction (CTR) Efficiency Act, requiring local governments in identified urban areas with traffic congestion to develop programs that reduce the drive-alone trips and vehicle miles traveled per capita. The CTR Efficiency Act amended the 1991, Commute Trip Reduction Law, codified as §70.94.521-.551 RCW. Biannually, the State Legislature allocates grant funds to support local CTR

activities. Since 2005, the City of Vancouver, Clark County and the cities of Camas and Washougal have developed an intergovernmental agreement establishing a regional work plan and assignment of administration responsibilities for the CTR program.

The City of Vancouver provides program management and oversight of the CTR program for Vancouver, Clark County (those portions lying within the unincorporated Vancouver UGA), Camas and Washougal. Through this program, the City will provide direct services to a total of approximately 55 affected participating worksites (100 + employees that report to work between 6 am – 9 pm).

Financial support of the CTR program has been provided in the past biennium by the State Legislature. As part of the 2019 Legislative session, the CTR program was authorized for funding for the 2019-2021 biennium with a projected funding for the 2021-2023 biennium. If the Washington State Legislature fails to appropriate funds for the Commute Trip Reduction Work Plan in the 2021-2023 biennium, this Agreement shall terminate on June 30, 2021. These funds are distributed on a formula basis through the Washington State Department of Transportation, Office of Public Transportation and Commute Options. In this case, the City of Vancouver will be the primary contracting agency for the Vancouver, Camas and Washougal urban growth areas.

The proposed CTR intergovernmental agreement and associated CTR Work Plan specifies that the City of Vancouver will receive all of the state grant funds to administer the regional program. For the period (starting July 1, 2019 and ending June 30, 2023), grant funds are authorized in the amount of \$408,022. In receiving this allocation of program funds, the City should have sufficient resources to manage the program.

Staff proposes the City enter into a contract with the Washington State Department of Transportation to receive State CTR program grant funding; and enter into a Commute Trip Reduction intergovernmental agreement with Clark County and the Cities of Camas and Washougal to guide the City's administration of the regional program.

Request: Authorize the City Manager or his designee to sign the Transportation Demand Implementation Agreement with the Washington Department of Transportation (PTD0117; and sign the 2019-2023 Commute Trip Reduction intergovernmental agreement with Clark County and the cities of Camas and Washougal.

Jennifer Campos, Principal Transportation Planner, 487-7728; Jan Bowers, CTR Coordinator, 487-7733

Motion approved the request.

6. **Four Seasons North Planned Development**

Staff Report 176-19

AN ORDINANCE approving the concept development plan for the Four Seasons North Planned Development; and providing for severability and an effective date.

Summary

The applicant requests approval a proposed planned development for a 114-lot single family subdivision totaling 8.77 acres in R-22 Higher Density Residential zoning.

On October 15, 2019, a public hearing was conducted before the Hearings Examiner. On November 6, 2019, the Hearing's Examiner issued findings, conclusions and recommendations (attached). Her finding recommended that both the planned development and subdivision ordinance be approved by City Council.

Request: On November 25, 2019, approve ordinance on the first reading, setting the date of second reading and public hearing for December 2, 2019.

Mark Person, Senior Planner, 487-7885

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

Motion approved the request.

7. **Proposed 2019 Vancouver Comprehensive Plan and Zoning Map and Text Changes**

Staff Report 177-19

A. AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and Vancouver Municipal Code (VMC) Title 20; amending the Vancouver Comprehensive Plan and Zoning map designations for certain properties, providing for severability, and providing for an effective date.

B. AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and Vancouver Municipal Code (VMC) Title 20; amending the Vancouver Comprehensive Plan and Zoning map designations for certain properties, providing for severability, and providing for an effective date.

C. AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and Vancouver Municipal Code (VMC) Title 20; amending the Vancouver Comprehensive Plan and Zoning map designations for certain properties, providing for severability, and providing for an effective date.

D. AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and Vancouver Municipal Code (VMC) Title 20; amending text of Vancouver Comprehensive Appendix E, and Vancouver Municipal Code 20.150, 20.225, 20.245, 20.270, 20.290, 20.320, 20.330, 20.410, 20.420, 20.430, 20.440, 20.450, 20.630, 20.680, 20.700, 20.730, 20.740, 20.790, 20.890, 20.945, 20.960; providing for severability; and establishing an effective date.

Summary

Council is requested to review and make final determinations on the proposed map and text changes:

One proposal not recommended

Over the course of two hearings, the Planning Commission voted 4-2 against the HDH Map change proposal from Industrial/IL to Urban High Density Residential/R-30 to allow future development of a 132-unit apartment complex north of the old Evergreen Airport property.

The applicant's market study argued the 4.3-acre proposal site is not viable for office or industrial development under existing IL zoning, as the site has not developed or had recent development inquires, and current market conditions favor office development elsewhere. The study also argues that existing office buildings near the site were built prior to the recession, and current office users now require more nearby amenities than exist in the vicinity. The applicant also argued that the proposal would result primarily in 2- and 3-bedroom unit apartments that are needed in the area and citywide.

Staff originally recommended denial based on the fact that the Comprehensive Plan policy governing employment land conversions requires long-term considerations, and that an outside assessment conducted for the City found that the site is likely viable for certain kinds of office development currently, and a broader range of uses in the longer term given the area amenities including nearby freeway access. The staff recommendation also found that benefits from the proposed multi-family zoning are tempered by the presence of existing multi-family zoning and development in the area, and the extensive pipeline of apartment applications currently under review.

The Planning Commission continued the October 8 hearing to October 22 to allow further discussion between the applicant and staff. The applicant

revised the proposal to suggest a Development Agreement restricting rent on 10% of proposed apartment units to levels affordable at 60% of Clark County median income as defined by HUD for a period of 10 years, after which they could be rented at levels affordable at 100% of median for another 10 years, and face no restrictions after that. The remaining 90% of units would be restricted to 100% of median for the full 20-year period and would be unrestricted after that. The applicant also committed to completing apartment construction in 3 years, and to also building or dedicating a small passive use parklet on adjacent property.

Based on the revisions, primarily the rent restrictions, staff recommended approval of the proposal. On October 22 the Planning Commission voted 4-2 to recommend denial, based on concerns that the property was likely viable for long-term office or industrial development, and that the proposed restrictions would still result in high rents for 90% of the units. October 22 hearing staff recommendations are available [here](#). Minutes are available [here](#) starting on page 16.

Two proposals with unanimous recommendations involving limited public testimony

- The Fourth Plain Commons map change from R-22 to CC zoning at the former Warrior Field site on Fourth Plain Boulevard to allow development of a 4-5 story mixed use affordable housing building with first floor community facilities drew one comment in favor and one against. Neighborhood resident and non-profit founder Mark Maggiora testified in favor, while Maplewood Neighborhood Association Chair James Dougherty testified against, citing concerns about parking adequacy, lack of notice, and lack of clarity about the anticipated square footage of the first floor of the building.*
- A proposed zoning code text change lowering minimum parking requirements for very affordable housing (50% of Area Median Income or less) to 0.75 spaces per resident, along with eliminating minimum parking requirements for residents at senior or disabled housing facilities pursuant to legislative changes under E2SHB 1923 was also opposed by James Dougherty.*

Request: On Monday, November 25, 2019, approve ordinances on first reading, setting date second reading and public hearing for Monday, December 2, 2019.

Bryan Snodgrass, Principal Planner, 487-7946

Mayor McEnerny-Ogle read the titles of the ordinances into the record, noting Ordinance A refers to the Fourth Plain Commons map amendment, Ordinance

B refers to the Malloy map amendment, Ordinance C refers to the 5th Street/Hawes map amendment, and Ordinance D refers to Comprehensive Plan and zoning map text amendments and corrections.

Bryan Snodgrass, Principal Planner, provided staff comments.

Councilmember Lebowsky expressed concerns regarding the HDH request to rezone light industrial to high density to build apartments. She stated she had watched the Planning Commission discussion regarding this request and echoes the commissioner's comments. She noted that the Planning Commission had recommended denial of this request. She stated the larger question for the City is what kind of city do we want to be, and if we do not wish to remain a bedroom community to Portland, the City needs to work to preserve this kind of land for future jobs, which is also a part of the equation for improving affordable housing. She recommended not moving this request forward.

Mayor McEnerny-Ogle also noted, in reference to affordable housing, that HUD definitions of area median income for the Portland Metro Area, including Vancouver, are much higher than Vancouver's actual area median income, and given that there are quite a few affordable housing units already in the pipeline in Vancouver, perhaps this land would be best utilized by preserving it for jobs and keeping it a light industrial designation.

Councilmember Hansen agreed with the previous comments and noted that in that particular area, traffic impact fees currently move mostly with residential and having commercial development there would benefit the traffic flows for all of those living in the area.

Councilmember Stober asked for clarification regarding process in relation to the HDH request, as the Planning Commission recommended denial. City Manager Eric Holmes stated the recommendation to deny the request is required to come forward to Council, but there is no associated ordinance for the Council to vote on for the request. City Attorney Jonathan Young stated the Council does not have to take any action to follow the Planning Commission's recommendation to deny the request.

Motion by Councilmember Glover, seconded by Councilmember Stober, and carried unanimously to approve ordinances 7B, 7C, and 7D for second reading and public hearing on Monday, December 2, 2019.

Motion by Councilmember Lebowsky and seconded by Councilmember Hansen to deny ordinance 7A.

Mr. Holmes clarified for Council that ordinance 7A refers to the Fourth Plain Commons map amendment, not the HDH rezone request. He stated that all of the ordinances for consideration under first reading are items that were recommended affirmatively by the Planning Commission. The staff report reflects the recommendation of denial of the HDH request, but there is no ordinance associated with that request. The recommendation for denial is

required to come to the City Council for consideration, but because there was no recommendation to approve it, there was not a need for an ordinance requiring Council action.

Council spoke at length regarding process.

Mayor McEnerny-Ogle asked if the Council could make an additional motion now to deny the HDH request as recommended by the Planning Commission.

Councilmember Stober noted there was a motion and a second still pending a vote.

Mayor McEnerny-Ogle called for a vote on the motion to deny ordinance 7A.

Motion to deny ordinance 7A failed unanimously.

Motion by Councilmember Hansen, seconded by Councilmember Turlay, and carried unanimously to approve ordinance 7A for second reading and public hearing on Monday, December 2, 2019.

Mayor McEnerny-Ogle noted that Mr. Snodgrass and Mr. Young had stated there is no need to move the HDH denial recommendation forward but asked if it would be helpful for the Council to make a statement or take formal action on that. Mr. Young stated the Council's intent regarding the HDH request is clear and he would coordinate with Mr. Snodgrass a memorandum for the Council to that effect to ensure clarity on the matter.

8. Appointment to the City Center Redevelopment Authority

Request: Reappoint Deborah Ewing and Richard Keller to the City Center Redevelopment Authority Board of Directors, term beginning immediately and expiring December 31, 2023.

Council Committee 1

Motion approved the request.

9. Approval of Claim Vouchers

Request: Approve claim vouchers for November 25, 2019.

Motion approved claim vouchers for November 25, 2019, in the amount of \$4,690,687.95.

Citizen Forum: A Stronger Vancouver

This is the place on the agenda where the public is invited to speak to Council regarding the Stronger Vancouver initiative. Each speaker is requested to fill out a pre-printed testimony card (provided at the counter at the entrance to Chambers) with their name/address. They are also asked to sit at the table at the place marked "Citizen Testimony" and give their name and city of residence for the audio record. Please notify the Council Assistant if you are unable to sit at the table to give your testimony and wish to have a wireless microphone provided to you. Each speaker shall have one opportunity to address the Council. Citizens testifying are asked to limit testimony to three minutes.

Mr. Holmes provided a brief overview of the Stronger Vancouver initiative.

Mayor McEnerny-Ogle opened the Citizen Forum on A Stronger Vancouver and received the following testimony:

- Robert Schaefer, representing the High Tech Council of Southwest Washington, expressed concerns about the increased utility tax proposed as part of the initiative. He urged the Council to maintain a pay-as-you-go approach to funding new projects.
- R.J. Murdock, Vancouver, expressed concerns about a proposed increase to property taxes, noting the burden on property owners is greater than that on businesses.
- Margot Rice, Vancouver, stated it is good to have long range planning though very challenging given the changing community. She requested that whatever revenue sources are decided to move forward that all voters have an input on those options on a future ballot.
- Ryan Makinsk, representing the Building Industry Association (BIA) of Clark County, expressed concerns regarding proposed Park Impact Fee adjustments, especially as those increases would relate to affordable housing. He stated the BIA recommends the City adjust the PIF rates to inflation since 2004 and identify an index to trigger rate adjustments in the future.
- Glen Yung, Vancouver, expressed concerns about how each of the proposed revenue sources would impact affordable housing in the community, and stated the recent voter approval of Initiative 976 reflects an overall public weariness of taxes and fees.

- Sam Bateman, Vancouver, stated the overall annual cost of the recommended package is too much and the City needs to prioritize needs over wants.
- Margaret Milem, Vancouver, spoke in support of the Stronger Vancouver initiative, and stated the recommendations from the Executive Sponsors Council are being very well thought through by the Council.
- Ryan Styger, representing Pacific Lifestyle Homes, echoed Mr. Makinsk's concerns about Park Impact Fees and spoke in support of the BIA's recommendation.
- Gary Vigeant, Vancouver, expressed concerns about additional taxes and fees on residents, and stated he could not support the initiative unless it only included public safety programs and projects.
- Peter Fels, Vancouver, requested the City keep in mind the environmental impacts of any project included in the initiative.
- James Dougherty, Vancouver, echoed previous concerns about the initiative and expressed concerns that the City seems to be implementing some of the programs included in A Stronger Vancouver prior to the Council approving the initiative.
- Jeffrey Stanton, Vancouver, expressed concerns about the Washington State Constitution and urged citizens to stand up and demand a constitutional government.
- Ron Arp, representing Identity Clark County (ICC), stated he had been following this initiative since 2016 and urged the Council to arrive at a tight package that addresses critical needs, noting the process has revealed some obvious needs as well as other areas that will need more attention. He stated the parks program in the initiative seems too aggressive and the City should rethink how it counts park space. He expressed concerns that little detail has been released regarding outcomes and work plans for proposed services in the package, and noted other gaps that could be included. He spoke in general support of asking voters for a levy lid lift, as the 1 percent cap on property taxes is a primary cause of the City's structural deficit.
- Michael Langsdorf, Vancouver, expressed concerns about the City's ability to maintain new projects, and stated the recent voter approval of Initiative 976 reflects an overall public weariness of taxes and fees.
- Melissa von Borstel, Vancouver, urged the City to maintain the assets it already has, and invest in programs and projects that will improve safety and create community.

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

Citizen Forum (any topic)

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

- Glen Yung, Vancouver, spoke regarding the workshop on the Transportation and Mobility Commission, and urged the Council to keep dedicated seats on the commission for representatives of the business and general communities. He also requested a designated seat for the Vancouver Neighborhood Alliance.
- James Dougherty, Vancouver, expressed concerns about CDBG funds used to renovate the Navigation Center.
- Don Steinke, Vancouver, requested the City consider doing a thorough risk assessment of fossil fuel tank farms and consider a policy on new fossil fuel infrastructure regarding seismic standards.
- Peter Fels, Vancouver, spoke regarding the Waterfront Gateway project and urged the City to prioritize carbon-neutral construction and development of the site prior to issuing an RFQ for the master developer.
- Les Lomax, Vancouver, urged the public to support the Vancouver Symphony.
- Monica Zazueta, Vancouver, representing the Sunrise SW WA Hub and the LooWit chapter of the Sierra Club, urged the City to take steps to address climate change.

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

Adjournment

8:16 p.m.

Anne McEnerny-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

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

MEMORANDUM

DATE: December 2, 2019

TO: Eric Holmes, City Manager

FROM: Peggy Sheehan, Community Development Programs Manager

RE: **Affordable Housing Fund shelter project awards and update on fund performance**

CC: Chad Eiken, Teresa Brum

The \$42 million, seven-year Affordable Housing Fund is wrapping up its third year of levy collection and project awards. Thanks to the leadership of City Council and support of the community, the first three years of funding are projected to support 572 new or preserved units for households at/below 50% AMI, provide housing assistance to 826 households, and create or preserve 252 shelter beds (192 beds and 60 motel vouchers). In addition, these projects leverage more than \$122 million in funding from other sources.

This memo provides information about the following Affordable Housing Fund items:

- Current shelter funding requests and award recommendations
- Overview of fund performance including allocations, projects and outcomes to date (2017-2019 funds)

Shelter project funding recommendations

The City released application guidelines for Affordable Housing Fund shelter projects in July of this year. The notice of funding availability included a minimum of \$300,000 from levy funds collected during 2019. **The goal of this opportunity is to increase the capacity of the shelter system by supporting additional overnight beds.** Proposals were solicited for capital improvements to maintain or increase the capacity of existing shelters; acquisition, construction or rehabilitation projects to create new shelters; or staffing and operations to support new or existing shelters. Current shelter providers as well as organizations that have not previously provided shelter were encouraged to apply.

The City received six shelter project applications. Following prioritization by a review committee, staff is proposing to roll in an additional \$175,412 in unspent Affordable Housing Fund implementation dollars to fund four projects, described below. Additional project details are provided in *Attachment A: Proposed 2019 Shelter Awards*. It is important to note that the proposed one-time funding would support additional shelter beds and extended shelter operations for one year. After that period, other resources would be needed to maintain the additional beds and operating hours.

- **X-change Recovery:** \$84,226 to support additional staff allowing 18 beds in existing transitional homes to be reserved for homeless individuals for one year.

- **St. Paul Lutheran Church:** \$180,949 to support additional staff to add 6 beds at overnight Winter Hospitality Overflow (WHO) Shelter (increase from 24 to 30 beds) for one year. Increased staffing would also allow agency to increase service from 5 months to year-round.
- **Share:** \$200,237 to support additional staff to increase operating hours from overnight to 24 hours at 18-bed Women's Housing and Transition (WHAT) Shelter for one year.
- **Council for the Homeless:** \$10,000 to add 60 vouchers to existing short-term motel shelter program and support staff to help participants move to longer-term shelter or housing.

Impact of proposed awards

In summary, the \$475,412 in proposed awards would be used for one year of staff costs and motel vouchers to:

- Add 24 beds and 60 motel vouchers to the current shelter system (note: 18 of the 24 beds are currently used for substance abuse recovery housing, but are not dedicated to homeless individuals);
- Support 42 existing beds;
- Allow St. Paul Lutheran's shelter (currently a Winter Hospitality Overflow location) to open nightly throughout the entire year; and
- Increase operations at the Women's Housing and Transition Shelter from overnight to 24 hours.

Cost benefit of proposed awards

According to the City of Seattle shelter contracts, operating costs range from approximately \$23/day for an overnight emergency shelter to \$73/day for an enhanced service, low-barrier shelter. The following table outlines the cost per bed for the proposed Affordable Housing Fund shelter awards.

Agency	Type of Cost	Recommended AHF Award	# Beds Supported	AHF Cost per Bed	AHF Cost per Bed per Night
X-change Recovery	Shelter staff	\$84,226	18	\$4,679	\$13
St. Paul Lutheran Church	Shelter staff	\$180,949	30	\$6,032	\$17
Share	Shelter staff	\$200,237	18	\$11,124	\$30
Council for the Homeless	Motel vouchers and program staff	\$10,000 (\$6,000 for vouchers, \$4,000 for staff costs)	60	\$167*	\$167*

*Average motel room cost of \$100/night, plus staff costs to help participants move into longer-term shelter or housing. Motel room may provide shelter for an individual (\$60-70/night) or family (\$130/night or more).

The City previously awarded \$628,237 in 2017/2018 Affordable Housing Funds for one-time capital improvements at three shelters, preserving 126 shelter beds (114 existing and 12 new beds). The Affordable Housing Cost per bed for those projects was approximately \$4,986.

Next steps

Staff will request City Council approval of the shelter project awards at a consent hearing on January 13, 2020. This includes the reallocation of \$175,412 in unspent 2017-2019 implementation dollars for these projects. If approved, we anticipate executing contracts in early 2020.

Performance of the fund

Awards made to date

To date, the City has awarded \$13.4 million to community projects from money collected during the first three years of the Affordable Housing Fund (2017-2019). Additional details are included in *Attachment B: Affordable Housing Fund Project Awards to Date*.

- **Housing production:** Awarded approximately \$7.7 million for fifteen projects that build or acquire 431 units, including **338 units** for households at/below 50% AML. Six projects are complete: McKibbin Commons, Isabella Court Phase II, Caples Terrace, Meriwether Place, Lifeline Recovery Residence for Women, and Northcrest Apartments. The fifteen housing production projects leverage \$92.9 million from other sources.
- **Housing preservation:** Awarded approximately \$2.4 million for five projects that preserve **194 units** for households at/below 50% AML. This includes the City's housing rehabilitation program that helps low-income homeowners make needed home repairs. Three projects are complete: the Community Services Northwest rental rehabilitation project and two City-managed single-family home projects. The five housing preservation projects leverage \$26.4 million from other sources.
- **Housing assistance and services:** Awarded \$2.71 million through contracts with the Vancouver Housing Authority and Council for the Homeless/Share Consortium to prevent or address homelessness for a projected **611 households**. Intake data shows that the majority of households served to date are extremely low-income (30% AML or below). These contracts leverage \$2.3 million from other sources.
- **Shelter improvement projects:** Awarded approximately \$628,000 to improve three shelters owned by Share and the Vancouver Housing Authority. The projects address health, safety and livability issues to preserve **126 shelter beds**. This includes 12 new beds created through an addition at one of the shelters. One project (Share House) is complete. The three shelter improvement projects leverage \$694,000 from other sources.

Upcoming award processes

Remaining 2019 Affordable Housing Funds will be awarded to community projects through the following application processes. Any funding recommendations will be brought to Council for approval. Once these awards are made, the City will have allocated the expected \$18 million for the first three levy years (\$6 million annually).

- **Shelter projects:** Staff is currently requesting approval of \$475,412 for four projects that increase shelter system capacity (details provided earlier in memo). The proposed projects will support **42 existing beds** and **add 24 beds and 60 motel vouchers** to the current shelter system. A consent hearing is scheduled for January 13, 2020.
- **Housing production and preservation:** The City will make \$2 million available for construction and rehabilitation projects awarded Low Income Housing Tax Credits from the Washington State Housing Finance Commission during the 2020 tax credit allocation cycle. Requests for Affordable Housing Funds will be evaluated next year after the HFC makes their funding decisions (expected in February). The \$2 million will support a minimum of **40 units** at/below 50% AML.

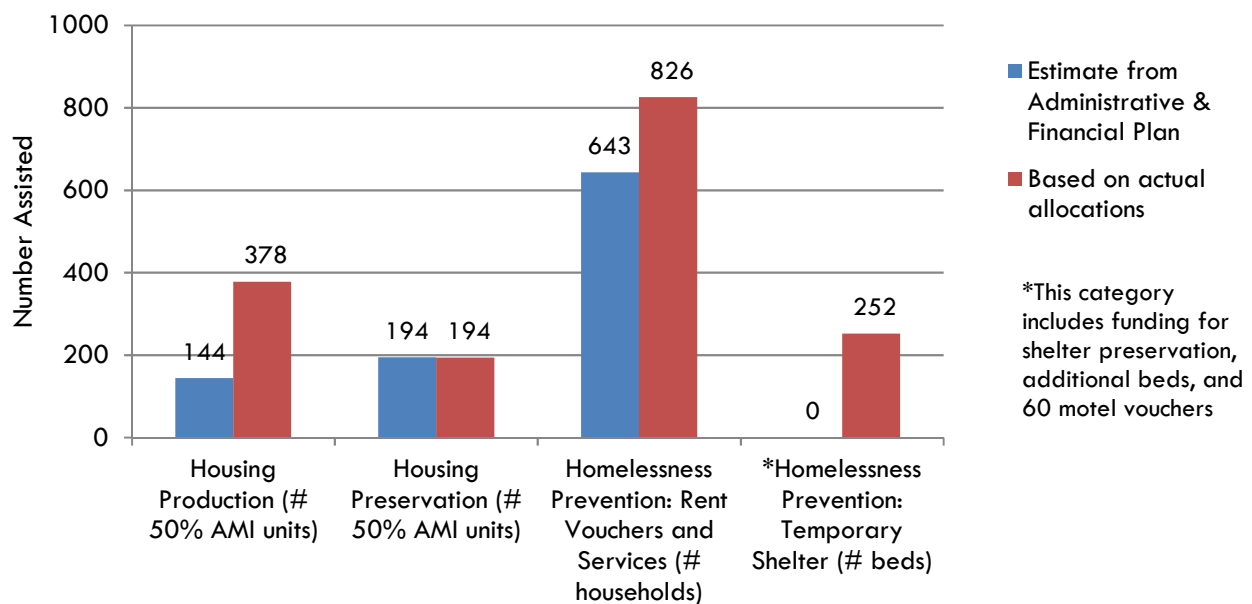
- **Housing assistance and services:** Staff anticipates releasing application guidelines in January 2020 to award \$1.5 million for housing assistance and services. These funds will help to prevent or address homelessness for a minimum of **215 households**. The current contract with the Council for the Homeless/Share Consortium expires at the end of May.

Progress on meeting fund goals for 2017-2019

For 2017-2019, the City is on track to exceed or meet the number of Affordable Housing Fund-assisted units/households estimated in the Administrative and Financial Plan (see “Current picture” chart below).

Current picture of Affordable Housing Fund progress (2017-2019)

Reflects 3-year totals for all projects supported with 2017-2019 funds, including minimum number that will be assisted with remaining 2019 awards.



Leveraging Affordable Housing Funds with other sources has allowed the City to support many more 50% AMI units than originally planned. Additionally, the current model of providing short-term rental assistance and services has resulted in lower costs per household and more people served. Note that the Administrative and Financial Plan does not include an estimate for shelter beds.

2020 Affordable Housing Funds

In 2020, staff will perform a comprehensive review of all City funding sources that support housing and homelessness. We will return to Council with information regarding the use of 2020 Affordable Housing Funds as part of that review process.

**Attachment A:
Affordable Housing Fund
Proposed 2019 Shelter Awards**

Funding priority	Agency	Project Description	Location	Population Served	Estimated # Served per Year	AHF Request	Recommended Award
1	X-change Recovery	Requested funds would support additional peer recovery staff allowing 27 beds in 3 existing transitional homes to be reserved for homeless individuals for one year. <i>Recommended partial award would support staff for 18 beds in 2 homes for one year.</i>	TBD	Single men, single women & women with children in substance abuse recovery	Requested funds: 50 people <i>Partial award:</i> 33 people	\$121,802	\$84,226
2	St. Paul Lutheran Church	Requested funds would support additional staff to add 6 beds at overnight Winter Hospitality Overflow (WHO) Shelter (increase from 24 to 30 beds) for one year. Additional staff would also allow agency to increase service from 5 months to year-round.	1309 Franklin St.	Single men	300 people	\$180,949	\$180,949
3	Share	Requested funds would support additional staff to increase operating hours from overnight to 24 hours at 18-bed Women's Housing and Transition (WHAT) Shelter for one year.	426 E Fourth Plain Blvd.	Single women	75 people	\$200,237	\$200,237
4	Council for the Homeless	Requested funds would add 300 vouchers to existing short-term motel shelter program and support staff to help participants move to longer-term shelter or housing. <i>Recommended partial award would support staff and 60 vouchers.</i>	Various motels	Individuals, couples & families on the street with high vulnerability	Requested funds: 240 people <i>Partial award:</i> 48 people	\$50,000	\$10,000
Recommend looking for other funding sources	St. Paul Lutheran Church	Requested funds would be used to improve existing 24-bed WHO Shelter including roof and window replacement, additional shower and half bath, and built-in bunkbeds.	1309 Franklin St.	Single men	240 people <i>With staffing funds (above):</i> 300 people	\$100,000	-
Recommend looking for other funding sources	Vancouver Housing Authority	Requested funds would be used for improvements to add 11 beds at existing SafeChoice Shelter (increase from 33 to 44 beds) and support staff costs.	Not disclosed	Single women & women with children fleeing domestic violence	221 people	\$1,102,805	-
TOTAL						\$1,755,793	\$475,412

The \$475,412 in proposed awards would add 24 beds and 60 motel vouchers to the current shelter system, support 42 existing beds, allow St. Paul Lutheran's shelter (currently a Winter Hospitality Overflow location) to open nightly throughout the entire year, and increase operations at the Women's Housing and Transition Shelter from overnight to 24 hours. Note that 18 of the 24 added beds are currently used for substance abuse recovery housing, but are not dedicated to homeless individuals.

**Attachment B:
Affordable Housing Fund
Project Awards to Date (2017-2019 Funds)**

Award Date	Project	Amount	Total Project Cost	50% AMI Units, Households, or Shelter Beds Assisted	Status	Target Population
Housing Production (Construction/Acquisition)						
10/2017	Evergreen Habitat for Humanity - McKibbin Commons	\$ 200,000	\$626,000	4	Completed	Families
10/2017	Housing Initiative LLC - The Elwood	\$ 850,000	\$9,822,911	46	Pre-construction	Homeless/Special Needs
10/2017	REACH - Isabella Court Phase II	\$ 737,550	\$13,909,492	49	Completed	Homeless
10/2017	Vancouver Housing Authority - Caples Terrace	\$ 850,000	\$8,136,080	28	Completed	Homeless/Youth
10/2017	Vancouver Housing Authority - Meriwether Place	\$ 500,000	\$9,958,950	30	Completed	Homeless
2/2019	America for Veterans Foundation - Veterans Village	\$ 525,000	\$1,781,902	18	Pre-construction	Homeless/Veterans
2/2019	Community Roots Collaborative - CRC Development	\$ 250,000	\$2,383,313	25	Pre-construction	Homeless
2/2019	Evergreen Habitat for Humanity - Land Acquisition/Construction	\$ 300,000	\$1,485,000	6	Pre-construction	Families
2/2019	Grand Apartments JV LLC - Grand Avenue 14-Unit	\$ 550,000	\$1,585,400	11	Pre-construction	Families
2/2019	Housing Initiative LLC - The Pacific	\$ 850,000	\$2,750,000	18	Under construction	Homeless
2/2019	Lifeline Connections - Recovery Residence for Women	\$ 100,000	\$375,000	4	Completed	Homeless
2/2019	Mercy Housing Northwest - Mercy-PeaceHealth Family Housing	\$ 500,000	\$21,448,117	70	Pre-construction	Families
2/2019	Palindrome - Arnada Workforce Apartments	\$ 850,000	\$22,455,890	17	Pre-construction	Families
2/2019	Second Step Housing - Housing Acquisition	\$ 500,000	\$1,050,000	10	Pre-purchase	Homeless/Special Needs
2/2019	Vancouver Housing Authority - Northcrest Apartments Acquisition	\$ 100,000	\$3,090,000	2	Completed	Families
		\$ 7,662,550	\$ 100,858,055	338		
Housing Preservation						
10/2017	City of Vancouver - Housing Rehab Fund	\$ 384,213	\$ 384,213	15	Various stages	Seniors/Families
10/2017	Community Services Northwest - Rehab	\$ 100,000	\$ 100,000	7	Completed	Homeless
2/2019	Second Step Housing - Housing Rehab (multiple sites)	\$ 215,000	\$ 215,000	47	Pre-construction	Homeless
2/2019	Vancouver Housing Authority - Englund Manor Rehab	\$ 1,700,000	\$ 3,576,962	29	Pre-construction	Seniors
2/2019	Vancouver Housing Authority - Van Vista Rehab		\$ 24,546,763	96	Pre-construction	Seniors
		\$ 2,399,213	\$ 28,822,938	194		
Homelessness Prevention: Housing Assistance & Services						
4/2018	Council for the Homeless/Share - Consortium Rental Assistance	\$ 1,210,000	\$ 3,459,590	276	Contract completed	Homeless/Families
4/2018	Vancouver Housing Authority - Rental Assistance	\$ 250,000	\$ 282,800	35	Contract completed	Families
4/2019	Council for the Homeless/Share - Consortium Rental Assistance	\$ 1,250,000	\$ 1,250,000	300	Providing assistance	Homeless/Families
		\$ 2,710,000	\$ 4,992,390	611		
Homelessness Prevention: Temporary Shelter						
9/2018	Share - Share House Improvements	\$ 156,600	\$ 178,000	30	Completed	Homeless
9/2018	Vancouver Housing Authority - SafeChoice Improvements	\$ 219,104	\$ 402,104	34	Under construction	Homeless
9/2018	Vancouver Housing Authority - Valley Homestead Improvements	\$ 252,533	\$ 742,968	62	Under construction	Homeless
		\$ 628,237	\$ 1,323,072	126		
Total Awards To Date		\$ 13,400,000	\$ 135,996,455			

Affordable Housing Fund

Shelter funding recommendations



December 16, 2019

Vancouver City Council Workshop

Peggy Sheehan, Community Development Program
Manager

Danell Norby, Community Development Coordinator

Presentation overview

- Background on Affordable Housing Fund
- Funding recommendations for shelter projects
- Current picture of Affordable Housing Fund performance:
2017-2019 projects and units/households/beds assisted
- Next steps, feedback and questions

Background on Affordable Housing Fund

- Property tax for housing approved by Vancouver voters in November 2016
- \$42 million collected from 2017-2023 (\$6 million annually)
- Serves households earning up to 50% AMI (\$43,950 for family of 4)

Housing Production

- Acquisition and construction of new affordable housing

Housing Preservation

- Rehabilitation of single- and multi-family housing

Homelessness Prevention

- Housing assistance and services
- Shelter preservation, construction, and/or operation

Administrative & Financial Plan for AHF

- Adopted June 2016, amended October 2017
- Describes how funds will be collected and used
- Includes estimates for units/households assisted and projected funding allocations among program areas
- Actual funding and projects determined through application and prioritization processes

2019 funding awards for shelter projects

Request for shelter project applications

- Minimum of \$300,000 available from 2019 allocation
- Goal of funding is to **increase capacity of shelter system** by supporting additional overnight beds
- Funds available for staffing/operations, acquisition, construction, capital improvements
- New or existing shelters eligible

Impact of recommended shelter awards

- Received 6 applications with \$1.76 million in funding requests
- Propose rolling in \$175,412 from unspent program implementation funds for total of \$475,412

Funding recommended for 4 projects that would:

Add 24 beds* and 60 motel vouchers to the current shelter system (for one year)

Support 42 existing beds (for one year)

Allow St. Paul Lutheran's shelter (currently a Winter Hospitality Overflow location) to increase operations from 5 months to year-round (for one year)

Increase operations at the Women's Housing and Transition Shelter from overnight to 24 hours (for one year)

Affordable Housing Fund - 7



*18 of the 24 beds currently serve individuals in substance abuse recovery, but are not reserved for people who are homeless.

Shelter funding recommendations (\$475,412)

Agency	Project Description	Location	Population Served	Estimated # Served per Year	Funding Request	Recommended AHF Award
X-change Recovery	Recommended partial award would support staff costs for 18 beds in 2 homes for <u>one year</u> . (Full request: 27 beds in 3 homes)	TBD	Single men, single women & women with children in substance abuse recovery	With recommended award: 33 people	\$121,802	\$84,226
St. Paul Lutheran Church	Staff costs to add 6 beds at overnight Winter Hospitality Overflow (WHO) Shelter (increase from 24 to 30 beds) for <u>one year</u> , and increase service from 5 months to year-round.	1309 Franklin St.	Single men	300 people	\$180,949	\$180,949
Share	Staff costs to increase operating hours from overnight to 24 hours at 18-bed Women's Housing and Transition (WHAT) Shelter for <u>one year</u> .	426 E Fourth Plain Blvd.	Single women	75 people	\$200,237	\$200,237
Council for the Homeless	Recommended partial award would add 60 vouchers to short-term motel shelter program and support staff to help participants move to shelter/housing. (Full request: 300 vouchers)	Various motels	Individuals, couples & families on the street with high vulnerability	With recommended award: 48 people	\$50,000	\$10,000

Other applications – No funding available

Agency	Project Description	Location	Population Served	Estimated # Served per Year	AHF Request
St. Paul Lutheran Church	Improvements to existing 24-bed Winter Hospitality Overflow (WHO) Shelter.	1309 Franklin St.	Single men	240 people	\$100,000
Vancouver Housing Authority	Improvements to add 11 beds at existing SafeChoice Shelter (increase from 33 to 44 beds) and support staff costs.	Not disclosed	Single women & women with children fleeing domestic violence	221 people	\$1,102,805

Recommended projects – Cost per shelter bed

Agency	Recommended AHF Award	# Beds Supported	AHF Cost per Bed	AHF Cost per Bed per Night
X-change Recovery	\$84,226	18	\$4,679	\$13
St. Paul Lutheran Church	\$180,949	30	\$6,032	\$17
Share	\$200,237	18	\$11,124	\$30
Council for the Homeless	\$10,000	60	\$167*	\$167*

*Average motel room cost of \$100/night, plus staff costs to help participants move into longer-term shelter or housing.

According to the City of Seattle shelter contracts, operating costs range from approximately \$23/day for an overnight emergency shelter to \$73/day for an enhanced service, low-barrier shelter.



Current picture of Affordable Housing Fund (2017-2019)

Awards made to date – Housing Production

Awarded approximately \$7.7 million for fifteen projects that build or acquire 431 units, including 338 units for households at/below 50% AMI. Six projects are complete.

Meriwether Place



Isabella Court II



Caples Terrace



McKibbin Commons



Awards made to date – Housing Preservation

Awarded approximately \$2.4 million for five projects that preserve 194 units for households at/below 50% AMI. Three projects are complete.

Community
Services
Northwest
Rehab



Awards made to date – Homelessness Prevention

Awarded **\$2.71 million** through contracts with the Vancouver Housing Authority and Council for the Homeless/Share Consortium to prevent or address homelessness for a projected **611 households**.

Awarded approximately \$628,000 to improve three shelters and support **126 shelter beds** (incl. 12 new beds). One project is complete.

Valley
Homestead
Shelter

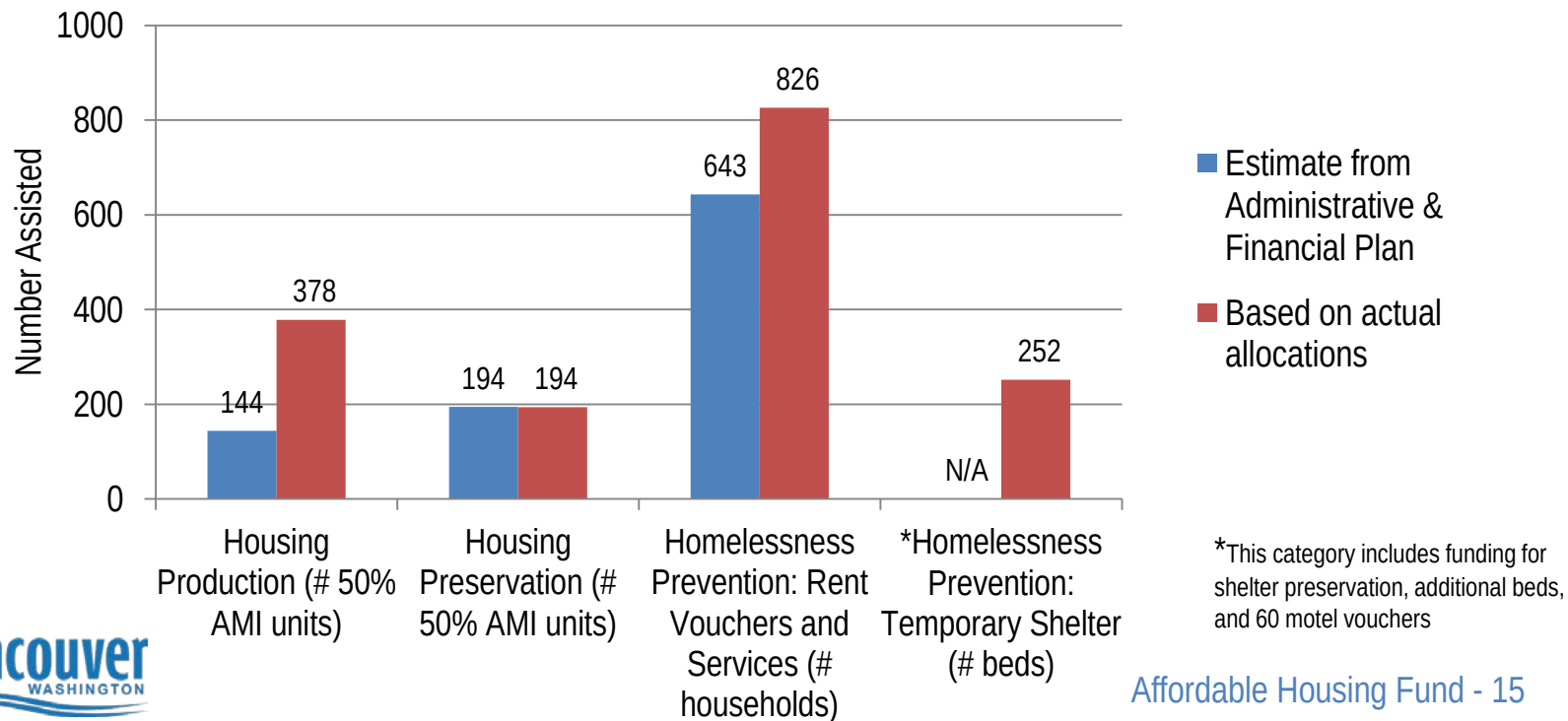


Rental
assistance
participant

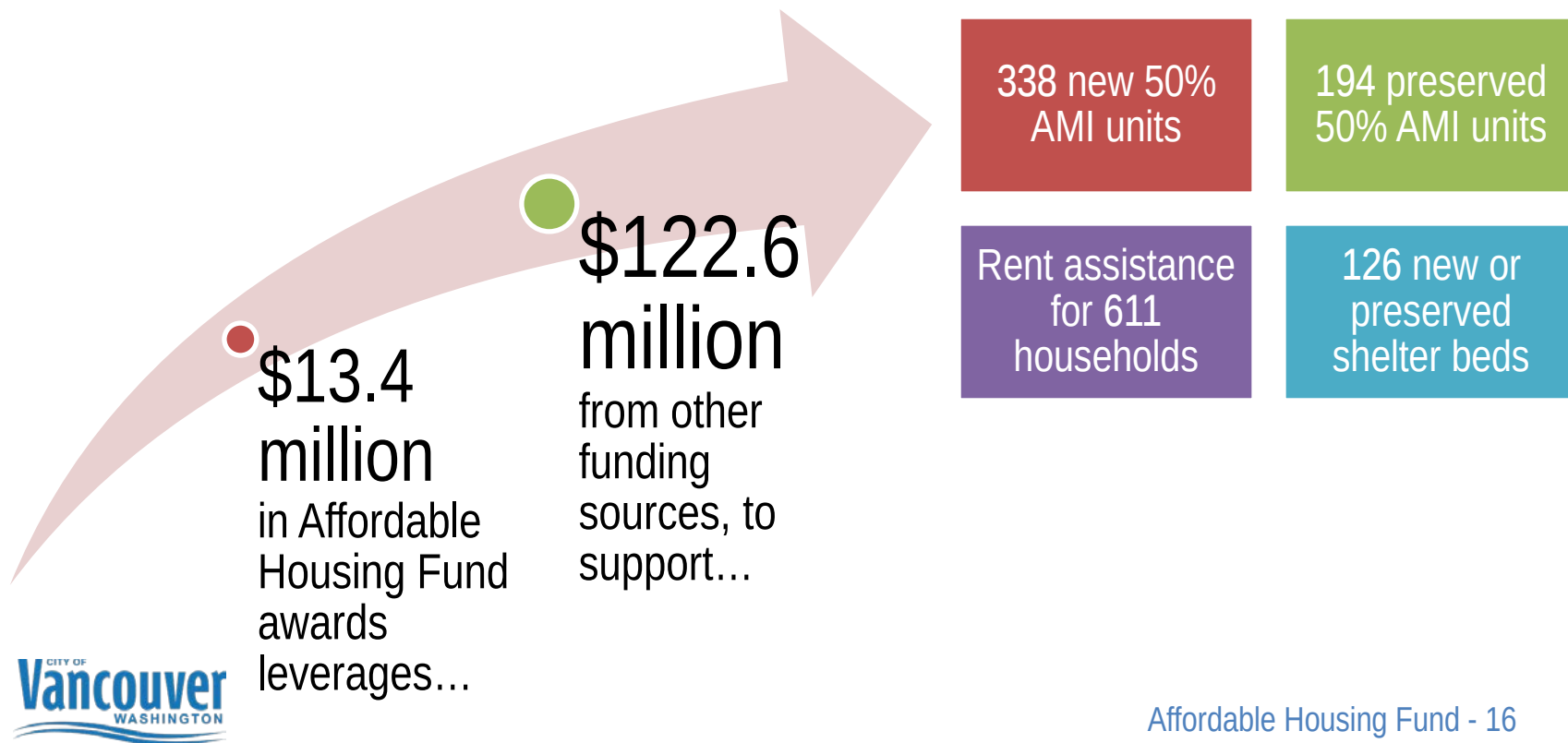
Affordable Housing Fund - 14

Fund performance to date is exceeding estimates

Progress toward fund goals for 2017-2019 (3-year totals)



Funds leveraged with awards to date



Award processes for remaining 2019 funds

In addition to proposed shelter funding awards:

- **Housing production/preservation:** \$2 million available for projects receiving Low Income Housing Tax Credits in 2020, supporting a minimum of 40 units.
- **Housing assistance and services:** \$1.5 million available with application guidelines to be released in January 2020, serving a minimum of 215 households.

Next steps

- January 13, 2020 consent hearing to approve 2019 shelter awards
- Upcoming award processes:
 - Application guidelines to be released January 2020 for \$1.5 million in housing assistance funds
 - \$2 million to be awarded to tax credit projects in 2020
- \$6 million in 2020 Affordable Housing Funds – staff will bring allocation plan to Council as part of a 2020 comprehensive review of all City funding sources for housing and homelessness

Questions and Discussion

Peggy Sheehan, Community Development Program Manager

peggy.sheehan@cityofvancouver.us

(360) 487-7952

www.cityofvancouver.us/affordablehousing





Staff Report 189-19

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 12/16/2019

SUBJECT Public Defense Services - Conflict Contract

Key Points

- The City is legally mandated to provide public defense services to individuals accused of crimes who the court has determined are indigent.
- In some cases, it may be a conflict of interest for the City's primary public defense contractor to provide services to a client so the City retains several other firms to provide services to those clients.
- The City Council is being asked to approve a contract with W. Todd Pascoe for indigent defense services.

Strategic Plan Alignment

N/A

Present Situation

The City is constitutionally mandated to provide public defense counsel to indigent persons entitled to representation as authorized by law. These services are currently provided through contracts with private attorneys. The City's primary contract for legal and other professional public defense services is with Jeffrey D. Barrar (dba Vancouver Defenders). In some cases, Vancouver Defenders may have a conflict of interest with an indigent client assigned to them. This conflict can occur through circumstances such as when there is more than one defendant in a case and it would be conflict for Vancouver Defenders to represent both clients; when the client has been served by Vancouver Defenders in the past and requests a different attorney, etc.

The City contracts with a separate firm to provide indigent defense services when there is a conflict with the primary attorney. On October 18, 2019, the City issued a Request for Qualifications (RFQ) for a firm to provide conflict indigent defense services. One qualified response was received from W. Todd Pascoe, PLLC, who is currently providing conflict indigent defense services for the City.

Advantage(s)

1. Fulfills the City's duty to provide public defense services to all qualified indigent clients.
2. Retains a public defense firm that has historically proven itself competent to provide defense counsel for indigent clients.

Disadvantage(s)

None

Budget Impact

The conflict indigent defense contract is for \$41,174 per year for 120 cases. If the caseload goes over 120, the additional cases are paid on a per case basis of \$350. Annual contract expenses are anticipated to be approximately \$45,000 in 2020. Funds for this contract have been appropriated in the 2019-2020 biennial budget.

Prior Council Review

None

Action Requested

Authorize the City Manager or his designee to sign an agreement with W. Todd Pascoe, PLLC to provide public defense services to indigent clients in the City of Vancouver.

Jeanette (Jan) Bader, Program and Policy Development Manager, 487-8606

ATTACHMENTS:

- Agreement

CITY OF VANCOUVER
PROFESSIONAL SERVICES AGREEMENT _____
PUBLIC DEFENSE CONFLICT CASES

This Agreement by and between the City of Vancouver, a municipal corporation, under the laws of the State of Washington , hereinafter referred to as “City” and W. Todd Pascoe, PLLC, hereinafter referred to as “Conflict Contractor” whose address is 1104 Main Street, Suite 200, Vancouver, Washington, 98660.

WHEREAS, the City of Vancouver has a constitutionally mandated responsibility to provide public defense services and desires to have legal services performed for eligible persons entitled to representation as authorized by law; and;

WHEREAS the City desires to engage the Conflict Contractor to provide legal counsel and other related professional services when there is a conflict of interest in cases assigned to the City’s Primary Public Defender. Conflict Contractor has agreed to offer its professional services to perform said work per City issued Request for Qualifications (RFQ) No. 33-19, Conflict Contractor’s response to said RFQ; and

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

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

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

Section 1. Definitions

The following definitions control the interpretation of this Agreement:

- a. The term “Eligible Client” shall mean a defendant or a juvenile deemed to be handled as an adult, who is facing civil commitment or any other person who has been determined by a finding by the Court to be entitled to a court-appointed attorney, pursuant to R.C.W. 10.101.020.
- b. The term “Representational Services” shall mean the services for which the City of Vancouver is to pay the Conflict Contractor. Representational services include lawyer

services and appropriate support staff services, appropriate sentencing advocacy and services including, but not limited to, interviews of clients and potential witnesses, legal research, preparation and filing of pleadings, negotiations with the appropriate prosecutor or other agency and court regarding possible dispositions, and preparation for and appearance at all court proceedings. The services for which the City of Vancouver is to pay the Conflict Contractor do not include extraordinary expenses incurred in the representation of eligible clients. Where the lawyer determines that conducting an independent investigation is necessary to the proper defense of the Client, the City of Vancouver agrees that the Conflict Contractor will not be responsible for payment of extraordinary expenses incurred in the representation of eligible clients, subject to Section 4(n) below.

- c. The term “Case” shall mean representation of one person on one or more charging documents that arise out of a single criminal incident. Multiple citations or case numbers filed from the same incident are one case. Citations or case numbers that include charges that occurred on the same day are presumed to be one incident or one “case.” A charging document that includes charges from more than one date (separate incidents) is deemed one “case”, unless the court grants Conflict Contractor’s motion to sever the charges.

The term “Case” also shall mean representation of one person on one or more original case numbers where a probation violation(s) or show cause order has been filed and Conflict Contractor is appointed. However, a probation violation case is not counted as a separate, new “case” if the only alleged probation violation is commission of a new offense and Conflict Contractor is appointed on the new criminal case.

Reappointment of an attorney or law firm to a case, following a defendant’s arrest on a bench warrant for failure to appear, does not result in additional case credit under this contract.

- d. The term “Case Weighting” shall mean a numerical system, adopted by a jurisdiction, which recognizes the greater or lesser workload required for cases when compared to an average case based on complexity, seriousness of charges and time necessary to prepare for an adequate defense.
- e. The term “Disposition” shall mean 1) the dismissal of charges, 2) the entering of an order of deferred prosecution, 3) an order or result requiring a new trial, 4) imposition of sentence, or 5) deferral of any of the above coupled with any other hearing on that

case number, including but not limited to misdemeanor probation review that occurs within thirty (30) days of sentence, deferral of sentence or the entry of an order of deferred prosecution

- f. The terms "District Court" or "Court" shall mean Clark County District Court.
- g. All other terms are intended to have a plain and ordinary meaning with a definition that can be derived from any modern English dictionary.

Section 2. Minimum Qualifications for Conflict Contractor Attorneys

The Conflict Contractor shall utilize attorneys who satisfy the minimum requirements for practicing law in the State of Washington as determined by the Washington State Supreme Court. Each attorney shall be familiar with the statutes, court rules, constitutional provisions, relevant case law, Rules of Professional Conduct, and the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association.

Each attorney must also be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction and be familiar with mental health issues and be able to identify the need to obtain expert services.

Each attorney shall attend seven (7) hours per year of continuing legal education credits in courses relating to criminal law practice or other areas of law in which the Conflict Contractor provides legal services to eligible clients under the terms of this Agreement. Further, each attorney shall attend training approved by the Washington State Office of Public Defense at least once per calendar year. Such training may be counted in fulfilling the above 7-hour requirement. The Conflict Contractor will provide an annual report to the City demonstrating compliance with this provision.

Each attorney representing any client assigned as a part of this Agreement shall meet the requirements above or work directly under the supervision of a senior, supervising attorney employed by the Conflict Contractor, who meets the requirements above. Such supervising attorney shall have a minimum of five (5) years' experience practicing criminal law in Washington State. Such direct supervision shall continue until the attorney meets the requirements above.

Failure on the part of the Conflict Contractor to use staff with the appropriate amount of experience or to supervise appropriately its attorneys shall be considered a material breach of this Agreement.

Section 3. Professional Conduct:

The Conflict Contractor shall provide the services of attorneys and staff members in compliance with all of the applicable laws and administrative regulations of the State of Washington, the United States, the Vancouver Municipal Code, the Washington State Rules for Professional Conduct (RPC), the Washington State Supreme Court Standards effective October 1, 2012 and the Washington State Supreme Court Caseload Standards effective January 1, 2015. Nothing in this contract shall be construed to impair or inhibit the exercise of independent, professional judgment by an attorney employed by the Conflict Contractor with respect to any client wherein an attorney-client relationship has been established pursuant to the terms of this Contract.

Nothing in this contract shall require or permit, without the consent of the client, access to or disclosure of any confidential communication made by a client to any attorney employed by the Conflict Contractor or any such confidential communications made to agents or employees of the Conflict Contractor for such attorney; the advice given by an attorney to a client; or any other statements and materials privileged from disclosure in a court of law.

Per Washington State's Supreme Court Standards the caseload of a full-time public defense attorney or assigned counsel should not exceed four hundred (400) cases per year for misdemeanors. The Standards require each public defense attorney to "certify to the court that he or she complies with applicable Standards for Indigent Defense Services to be approved by the Supreme Court". Certifications of compliance (Attachment A) must be completed quarterly by each attorney and filed with District Court.

Attorneys and staff employed by the Conflict Contractor shall not solicit or accept any compensation, gifts, gratuities or services from any client served under this contract.

Section 4. Duties of Conflict Contractor:

- a. Conflict Contractor shall advise and provide legal defense services and assistance to eligible clients who have been arrested or charged under any City of Vancouver ordinance or RCW statute which has a possible jail sentence and whom the Conflict Contractor has been appointed to represent by the District Court. All legal services rendered by Conflict Contractor shall be of the highest quality and shall be provided at all stages of each assigned case.

- b. The Conflict Contractor shall accept case assignments for which the Primary Defender has a conflict and/or there are co-defendants. The Primary Defender may also refer cases to the Conflict Contractor if the defendant is already represented by the Conflict Contractor on another open pending case in Court.
- c. In order to perform its responsibilities under the Contract, the Conflict Contractor shall have the power and duty to:
 - a. Hire all Conflict Contractor personnel; supervise and maintain the quality of staff and services received or performed.
 - b. Provide fiscal management; establish compensation of personnel; maintain payroll records and provide payments for all personnel including withholding of income taxes, payment of social security taxes, payment of worker compensation and industrial insurance taxes (where applicable), and fringe benefits;
 - c. Adequate support staff is critical to an attorney's ability to render competent assistance. Use of qualified paralegal staff to assist in management of caseloads is highly recommended.
 - d. Suspend remove, or terminate personnel not adequately performing the duties and responsibilities assigned, mishandling funds, engaging or condoning misconduct, or whose conduct or continued performance of duties is detrimental to the Conflict Contractor program;
- d. The Conflict Contractor shall accept case assignments from the Court if there is an immediate need for representation at a hearing and the Primary Defender is unable to represent the client due to a conflict. Immediate case assignments include situations where the Conflict Contractor must report to a bench warrant hearing because the Primary Defender is unable to represent the client due to a conflict. The Conflict Contractor's duty of representation ends after a citation is written and signed by the arresting officer. However, the Conflict Contractor may be appointed later by the Court to represent that person in further proceedings.
- e. The Conflict Contractor will notify the District Court and the City Attorney's Office immediately upon any change in status of a client's representation.
- f. Conflict Contractor shall represent eligible clients in all arraignments, pre-trials, trials, sentencing's, probation violations, revocation proceedings, protest hearings, show cause hearings, hearings for review of sentence in all District Courts, and all necessary

hearings, motions, and writs which may arise in Clark County District Court. No service shall be rendered with respect to any crime or proceeding which does not include the possibility of incarceration. Client representation under this Agreement shall not include any appeals, writs to higher court.

- g. The Conflict Contractor shall receive and respond to all telephone calls on a twenty-four hour basis prior to the first opportunity for court appointed counsel. (CrRLJ 3.1 (b), (c)) The Conflict Contractor shall receive and respond in a timely manner to, at all times, all telephone calls from indigent persons whom Conflict Contractor has been appointed to represent. The Conflict Contractor shall not subcontract this requirement.
- h. The Conflict Contractor agrees to make reasonable efforts to continue the initial attorney assigned to a client throughout all cases assigned in this Agreement. Nothing in this section shall prohibit the Conflict Contractor from making necessary staff changes or staff rotations at reasonable intervals, or from assigning a single attorney to handle an aspect of legal proceedings for all clients where such method of assignment is in the best interest of the eligible clients affected by such method of assignment
- i. The Conflict Contractor agrees that an attorney will make contact with all clients within three working days from notification of case assignment.
- j. Conflict Contractor shall provide representational services at Domestic Violence Court. For all other Clark County Specialty Courts including Mental Health Court, Substance Abuse Court (SAC), Domestic Violence Therapeutic Court (DVTC) and Veteran's Court the City contracts with Clark County to provide indigent defense counsel.
- k. To the extent it is practicable, Conflict Contractor shall have the capacity to communicate with clients directly in their primary language with the assistance of court appointed certified interpreters. The Conflict Contractor shall convey all plea offers to clients in writing, in the client's preferred language.
- l. In the event that the contract is terminated or not renewed, complete the representation of all clients who have been referred by the Court during the period in which the contract is in effect for the compensation received or receivable under the terms of the Contract, provided that completed representation is not made impossible by a client's failure to appear.

- m. The Conflict Contractor will hire, supervise and maintain quality staff. Conflict Contractor will be responsible for suspending, removing, or terminating personnel not adequately performing the duties and responsibilities assigned.
- n. Per Washington State Supreme Court Standards, effective January 1, 2015, caseloads per attorney for this contract shall not exceed four hundred (400) misdemeanor cases per year. Cases are as defined in Section 1(c). Conflict Contractor shall hire the appropriate number of attorneys to service this Agreement while meeting the caseload standard. .
- o. Adequate support staff is critical to an attorney's ability to render competent assistance. Use of qualified paralegal staff to assist in management of caseloads is highly recommended. The parties agree and expect that at a minimum the Conflict Contractor will employ support staff services for its attorneys proportionate to the following:
 - 1. One full time Legal Assistant for every four staff attorneys
 - 2. One full time Legal Secretary for every four staff attorneys
- p. In order to effectively represent clients, the Conflict Contractor shall insure that attorneys providing service under this Agreement shall be equipped with the necessary technology to access police reports, file documents and otherwise function in a paperless Court system.
- q. The Conflict Contractor shall coordinate investigation services on those cases requiring investigation. The Conflict Contractor shall also coordinate expert witnesses for those cases requiring expert witness testimony. The Conflict Contractor shall contact the City Contract Administrator for the expenditure of public funds prior to requesting copies of records or hiring an investigator or expert witness. Invoices for such services shall be sent directly to the City by the subcontractors; the Conflict Contractor will not be held liable for those expenses.
- r. The Conflict Contractor agrees to utilize Notice of Appearance Forms provided by the Clark County District Court which includes a notice statement that Defendants are obligated to pay the Indigent Defense Recovery Fee. The Conflict Contractor shall not impede the District Court from collecting such fees. The Conflict Contractor's duty of representation shall not be affected in any way by the payment or non-payment of such fees.

- s. Conflict Contractor shall engage in pre-trial negotiations with the City Attorney's office for the purpose of negotiating matters for the following week's mandatory pre-trial hearings.
- t. Conflict Contractor shall comply with all appearances and duties as may be required by District Court and/or the City for the term of this Agreement at no additional expense to the City.

Section 5. Client Communication:

Conflict Contractor agrees to use all good faith efforts to secure both continuous contact with defendants whom Conflict Contractor is appointed to represent and also regular attendance by clients at critical stages in the defendant's case. Such good faith efforts shall expressly include, but not be limited to, the following measures:

- a. Advising clients that regular contact is necessary to the preparation of their defense, and employing all reasonable means to secure and maintain such contact.
- b. Clients shall be notified in advance of the date, time and location of all critical stages in the process of the client's particular case including, but not limited to, pretrial conferences, omnibus or other pretrial motions, readiness hearings, and trial. Offers shall be extended in writing to clients within five business days of receipt from the City Attorney's office. In any case, notification shall be provided early enough that the client has time to prepare for each stage.
- c. Advising clients that appearance at all regularly scheduled pre-trial hearings (both pre-trial and mandatory) with City prosecutors and the Conflict Contractor is required for effective assistance in the client's defense and encouraging such attendance. A mutually agreeable time will be scheduled with the Court's approval.
- d. Timely notification of the District Court when clients fail to make regular contact.

Section 6. Records, Reports & Audits

- a. All records shall be maintained by the Conflict Contractor. The Conflict Contractor shall maintain systems of internal control which conform to proper law office management and generally accepted accounting principles.

The Conflict Contractor must ensure that the City has full access to materials necessary to verify compliance with all terms of this contract. At any time, upon reasonable notice during business hours and as often as the City may deem necessary, the Conflict Contractor shall provide to the City right of access to its facilities, including those of any subcontractor, to auditing records, data, invoices, materials, payrolls and other data relating to all matters covered by this contract. Provided that if any such data, records or materials are subject to any privilege or rules of confidentiality the Conflict Contractor must maintain such data in a form or manner to provide same to the City that will not breach such confidentiality or privilege.

The Conflict Contractor shall maintain such data and records in an accessible location and condition for a period of not less than seven (7) years following the receipt of final payment under this Contract, unless the City agrees in writing to an earlier disposition.

The Conflict Contractor agrees to cooperate with the City or its agent in the evaluation of the Conflict Contractor's performance under this Contract and to make available information reasonably required by any such evaluation process or ongoing reporting requirements established by the City. The results and records of said evaluations and reports shall be maintained and disclosed in accordance with RCW Chapter 42.17.

- b. The Conflict Contractor shall report by the 15th day of April, July, October and January to the City's Contract Manager, the activity of the preceding quarter. In addition to other statistics the City may require, Conflict Contractor shall provide the following information:
 - 1. Name of the Defendant, case number(s) and charges
 - 2. Name of assigned attorney for each client
 - 3. The outcome of each case, including defendants that plead guilty at arraignment
 - 4. Verification that clients received a Client Rights brochure and a notification of the indigent recovery fee.
 - 5. Number of bench and jury trials.
 - 6. Number of suppression and Knapstad motions filed along with the number of cases where such motions led to the reduction of charges.
- c. The Conflict Contractor shall report annual activity by January 15th of each following year:
 - 1. Proof of Continuing Legal Education Credits. Such proof shall include name of attorney, identification of training and dates of training.

2. A profile of all personnel who perform work under this Agreement, including name and percentage of time devoted to work under this Agreement.
 3. An accounting of all City cases conflicted out to other attorneys.
- d. The Conflict Contractor shall maintain a case-reporting and management information system which shall include the number, type, and disposition of indigent cases.
 - e. The case reporting and management information system shall be maintained independently from client files in order to not disclose any privileged information. The Conflict Contractor shall not be required to provide any information when the revelation of which would violate any state or federal privacy laws, the attorney-client privilege, or which would otherwise harm the Conflict Contractor's attorney-client relationships
 - f. The City's Public Defense Contract Manager may make periodic surveys of clients for the purpose of monitoring the quality of services provided and client satisfaction.
 - g. The Conflict Contractor shall meet with the City's Public Defense Contract Manager as requested to discuss issues and problems related to the fulfillment of this contract.

Section 7. Discrimination Prohibited:

With respect to matters covered by this Agreement, there shall be no unlawful discrimination by the Conflict Contractor or the City against any person because of race, color, creed, gender, national origin, physical or mental disability, or sexual orientation. The Conflict Contractor and the City will comply with Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990, and all requirements imposed by or pursuant to regulations of the Department of Justice or EEOC issued pursuant to those titles, to the end that no person shall be excluded from participation or deprived of benefits or otherwise subject to discrimination under the defender system because of race, color, creed, gender, national origin, physical or mental disability, or sexual orientation.

Section 8. Reservation Regarding Representation:

The Conflict Contractor agrees to screen all cases for conflicts of interest upon assignment and throughout the discovery process. Discovery shall be reviewed within five (5) days of receipt of case for purposes of determining any conflicts of interest. In the event the Conflict Contractor cannot represent a client because of an actual or potential conflict of interest under the Washington Code of Professional Responsibility, then the Conflict Contractor shall arrange for a City Conflict Attorney to represent the client. Contact information for said attorneys to be provided by the City's Contract Administrator. The Conflict Contractor will refer to the

Washington State Rules of Professional Responsibility, opinions of the state judiciary, and to the American Bar Association Standards for Criminal Justice to determine the existence and appropriate resolution of conflicts.

The Conflict Contractor and each attorney employed or retained by the Conflict Contractor reserve the right to decline to advise, represent, appear for, or act for any particular person, whether or not indigent or otherwise eligible, but only for good cause shown. Good cause includes, but is not limited to, conflicts of interest which preclude the Conflict Contractor or an attorney from acting pursuant to the Washington Rules of Professional Conduct. The Conflict Contractor and each attorney employed or retained by the Conflict Contractor, reserve the right to withdraw from representing any person or entity, whether or not indigent or otherwise eligible, providing the consent of the court, if required, is first obtained. The Conflict Contractor warrants that declinations will not be made except as required by law or legal ethics, and in the event of a declination, will immediately notify the appropriate court as well as the City Attorney's Office.

Section 9. Complaints about Legal Services:

The Conflict Contractor shall have a method to respond promptly to client complaints which will include informing clients of the complaint process. In the case a complaint is made to the City by a client with respect to the quality of legal services rendered under this Agreement, the complaint shall be first directed to the Conflict Contractor. If the client believes that he or she has not received an adequate response, the Vancouver City Manager or his/her designee shall evaluate the legitimacy of the complaint. The complaining client shall be informed of the disposition of his /her complaint as soon as is reasonably possible.

The Conflict Contractor shall fully cooperate with the City and/or District Court in any reasonable investigation which the City and/or District Court may wish to make.

The Conflict Contractor shall ensure that a preliminary written response to any written complaints concerning services provided by the employees of the Conflict Contractor shall be submitted to the Contract Administrator within three (3) working days of the date the complaint is received by the Conflict Contractor Director or the Director's designee. Written complaints include e-mail communications from the Contract Administrator. The Contract Administrator shall copy the supervising attorney on any complaints sent to the Conflict Contractor.

Section 10. Assignment/Subcontracting

The Conflict Contractor shall not assign or subcontract any portion of this Agreement without consent of the City of Vancouver. Any consent sought must be requested by the Conflict Contractor in writing, not less than thirty days prior to the date of any proposed assignment or sub-Agreement, provided that this provision shall not apply to short-term personal service contracts with individuals to perform work under the direct supervision and control of the City of Vancouver. Short-term personal service contracts include any Agreement for a time period less than 3 months. Any individuals entering into such contracts shall meet all experience requirements imposed by this Agreement. The City of Vancouver shall be notified of any short-term contracts which are renewed, extended or repeated at any time throughout the Agreement.

The term "Subcontract" as used above shall not be read to include the purchase of support services that do not directly relate to the delivery of legal services under the Agreement to clients of the Conflict Contractor.

Section 11. Client Access

The Conflict Contractor shall comply with federal and state laws regarding access to its facilities, and will eliminate barriers which limit access for the disabled.

Section 12. Non-Waiver of Rights and Remedies:

In no event shall payment or performance by either party hereto constitute or be construed to be a waiver by either party of any breach of covenant or default which may then exist on the part of the other party, and the making of any such payment or the carrying out of any such performance while breach or default then existed, shall in no way impair or prejudice any right or remedy available to the paying or performing party with respect to such breach or default.

Section 13. Relation of Parties:

The Conflict Contractor, its sub-consultants, agents and employees are independent Conflict Contractors performing professional services for City and are not employees of City. The Conflict Contractor, its subconsultants, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees. The Conflict Contractor, subconsultants, agents and employees shall not have the authority to bind City any way except as may be specifically provided herein.

Section 14. City Not Obligated to Third Parties:

The City shall not be liable to any person or entity other than the Conflict Contractor because of this Agreement, except that the City will pay investigative, substance abuse evaluation and

expert witness fees and additional associated services necessary in any case after a voucher has been submitted and approved by the Court in accordance with CrRLJ 3.1 (f).

Section 15. Liability and Hold Harmless:

The Conflict Contractor shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and subconsultants in the performance of the work hereunder. All work shall be done at the Conflict Contractor's risk. The Conflict Contractor shall defend, save and hold harmless the City of Vancouver, its officers, agents, employees and assigns from any claims, damages, losses, liability or expenses (including attorney's fees) which arise from the negligent performance of this Agreement, except those claims, damages, losses, liability, or expenses which arise from the sole negligent acts or omissions of the City, its officers, agents, employees or assigns.

Section 16. Limited Private Practice of Law:

The Conflict Contractor shall devote all time necessary to properly perform this Agreement. The Conflict Contractor is not limited from maintaining a private law practice. However, the Conflict Contractor shall not allow its private practice of law during the term of this Agreement to conflict with the Conflict Contractor's responsibilities and duties under this Agreement. As required in Section 7(d)(4) the Conflict Contractor shall annually report to the City the number of hours billed for nonpublic defense legal services, including number and types of private cases.

Section 17. Insurance:

a. Commercial General Liability, Professional Liability and Malpractice Insurance:

The Conflict Contractor shall obtain and keep in force Commercial General Liability insurance with a limit not less than \$1,000,000 for each occurrence, Professional Liability (errors and omissions), to include malpractice coverage, not less than \$1,000,000 for each occurrence, and a \$2,000,000 General Aggregate Limit, for the entire term of this agreement. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Agreement which coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 00011093 or any replacements thereof. The coverage shall not exclude X, C, U.

Such policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, nor any provision which would serve to limit third party action over claims.

b. Worker's compensation.

The Conflict Contractor shall take out and maintain during the life of the Agreement, worker's compensation insurance for all its employees engaged in work under or pursuant to this Agreement who are required to be so covered by the laws of the State of Washington.

c. Employment Security.

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

d. City as Additional Insured.

The City of Vancouver shall be named as an additional insured on the commercial general liability policy, and must be shown on the certificates an additional insured, not as a certificate holder. In addition, endorsement CG 20 10 11 85, or its equivalent, must be attached to the certificate.

e. Liability:

To the fullest extent permitted by law, the Conflict Contractor shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes omissions, work or services of the Conflict Contractor, its employees, agents, or any tier of subcontractors in the performance of this Agreement. The Conflict Contractor's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Agreement including any employee of the Conflict Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Conflict Contractor may be legally liable.

- f. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity of the paragraph.

Section 18. City Business and Occupation License:

Prior to performing work under this Agreement, the Conflict Contractor shall secure a City of Vancouver Business and Occupation License under VMC 5.04.090 for all work performed in the City.

Section 19. Duration:

The Conflict Contractor shall accept all assigned cases from January 1, 2020 through December 31, 2021. It shall be the Conflict Contractor's duty to complete all cases which had been assigned to it during the term of this Agreement, without any additional compensation even though this agreement has ended. If a client fails to appear for proceedings and a bench warrant is issued, the Conflict Contractor will not be responsible for representation of the client should the client again appear for proceedings after the end of the contract term.

The City reserves the right to extend the Agreement for three (3) additional one (1) year terms by mutual agreement between the Conflict Contractor and City. In no case shall this Agreement be extended beyond December 31, 2024.

Section 20. Payment:

- a. In consideration for the Conflict Contractor's performance of the duties listed herein, the City will pay the Conflict Contractor the total sum of \$41,200 for the 2020 calendar year, increasing for each subsequent year this contract runs according to the percentage change that occurred during the preceding calendar year in the U.S. Consumer Price Index for All Urban Consumers (U.S. CPI-U), using the data as published by the United States Department of Labor's Bureau of Labor Statistics, or its successor. Payments shall be in equal installments of \$3,433 per month. This payment is intended to cover salary, benefits, insurance, support staff and all other administrative and overhead expenses associated with the provision of public defense services under this Agreement
- b. The contract payments described in 20 (a) above assumes an annual workload of 120 cases. Each additional case beyond 120 will be compensated at \$350 per case.
- c. Trial Services shall be compensated at a rate of \$375 per day per jury trial. Non-jury trials shall be free of additional charges.

- d. In the event of Conflict Contractor's failure to substantially comply with any items and conditions of this Agreement or to provide in any manner the work or services as agreed to herein, the City reserves the right to withhold any payment until corrective action has been taken or completed. This option is in addition to and not in lieu of the City's right to termination as provided in Section 25 of this Contract.

Section 21. Incorporation of Indigent Defense Standards:

The City of Vancouver "District Court Indigent Defense Standards" adopted by City Council September 14, 2009 in compliance with R.C.W. 10.101.030, and a copy of which the Conflict Contractor acknowledges receipt, are attached and incorporated herein by reference as if fully set forth in this Agreement. The terms of such standards as they may be updated from time to time shall be binding upon both the City and the Conflict Contractor.

Section 22. Notices.

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

City:

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

Conflict Contractor:

W. Todd Pascoe, PLLC
Attorneys at Law
1104 Main Street, Suite 200
Vancouver, WA 98660

Section 23. Amendments:

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the parties hereto. Any changes in the scope of work or compensation shall be mutually agreed upon between City and the Conflict Contractor and shall be incorporated in written amendments to the Agreement.

Section 24. Scope of Agreement:

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

Section 25. Governing Law/Venue:

This Agreement shall be deemed to have been executed and delivered within the State of Washington, and the rights and obligations of the parties hereunder shall be construed and

enforced in accordance with, and governed by, the laws of the State of Washington without regard to the principles of conflict of laws. The Conflict Contractor shall have legal authority to enter into this Agreement. Any action or suit brought in connection with this Agreement shall be brought in the Superior Court of Clark County, Washington.

Section 26. Termination:

This Agreement may be terminated for either of the following reasons:

- 1) For good cause which may include any of the following:
 - (a) Failure of the attorney to render adequate representation to clients;
 - (b) Willful disregard of the rights and best interests of the client;
 - (c) Willful disregard of the WSBA Standards for Indigent Defense Services.
- 2) The professional liability insurance is cancelled. The Conflict Contractor shall be responsible for and maintain Professional liability insurance until the completion of all cases previously assigned to the Conflict Contractor, as set forth in Section 17, above.
- 3) The City may modify, suspend or terminate this Agreement due to amendments to or court interpretations of state or federal statutes that make some or all contract services ineligible for City funding.
- 4) If during the term of this Agreement, changes occur in Washington State law which mandate the City to provide indigent defense services by a method other than contracting, the City may terminate this Agreement by 15 (fifteen) days' written notice to any address specified by the Conflict Contractor, or as otherwise mandated by law.

Section 27. Severability:

If any provision of this Agreement is invalid, the remained shall not be affected if such remainder will then continue to conform to the terms and requirements of applicable law.

DATED this _____ day of _____, 2019

CITY OF VANCOUVER,
A municipal corporation

CONFLICT CONTRACTOR:

Eric J. Holmes, City Manager

W. Todd Pascoe, Principal

Approved as to form:

Jonathan Young, City Attorney

IN THE DISTRICT COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF CLARK

CHECK APPLICABLE CASES: ____ STATE CASES; ____ CITY OF VANCOUVER
CASES;

In Re: Certification of Compliance for	)	
	)	CERTIFICATION OF APPOINTED COUNSEL
	)	OF COMPLIANCE WITH STANDARDS
_____	)	REQUIRED BY CrRLJ 3.1(d)(4)
[Attorney Name]	)	
_____	)	

The undersigned attorney hereby certifies:

1. Approximately ____% of my total practice time is devoted to indigent defense cases.
2. I am familiar with the applicable Standards adopted by the Supreme Court for attorneys appointed to represent indigent persons and that:

a. **Basic Qualifications:** I meet the minimum basic professional qualifications in Standard 14.1.

b. **Office:** I have access to an office that accommodates confidential meetings with clients, and I have a postal address and adequate telephone services to ensure prompt response to client contact, in compliance with Standard 5.2.

c. **Investigators:** I have investigators available to me and will use investigation services as appropriate, in compliance with Standard 6.1.

d. **Caseload:** I will comply with Standard 3.2 during representation of the defendant in my cases.

Attorney Signature

Attorney Printed Name

WSBA #

Date



Staff Report 190-19

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 12/16/2019

SUBJECT Award of Grant Funds from the PEG Capital Support Fund

Key Points

- Under the terms of the City's cable franchise agreement with Comcast, \$1.00 per month per residential cable subscriber is collected and can be used for grants to support capital equipment purchases by the designated Public, Education and Government (PEG) access providers.
- The City Council is being asked to approve \$340,256 in grants to TV ETC and \$294,491 to CVTV.

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 franchise agreements between the City of Vancouver, Clark County and Comcast Corporation provide for a capital contribution in the amount of \$1/month per subscriber for support of Public, Education, and Government (PEG) access and monthly transport costs for public I-NET users. This contribution may only be awarded to designated access providers and iNET users.

The Vancouver Educational Telecommunications Consortium ("TV ETC"), the Designated Access Provider for Education, and Clark/Vancouver Television ("CVTV"), the Designated Access Provider for Government, submitted applications for PEG capital support funds under the requirements established by the City/County Telecommunications Commission ("Commission"). In total, fourteen proposals were received totaling \$632,480. Estimated funds available for distribution in 2019 are approximately \$825,000. The grant applications were reviewed by outside technical experts and the PEG Committee, a subcommittee of the Commission.

The Telecommunications Commission through Resolution 2019-04 (attached) recommends that Vancouver City Council award PEG Capital Support Funding as follows:

Applicant	Total Amount Requested	Total Amount Funded
TV ETC	\$337,989	\$340,256
CVTV	\$294,491	\$294,491
Total PEG Access Capital Grant Funds	\$632,480	\$634,747

Advantage(s)

1. Provides capital funds that will enhance local access programming on the Vancouver/Clark County Comcast Cable system.
2. Awards funds consistent with the requirement of the cable television franchise agreements with Comcast.
3. Provides a tangible community benefit consistent with objectives of the Telecommunications Commission.

Disadvantage(s)

None

Budget Impact

The PEG Capital Support Fund has approximately \$825,000 available for distribution in 2019. An appropriation for the proposed grant awards is included in the PEG Capital Support Fund, 2019-2020 biennial budget. Remaining unallocated funds will be carried forward for future grant awards.

Prior Council Review

None

Action Requested

On December 16, 2019, adopt a resolution, under the terms of the interlocal agreement between the City of Vancouver and Clark County, awarding from the PEG Capital Support Funds grants in the amount of \$ to \$340,256 to TV ETC and \$294,491 to CVTV. *(Note: Under the terms of the Interlocal agreement between the City and the County, both Councils must approve the grants for funds to be awarded.)*

Jeanette (Jan) Bader, Program & Policy Development Manager, 487-8606

ATTACHMENTS:

- ▢ Council Resolution
- ▢ Telecommunications Commission Resolution 2019-04
- ▢ 2019 PEG Recommendation Report

12-16-19

RESOLUTION NO. _____

A RESOLUTION relating to cable television and to the award of Public, Educational and Governmental (“PEG”) capital contribution funds to The Vancouver Educational Telecommunications Consortium (“TV ETC”) and Clark Vancouver Television (“CVTV”) respectively, the designated educational and government access providers for the City of Vancouver.

WHEREAS, the PEG Capital Support Fund, established by Ordinance M-3459, has funds available and appropriated for the purpose of financing PEG capital purchases by designated access providers, pursuant to Ordinances M-3335 and M-3372; and

WHEREAS, the Vancouver/Clark County Telecommunications Commission (“Commission”), by Resolution 1999-03 adopted criteria for award and administration of PEG capital grants; and

WHEREAS, after review of applications for PEG capital grant awards from TV ETC, and CVTV, the Commission recommended in Resolution 2019-04 to Vancouver City Council an award from the PEG Capital Support Fund of \$340,256 to TV ETC and \$294,491 to CVTV for purchase of certain capital expenditures; and

WHEREAS, as set forth in SR 209-99, the City of Vancouver and Clark County entered into an interlocal agreement whereby the City administers PEG capital grants, but all grants will require approval by both the City and County Councils.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY OF VANCOUVER:

RESOLUTION - 1

Section 1. As recommended in the City/County Telecommunications Commission Resolution 2019-04 attached hereto as Exhibit “A”, TV ETC and CVTV are hereby awarded grants to be paid from funds appropriated by Ordinance M-3900 from the PEG Capital Support Fund for the capital purchases described as follows:

Applicant	Total Amount Requested	Total Amount Funded
TV ETC	\$337,989	\$340,256
CVTV	\$294,491	\$294,491
Total PEG Access Capital Grant Funds	\$632,480	\$634,747

Section 2. Award of the grants described in Section 1 is conditioned upon:

- A. Approval of such grants by the Clark County Council; and
- B. Compliance by TV ETC and CVTV with the PEG grant guidelines and criteria set forth in Vancouver/Clark County Telecommunications Commission Resolution 1999-03.

Section 3. The City Manager or his designee is authorized to execute on behalf of the City all necessary agreements with TV ETC and CVTV to ensure compliance with the terms of the grant.

Section 4. Acts taken pursuant to this resolution but prior to its approval are hereby ratified and confirmed.

ADOPTED at regular session of the Council of the City of Vancouver, on this 16th day of December, 2019.

Anne McEnerny-Ogle, Mayor

RESOLUTION - 2

Attest:

Approved as to form:

Natasha Ramras, City Clerk

Jonathan Young, City Attorney

Attachment: Exhibit “A” – Telecommunications Commission Resolution 2019-04

RESOLUTION - 3

City/County Telecommunications Commission

RESOLUTION 2019 –04

Regarding Recommendations to Award PEG Capital Support Funds to Designated Access Providers TV ETC and CVTV

Section 1. Findings

- 1.1 Under the terms of the cable television franchise agreements between the City of Vancouver ("City"), Clark County ("County") and Comcast of Washington V, LLC ("Comcast") adopted June 2013, funding is available to support Public, Educational and Governmental ("PEG") Access capital costs and monthly transport costs by public users related to the Institutional Network ("iNET").
- 1.2 As stated in Section 9.9 "Support for Access Capital Costs" of the franchise, "During the term of this Agreement, Grantee (Comcast) shall provide for a maximum of one dollar (\$1.00) per month, per Residential Subscriber (the "Capital Contribution") for Public, Educational and Governmental ("PEG") Access capital.
- 1.3 The City/County Telecommunications Commission ("Commission") is authorized under Section 5.19.300 of the Vancouver Municipal Code and under Clark County Code 36.12.160 to administer Ordinances and any Franchise granted pursuant to the implementation of Franchise compliance procedures.
- 1.4 The Commission's authorized duties, pursuant to the codes mentioned in Section 1.3 of this Resolution, include "To have primary responsibility for advising the City and County regarding public, educational and governmental access programming including the development of processes for the selection of designated access providers, and for evaluating their performance, for assigning and designating access channels, for allocating access funds and for making written reports and recommendations to the City and County Councils."
- 1.5 The Commission Chair appointed a subcommittee of the Commission to review applications from Designated Access Providers and present recommendations to the Commission, which if approved by the Commission, are forwarded to the Vancouver City Council and Clark County Council for review and action.
- 1.6 The Vancouver Educational Telecommunications Consortium ("TV ETC"), the Designated Access Provider for Education and Clark/Vancouver Television ("CVTV"), the Designated Access Provider for Government submitted applications to the Commission for PEG Capital Support Fund consideration.

- 1.7 Grant applications were reviewed by the PEG Committee in concert with outside experts who reviewed the applications from a technical perspective. The PEG Committee also met with each designated access provider on November 13, 2019.
- 1.8 The Committee presented their recommendations and findings to the Commission in the **Recommendations Regarding the Award of PEG Capital Support Funds** (Exhibit A.) Estimated funds available for distribution in 2019 are approximately \$825,000. The Commission reviewed and approved the recommendations and findings of the PEG Committee as outlined in the report.

NOW, THEREFORE BE IT RESOLVED:

Section 2.

- 2.1 The Commission recommends, barring any substantial issues raised by the City and County governing boards, and upon signing the required PEG Capital Grant agreements, that TV ETC and CVTV be awarded PEG Capital Support Funds as follows:

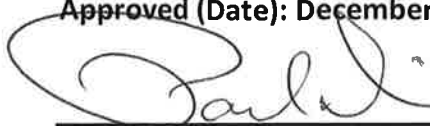
Applicant	Total Amount Requested	Total Amount Funded
TV ETC	\$337,989	\$340,256
CVTV	\$294,491	\$294,491
Total PEG Grant Funds	\$632,480	\$634,747

The City/County Telecommunications Commission, through this Resolution, adopts the findings and recommendations contained herein and as outlined in Exhibit A:

Recommendations regarding the 2019 Award of PEG Capital Support Funds

- 2.2 The Commission directs staff to forward this Resolution and finalized copies of the **PEG Committee Recommendations Regarding the 2019 Award of PEG Capital Support Funds** to the Vancouver City Council and the Clark County Council, as well as to the applicants.
- 2.3 The Commission recommends that the Vancouver City Council and Clark County Council award funds to TV ETC and CVTV as outlined in this Resolution.

Approved (Date): December 4, 2019



Paul Dicker, Chair, City/County Telecommunications Commission

CITY • COUNTY

CABLE TELEVISION OFFICE

TO: CITY/COUNTY TELECOMMUNICATIONS COMMISSION

FROM: PEG COMMITTEE
Paul Hunter, Chair
Jim Ackerman
Eric Hale

DATE: November 27, 2019

SUBJECT: Recommendations for the 2019 PEG Capital Support Grants

Purpose of the PEG Capital Grant Program:

The purpose of the PEG Capital Support Fund, established under the 1997 cable franchise agreement and renewed in the 2013 cable franchise agreement, is to promote the use and availability of local programming by providing capital support for equipment and facilities for use by the public, education, and local government for the benefit of Vancouver/Clark County cable television subscribers. Comcast collects a “PEG fee” of \$1 per month per cable subscriber which is remitted to the City and County to support this purpose. PEG funds may also be used for costs related to the use of the Institutional Network (iNET) as provided in the franchise agreement.

Grant Proposal Evaluation:

Grant proposals for the current round of funding were due by October 5, 2018. Fourteen proposals were received totaling \$632,480 in requests: two (2) from CVTV and twelve (12) from TV ETC. There is \$825,000 available for PEG grants this year.

Grant applications were reviewed by the PEG Committee in concert with outside experts who reviewed the applications from a technical perspective. The PEG Committee also met with each of the applicants to review the proposals.

PEG Capital Grant Program- Recommended Projects for 2019

The Committee asked for clarification on equipment needs and uses on several of the grants. The Evergreen School District is building a new headquarters facility and their four applications are focused on equipment for the new facility. It will likely not be completed in 2020 but PEG funds can be carried forward. When the City moved into the new City Hall, the Commission allowed CVTV to use a couple years of PEG funds to equip the studio. Also, based on the recommendations by the technical reviewers, Vancouver Public Schools switched out several pieces of equipment for different models which resulted in an increase of \$2,267 beyond was originally requested.

With these grant awards, there is approximately \$193,000 remaining in the PEG fund for future grant distribution. The PEG Committee is recommending the following funding for approval by the Telecommunications Commission:

Serving the citizens of Vancouver and Clark County since 1982

P.O. Box 1995 | Vancouver, WA 98668-1995 | 360-487-8702 | Fax: 360-487-8625 | www.cvtv.org

Recommendations for 2019 PEG Grants

November 27, 2019

Page 2

Grant Applications *	Requested	Recommended
Editing Server Replacement (CVTV)	\$122,448	\$122,448
City Hall/County Service Center Camera Replacement (CVTV)	\$172,043	\$172,043
TV ET Playback Upgrade (ESD 112)	\$60,122	\$60,122
Live Event Broadcasting (Battle Ground School District)	\$21,728	\$21,728
Studio LED Lighting (Evergreen School District)	\$101,586	\$101,586
Studio Green Screen/Backdrops (Evergreen School District)	\$2,747	\$2,747
Video Server Control Computers (Evergreen School District)	\$9,103	\$9,103
Video Production Upgrades (Evergreen School District)	\$14,269	\$14,269
Replace Sony Cameras (Vancouver School District)	\$34,815	\$35,192
VPS Game Time (Vancouver School District)	\$18,927	\$20,592
PTZ Cameras for Podcast, Studio and Field Productions (Vancouver School District)	\$15,651	\$15,651
Fort Vancouver Studio Cameras and Set (Vancouver School District)	\$30,060	\$30,060
VSAA PTZ Cameras for Durst Theater (Vancouver School District)	\$15,798	\$15,798
Columbia River High School IP Conversion (Vancouver School District)	\$13,183	\$13,408
Total PEG Access Capital Grant Funds	\$632,480	\$634,747

Applicant	Total Amount Requested	Total Amount Funded
TV ETC	\$337,989	\$340,256
CVTV	\$294,491	\$294,491
Total PEG Access Capital Grant Funds	\$632,480	\$634,747

*PEG Grant Applications are available on file at the City/County Cable Television Office.



Staff Report 191-19

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 12/16/2019

SUBJECT Amended Local Grant Agreement For Litter Collection and Cleanup in Vancouver

Key Points

- Since 2017, the City and Share have collaborated on efforts to address an increase in the number of individuals living outside and in the amount of waste accumulating in the public right-of-way through Share's Talkin' Trash program.
- The Talkin' Trash program provides an opportunity for homeless individuals to benefit from taking ownership over their role as a community cleaner, receive training, obtain skills, address litter, and build and maintain a positive rapport within the community.
- On August 26, 2019, Council amended the agreement to authorize the City, through Share's Talkin' Trash crew, to pick up select items that present a greater public health and/or safety concern (needles, human waste, cigarette butts and fast food packaging) on private property, within the nearby vicinity of the Navigation Center when reported by the private property owner or tenant.
- This revised agreement would authorize the City Manager to accept the awarded \$180,000.00 grant funds from the State Department of Commerce and fully incorporate the new funding and added requirements into the current local grant agreement. If approved, this allows the City to enter into an interagency agreement for the Expansion of the Talkin' Trash program and recognizes Share as the sub-contractor to perform the expanded scope of work.
- This proposed amendment expands the service capacity by the Talkin' Trash crew including creation of a Lead position and additional crew position, requires seven days a week collection of litter, offers enhanced program benefits to Talkin' Trash crew members including bus or gas vouchers, and additional provisions such as childcare benefits.
- This project provides a means to address public health and safety concerns associated with litter, and improve neighborhood livability and litter reduction, and will continue to address the City's intent of fulfilling the Good Neighbor Commitment with the community surrounding the Navigation Center.

Strategic Plan Alignment

Goal 3, Objective 3.2: Improve services available to underserved or vulnerable residents.

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

Present Situation

For the last two and a half years, Share has provided litter pick up services to downtown Vancouver, public parks and other City property, including the Navigation Center and surrounding neighborhoods, through its Talkin' Trash crew. The Talkin' Trash crew is limited to removing litter only within City right-of-way and Council-approved private property near the Navigation Center five days a week.

This program receives the majority of its funding from the City's Solid Waste program. In August, the City Manager authorized staff to apply for state grant funds (RFP No. 20-46116-126) to expand the current Talkin' Trash program, for which the City was the successful applicant. With Council approval, effective November 1, 2019, through June 30, 2021, the City will be awarded \$180,000.00 by the Washington State Department of Commerce to expand Share's current labor program and provide additional jobs to individuals experiencing homelessness that leads to full-time employment and stable housing.

In September 2019, the Nonprofit Network of Southwest Washington recognized Share's Talkin' Trash program with the Nonprofit Excellence Award for Excellence in Innovation for the program's creative approach to helping those affected by homelessness while providing critical cleanup services to the City. Furthermore, Share was recently awarded a private grant to purchase a second, more reliable vehicle for the crew. The additional vehicle positioned the program to be able to expand from one full time crew working weekdays, to grow into two teams, available to work full time, seven days a week.

Since October 2019, the City has utilized the Talkin' Trash crew to address health and safety concerns posed by specified human waste and debris in the vicinity of the Navigation Center, by piloting a program calling for removal of specified items from private property with owner consent, within a Council-defined boundary surrounding the Navigation Center. City staff continue to work with Share and the Talkin' Trash crew to pilot this effort to address collection of items that present a public health and/or safety concern on private property to the benefit of these entities and the broader community. The proposed amendment furthers their role in providing support and fulfilling the Good Neighbor Commitment by extending service expectations to seven days a week service, twice daily cleanup of the Navigation Center grounds and surrounding neighborhood, and requires their availability for timely litter response when requested by designated City staff for private properties in the identified pilot area.

If authorized by Council, the City and State Department of Commerce Housing Assistance Unit agree to enter into an interagency agreement for the Expansion of the Talkin' Trash program and the Recipient, SHARE, is the designated subcontractor to perform the expanded scope of work. A retroactive date of November 1, 2019, is proposed to allow for full compensation of Share for the expanded crew and additional service capacities, such as seven days a week service.

Based on favorable performance and an existing community need, staff proposes to extend approval to accept Commerce funding and adjust the scope of work, and benefits to maintain agreements.

Advantage(s)

1. Provides \$180,000 in grant funding from the Washington State Department of Commerce effective November 1, 2019, through June 30, 2021, contingent on specified terms and services to be performed pursuant to a subcontract with Share to expand the program to expand the Talkin' Trash program with additional crew, scope of work and benefits.
2. The program expands the capacity of the Talkin' Trash program to include seven days a week service and continues the opportunity for the City to fulfill its Good Neighbor Commitment on the weekends.
3. The program not only provides for litter collection connected to serious health and safety issues, but also provides additional opportunity for clients of Share to obtain housing and move to self-sufficiency.

Disadvantage(s)

1. The increased disposal funds draw upon the Solid Waste program's professional services budget; however, facilitating community cleanup activity is an element of the fund's purpose.
2. The commerce grant funds expire on June 30, 2021. Additional support from other community partners or new state grant funds may be needed in order to sustain the program under the expanded scope of work after funding expires.

Budget Impact

Funds for this grant will come from the City's Solid Waste Fund, approximately \$160,000 for 2020, and the State Department of Commerce grant totaling \$180,000 from November 1, 2019, through June 30, 2021. Annual costs may be adjusted according to the agreement.

Prior Council Review

Council Consent [August 26, 2019](#).

Action Requested

Authorize the City manager or his designee to execute the Amended Local Grant Agreement for Litter Collection and Cleanup in Vancouver between Share and City of Vancouver for an additional four years; and authorize the City manager or his designee to execute the Interagency Agreement with the Department of Commerce for Expansion of Talkin' Trash Program.

Julie Gilbertson, Solid Waste Manager, 487-7162

ATTACHMENTS:

- ▣ Amended Local Grant Agreement - redlined
- ▣ Amended Local Grant Agreement - clean
- ▣ Interagency Agreement

2019 Solid Waste Grant Program

Amended Local Grant Agreement **For Litter Collection and Cleanup in Vancouver**

This Amended Local Grant Agreement for Litter Collection and Cleanup in Vancouver (“Agreement”) is made between the City of Vancouver, a municipal corporation of the State of Washington, (“the City”) and SHARE, a Washington non-profit corporation (“Recipient”), with a mailing address of PO Box 1209, Vancouver, WA 98666-1209.

WHEREAS, the City and Recipient have an interest in finding a long term solution to homelessness and have collaborated on efforts to address an increase in the number of individuals living outside and in the amount of waste accumulating in the public right of way; and

WHEREAS, the City maintains a Solid Waste Fund with the express purpose of funding activities and programs to protect public health and the environment; and

WHEREAS, the Recipient and the City implemented a 2017 pilot project for litter collection and cleanup in designated areas of Vancouver, whereby homeless individuals work as community cleaners; and

WHEREAS, through this project homeless individuals have benefited from taking ownership over their role as community cleaners, by receiving skills and experiences that are desirable to all employers, and from understanding work culture, making them better job candidates when seeking future employment; and

WHEREAS, the Recipient and the City expanded the hours and project area in 2018; and

WHEREAS, in December 2018, the City and Recipient entered an agreement to extend the project for an additional five years, until December 31, 2023; and

WHEREAS, the project has been a success, resulting in a cleaner ~~downtown~~ areacommunity and assisting ~~the hungry and~~ homeless individuals on a path to employment and self-sufficiency; and

WHEREAS, on November 14, 2018, the City opened the Vancouver Navigation Center, located at 2018 Grand Boulevard, for purposes of offering a variety of services to people who are homeless; and

WHEREAS, Recipient’s community cleaners currently collect litter from the public right of way around and near the Navigation Center and surrounding neighborhoods; and

WHEREAS, since the Navigation Center opened, neighboring property owners have reported increased incidents of litter and human waste on their properties; and

WHEREAS, on August 26, 2019, in order to address the unintended impacts of Navigation Center operations and to address public health and safety concerns, Council authorized the City and Recipient ~~wish to~~ expand the scope of their Agreement to include collection of certain types of litter on private properties that are in close proximity to the Navigation Center, when requested by the affected property owners or tenants; and

WHEREAS, effective November 1, 2019 through June 30, 2021 the City has been awarded \$180,000.00 by the Washington State Department of Commerce (RFP No. 20-46116-126) to expand the current labor program to provide jobs to individuals experiencing homelessness that leads to full-time employment and stable housing; and

WHEREAS, effective November 1, 2019 the City and State Department of Commerce Housing Assistance Unit agree to enter into an interagency agreement for the Expansion of the Talkin' Trash program and the Recipient, SHARE, is the designated sub-contractor to perform the expanded scope of work; and

WHEREAS, the Solid Waste fund has an adequate budget to cover the costs of the program through the proposed timeline; and

WHEREAS, the Recipient and the City (collectively, the "Parties"; individually, a "Party") have agreed that it is appropriate to memorialize the amended terms and conditions governing the issuance of the grant and performance of the ~~downtown~~ litter collection program described herein.

NOW, THEREFORE, the Parties agree as follows:

1. **Grant Period.** This Agreement replaces the Local Grant Agreement For Litter Collection and Cleanup in ~~Downtown~~ Vancouver, executed on ~~December 27, 2018~~December 16, 2019 and shall be effective as of ~~August 26, 2019~~November 1, 2019 or the date of last signature of a Party, whichever is later, and shall terminate on December 31, 2023, unless terminated earlier as provided for in Paragraph 14 below.
2. **Statement of Purpose.** As homelessness continues to impact citizens and residents of the City of Vancouver, positive public exposure and integration stand to help alleviate community animosity towards people experiencing homelessness.

The City seeks assistance with maintaining a clean and safe downtown, ~~area-public spaces~~ and Navigation Center and the Recipient seeks solutions to help homeless individuals become self-sufficient. The City of Vancouver Public Works Department - Solid Waste Division and Recipient collaborated on a pilot project in 2017 that assisted both Parties in fulfilling their missions: protecting public health and the environment and leading the hungry and homeless to self-sufficiency. The Parties have agreed to continue the project through 2023 and ~~propose expanding the added hours and service area to~~ the scope of the agreement. Both parties have agreed to expand the agreement to add crew,

additional days of service and benefits in the scope of this agreement as required by the Commerce grant awards effective at least through June 2021.

3. **Scope of Work.** No material, labor, or facilities will be furnished by the City, unless otherwise provided for in this Agreement.

Recipient is responsible for selecting, organizing, and hiring a team to provide litter collection services in the designated areas of Vancouver working seven days per week. The team will be comprised of one (1) Program Director, one (1) Recipient Supervisor, one (1) Lead position and at minimum three-four (34) Community Cleaners.

Share's current Director of ~~the Share House the Outreach~~ Program will oversee this grant-funded program. Recipient will select the Recipient Supervisor from the public-at-large. The Recipient Supervisor will be a full time employee, working a total of forty (40) hours per week. Effective November 1, 2019, the Recipient will expand services to include Saturday and Sunday litter collection in designated areas, hire a full time Lead position and at least one additional Community Cleaner.

Community Cleaners must be selected by the Recipient from Recipient clients. Recipient clients are individuals who ~~were~~ are experiencing homelessness and ~~are~~ actively working towards achieving permanent housing, increasing their income, seeking employment ~~and generally engaging in healthy activities.~~

Community Cleaners will use litter pickup tools, gloves, and litter collection bags provided by funds from the City of Vancouver Solid Waste program to remove litter from public areas such as parks, sidewalks and medians throughout the City wherever ongoing or occasional cleanup needs are identified as well as in Vancouver with a focus on the blocks surrounding Share House, Open House, and the Navigation Center. The crew will clean the Navigation Center grounds and blocks surrounding twice daily; once at the start and once at the end of each day, or as needed/determined by City staff. Upon request by the respective property owners or tenants, Community Cleaners will also remove certain types of litter from private properties located in close proximity to the Navigation Center, in accordance with the Policy for Removing Litter from Private Properties ("Policy"), attached as Exhibit A, and only in the defined geographic location that is set forth in the Policy.

Community Cleaners will wear high visibility clothing and appropriate protective wear. Community Cleaners will dispose of litter only. If personal property is encountered, Community Cleaners will work in accordance with the City's procedures for addressing personal property.

The team will be assigned regular service areas for litter collection, determined in collaboration with the City and Recipient. The City will provide space to the Recipient to store supplies at the Navigation Center and may, if deemed necessary, provide space for the crew to be located at the Navigation Center. The Supervisors will maintain regular contact with the City's designated Agreement Representative within the Public Works Department, Solid Waste Division ("City Agreement Representative"), to be informed of

specific areas of need as reported by residents and businesses within the agreed upon service areas. Service requests for litter collection will be administered by City staff and communicated to Recipient through the City Agreement Representative. The City Agreement Representative is specified below and may be amended by written notice to the Recipient:

Julie Gilbertson
(360) 487-7162
Julie.Gilbertson@cityofvancouver.us

The team comprised of four-three (34) selected Community Cleaners will be full time employees and each work forty (40) hours per week, representing a cumulative total of one hundred and twenty (160+20) hours per week. No less than 80% of the 160+20 hours per week will be performing litter collection in the community, and traveling to and from sites for cleaning. The remaining up to 20% of hours per week may be spent learning about work culture and gaining general job skills. Recipient will partner with Partners in Careers (PIC) to provide their Career Academy on-site at Share House or Recipient clients may be transported to the PIC location in order to receive career counseling. Recipient clients may also be able to receive on-going career counseling as long as they serve as Community Cleaners.

A list of possible Career Academy, work culture, and general job skills training classes may include, but is not limited to:

- Safety Procedures and Universal Precautions
- Blood Borne Pathogens and Syringe Safety training
- CPR/First Aid
- Chemical Removal
- Harassment Free Workplace
- Professionalism in the Workplace - possible activities from the basics of making your own resume and cover letter, learning how to interview, having a back-up plan for crisis, conflict resolution, dressing for the job, knowing your own communication style, being able to work with others, and related skills. Partners in Careers may be asked to cater their Career Academy Curriculum to meet the needs of the clients in the class

Remaining learning time could be spent with a PIC employment specialist providing one-on-one assistance with reaching their job training needs.

Added support for this initiative may include business and organizational endorsement in the form of logo sponsorship displayed on work attire.

Expanded benefits shall be offered to the Community Cleaners, including but not limited to providing bus and/or gas vouchers to crew members to support getting to work, and connection to childcare or other support for crew members with child(ren) such as a benefit stipend for daycare.

4. **Grant Funds.** The City agrees to provide grant funds to the Recipient for the herein described services at a rate of \$~~13,323.00~~ 13,989.15 USD per month, effective Jan. 1, 2020, which shall be used for purposes of performing the Scope of Work outlined above. In addition, the Recipient is authorized to dispose of garbage collected under this grant agreement at Columbia Resource Company's West Van or Central Transfer Stations using the designated City account and without cost to the Recipient. Recipient may only use Grant Funds for the Scope of Work described in this Agreement. Any Grant Funds unexpended or uncommitted at the end of the Grant Period must be promptly returned to the City. The monthly payment for services may be adjusted to compensate for increases in the cost of living. Such requests for compensation shall be submitted to the City by the Recipient with documentation quantifying the increased costs.
5. **Project Reporting.** The Recipient agrees to submit a monthly progress report to the City describing the results of the project. The monthly progress report shall include:
 - a. A summary of the locations for special pickups;
 - b. An estimate of the total amount of litter/trash collected;
 - c. An estimate of the amount of litter/trash collected on private properties;
 - d. A summary of trainings that crew members received;
 - e. Suggestions for service improvements;
 - f. A breakdown of how many hours were spent collecting litter, crew prep, and training; and
 - g. An accounting of the monthly costs.
6. **Non-Discrimination.** Recipient will not discriminate in any employment practice on the basis of age; sex; race; creed; political or religious affiliation or opinion; color; national or ethnic origin; marital status; military or veteran status; genetic information; pregnancy, physical, mental or sensory disability; sexual orientation; gender identity/expression; or any other protected status under applicable law.
7. **Future Support.** No party to this Agreement makes any commitment to future support and assumes no obligation for the future support of any activity contracted for herein.
8. **Relation of the Parties.** The Recipient, its subcontractors, volunteers, agents and employees are independent contractors performing services for the City and are not employees of the City. The Recipient, its subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, pension, insurance, bonding or any other benefits afforded to City employees. The Recipient, subcontractors, agents and employees shall not have the authority to bind the City in any way except as may be specifically provided herein.
9. **E-Verify.** If the Recipient is not already registered with the Department of Homeland Security's E-Verify program, they will need to do so within sixty (60) days after execution of this Agreement. Recipient shall ensure all Recipient employees and any subcontractors assigned to perform work under this Agreement are eligible to work in the

United States. Recipient shall provide verification of compliance upon City request. Failure by Recipient to comply with this subsection shall be considered a material breach.

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

11. **Insurance.** The Recipient shall obtain and keep in force during the entire term of this Agreement, liability insurance against any and all claims for damages to person or property which may arise out of the performance of this Contract whether such work shall be by the Recipient, subcontractor or anyone directly or indirectly employed by either the Recipient or a subcontractor. The amount of coverage provided by such insurance shall be not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury and property damage.

The Recipient agrees to the following requirements relating to insurance coverage:

- a. **Liability Insurance.** All liability insurance required herein shall be under a commercial general liability and business, automobile policy. The City shall be named as an additional insured with respect to all such policies and copies of all such policies shall be furnished to the City upon request.
- b. **Worker's Compensation.** The Recipient shall carry and maintain during the life of the Agreement, Worker's Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Recipient's employees engaged in the performance of the work or services under or pursuant to this Agreement, and Employer's Liability insurance of not less than one million dollars (\$1,000,000) for each accident, five hundred thousand dollars (\$500,000) for each disease for each employee and one million dollars (\$1,000,000) for each disease policy limit.

- c. **Employment Security.** The Recipient shall comply with all employment security laws of the state in which services are provided, and shall timely make all required payments in connection therewith.
- d. **Professional Liability Insurance.** The Recipient shall obtain and keep in force during the entire term of this Agreement, professional liability insurance (errors and omissions) against any and all claims for damages to person or property which may arise out of the performance of this Contract whether such work shall be by the Recipient, subcontractor or anyone directly or indirectly employed by either the Recipient or a subcontractor. The amount of coverage provided by such insurance shall be not less than Five Hundred Thousand Dollars (\$500,000) combined single limit. Professional liability insurance must be written on a “claims made” basis and must be indicated on the certificate. The City must be listed as the certificate holder.

Recipient shall provide evidence of all insurance required, at the City’s request, by submitting an insurance certificate to the City on a standard “Acord” or comparable form.

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

To the City:
Julie Gilbertson
Solid Waste Supervisor
City of Vancouver
P.O. Box 1995
Vancouver, WA 98668

To the Recipient:
Amy Reynolds
Deputy Director
Share
2306 NE Andresen Rd.
Vancouver, WA 98661

13. **Ownership of Property/Materials.** Ownership of all property or materials acquired with grant funds in the course of performing the tasks related to this Agreement shall vest in the Recipient. The City shall have no responsibility to the Recipient in the event of the loss or damage of the property or materials so acquired.
14. **Termination.** Either Party may terminate this Agreement for any reason upon giving the other Party at least ninety (90) days prior written notice.
15. **Entire Agreement.** This Agreement incorporates all the agreements, exhibits, covenants and understanding between the parties. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement.
16. **Amendment.** Any amendments, changes or alternations to this Agreement shall be in writing and approved by both Parties.

17. **Assignment.** Neither Party shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.
18. **Compliance with the Law.** The Recipient agrees to comply with all relevant, federal, state and municipal laws, rules and regulations, including but not limited to, compliance with any state or local business license requirements and insuring that no employee or applicant for employment is discriminated against because of any legally protected status in performance of this Agreement. A breach of this provision shall be considered a material breach of this Agreement.
19. **Governing Law/Venue.** This Agreement shall be deemed to have been executed and delivered within the State of Washington, and the rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of Washington without regard to the principles of conflict of laws. The Recipient shall have legal authority to enter into this agreement and be at least 18 years of age. Any action or suit brought in connection with this Agreement shall be brought in the Superior Court of Clark County, Washington.
20. **Right to Review.** The Recipient shall maintain books, records, documents and other materials that sufficiently and properly reflect all expenditures made pursuant to this Agreement. The City shall have full access and the right to examine and copy, during normal business hours, all of the records of the Recipient with respect to matters covered in this Agreement. Such rights shall last for six (6) years from the date the disbursement is made hereunder.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement on the dates indicated below.

For the **CITY**:

City of Vancouver, WA
A municipal corporation

Eric Holmes, City Manager

For the **RECIPIENT**:

Share,
A Washington non-profit corporation

Signature:

By: Printed Name / Title

Dated: _____

Dated: _____

Attest:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Approved as to Form:

| _____
Jonathan Young, ~~Acting~~ City Attorney

2019 Solid Waste Grant Program

Amended Local Grant Agreement **For Litter Collection and Cleanup in Vancouver**

This Amended Local Grant Agreement for Litter Collection and Cleanup in Vancouver (“Agreement”) is made between the City of Vancouver, a municipal corporation of the State of Washington, (“the City”) and SHARE, a Washington non-profit corporation (“Recipient”), with a mailing address of PO Box 1209, Vancouver, WA 98666-1209.

WHEREAS, the City and Recipient have an interest in finding a long term solution to homelessness and have collaborated on efforts to address an increase in the number of individuals living outside and in the amount of waste accumulating in the public right of way; and

WHEREAS, the City maintains a Solid Waste Fund with the express purpose of funding activities and programs to protect public health and the environment; and

WHEREAS, the Recipient and the City implemented a 2017 pilot project for litter collection and cleanup in designated areas of Vancouver, whereby homeless individuals work as community cleaners; and

WHEREAS, through this project homeless individuals have benefited from taking ownership over their role as community cleaners, by receiving skills and experiences that are desirable to all employers, and from understanding work culture, making them better job candidates when seeking future employment; and

WHEREAS, the Recipient and the City expanded the hours and project area in 2018; and

WHEREAS, in December 2018, the City and Recipient entered an agreement to extend the project for an additional five years, until December 31, 2023; and

WHEREAS, the project has been a success, resulting in a cleaner community and assisting homeless individuals on a path to employment and self-sufficiency; and

WHEREAS, on November 14, 2018, the City opened the Vancouver Navigation Center, located at 2018 Grand Boulevard, for purposes of offering a variety of services to people who are homeless; and

WHEREAS, Recipient’s community cleaners currently collect litter from the public right of way around and near the Navigation Center and surrounding neighborhoods; and

WHEREAS, since the Navigation Center opened, neighboring property owners have reported increased incidents of litter and human waste on their properties; and

WHEREAS, on August 26, 2019, in order to address the unintended impacts of Navigation Center operations and to address public health and safety concerns, Council

authorized the City and Recipient expand the scope of their Agreement to include collection of certain types of litter on private properties that are in close proximity to the Navigation Center, when requested by the affected property owners or tenants; and

WHEREAS, effective November 1, 2019 through June 30, 2021 the City has been awarded \$180,000.00 by the Washington State Department of Commerce (RFP No. 20-46116-126) to expand the current labor program to provide jobs to individuals experiencing homelessness that leads to full-time employment and stable housing; and

WHEREAS, effective November 1, 2019 the City and State Department of Commerce Housing Assistance Unit agree to enter into an interagency agreement for the Expansion of the Talkin' Trash program and the Recipient, SHARE, is the designated sub-contractor to perform the expanded scope of work; and

WHEREAS, the Solid Waste fund has an adequate budget to cover the costs of the program through the proposed timeline; and

WHEREAS, the Recipient and the City (collectively, the "Parties"; individually, a "Party") have agreed that it is appropriate to memorialize the amended terms and conditions governing the issuance of the grant and performance of the litter collection program described herein.

NOW, THEREFORE, the Parties agree as follows:

1. **Grant Period.** This Agreement replaces the Local Grant Agreement For Litter Collection and Cleanup in Vancouver, executed on December 16, 2019 and shall be effective as of November 1, 2019 or the date of last signature of a Party, whichever is later, and shall terminate on December 31, 2023, unless terminated earlier as provided for in Paragraph 14 below.
2. **Statement of Purpose.** As homelessness continues to impact citizens and residents of the City of Vancouver, positive public exposure and integration stand to help alleviate community animosity towards people experiencing homelessness.

The City seeks assistance with maintaining a clean and safe downtown, public spaces and Navigation Center and the Recipient seeks solutions to help homeless individuals become self-sufficient. The City of Vancouver Public Works Department - Solid Waste Division and Recipient collaborated on a pilot project in 2017 that assisted both Parties in fulfilling their missions: protecting public health and the environment and leading the hungry and homeless to self-sufficiency. The Parties have agreed to continue the project through 2023 and propose expanding the scope of the agreement. Both parties have agreed to expand the agreement to add crew, additional days of service and benefits in the scope of this agreement as required by the Commerce grant awards effective at least through June 2021.

3. **Scope of Work.** No material, labor, or facilities will be furnished by the City, unless otherwise provided for in this Agreement.

Recipient is responsible for selecting, organizing, and hiring a team to provide litter collection services in the designated areas of Vancouver working seven days per week. The team will be comprised of one (1) Program Director, one (1) Recipient Supervisor, one (1) Lead position and at minimum four (4) Community Cleaners.

Share's current Director of the Outreach Program will oversee this grant-funded program. Recipient will select the Recipient Supervisor from the public-at-large. The Recipient Supervisor will be a full time employee, working a total of forty (40) hours per week. Effective November 1, 2019, the Recipient will expand services to include Saturday and Sunday litter collection in designated areas, hire a full time Lead position and at least one additional Community Cleaner.

Community Cleaners must be selected by the Recipient from Recipient clients. Recipient clients are individuals who are experiencing homelessness and actively working towards achieving permanent housing, increasing their income, seeking employment.

Community Cleaners will use litter pickup tools, gloves, and litter collection bags provided by funds from the City of Vancouver Solid Waste program to remove litter from public areas such as parks, sidewalks and medians throughout the City wherever ongoing or occasional cleanup needs are identified as well as in Vancouver with a focus on the blocks surrounding Share House, Open House, and the Navigation Center. The crew will clean the Navigation Center grounds and blocks surrounding twice daily; once at the start and once at the end of each day, or as needed/determined by City staff. Upon request by the respective property owners or tenants, Community Cleaners will also remove certain types of litter from private properties located in close proximity to the Navigation Center, in accordance with the Policy for Removing Litter from Private Properties ("Policy"), attached as Exhibit A, and only in the defined geographic location that is set forth in the Policy.

Community Cleaners will wear high visibility clothing and appropriate protective wear. Community Cleaners will dispose of litter only. If personal property is encountered, Community Cleaners will work in accordance with the City's procedures for addressing personal property.

The team will be assigned regular service areas for litter collection, determined in collaboration with the City and Recipient. The City will provide space to the Recipient to store supplies at the Navigation Center and may, if deemed necessary, provide space for the crew to be located at the Navigation Center. The Supervisors will maintain regular contact with the City's designated Agreement Representative within the Public Works Department, Solid Waste Division ("City Agreement Representative"), to be informed of specific areas of need as reported by residents and businesses within the agreed upon service areas. Service requests for litter collection will be administered by City staff and communicated to Recipient through the City Agreement Representative. The City

Agreement Representative is specified below and may be amended by written notice to the Recipient:

Julie Gilbertson
(360) 487-7162
Julie.Gilbertson@cityofvancouver.us

The team comprised of four (4) selected Community Cleaners will be full time employees and each work forty (40) hours per week, representing a cumulative total of one hundred and twenty (160) hours per week. No less than 80% of the 160 hours per week will be performing litter collection in the community, and traveling to and from sites for cleaning. The remaining up to 20% of hours per week may be spent learning about work culture and gaining general job skills. Recipient will partner with Partners in Careers (PIC) to provide their Career Academy on-site at Share House or Recipient clients may be transported to the PIC location in order to receive career counseling. Recipient clients may also be able to receive on-going career counseling as long as they serve as Community Cleaners.

A list of possible Career Academy, work culture, and general job skills training classes may include, but is not limited to:

- Safety Procedures and Universal Precautions
- Blood Borne Pathogens and Syringe Safety training
- CPR/First Aid
- Chemical Removal
- Harassment Free Workplace
- Professionalism in the Workplace - possible activities from the basics of making your own resume and cover letter, learning how to interview, having a back-up plan for crisis, conflict resolution, dressing for the job, knowing your own communication style, being able to work with others, and related skills. Partners in Careers may be asked to cater their Career Academy Curriculum to meet the needs of the clients in the class

Remaining learning time could be spent with a PIC employment specialist providing one-on-one assistance with reaching their job training needs.

Added support for this initiative may include business and organizational endorsement in the form of logo sponsorship displayed on work attire.

Expanded benefits shall be offered to the Community Cleaners, including but not limited to providing bus and/or gas vouchers to crew members to support getting to work, and connection to childcare or other support for crew members with child(ren) such as a benefit stipend for daycare.

4. **Grant Funds.** The City agrees to provide grant funds to the Recipient for the herein described services at a rate of \$13,989.15 USD per month, effective Jan. 1, 2020, which shall be used for purposes of performing the Scope of Work outlined above. In addition,

the Recipient is authorized to dispose of garbage collected under this grant agreement at Columbia Resource Company's West Van or Central Transfer Stations using the designated City account and without cost to the Recipient. Recipient may only use Grant Funds for the Scope of Work described in this Agreement. Any Grant Funds unexpended or uncommitted at the end of the Grant Period must be promptly returned to the City. The monthly payment for services may be adjusted to compensate for increases in the cost of living. Such requests for compensation shall be submitted to the City by the Recipient with documentation quantifying the increased costs.

5. **Project Reporting.** The Recipient agrees to submit a monthly progress report to the City describing the results of the project. The monthly progress report shall include:
 - a. A summary of the locations for special pickups;
 - b. An estimate of the total amount of litter/trash collected;
 - c. An estimate of the amount of litter/trash collected on private properties;
 - d. A summary of trainings that crew members received;
 - e. Suggestions for service improvements;
 - f. A breakdown of how many hours were spent collecting litter, crew prep, and training; and
 - g. An accounting of the monthly costs.
6. **Non-Discrimination.** Recipient will not discriminate in any employment practice on the basis of age; sex; race; creed; political or religious affiliation or opinion; color; national or ethnic origin; marital status; military or veteran status; genetic information; pregnancy, physical, mental or sensory disability; sexual orientation; gender identity/expression; or any other protected status under applicable law.
7. **Future Support.** No party to this Agreement makes any commitment to future support and assumes no obligation for the future support of any activity contracted for herein.
8. **Relation of the Parties.** The Recipient, its subcontractors, volunteers, agents and employees are independent contractors performing services for the City and are not employees of the City. The Recipient, its subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, pension, insurance, bonding or any other benefits afforded to City employees. The Recipient, subcontractors, agents and employees shall not have the authority to bind the City in any way except as may be specifically provided herein.
9. **E-Verify.** If the Recipient is not already registered with the Department of Homeland Security's E-Verify program, they will need to do so within sixty (60) days after execution of this Agreement. Recipient shall ensure all Recipient employees and any subcontractors assigned to perform work under this Agreement are eligible to work in the United States. Recipient shall provide verification of compliance upon City request. Failure by Recipient to comply with this subsection shall be considered a material breach.

10. **Indemnification.** Recipient agrees to indemnify, defend, save and hold harmless the City, its officials, employees and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees and expenses incurred in connection therewith, of whatsoever kind or nature (including patent infringement or copyright claims) to the extent arising out of, or in connection with, or incident to, the negligent performance or willful misconduct pursuant to this Agreement. This indemnity and hold harmless shall include any claim made against the City by an employee of Recipient or subcontractor or agent even if Recipient is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the concurrent negligence of both the City and the Recipient, such cost, fees and expenses shall be shared between the City and the Recipient in proportion to their relative degrees of negligence. Recipient specifically acknowledges the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that Recipient provide the broadest scope of indemnity permitted by RCW 4.24.115. Recipient is an independent contractor and responsible for the safety of its employees.
11. **Insurance.** The Recipient shall obtain and keep in force during the entire term of this Agreement, liability insurance against any and all claims for damages to person or property which may arise out of the performance of this Contract whether such work shall be by the Recipient, subcontractor or anyone directly or indirectly employed by either the Recipient or a subcontractor. The amount of coverage provided by such insurance shall be not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury and property damage.

The Recipient agrees to the following requirements relating to insurance coverage:

- a. **Liability Insurance.** All liability insurance required herein shall be under a commercial general liability and business, automobile policy. The City shall be named as an additional insured with respect to all such policies and copies of all such policies shall be furnished to the City upon request.
- b. **Worker's Compensation.** The Recipient shall carry and maintain during the life of the Agreement, Worker's Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Recipient's employees engaged in the performance of the work or services under or pursuant to this Agreement, and Employer's Liability insurance of not less than one million dollars (\$1,000,000) for each accident, five hundred thousand dollars (\$500,000) for each disease for each employee and one million dollars (\$1,000,000) for each disease policy limit.
- c. **Employment Security.** The Recipient shall comply with all employment security laws of the state in which services are provided, and shall timely make all required payments in connection therewith.

- d. Professional Liability Insurance. The Recipient shall obtain and keep in force during the entire term of this Agreement, professional liability insurance (errors and omissions) against any and all claims for damages to person or property which may arise out of the performance of this Contract whether such work shall be by the Recipient, subcontractor or anyone directly or indirectly employed by either the Recipient or a subcontractor. The amount of coverage provided by such insurance shall be not less than Five Hundred Thousand Dollars (\$500,000) combined single limit. Professional liability insurance must be written on a "claims made" basis and must be indicated on the certificate. The City must be listed as the certificate holder.

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

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

To the City:

Julie Gilbertson
Solid Waste Supervisor
City of Vancouver
P.O. Box 1995
Vancouver, WA 98668

To the Recipient:

Amy Reynolds
Deputy Director
Share
2306 NE Andresen Rd.
Vancouver, WA 98661

13. **Ownership of Property/Materials.** Ownership of all property or materials acquired with grant funds in the course of performing the tasks related to this Agreement shall vest in the Recipient. The City shall have no responsibility to the Recipient in the event of the loss or damage of the property or materials so acquired.
14. **Termination.** Either Party may terminate this Agreement for any reason upon giving the other Party at least ninety (90) days prior written notice.
15. **Entire Agreement.** This Agreement incorporates all the agreements, exhibits, covenants and understanding between the parties. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement.
16. **Amendment.** Any amendments, changes or alternations to this Agreement shall be in writing and approved by both Parties.
17. **Assignment.** Neither Party shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

18. **Compliance with the Law.** The Recipient agrees to comply with all relevant, federal, state and municipal laws, rules and regulations, including but not limited to, compliance with any state or local business license requirements and insuring that no employee or applicant for employment is discriminated against because of any legally protected status in performance of this Agreement. A breach of this provision shall be considered a material breach of this Agreement.
19. **Governing Law/Venue.** This Agreement shall be deemed to have been executed and delivered within the State of Washington, and the rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of Washington without regard to the principles of conflict of laws. The Recipient shall have legal authority to enter into this agreement and be at least 18 years of age. Any action or suit brought in connection with this Agreement shall be brought in the Superior Court of Clark County, Washington.
20. **Right to Review.** The Recipient shall maintain books, records, documents and other materials that sufficiently and properly reflect all expenditures made pursuant to this Agreement. The City shall have full access and the right to examine and copy, during normal business hours, all of the records of the Recipient with respect to matters covered in this Agreement. Such rights shall last for six (6) years from the date the disbursement is made hereunder.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement on the dates indicated below.

For the **CITY**:

City of Vancouver, WA
A municipal corporation

Eric Holmes, City Manager

Dated: _____

For the **RECIPIENT**:

Share,
A Washington non-profit corporation

Signature:

By: Printed Name / Title

Dated: _____

Attest:

Natasha Ramras, City Clerk

Approved as to Form:

Jonathan Young, City Attorney



Department of Commerce

Interagency Agreement with

City of Vancouver, Washington

through

Housing Assistance Unit

For

Expansion of Talkin' Trash Program

Start date: November 1, 2019

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Attachment A, Scope of Work

Attachment B, Budget

FACE SHEET

Contract Number: 20-46116-126

Washington State Department of Commerce Community Services Housing Division Housing Assistance Unit

1. Contractor City of Vancouver, WA 415 West 6 th Street Vancouver, WA 98660		2. Contractor Doing Business As (optional)	
3. Contractor Representative Julie Gilbertson Solid Waste Supervisor 4500 SE Columbia Way / P O Box 1995 Vancouver, WA 98661 / Vancouver, WA 98668-1995 Phone: 360-487-7162 Email: Julie.Gilbertson@cityofvancouver.us		4. COMMERCE Representative Megan Kendig Grant Manager (360) 725-2920 megan.kendig@commerce.wa.gov P O BOX 42525 1011 Plum Street SE Olympia, Washington, 98504-2525	
5. Contract Amount \$180,000	6. Funding Source Federal: ☐ State: X Other: ☐ N/A: ☐	7. Start Date November 1, 2019	8. End Date June 30, 2021
9. Federal Funds (as applicable) N/A		Federal Agency: N/A	
		CFDA Number N/A	
10. Tax ID # 91-6001288	11. SWV # SWV0008489-00	12. UBI # 065-001-364	13. DUNS # 91-6001288
14. Contract Purpose Expand a labor program that provides jobs to individuals experiencing homelessness which leads to full-time employment and stable housing.			
15. Signing Statement COMMERCE, defined as the Department of Commerce, and the Contractor, as defined above, acknowledge and accept the terms of this Contract and Attachments and have executed this Contract on the date below and warrant they are authorized to bind their respective agencies. The rights and obligations of both parties to this Contract are governed by this Contract and the following documents hereby incorporated by reference: Attachment "A" – Scope of Work, Attachment "B" – Budget.			
FOR CONTRACTOR _____ Eric Holmes, City Manager City of Vancouver _____ Date		FOR COMMERCE _____ Diane Klontz, Assistant Director Community Services and Housing Division _____ Date APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL 6/11/2019. APPROVAL ON FILE.	

**SPECIAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
STATE FUNDS**

1. AUTHORITY

COMMERCE and Contractor enter into this Contract pursuant to the authority granted by Chapter 39.34 RCW.

2. CONTRACT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Contract.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Contract.

The Representative for the Contractor and their contact information are identified on the Face Sheet of this Contract.

3. COMPENSATION

COMMERCE shall pay an amount not to exceed \$180,000 for the performance of all things necessary for or incidental to the performance of work under this Contract as set forth in the Scope of Work.

4. BILLING PROCEDURES AND PAYMENT

COMMERCE will pay Contractor upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE *[not more often than monthly.]*

The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Contract Number [REDACTED]. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

COMMERCE may, in its sole discretion, terminate the Contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Duplication of Billed Costs

The Contractor shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Contractor, if the Contractor is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

5. SUBCONTRACTOR DATA COLLECTION

Contractor will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Agreement performed by subcontractors and the portion of funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

7. ORDER OF PRECEDENCE

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

**SPECIAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
STATE FUNDS**

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget
- add any other attachments incorporated by reference on the Face Sheet

**GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
STATE FUNDS**

1. DEFINITIONS

As used throughout this Contract, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "COMMERCE" shall mean the Department of Commerce.
- C. "Contract" or "Agreement" means the entire written agreement between COMMERCE and the Contractor, including any attachments, documents, or materials incorporated by reference. E-mail or facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
- D. "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- F. "State" shall mean the state of Washington.
- G. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2. ALL WRITINGS CONTAINED HEREIN

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

3. AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

4. ASSIGNMENT

Neither this Contract, work thereunder, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of COMMERCE.

5. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

- A. "Confidential Information" as used in this section includes:
 - i. All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;
 - ii. All material produced by the Contractor that is designated as "confidential" by COMMERCE; and
 - iii. All personal information in the possession of the Contractor that may not be disclosed under state or federal law.
- B. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide COMMERCE with its policies and procedures on confidentiality.

**GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
STATE FUNDS**

COMMERCE may require changes to such policies and procedures as they apply to this Contract whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by COMMERCE. Upon request, the Contractor shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.

- C. Unauthorized Use or Disclosure. The Contractor shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

6. COPYRIGHT

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, the Contractor hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Contractor shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Contract. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

7. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, Agreement terms and applicable statutes and rules and make a determination of the dispute. The Dispute Board shall thereafter decide the dispute with the majority prevailing. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

8. GOVERNING LAW AND VENUE

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and any applicable federal laws, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

**GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
STATE FUNDS**

9. INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and its employees or agents performing under this Contract are not employees or agents of the state of Washington or COMMERCE. The Contractor will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

10. LICENSING, ACCREDITATION AND REGISTRATION

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

11. RECAPTURE

In the event that the Contractor fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Contract.

12. RECORDS MAINTENANCE

The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

The Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

13. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, COMMERCE may suspend or terminate the Contract under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

14. SEVERABILITY

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

15. SUBCONTRACTING

The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Contractor to amend its subcontracting procedures as they

**GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
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relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Contractor is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to COMMERCE for any breach in the performance of the Contractor's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

16. SURVIVAL

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

17. TERMINATION FOR CAUSE

In the event COMMERCE determines the Contractor has failed to comply with the conditions of this contract in a timely manner, COMMERCE has the right to suspend or terminate this contract. Before suspending or terminating the contract, COMMERCE shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by COMMERCE to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this contract are not exclusive and are in addition to any other rights and remedies provided by law.

18. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Contract, COMMERCE may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, COMMERCE shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

19. TERMINATION PROCEDURES

Upon termination of this contract, COMMERCE, in addition to any other rights provided in this contract, may require the Contractor to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Contractor and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract.

**GENERAL TERMS AND CONDITIONS
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COMMERCE may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Contractor shall:

- A. Stop work under the contract on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
- C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;
- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which the Authorized Representative has or may acquire an interest.

20. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in COMMERCE upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

- A. Any property of COMMERCE furnished to the Contractor shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.
- B. The Contractor shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.
- C. If any COMMERCE property is lost, destroyed or damaged, the Contractor shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.
- D. The Contractor shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract

All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

**GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
STATE FUNDS**

21. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

Scope of Work

1. Develop, or expand, a labor program designed for people with housing and employment barriers that provides increasing responsibility and skill development opportunities.
2. Provide resume support, coaching for interviews and assistance identifying future employment opportunities.
3. Partner with local homeless housing programs and other service providers to help program participants connect to resources and support.

Key Provisions:

- 80% of time designated to litter cleanup
- 20% of time dedicated to work culture, job skills and training, housing connections
- Continue on-going training requirements under current agreement with Share, which is anticipated to include training on work culture and general job skills which is provided by Share and Partners in Careers (PIC) and includes: Safety Procedures and Universal Precautions, Blood Borne Pathogens, CPR/First Aid, Chemical Removal, Harassment Free Workplace, and Career Academy classes such as professionalism in the workplace, developing a resume and cover letter, interviewing, conflict resolution, Career Academy Curriculum and more.
- Benefits to include paid sick leave and vacation time. Prevailing wages, at minimum wage for crew members, with subsequent higher wages for the lead and supervisor positions.
- NEW/Expansion of benefits to include provisions for employee benefits such as providing bus and/or gas vouchers to crew members and connection to childcare and other support for crew members with child(ren) such as a benefit stipend for daycare.

Budget

Budget category	SFY 2020 Through June 30, 2020 <i>Unspent funds do not carry over</i>	SFY 2021 Through June 30, 2021 <i>Unspent funds do not carry over</i>	Total
Staffing	\$90,000.00	\$90,000.00	\$180,000.00



Staff Report 192-19

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 12/16/2019

SUBJECT Watershed Alliance of Southwest Washington - 2020-2024 Grant Agreement

Key Points

- Renews an ongoing partnership between the City and the Watersheds Alliance of Southwest Washington for the next 5 years through a direct grant arrangement.
- 100% of funding, \$150,000 per year, for this agreement is provided through the Enhancement Fee (Transfer Station Host Fee) paid into the City's Solid Waste Fund to support environmental mitigation efforts within the community; this amount is provided for the agreement purpose in the adopted 2020 budget and may be modified in future budgets as necessary to match the grant scope of work.
- The agreement provides important services to the City in the areas of riparian area restoration, volunteer stewardship opportunities/outcomes, environmental education and outreach, and support for sustainability grants that are offered to neighborhood projects.
- Deliverables assigned to the Watershed Alliance through the grant meet key annual requirements of the City's Stormwater NPDES permit.

Strategic Plan Alignment

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

Goal 6, Objective 6.1: Support a strong, active neighborhood program that enhances livability and community connections.

Goal 10, Objective 10.1: Lend the City's support, as appropriate, to assist with the success of community projects.

Present Situation

The Watershed Alliance of Southwest Washington (formerly the Vancouver Watersheds Council) is a 501(c)(3) entity that was initially created by the City in part to comply with the settlement of a

Clean Water Act lawsuit between the City and the Rosemere Neighborhood Association and for the purpose of furthering the City's goals of environmental preservation and restoration in both riparian and upland areas through engagement and participation of the Vancouver community. The Watershed Alliance provides ongoing education and outreach efforts to inform the public on topics related to environmental and water quality issues and this supports the City's surface water program in meeting its Stormwater NPDES permit requirements (specifically S5.C1 Public Education & Outreach and S5.C2 Public Involvement and Participation).

The new five year agreement utilizes a direct grant approach which supports the organization in continuing to address the City's intended outcomes while being accountable for meeting specific deliverables and standards. Quarterly and annual program and financial reporting will keep the City's program staff informed of key Watershed Alliance accomplishments and the steady progress being made on City priorities. New tasks are identified that support expansion of services provided to the City though without additional expenditures. The Watershed Alliance has grown in recent years to offer similar services to other regional jurisdictions and partners through a steady increase in non-City funding.

Advantage(s)

1. Continues an existing partnership that has been effective in engaging Vancouver residents.
2. Supports the City's efforts and Stormwater NPDES permit requirements to improve water quality and educate residents about how they can make a difference.
3. Dedicated funding does not compete for other City priorities.

Disadvantage(s)

Using a grant framework provides less City control over the day-to-day direction and operation of programs than a more traditional services contract, however, the City regularly participates in Watershed Alliance board meetings to monitor and provide input on implementation details where appropriate.

Budget Impact

Approval of the agreement results in a \$150,000 expenditure each year over the next five years. This amount has been included as a professional service item in the Solid Waste division budget for 2020. If budget modifications are required for 2021-2022 and/or 2023-2024 biennia, the agreement does allow for adjustment of the authorized grant amount at the start of each year.

Prior Council Review

This grant continues an existing partnership for the City that was begun in 2010. The new agreement was included as a Solid Waste program professional service line item in the 2019-2020 budget.

Action Requested

Authorize the City Manager or his designee to sign the agreement with the Watershed Alliance of Southwest Washington.

Rich McConaghy, Environmental Services Manager, 487-7165

ATTACHMENTS:

- ▣ 2020 Agreement with Watershed Alliance

**2020-2024 GRANT AGREEMENT
BETWEEN**

City of Vancouver (“City” or “Grantor”)

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

AND

Watershed Alliance of Southwest Washington (“Grantee”)

PO Box 177 – 803 Grand Blvd. A3
Vancouver, Washington 98660

Contract Period:

Beginning: January 1, 2020
Ending: December 31, 2024

Contract:

Budget Authority: **\$150,000 per year**
Budget Fund #: **490-CC0158-LOC0455-PRG0183**

Funding Source: COV Solid Waste Services –
Enhancement Fee

Program/Services Being Funded:

**ONGOING ENVIRONMENTAL RESTORATION,
STEWARDSHIP, OUTREACH, SUSTAINABILITY
AND RELATED SERVICES – \$150,000 per year**

Grantee Contact	City Contact
Sunrise O’Mahoney, Executive Director (360) 852-9189	Rich McConaghy, Environmental Resources Manager (360) 487-7165
sunrise@thewatershedalliance.org	rich.mcconaghy@cityofvancouver.us

This Contract consists of the following exhibits:

Special Terms and Conditions – Solid Waste Funds Directed Grant	Page 3
Statement of Work - Watershed Alliance of Southwest Washington – 2020-2024	
Grant Agreement	Page 8

City of Vancouver, a municipal corporation formed under the laws of the State of Washington and the Watershed Alliance of Southwest Washington (the Contractor or Grantee) agree to the terms and conditions of the 2020-2024 Grant Agreement by signing below:

CITY OF VANCOUVER:

**WATERSHED ALLIANCE OF SOUTHWEST
WASHINGTON:**

Eric Holmes, City Manager

Ted Gathe, Board President

ATTEST:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Date: _____

APPROVED AS TO FORM

Jonathan Young, City Attorney

Date: _____

SPECIAL TERMS AND CONDITIONS SOLID WASTE FUNDS DIRECT GRANT

This is a Grant Agreement between the City of Vancouver (City) and the Watershed Alliance of Southwest Washington (Grantee), a 501 (c)(3) non-profit organization, for planning, development and coordination of ongoing opportunities and programs that engage Vancouver citizens and businesses in stewardship, partnerships, education, outreach, and volunteer service. This contract is for a direct grant and is intended to fulfill, in part, the City's responsibilities and obligations under the Clean Water Act and to promote and enhance stewardship and community support for protecting and restoring the natural environment within Vancouver's watersheds. As the recipient for this grant the Watershed Alliance of Southwest Washington is required to annually accomplish the statement of work outlined in a following section. The statement of work and budget under this grant may be modified from year to year at the discretion of the City.

I. APPLICABLE REGULATIONS

The Grantee shall provide services in compliance with the Grant Agreement, City policies and procedures and any subsequent legislation and or amendments herein incorporated by reference, as well as with state laws and regulations.

II. PERIOD OF PERFORMANCE

This Grant Agreement covers the period from January 1, 2020 through December 31, 2024. The annual budget provided for herein is contingent on adoption of the City's biennial budget and may be amended and the tasks modified or terminated upon a 90 day notice if the budget is not approved or the City's priorities shift.

III. RECORDS RETENTION

The Grantee shall:

- A. Retain all financial, statistical, property, materials, supplies, participant records, and supporting documentation for a period of six (6) years from the end of this Grant Agreement.
- B. If any litigation, audit or bankruptcy is begun, or if a claim is instituted involving the Grant Agreement or any agreement covered by the records, retain the related records until the litigation, audit, or claim has been finally resolved.

IV. DUPLICATION OF COSTS

The Grantee certifies that work performed under this Grant Agreement does not duplicate any work to be charged against any other Grant Agreement, Statement of Work, or other source.

V. PAYMENT PROCEDURES

The City shall pay the Grantee an amount not to exceed \$150,000 per year for providing the services described in the Statement of Work, in accordance with the following provisions:

- A. The Grantee shall submit quarterly:
 - 1. An invoice that includes a budget detailing planned expenditures for the period of service and the Grant Agreement number;
 - 2. A Payment Request Form that is attached to the Invoice;
- B. Payment shall be as needed by the Grantee but shall not exceed quarterly payments consistent with the schedule noted in the Statement of Work Section III Output Task Area 5.
- C. Payment to the Grantee shall be processed within 30 days after receipt of an Invoice and Payment Request Form.
- D. Grant Agreement Closeout: The Grantee shall submit the final payment request by October 10, 2024.

VII. GRANTEE FINAL REPORTING REQUIREMENTS

The Grantee is obligated to submit a final report after the close of the Grant Agreement period, during the transfer of obligations to another Grantee, or upon termination of the Grant Agreement for any reason. Final report shall include:

- A. Summary of how the funds were used.
- B. Copy of Grantee's Annual Report or summary of programs and accomplishments.
- C. Copy of Grantee's financial statement for the most recent fiscal year (this may be a component of the Annual Report).
- D. Summary of Grantee's budget expenditures for the Period of Performance.
- E. Notwithstanding the above, Subsection III (Task areas 4 & 5) of the Statement of Work details other reporting requirements to be met by the Grantee throughout the period of performance.

VIII. INSURANCE

The Grantee shall provide to the City a certificate showing general commercial liability insurance to protect against legal liability arising out of Grant Agreement activity. Such insurance shall provide a minimum of \$1,000,000 per occurrence and \$2,000,000 per general aggregate limit, with a maximum deductible of \$5,000. The Grantee shall provide insurance covering its employees and volunteers through a commercial general liability insurance (CGL) policy that is primary against any other collectible insurance, noncontributory, annually renewing, and an occurrence based policy. This insurance shall have minimum limits of \$500,000 per occurrence, combined single limit for bodily injury liability, and property damage liability and a \$1,000,000 general aggregate limit.

The Grantee shall provide proof of insurance on an ACORD Certificate(s) of Liability Insurance form, which the Grantee shall provide to the City not later than 30 days following the effective date of this Agreement, or shall provide evidence of self-insurance. Each certificate shall show the coverage, deductible, policy period and amount of coverage, and shall name City of Vancouver as an additional insured. Certificates shall be renewed and submitted annually to stay in force throughout the period of performance and shall be endorsed to state that coverage will not be suspended, voided, canceled, or reduced without a 30 day written notice by certified mail (return receipt requested) to the City. Cancellation of a policy is grounds for termination of the Grant Agreement.

IX. FISCAL REQUIREMENTS

The Grantee shall comply with GAAP - Generally Accepted Accounting Principles and meet the financial management systems requirements of this Grant Agreement as defined in section XI. In the event the Grantee receives more than \$500,000 of federal awards during a fiscal year, an independent audit must be performed in compliance with OMB Circular A-133 (i.e. "Single Audit"). The City shall be afforded the opportunity during the period of performance and for three years afterwards to undertake or contract for its own or a follow-up audit(s).

X. TERMINATION

The City or Grantee may terminate this Grant Agreement in whole or in part for any reason by providing written notice to the other party at least thirty (30) days prior to the date of termination. In the event the City determines in its sole discretion that the Grantee is not materially complying with the terms of the Grant Agreement, and following the issuance of a notice of breach or default for cause, the City may terminate this contract in fewer than thirty (30) days.

XI. FINANCIAL MANAGEMENT SYSTEMS

The Grantee's financial systems shall comply with the requirements of OMB Circular A-122, "Cost Principles for Non-Profit Organizations," and shall contain the following:

- A. Accurate, current and complete disclosure of the financial results of each Grant Agreement;
- B. Records that identify and distinguish the source and application of funds;
- C. Reasonable control over and full accountability for all funds, property, and other assets;
- D. Comparison of actual outlays with budgeted amount for each contract;
- E. Procedures for determining reasonableness and allocability of costs;
- F. Accounting records that are supported by source documentation; and
- G. Procedures for timely and appropriate resolution of audit findings and recommendations.

XII. ENTIRE AGREEMENT

The parties agree that this Grant Agreement is the complete expression of the terms hereto, and any oral representations or understanding not incorporated herein are excluded. Further, any modification of this Grant Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize that time is of the essence in the performance of this Grant Agreement. The parties agree that the forgiveness of non-compliance with any provision of this Grant Agreement does not constitute a waiver of the provisions of this Grant Agreement.

XIII. AMENDMENTS/MODIFICATION.

Either Party may request amendment or modification of this Agreement at any time. Such request shall be provided in writing. The Parties shall make a good faith attempt to respond to such requests within thirty (30) days of receipt of the request. Notwithstanding the foregoing, the provisions of this Agreement may be amended or modified only upon 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.

XIV. NO THIRD-PARTY BENEFICIARY.

Grantee 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 the Grantee. The Grantee and the City do not intend there be any third-party beneficiary to this Agreement.

XV. INDEMNIFICATION.

Solely as to the work performed or to be performed by Grantee pursuant to the terms and conditions of this Grant Agreement, Grantee agrees to indemnify and hold harmless the City and its officers, employees and agents from any and all third party claims arising from injury or death to any person, damage to any tangible property, or violation of law, and any liabilities or costs, including reasonable attorney's fees and litigation costs in connection with such claims, but only to the extent such claims, liabilities or costs were caused by negligent or willful misconduct of the Grantee, its officers, agents, Grantees or employees.

This duty to indemnify and hold harmless shall extend to claims asserted by officers, agents and employees of the Grantee, and in the event of such claims, the Grantee, and solely for such purpose, specifically waives any immunity that may be granted the Grantee under the Washington State Industrial Insurance Act, Title 51, RCW. This waiver is given pursuant to RCW 4.24.115.

XVI. RESOLUTION OF DISAGREEMENTS.

In the event of a continuing dispute between the Parties under this Agreement, each Party shall designate an appropriate representative to facilitate the resolution of the dispute

according to a procedure established by the representatives and authorized by law including but not limited to mediation. The representatives shall meet within fifteen days of either Party's request and shall use their best efforts to resolve the dispute in a manner acceptable to both Parties. The representatives' negotiated resolution shall be subject to approval by each of the Parties' duly authorized agents. In the event that dispute resolution fails and either party seeks to take legal action, the venue for that action shall be in Clark County Washington Superior Court.

XVII. DOCUMENT EXECUTION AND FILING.

The City and the Grantee agree that there shall be two (2) duplicate originals of this Agreement procured and distributed for signature by the necessary officials of the City and the Grantee. Upon execution, the executed duplicate of this Agreement shall be returned to the Vancouver City Clerk and one shall be retained by the Grantee.

XVIII. RATIFICATION.

Acts taken in conformity with this Grant Agreement prior to their effective date(s) are hereby ratified and affirmed.

XIX. 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.

XX. NON-ASSIGNMENT.

This Grant Agreement may not be assigned by either party.

STATEMENT OF WORK
Watershed Alliance of Southwest Washington – 2020-2024 Grant Agreement
Ongoing Environmental Restoration, Stewardship, Outreach and Sustainability

I. FUND USE

The grant funds are provided for planning, development and coordination of ongoing projects and programs that support the City's goals for environmental preservation/restoration in both riparian and upland areas. Through engagement and participation of the Vancouver community, efforts that promote a sense of ownership and caring for the natural environment will encourage stewardship and volunteer service.

The Grantee shall coordinate with private property owners to undertake restoration of their properties to create more contiguous ecosystems along identified riparian areas. The Grantee shall undertake education and outreach programs and lead or participate in events to inform the public on topics related to environmental and water quality issues.

The Grantee will use funds to establish, grow and sustain its organizational capacity as a unique, independent, non-profit organization focused on and dedicated to the local watersheds and its organizational mission and purpose. Funds shall be used to accomplish tasks and activities specified in this grant.

In communicating with the public, partners, the media, and others, about Grantee's programs, events, and activities, Grantee staff and volunteers shall not provide a representation that these efforts are conducted by the City nor that they are City employees nor that they are acting on behalf of the City. It is acceptable to indicate that City of Vancouver funding helps support certain Grantee efforts where this is the case; however, it is important to the City that a clear understanding is conveyed about those programs that are supported directly by the City, by the Grantee, by other partners, and/or through the combined support of various sponsors.

II OUTCOMES

As a result of this direct grant, the Grantee shall:

- A. Maintain a viable nonprofit community-based organization
 - Provide an opportunity, open to all City residents, to participate in the organization's activities
- B. Enhance ecological values of private sites
 - Support efforts of private property owners to restore and enhance ecology of their sites

- As a result of efforts through this ongoing outreach and coordination, private property owners (residential, commercial, industrial, agricultural) will become more engaged in stewardship of the local watershed
- C. Expand understanding of and commitment to environmental values and practices
- Offer stewardship experiences and community outreach/education activities that inspire target audiences to make positive changes in their behaviors and gain new insights in their understanding of environmental issues
- D. Support grassroots neighbor actions
- Offer sustainability grants for neighborhood associations and/or partners that support efforts of City recognized neighborhood associations to accomplish meaningful activities and projects in the areas of conservation and stewardship of the natural environment.
- E. Provide accountability and transparency
- Provide an end of the year report detailing the Grantee's activities and financial results as they relate to the above outcomes and the assigned tasks, outputs and deliverables which follow. The report will evaluate results and detail plans for adjusting or modifying efforts in the next year. This report will identify the added value of grants, private donations and in-kind donations that leverage the City's investment in local activities undertaken by the Grantee.

III. TASKS/OUTPUTS/DELIVERABLES

In order to accomplish the agreed Outcomes the Grantee shall accomplish the following task deliverables and milestones:

1. Private Property Program Tasks

- A. **Project Restore (private site restoration initiative)**—This element is a high priority focus for the City and it is intended that the program become an increasingly effective public private partnership. The goal of the program is to establish and maintain effective ongoing partnerships with private landowners, including those in residential, commercial, industrial and agriculturally zoned areas, along the Burnt Bridge Creek corridor and other target areas. Specific segments along the corridor for targeting projects will be identified each year in coordination with the City's Sensitive Lands, Surface Water Management, and Urban Forestry programs that represent the public side of the partnership. The Grantee shall provide the key liaison role in recruiting and working with private property owners to undertake and support restoration efforts on their properties; both with and without City help.

City staff will participate by identifying potential locations, designing and implementing site work, and in evaluating the success of projects. Grantee staff shall regularly meet and work closely with City program staff to co-manage and

grow this initiative to respond to new or expanded regulatory requirements. Grantee staff shall make contacts and build relationships with private property owners and support them as projects are agreed to and taken forward.

- B. **Backyard habitat certification program**—This task provides support and incentives for Vancouver residents who seek to restore native habitat to their backyards utilizing a coordinated regional program that has proven effective, in partnership of the Grantee, Portland Audubon and Columbia Land Trust. Helps people create yards that are healthy for people, our watershed and wildlife. The program is offered to private residences (under one acre), as well as to schools, community groups, public institutions and businesses.
- C. **Other: Multi-family and commercial**—This task anticipates new programs that will work with multi-family residential and commercial businesses to help incentivize or share resources to encourage changes in tenant/employee behaviors resulting in healthier watershed practices at home and/or work. Potential outreach and support, as may be agreed, covering topics such as, but not limited to: proper disposal of household chemicals, yard care techniques that are protective of water quality, litter prevention, reducing dog waste impacts, sediment erosion control, native plantings, and stormwater runoff education. Projects will support and showcase efforts to restore ecological values at multi-family and/or commercial properties.

The following milestones have been identified as annual targets for these tasks:

Task A: Project Restore

- Host quarterly coordination meetings with City program staff and track the accomplishments/tasks assigned for follow-up.
- Engage property owners in targeted neighborhood areas for participation in the program.
- Complete new project agreements with property owners to undertake restoration projects; the number of contracts signed each year will be mutually determined by the City of Vancouver Greenways Sensitive Lands Team and the Grantee – follow through and track progress with each private partner over the 1 to 3 years that may be required to complete and evaluate project results.

Task B: Backyard Habitat Certification Program

- Recruit participants and conduct a target of 10 property site visits, leading to certifications, annually

Task C: Other: Multi-Family and commercial

- Within the 1st year, define appropriate milestones/deliverables with annual targets as new programs are identified and implemented. Milestones will be annual targets identified for years 2 through 5.

2. **Public Program Tasks**

D. **Stewardship**—The Grantee shall recruit, train, and manage volunteers and/or community groups for a variety of episodic or ongoing roles in projects that enhance natural spaces, promote sustainability, support City environmental priorities, and assist partner organizations. Grantee will support volunteers with training as well as administrative and logistical systems (such as tools, refreshments, liability waiver forms, etc.). The Grantee will maintain an on-line calendar and e-mail list to promote environmental engagement in the Vancouver area for Watershed Alliance events. City program staff may or may not be directly involved in supporting aspects of these various events and opportunities. The Grantee will support and seek to refine and improve existing large scale “trademark” events that include:

- i. Martin Luther King Jr. Day event in January
- ii. Make a Difference Day event in October

In addition to large-scale events, the Grantee will approach community groups/individuals for more limited “smaller team” events or outings that involve small groups to encourage public stewardship and motivate participants to take more ownership in a site or environmental challenge. The Grantee will help identify, coordinate and/or provide needed resources and supplies to support these smaller team efforts on public or privately owned sites.

E. **Outreach and education**—Along with taking action through regular service, Vancouver residents and businesses should learn about the environment and how our individual behaviors and decisions can contribute to greater sustainability for our natural resources and for our community. The Grantee will sponsor and/or participate as a partner or organizer in a variety of education and outreach events and programs throughout the year that match community needs and interests. Grantee outreach and educational plans and events should be well-coordinated with local and regional partners.

F. **Neighborhood grant program**—Community engagement and empowerment are key elements of the Grantee’s mission and are critical to establishing a sustainable community. Modest financial or other grants and organizing assistance will be offered to help inspire and support grassroots efforts to improve shared areas of the City where proposed projects provide clear benefit and enjoyment to the community. The grant program will continue with a clear focus on enhancing environmental values.

G. **Don’t Drip and Drive (DDD)** —DDD is a regional program that focuses on educating vehicle owners about the importance of fixing vehicle leaks, as well as the environmental and safety impacts from motor oil and fluid leaks. Data from

leak check events will be submitted to the statewide DDD program as part of the regional partnership. This project will expand Don't Drip and Drive to the City of Vancouver. The program includes a social marketing campaign aimed at getting car owners to fix leaks while raising awareness of stormwater pollution. The project will utilize multiple channels of outreach and promotion, leverage partnerships with auto repair shops and local employers, hold leak check events/workshops and provide incentives to encourage, empower, and enable car owners to get leaks fixed. This is a larger regional program with the support of multiple partners including Stormwater Partners, the Department of Ecology and local jurisdictions.

The following milestones have been identified as annual targets:

Task D: Stewardship

- Organize and implement 2 large volunteer events open to all, with average participation of 150 or more volunteers.
- Organize and implement 6 small volunteer events on public sites, each involving a target of at least 10 volunteers.
- Make 5 presentations for community groups about the importance of and opportunities for volunteering in support of environmental projects.
- Maintain an online calendar with details of upcoming and recently completed volunteer opportunities.

Task E: Outreach and Education

- Host the Food and Film series. A program that educates the general public on environmental/sustainability topics from our local region to globally.
- Assist City program staff through participation in at least 5 City organized events, such as: Arbor Day, Sturgeon Festival, Old Apple Tree Festival, Watershed Congress, Columbia River Watershed Festival.
- Provide a minimum of 5 community presentations on environmental topics and current programs at selected neighborhood, school, church, club or other meetings/events.
- Maintain website and regularly review and update environmentally themed information and resources for the community.

Task F: Neighborhood Grant Program

- Administer the grant program and report on the results and outcomes of approved projects on the Grantee's website and in the annual report.

- As an element of Stewardship, Outreach and Education or other events in the community, actively promote the availability of Neighborhood Sustainability grants and support efforts of organizations to respond to and utilize these funds or assistance.

Task G: Don't Drip and Drive

- Conduct at least two leak check events in the City of Vancouver
- Track the number of leaks found at events and submit to regional DDD partner
- Conduct at least one workshop

3. **Neighborhood grant distribution**--Grants of up to \$2,000 will be offered for projects that have clear participation of City-recognized neighborhood associations and that address a variety of community interests.

The following milestones have been identified as annual targets:

- Award up to \$22,500 in total neighborhood sustainability grants to City recognized neighborhood associations.

4. **Reporting, Planning, and Evaluation**—The Grantee will provide quarterly reports to the City of Vancouver regarding the status of the task deliverables and milestones. A year end close out report will be included with the fourth quarter report that summarizes the previous three quarterly reports with the final quarter information. Quarterly reports will detail progress in the prior 3 months.

Grantee staff and board representatives will meet with City staff annually between November and January to review outcomes of the current year and to consider changes to outputs, tasks or milestone deliverables or budgets for the next year. Noted and agreed adjustments, if any, will be documented in a written communication from the City to the Grantee by February 15th of each new year.

The following milestones have been identified as annual targets:

- i. Quarterly Report submitted – Q4 of prior year with Year End Close Out – February 1st.
- ii. Quarterly Report submitted – Q1 of current year – May 1st.
- iii. Quarterly Report submitted – Q2 of current year – August 1st.
- iv. Quarterly Reports submitted – Q3 of current year – November 1st.
- v. Annual Grant Review meeting(s) with City Staff – between November 1st and January 31st.

- vi. Incorporate any changes or adjustments into a written document completed with City staff – by February 15th.

- 5. **Financial Reports & Records** – Budget detail included with the quarterly Payment Requests/Invoices submitted at the start of each quarter shall, at a minimum, list for each output area (1, 2, 3, 4 and 5 listed in section IV), one line item for the associated “staffing costs” (including employee benefits) allocated to the City’s grant in the coming quarter (based on assigned staff) and also the anticipated quarterly “other” expenditures for each output task (additional, more detailed line item descriptions for other expenditures may be included if available). The chart in Section IV (below) indicates the City’s expectation and priority for where expenditures will be made according to identified output tasks over the course of the full year, however, the seasonal/quarterly budget projections and distribution of expenses among staff time and other expenditures may vary somewhat from this expectation. So long as reporting timelines (areas 4 and 5) and report content expectations are met, the City will process and pay quarterly invoices within 30 days of receipt.

One month following each quarter, Grantee shall provide the City with a quarterly financial statement that details the tasks, allocated budget and expenditures for each completed quarter. The fourth quarter financial statement will incorporate the full calendar year expenditure and revenue results to profile the entire year. If expenditures for output tasks/areas shown in quarterly reports vary significantly from either the City’s expectation in Section IV (below) or from the quarterly budget projection, explanation shall be provided along with the quarterly financial statement. City staff and Grantee staff and board representatives will meet if any expenditure issues or concerns need to be resolved before the next invoice payment is approved. As provided for in the Record Retention (Subsection III), Fiscal Requirements (Subsection IX) and Financial Management Systems (Subsection XI) paragraphs of the Grant Agreement’s Special Terms and Conditions Section, financial and other grant-related records, work products or equipment of the Grantee related to accomplishing this City grant shall be maintained and open for audit or inspection by the City or its duly authorized representatives throughout the period of the agreement and for three years afterwards.

The following milestones have been identified as annual targets:

- i. First Quarter Invoice – may be submitted after January 10th; payment contingent on Q3 financial report due November 1st of prior year.
- ii. Second Quarter Invoice – may be submitted after April 10th; payment contingent on Q4 financial report and Year End Close Out report due February 1st.
- iii. Third Quarter Invoice – may be submitted after July 10th; payment contingent on Q1 report due May 1st.

- iv. Fourth Quarter Invoice – may be submitted after October 10th; payment contingent on Q2 report due August 1st.
- v. Q1 Financial Statement to be submitted – May 1st.
- vi. Q2 Financial Statement to be submitted – August 1st.
- vii. Q3 Financial Statement to be submitted – November 1st.
- viii. Q4 and Year End Financial Statement to be submitted – February 1st.

IV BUDGET SUMMARY

The following is the agreed general allocation of the project budget, totaling \$150,000 annually, according to the Section III Tasks/Outputs/Deliverables. The annual expenditure range noted for each task is an estimate to help communicate the expectation on where effort will be placed over the course of the year. It is anticipated that actual quarterly expenditures may differ somewhat from this distribution due to the seasonal nature of the various tasks.

As noted in this Grant Agreement's Special Terms and Conditions section, the statement of work and budget may be modified from year to year at the discretion of the City.

Annual Budget – Allocation:	Output Areas/Tasks:
Expenses:	
\$50,000	1 – Private Property Program Tasks (A, B, C)
\$74,500	2 – Public Program Tasks (D, E, F and G)
\$22,500	3 – Grant Distribution
\$3,000	4 & 5 - Reporting Planning & Evaluation with Financial Reports & Records
TOTAL: \$150,000	<i>Not to exceed \$150,000 per year</i>



Staff Report 193-19

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 12/16/2019

SUBJECT Award of Lodging Tax Grants for 2020

Key Points

- The City collects a 4% lodging tax on hotel and motel room nights. These funds can be used by municipalities and community organizations and for the purpose of supporting tourism-related events, activities and facilities.
- The City's Lodging Tax Advisory Committee, which is required by state regulations in order to expend the funds, reviewed applications for lodging tax funds and is making recommendations to the City Council.
- Council is being asked to approve partial or full funding for six grant applications totaling \$114,500.

Strategic Plan Alignment

Goal 8: Strengthen commercial, retail and community districts throughout the city.

Goal 5: Continue to build high quality historical and cultural experiences for residents and visitors.

Present Situation

RCW 67.28.180 allows municipalities to impose a 4% lodging tax on stays of more than 30 days at hotels, motels, campgrounds, bed and breakfasts and RV parks. Those funds can only be used for tourism-related projects, events and facilities. Vancouver increased its lodging tax from 2% to 4% in 1998 with the second 2% dedicated to debt service and capital improvements for the downtown Hotel/Convention Center. The original 2% continued to be used to fund other tourism related projects. One of the impacts of the recession was that from 2009-2016, all of Vancouver's lodging tax funds were allocated to support the Hotel/Convention Center.

For 2020, 15% of lodging tax revenue (\$385,294) will be allocated to Visit Vancouver USA. Additionally, the City has \$114,500 in lodging tax revenue that is excess to the needs of the Hotel/Convention Center and is available for other tourism-related projects. The RCW requires

that in order to expend lodging tax funds, municipalities must appoint a Lodging Tax Advisory Committee, comprising equal numbers of lodging tax generators and potential lodging tax recipients, who will make recommendations on proposed expenditures to the City Council. The Committee was appointed in May 2016, and in July, the City solicited lodging tax grant proposals from interested parties. Nine proposals were received totaling \$229,000. The Committee reviewed the proposals and is recommending full or partial funding of seven, which totals \$114,500.

Per state regulations, the City Council only may approve awards to candidates recommended by the Lodging Tax Advisory Committee and only at the amount recommended unless Council submits its change in the amount to the LTAC for comment. All approved grant recipients must enter into a professional services agreement with the City.

Advantage(s)

Grant funds will support tourism-related events, activities and facilities that help strengthen Vancouver's appeal to day and overnight visitors.

Disadvantage(s)

None

Budget Impact

The 2020 budget contains the appropriation sufficient to cover grants in the amount of \$114,500 in lodging tax funds.

Prior Council Review

None

Action Requested

On December 16, 2019, adopt a resolution approving the 2020 Lodging Tax Grants as recommended by the Lodging Tax Advisory Committee and authorizing the City Manager or his designee to execute professional services agreements with the grant recipients.

Teresa Brum, Economic Development Division Manager, 487-7949

ATTACHMENTS:

- ▣ Resolution
- ▣ 2020 Lodging Tax Grant Recommendations

12/16/2020

RESOLUTION NO. _____

A RESOLUTION relating to the award of lodging tax grant funds for 2020 as recommend by the City Council appointed Lodging Tax Advisory Committee.

WHEREAS, RCW 67.28.180 and 67.28.181 allow municipalities to impose a lodging tax of up to 4% on overnight stays in a lodging establishment such as a hotel, motel, bed and breakfast facility, or campground; and

WHEREAS, funds collected through the lodging tax can be used for the purpose of supporting tourism promotion, including but not limited to events, activities and facilities designed to increase tourism; and

WHEREAS, RCW 67.28.1816 and 67.28.1817 require that in order to expend lodging tax funds, municipalities appoint a Lodging Tax Advisory Committee, comprised of equal numbers of lodging tax generators and potential lodging tax recipients, who will make recommendations on proposed expenditures to the City Council; and

WHEREAS, the City solicited lodging tax grant proposals from interested parties which were reviewed by the Lodging Tax Advisory Committee in order to provide the City Council recommendations on grant funding to support tourism promotion.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY OF VANCOUVER:

Section 1. As recommended in the Lodging Tax Advisory Committee, 2020 Grant Recommendations attached hereto as Exhibit "A", the recipients are hereby awarded grants for tourism related events, activities and facilities as follows:

1. **Organization: Columbia Springs**
Project: Website and Brochure development
Summary: Request would fund website and brochure development
Requested: \$11,000 **Recommended:** \$10,000
2. **Organization: Cruise the Couve**
Project: Event
Summary: Request would help fund the Cruise the Couve event
Requested: \$20,000 **Recommended:** \$10,000
3. **Organization: Dollar For**
Project: Noel
Summary: Request would fund a new holiday event called Noel
Requested: \$100,000 **Recommended:** \$64,500
4. **Organization: The Historic Trust**
Project: Tour Map
Summary: Request would fund a self-guided Officers Row Botanical Tour Map
Requested: \$10,000 **Recommended:** \$10,000
5. **Organization: PAL**
Project: Marathon
Summary: Request would fund Apple Tree Marathon Festival 2020
Requested: \$40,000 **Recommended:** \$10,000
6. **Organization: Why Racing**
Project: Triathlon
Summary: Request would fund Columbia River & Girlfriends Triathlon Festival
Requested: \$ 15,000 **Recommended:** \$15,000

Section 2. The City Manager or his designee is hereby authorized to execute on behalf of the city all necessary agreements with the recipients to ensure compliance with the terms of the grant.

ADOPTED at regular session of the Council of the City of Vancouver, on this 16th day of December, 2019.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney



LODGING TAX ADVISORY COMMITTEE 2020 GRANT RECOMMENDATIONS

In alphabetical order by name of organization

1. **Organization: Columbia Springs**
Project: Website and Brochure development
Summary: Request would fund website and brochure development
Requested: \$11,000 **Recommended:** \$10,000
2. **Organization: Cruise the Couve**
Project: Event
Summary: Request would help fund the Cruise the Couve event
Requested: \$20,000 **Recommended:** \$10,000
3. **Organization: Dollar For**
Project: Noel
Summary: Request would fund a new holiday event called Noel
Requested: \$100,000 **Recommended:** \$64,500
4. **Organization: The Historic Trust**
Project: Tour Map
Summary: Request would fund a self-guided Officers Row Botanical Tour Map
Requested: \$10,000 **Recommended:** \$10,000
5. **Organization: PAL**
Project: Marathon
Summary: Request would fund Apple Tree Marathon Festival 2020
Requested: \$40,000 **Recommended:** \$10,000
6. **Organization: Why Racing**
Project: Triathlon
Summary: Request would fund Columbia River & Girlfriends Triathlon Festival
Requested: \$ 15,000 **Recommended:** \$15,000

The following projects were not recommended for grant funds:

Organization: Meals on Wheels

Project: The Diner Vancouver

Summary: Request would fund the Diner Vancouver

Requested: \$8,000 **Recommended:** \$0

Organization: Why Racing

Project: Run

Summary: Request would fund Girlfriends Run for a Cure

Requested: \$15,000 **Recommended:** \$0



Staff Report 194-19

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 12/16/2019

SUBJECT Third Lease Amendment between the City of Vancouver and Charles Milne for property located at 703 North Devine Road, Vancouver, Washington, 98661

Key Points

- Third Lease Amendment provides for an additional five-year lease term between the City of Vancouver and Charles Milne for the property located at 703 North Devine Road, Vancouver, Washington, 98661, the current location of Vanco Driving Range, which is owned and operated by Mr. Milne.
- The Third Lease Amendment will allow Mr. Milne to continue operating his business at the site, until such time as Mr. Milne chooses to sell or close his business, or assign the lease to another user, or until such time as the City chooses to redevelop it as part of implementation of the Heights District Plan.
- The Third Lease Amendment provides for flexibility for both the City and Mr. Milne, by allowing either party to terminate the lease with 180 days written notice.

Strategic Plan Alignment

N/A

Present Situation

Mr. Milne has operated Vanco Driving Range at the current site for a number of years, and it provides a community recreation amenity to Vancouver residents. In 2018, the City initiated a subarea planning process for the Heights District, with the goal of providing a vision for the overall District and the Tower Mall Redevelopment Area, which includes the subject property where Vanco Driving Range is currently located.

The Heights District Plan has involved significant public input and engagement, and envisions a future neighborhood center with a mix of uses, connectivity improvements, and public open space. Implementation of the Heights District Plan will occur over a 20-year time period and include several phases; redevelopment of the Tower Mall Redevelopment Area will include demolition of the existing Town Plaza structure and other steps to prepare the site for new

development.

Mr. Milne has expressed his desire to continue operating Vanco Driving Range at this location until such time as the site is needed for redevelopment in alignment with the vision set forth in the Heights District Plan.

Advantage(s)

1. The Third Lease Amendment allows Mr. Milne to continue operating his business at the current site until it is needed for redevelopment, allowing for the continuation of a productive business that provides a community amenity.
2. The Third Lease Amendment does not hinder redevelopment as envisioned in the Heights District Plan, and allows for continued productive activity at the site until redevelopment occurs.
3. The Third Lease Amendment provides flexibility to both the City and Mr. Milne.

Disadvantage(s)

None

Budget Impact

The Third Lease Amendment provides for ongoing lease payments to the City for the five-year lease period.

Prior Council Review

None

Action Requested

Ratify the Third Lease Amendment between the City of Vancouver and Charles Milne and authorize the City Manager or his designee to execute the Third Lease Amendment.

Rebecca Kennedy, Long Range Planning Manager, 487-7896

ATTACHMENTS:

- Third Lease Amendment

THIRD LEASE AMENDMENT

DATED: December 16, 2019

BETWEEN: City of Vancouver and Charles Milne

By written Land Lease Agreement made and entered into on the 1st day of June, 1997, written Lease Amendment made and entered into on the 16th day of June 2005 and written Lease Amendment made and entered into on the 18th day of December 2013, by and between the city of Vancouver, a municipal corporation of the State of Washington, hereinafter referred to as the LESSOR, and Charles Milne, hereinafter referred to as LESSEE.

WHEREAS, the LESSEE desires to amend sections the Land Lease Agreement and/or Lease Amendments

THEREFORE, LESSOR and LESSEE agree as follows:

The following Sections of the Land Lease Agreement, 2005 Lease Amendment and 2013 Lease Amendment are hereby deleted in their entirety and replaced with the following:

Section 2.01. Term: The effective date of the lease shall be January 1, 2020 and this Lease shall continue through December 31, 2024

Section 2.02. Renewal option: Lessee understands and agrees that it has no option to renew/extend the term of the Lease upon the expiration of its term which ends on December 31, 2024.

Section 3.01. Rental: Effective January 1, 2020 Lessee shall pay to Lessor as rent the minimal sum of \$4,542.62 per month through December 31, 2020. Beginning on January 1, 2021 and each January throughout the balance of the term (December 31, 2024), the rent shall be increased with an annual 3 percent (3%) escalation factor. All applicable taxes are included in the monthly amount.

Section 10.1. Early Termination: Either party may terminate this lease with 180 days' notice of termination. In the event of early termination, there will be no early termination fees due to either party.

All other terms and conditions remain the same.

Dated this 27 day of Nov, 2019.

Eric J. Holmes, City Manager



Charles Milne, Owner, Vanco Golf Range

Approved as to Form:

Jonathan J. Young, City Attorney



Staff Report 200-19

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 12/16/2019

SUBJECT Affordable Housing Fund Contract for Van Vista Rehabilitation

Key Points

- The Affordable Housing Fund is used to produce or preserve affordable housing in Vancouver.
- On February 4, 2019, City Council approved the use of \$850,000 of Affordable Housing Funds to provide money to the Vancouver Housing Authority to assist with the costs of rehabbing Van Vista.
- Van Vista is owned by the Vancouver Housing Authority and was built in 1969, and is located at 410 W 13th Street. The building is 10 stories and contains 96 units designated for seniors.
- Agency will be using City funds along with tax credits to rehab the project.
- The rehab will include accessibility improvements, replacement of exterior windows, plumbing upgrades and an upgrade to the elevator shaft

Strategic Plan Alignment

Goal 3, Objective 3.2: Improve services available to underserved or vulnerable residents.

Present Situation

City Council approved Affordable Housing Funding for the Van Vista Rehab project on February 4. Since that time the City has completed the environmental review required by HUD, as the project uses federal funds for the rental assistance. The City has also approved the language in the note, deed and covenant. The Vancouver Housing Authority has been in negotiations with tax credit investors and completing the architectural designs and needs assessments as well as applying for permits. The closing (required for tax credits) will be the week of December 13.

Advantage(s)

1. Facilitates the preservation of 96 units of housing for seniors in our community.

2. Fulfills the intent of the Affordable Housing Fund
3. Facilitates a \$12 million construction project in Vancouver

Disadvantage(s)

None

Budget Impact

Provides for use of Affordable Housing Funds which have been collected since 2017.

Prior Council Review

On February 4, 2019, City Council approved the use of \$850,000 of Affordable Housing Funds to provide money to the Vancouver Housing Authority to assist with the costs of rehabbing Van Vista.

Action Requested

Authorize the City Manager or his designee to execute the Affordable Housing contract with Vancouver Housing Authority to rehab Van Vista.

Peggy Sheehan, Community Development Programs Manager, 487-7952

ATTACHMENTS:

- ▣ Affordable Housing Fund Agreement - Van Vista



AGREEMENT

BETWEEN

CITY OF VANCOUVER

Affordable Housing Fund

PO Box 1995 • Vancouver • Washington • 98668-1995

(360) 487-7952 • www.cityofvancouver.us/cdbg

AND

HOUSING AUTHORITY OF THE CITY OF VANCOUVER

2500 Main Street • Vancouver • Washington • 98660

Program/Services Funded:	HOUSING AUTHORITY OF THE CITY OF VANCOUVER / Van Vista Rehab
Funding Source:	Vancouver Affordable Housing Fund
Agreement Date:	
Agreement Period:	Upon signing through December 2020
Agreement Number:	PRJ100322 -2018AHF - Vancouver Housing Authority - Van Vista Rehabilitation
Affordability Period:	January 1, 2020 through December 1, 2060
Property Address:	410 W 13 th Street, Vancouver, WA 98660
Agreement Amount:	\$850,000
Agency Contact:	Roy Johnson • (360) 993-9500 • rjohnson@vhausa.com
City Contact:	Peggy Sheehan • (360) 487-7952 • peggy.sheehan@cityofvancouver.us

This agreement consists of the following:

Signature page

Rental Property Requirements

Timeline

General Terms and Conditions

Statement of Work

Line Item Budget

Authorization Signature Card

Exhibit A: Request for Reimbursement Form

REFERENCE ONLY: Deed, Note and Covenant

IN WITNESS WHEREOF, the parties agree to the terms and conditions of this Agreement and have caused this Agreement to be executed by their respective officers and agents thereunto duly authorized by signing below:

CITY OF VANCOUVER:

HOUSING AUTHORITY OF THE CITY OF
VANCOUVER:

Eric Holmes, City Manager

Roy Johnson, Executive Director

Date:

Date:

ATTEST:

Natasha Ramras, City Clerk or
Carrie Lewellen, Deputy City Clerk

Peggy Sheehan, Program Manager

APPROVED AS TO FORM:

Jonathan Young, City Attorney

STATEMENT OF WORK

PROJECT DESCRIPTION

HOUSING AUTHORITY OF THE CITY OF VANCOUVER (AGENCY) is operating as a sub-recipient for the City of Vancouver (CITY) to complete a project using Affordable Housing Funds. As such, AGENCY must comply with the terms and conditions in this contract.

The intent of this Agreement is to provide \$850,000 in Affordable Housing Funds to the AGENCY for the Van Vista Rehab project located at 410 W 13th Street, Vancouver, WA 98660. The project consists of accessibility compliance and common area improvements. Improvements include upgrades to the elevator shaft, replacement of exterior windows, mechanical and plumbing upgrades to increase the buildings energy efficiency. Van Vista Plaza is a ten story structure built in 1969 as public housing. The 96 unit property is comprised of assisted and independent living units.

The proposed rehab supported with Affordable Housing Funds will be restricted to 17 units with households earning up to 50% AMI upon initial occupancy throughout the affordability period.

PROJECT BUDGET

1. The CITY will provide the AGENCY with funds in an amount not to exceed \$850,000 for purposes of completing the project described herein. The use of these funds shall be expressly limited to the activities described in this Agreement.
2. Any reduction in the total budget authority will be done after consultation with the AGENCY and will require a modification of this Agreement. Any funds unspent at the end of the Agreement period will be retained by the CITY for allocation to another Affordable Housing Fund project.

PAYMENT PROVISIONS

1. The majority of the CITY payments to the AGENCY will be on a cost reimbursement basis. However, there are times such as property purchase that the CITY will make payments to an escrow account. In most cases, the CITY will make payment to AGENCY *as soon as practicable* but not more than thirty (30) days after the AGENCY submits a Request for Reimbursement, unless other acceptable payment arrangements are agreed to by CITY and AGENCY. Request for Reimbursement shall include the following:
 - a. A summary of expenses incurred in support of all costs, and accompanied by general ledger detail.
 - For direct costs, detail will include direct costs: vendor names, dates of service and amount;
 - For services that are also funded by a third party, the AGENCY shall provide a detailed cost itemization by cost center and funding source. Detail shall identify which service or work was funded by the CITY and which by other parties.
2. The AGENCY shall designate one or more representatives who will be legally authorized to sign the Request for Reimbursement Form provided and any other forms that may be required. The names of the liaison persons and representatives will be specified on the Authorization Signature Card.

TERM OF AGREEMENT

1. This Agreement is in effect for the period from the date signed through December 1, 2020 unless terminated as described under the **TERMINATION** section of the General Terms and Conditions.
2. Affordable Housing Funds shall be accounted separately from other funds received by the AGENCY.

LOAN TERMS

The Affordable Housing Funds in the amount of \$850,000 are provided to the AGENCY as follows:

- \$425,000 is provided in the form of a forgivable loan at 0% interest. The loan shall be forgiven on December 1, 2060 provided the designated Affordable Housing Fund Units remain occupied by people with incomes at or below 50% AMI at initial occupancy throughout the loan period.
- \$425,000 is provided in the form of a 1%-interest loan with a term of 40 years, with annual payments of \$12,943.63 starting December 1, 2020 and continuing through December 1, 2060.
- In accordance with the terms of this Agreement and the Deed of Trust, Low Income Housing Covenant Agreement between the AGENCY and the CITY (the “Covenant Agreement”), if the Affordable Housing Fund units are not affordable to people with incomes at or below 50% AMI at initial occupancy throughout the affordability period, and such failure continues beyond 30 days’ after receipt of written notice of such failure from the CITY to the AGENCY then the loan may, at the option of the CITY become due immediately; provided that the CITY may provide additional opportunity to cure in its discretion.

PUBLIC NOTIFICATION

The CITY will provide information to about the project, including location, property owner, contract amount, and number of designated Affordable Housing Fund units, to the public through the City of Vancouver website.

DOCUMENTS INCORPORATED BY REFERENCE

Each of the documents listed below are by this reference incorporated into this Agreement as though fully set forth herein, including any amendments, modifications or supplements thereto:

1. AGENCY’s proposal for 2018 Affordable Housing Funds.
2. Current version of Affordable Housing Fund income limits (50% of Area Median Income provided by HUD)
3. Deed, Note and Covenant.

NOTICE TO PROCEED

Upon execution of this agreement, the CITY will furnish the AGENCY with a written notice to proceed. No work on the project shall occur prior to the Notice to Proceed without prior written approval from the CITY.

RENTAL PROPERTY REQUIREMENTS

AFFORDABILITY PERIOD

Van Vista will carry the requirement that the seventeen (17) Affordable Housing Fund-assisted units remain affordable throughout the affordability period to people who are at or below 50% at initial occupancy (calculated annually) of the area median income (AMI) established by HUD.

The affordability period dates are January 1, 2020 through December 1, 2060. During the affordability period, the CITY will be required to monitor the assisted units annually for compliance.

The City of Vancouver will ensure the affordability period and requirements are met by recording deed and covenant restrictions. These documents will include details on affordability requirements, loan terms, restrictions regarding foreclosure, deed in lieu of foreclosure, and transfer of ownership.

UNIT DESIGNATION

The designated Affordable Housing Fund units will consist of seventeen (17) units. All will be floating units meaning that units originally designated as Affordable Housing Fund-assisted units may change over time. **During the affordability period, the number of Affordable Housing Fund units in the project may never be less than 17 units.** The units must be comparable, in size, features, and number of bedrooms to those units originally identified as Affordable Housing Fund units.

AFFORDABLE RENTAL HOUSING QUALIFICATION

Affordable Housing Fund units in a rental housing project must be only be occupied by households that are eligible low-income families and the tenant portion of rent may not exceed what is affordable to households at 50% AMI. Units must meet the following requirements to qualify as affordable housing:

1. **Rent Limitation and Utility Allowances:**
 - a. The City of Vancouver will issue the Affordable Housing Fund rent limits annually. The information is available at www.cityofvancouver.us/affordablehousingfund.
 - b. Only the utility allowance provided by the Housing Authority of the City of Vancouver shall be used.
2. **Rent Schedule Approval:** Prior to occupancy of units designated Affordable Housing Fund units, the CITY shall review and approve rents proposed by the AGENCY. The tenant portion of rent for the Housing Fund units must not exceed the maximum Affordable Housing Fund rent minus the monthly allowances for utilities and services. The maximum *rent is not reduced by charges for assisted living services*.
3. **Nondiscrimination against rental assistance subsidy holders.** The AGENCY cannot refuse to lease Affordable Housing Fund-assisted units to a holder of a Section 8 or other comparable tenant assistance voucher.
4. **Tenant Income.**
 - a. All funds used for rental housing shall assist households who have an annual income that is 50% of the area median income (AMI) or less at initial occupancy.
 - b. The City of Vancouver shall provide the HUD income limits annually. The most current HUD income limits can be found at www.cityofvancouver.us/cdbg.
 - c. The income of each tenant must be determined initially and annually in accordance with the City of Vancouver Affordable Housing Fund Policies and Procedures.
5. **Over-income tenants.** Tenant income must be monitored annually, if an over-income tenant is residing in the floating unit, the next available unit must be rented to an income eligible tenant. For purposes of this Agreement, a Dwelling Unit occupied by a household who at the commencement of that occupancy met the AMI requirements of this Agreement shall be treated as occupied by a qualifying tenant during such individual's or family's tenancy in such unit regardless of the future

income levels of such individual or family; moreover. Notwithstanding the foregoing, if a tenant's income increases to an amount equal to or greater than 140% of the then current income limit and such tenant is required to be a qualified tenant to satisfy the minimum number (17) of Affordable Housing Fund units, the next available unit shall be rented to a qualifying tenant.

REPORTING

Properties are required to report on Affordable Housing Fund units annually in December for the duration of the affordability period. Reports should be submitted to the City of Vancouver Community and Economic Development Department, Attention: Peggy Sheehan using the Excel reporting form provided by the CITY.

Required information:

- Address and name of project
- Total number of units
- For each Affordable Housing Fund unit:
 - Unit number
 - Number of bedrooms
 - Monthly rent payment
 - Utility allowance
 - Renter gross income
 - Household size

INSPECTIONS

Prior to initial occupancy of an Affordable Housing Fund-assisted unit, the CITY must perform onsite Housing Quality Standard inspections. During the period of affordability, the CITY must perform on-site inspections of Affordable Housing Fund units no less than every three years.

PROJECT COMPLETION

Project completion means that:

1. All necessary title transfer requirements and construction work have been performed;
2. The project complies with the requirements of this agreement;
3. AGENCY has been reimbursed for all costs; and
4. Affordable Housing Fund units are occupied by eligible tenants.

BUDGET

SEE ATTACHED

By signing below AGENCY acknowledges the review and approval of the budget listed above.

Name

Date

Title

Van Vista Development Budget		Budget
ID		
100	Acquisition Costs	
101	Land	1,440,000
102	Existing Structures	7,710,000
103	Closing, Title & Recording Costs	25,000
199	Subtotal	9,175,000
200	Construction Costs	
201	Construction Contract - Hard Costs	11,266,262
202	Rehab Contingency	1,000,000
203	Equipment and Furnishings	100,000
299	Subtotal	12,366,262
300	Soft Costs	
301	Buyer's Appraisal	10,000
302	Market Study	6,000
303	Architect	660,000
304	Environmental Reports	15,000
305	Geotechnical Study	2,500
306	Boundary & Topographic Study	15,000
307	Legal - Real Estate	25,000
308	Developer Fee	2,500,000
309	Project Management/Dev. Consultant Fees	20,000
310	Other Consultant Fees	45,000
311	Soft Cost Contingency	87,879
399	Subtotal	3,386,379
500	Construction Financing	
501	Construction Loan Fees (Series B)	39,150
502	Construction Period Interest (Eligible)	537,978
599	Subtotal	577,128
600	Permanent Financing	
601	Permanent Loan Fees (Series A)	84,000
602	LIHTC Fees	124,797
603	LIHTC Legal	50,000
604	LIHTC Owner's Title Policy	25,000
605	Other: NDC Asset Mgmt Setup Fee & Syndication Fees	58,000
699	Subtotal	341,797
700	Capitalized Reserves	
701	Operating Reserve	1,055,000
799	Subtotal	1,055,000
800	Other Development Costs	
801	Insurance (Builder's Risk)	89,483
802	Relocation	400,000
803	Bidding Costs	2,500
804	Permits, Fees & Hookups	400,000
805	Non-profit Donation	10,000

Van Vista Development Budget		Budget
ID		
806	Accounting/Audit	15,000
899	Subtotal	916,983
900	Bond Related Costs of Issuance (4% TC/Bond Projects)	
901	Issuer Fees & Related Expenses	4,432
902	Bond Counsel	75,000
903	Trustee Fees & Expneses	20,000
904	Underwriter Fees & Counsel	35,000
905	Rating Agency	29,673
999	Subtotal	164,105
	TOTAL USES	27,982,654
	Permanent Financing	
1101	LP Contributions	8,832,114
1102	GP Contributions	886
1103	Permanent Bond	9,600,000
1104	VHA First Rehabilitation Loan	1,750,000
1105	VHA Second Rehabilitation Loan	850,000
1106	VHA Acquisition Loan	6,806,225
1107	Interest Earnings	143,429
1199	TOTAL SOURCES	27,982,654
	Source Check	-

Project Name:					
Spreadsheet Print Date:					
Van Vista Development Budget		DRAWS			
		#1 12/20/19	TOTAL DRAWS	REMAINING BUDGET	% Remain.
ID					
100	Acquisition Costs				
101	Land	1,440,000	1,440,000	-	0%
102	Existing Structures	7,710,000	7,710,000	-	0%
103	Closing, Title & Recording Costs	244	244	24,756	99%
199	Subtotal	9,150,244	9,150,244	24,756	0%
200	Construction Costs				
201	Construction Contract - Hard Costs	237,018	237,018	11,029,244	98%
202	Rehab Contingency	-	-	1,000,000	100%
203	Equipment and Furnishings	-	-	100,000	100%
299	Subtotal	237,018	237,018	12,129,244	98%
300	Soft Costs				
301	Buyer's Appraisal	6,100	6,100	3,900	39%
302	Market Study	3,000	3,000	3,000	50%
303	Architect	503,003	503,003	156,997	24%
304	Environmental Reports	11,859	11,859	3,141	21%
305	Geotechnical Study	-	-	2,500	100%
306	Boundary & Topographic Study	-	-	15,000	100%
307	Legal - Real Estate	1,189	1,189	23,811	95%
308	Developer Fee	375,000	375,000	2,125,000	85%
309	Project Management/Dev. Consultant Fees	20,000	20,000	-	0%
310	Other Consultant Fees	-	-	45,000	100%
311	Soft Cost Contingency	-	-	87,879	100%
399	Subtotal	920,150	920,150	2,466,229	73%
500	Construction Financing				
501	Construction Loan Fees (Series B)	39,150	39,150	-	0%
502	Construction Period Interest (Eligible)	-	-	537,978	100%
599	Subtotal	39,150	39,150	537,978	93%
600	Permanent Financing				
601	Permanent Loan Fees (Series A)	84,000	84,000	-	0%
602	LIHTC Fees	60,626	60,626	64,171	51%
603	LIHTC Legal	-	-	50,000	100%
604	LIHTC Owner's Title Policy	-	-	25,000	100%
605	Other: NDC Asset Mgmt Setup Fee & Syndication Fees	58,000	58,000	-	0%
699	Subtotal	202,626	202,626	139,171	41%
700	Capitalized Reserves				
701	Operating Reserve	-	-	1,055,000	100%
799	Subtotal	-	-	1,055,000	100%
800	Other Development Costs				
801	Insurance (Builder's Risk)	-	-	89,483	100%
802	Relocation	116,566	116,566	283,434	71%
803	Bidding Costs	238	238	2,262	90%
804	Permits, Fees & Hookups	96,371	96,371	303,629	76%
805	Non-profit Donation	-	-	10,000	100%

Van Vista Development Budget		DRAWS			
ID		#1 12/20/19	TOTAL DRAWS	REMAINING BUDGET	% Remain.
806	Accounting/Audit	-	-	15,000	100%
899	Subtotal	213,175	213,175	703,808	77%
900	Bond Related Costs of Issuance (4% TC/Bond Projects)				
901	Issuer Fees & Related Expenses	4,432	4,432	-	0%
902	Bond Counsel	73,900	73,900	1,100	1%
903	Trustee Fees & Expenses	10,500	10,500	9,500	48%
904	Underwriter Fees & Counsel	35,000	35,000	-	0%
905	Rating Agency	24,500	24,500	5,173	17%
999	Subtotal	148,332	148,332	15,773	10%
	TOTAL USES	10,910,695	10,910,695	17,071,959	61%
	Permanent Financing				
1101	LP Contributions	441,606	441,606	8,390,508	95%
1102	GP Contributions	886	886	-	0%
1103	Permanent Bond	3,180,167	3,180,167	6,419,833	67%
1104	VHA First Rehabilitation Loan	489,412	489,412	1,260,588	72%
1105	VHA Second Rehabilitation Loan		-	850,000	100%
1106	VHA Acquisition Loan	6,806,225	6,806,225	-	0%
1107	Interest Earnings		-	143,429	100%
1199	TOTAL SOURCES	10,918,295	10,918,295	17,064,359	61%
	Source Check	7,600	7,600	(7,600)	0%

TIMELINE – See Attached

Form 5 PROJECT TIMELINE

Date		Notes
Real Estate / Site Control		
Site Control Obtained	1969	VHA Constructed Van Vista as Public Housing in 1969
Site Control Expiration	N/A	VHA will lease land to Van Vista Plaza LLLP
Property Manager Selected	4/26/2019	Key Property Services, Inc.
Construction		
Contractor Selected	9/5/2018	
Contractor Bids Expected	4/12/2019	
Permit Application	5/13/2019	
Final Permit Approval	11/12/2019	
SEPA Application	5/13/2019	
Final SEPA Approval	10/6/2019	
Construction Begins	1/2/2020	
Construction Complete	3/15/2021	
Financing		
Bonds		
Bond Application Submitted	4/26/2019	
Payment of WSHFC Deposit	9/4/2019	
Scoping Meeting	N/A	
Commission Hearing	N/A	
Finance Resolution	N/A	
Bond Closing	12/20/2019	
Tax Credits		
LOI Executed	4/24/2019	NDC
Credit Committee Approval	8/26/2019	
Construction Loan		
Executed Term Sheet	4/24/2019	Key Bank
Appraisal Ordered	N/A	Lender Accepted VHA Appraisal
Appraisal Review Complete	N/A	
Final Approval	12/20/2019	
Permanent Loan		
Executed Term Sheet	4/24/2019	Key Bank
Appraisal Ordered	N/A	Lender Accepted VHA Appraisal
Appraisal Review Complete	N/A	
Final Approval	12/20/2019	
Other Sources of Funds		
Application Date	10/31/2018	City of Vancouver - Affordable Housing Fund
Award Date	2/4/2019	City Council Approval Date
Contract Completion Date	12/31/2020	
Placed in Service		
Certificate of Occupancy Issued	2021	Occupied Rehab
Placed in Service - First Building	12/8/2020	Single Building
Placed in Service - Last Building	12/20/2020	Single Building
Projected First LIHTC Year	2020	
Transfer of Rental Assistance or Debt Service Subsidy		
Application Submitted	N/A	
Approval Expected	N/A	

GENERAL TERMS AND CONDITIONS

1. Fair Housing

Projects funded with the Affordable Housing Fund are subject to federal fair housing regulations. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability.

Prevailing Wage -

If the applicant/recipient receives a loan that is incurring interest, is not forgivable and is required to be repaid in full, such a loan, in and of itself, is not expected to trigger prevailing wage requirements. However, if the applicant/recipient is receiving other public funds including a grant from the City and/or is a public entity, it may be required to pay prevailing wage on the project. A definitive determination regarding the applicability of prevailing wage laws can only be obtained from the Department of Labor and Industry.

2. Order of Precedence.

Where there is a conflict among or between any of these documents, the controlling documents shall be the first listed in the following sequence: Amendments to this Agreement; this Agreement; Purchase Orders; AGENCY's submitted proposal to project request and project request.

3. Relation of Parties.

The AGENCY, its subcontractors, agents and employees are independent AGENCYs performing professional services for CITY and are not employees of CITY. The AGENCY, its subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to CITY employees. The AGENCY, subcontractors, agents and employees shall not have the authority to bind CITY in any way except as may be specifically provided herein.

4. E-Verify.

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

5. Delays and Extensions of Time.

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

6. Termination.

The CITY may terminate this contract or discontinue the disbursement of loan amounts under this Agreement if the AGENCY fails to comply with the requirements of this Agreement and such failure continues beyond thirty (30) days after receipt of notice thereof from the CITY to the AGENCY; provided that the CITY may provide additional opportunity to cure in its discretion.

In the event this Agreement is terminated prior to the completion of work, AGENCY will only be paid for the hours completed at the time of termination of the Agreement. [THE PRECEDING SENTENCE SEEMS TO BE FOR A TIME AND MATERIALS CONTRACT, RATHER THAN LOAN FUNDING.]

7. Evaluation and Compliance with the Law.

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

8. City Business and Occupation License.

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

9. Liability and Hold Harmless.

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

10. Insurance.

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

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

b. **City Listed as an Additional Insured:** The City of Vancouver, its agents, representatives, officers, directors, officials, and employees must be named as an additional insured on the Commercial General Liability policy and shown on the certificate as an additional insured. A copy of the additional insured endorsement CG 20 10 11 85, or its equivalent CG 20 10 07 04 and CG 20 37 07 04 must be included with the certificate of insurance.

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

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

e. Umbrella Liability. The AGENCY shall provide Umbrella Liability coverage at limits of not less than five million dollars (\$5,000,000) per occurrence and annual aggregate. This umbrella liability coverage shall apply, at a minimum, to both the Commercial General and Auto insurance policy coverage. This requirement may be satisfied instead through the AGENCY’s primary Commercial General and Automobile Liability coverage, or any combination thereof.

f. Professional Liability. The AGENCY shall obtain and keep in force during the entire term of this Agreement, professional liability insurance (errors and omissions) against any and all claims for damages to person or property which may arise out of the performance of this Contract whether such work shall be by the AGENCY, sub-contractors or anyone directly or indirectly employed by either the AGENCY or a sub-contractors. The amount of coverage provided by such insurance shall be not less than five hundred thousand dollars (\$500,000) combined single limit.

g. Fidelity/Employee Dishonesty Bond. The AGENCY shall obtain and keep in force during the entire term of this Agreement, a Fidelity/Employee Dishonesty Bond against any and all claims which may arise out of the performance of this Contract whether such work shall be by the AGENCY, sub-contractors or anyone directly or indirectly employed by either the AGENCY or a sub-contractors. The amount of coverage provided by such insurance shall be not less than ten thousand dollars (\$10,000).

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

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

j. Coverage Trigger: The insurance must be written on a “occurrence” basis. This must be indicated on the certificate. Claims made policies will be accepted for professional liability coverage only.

AGENCY shall provide evidence of all insurance required, at the City’s request, by submitting an insurance certificate to the CITY on a standard “ACORD” or comparable form.

11. Notices.

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

City:

Peggy Sheehan
City of Vancouver
415 W 6th Street
P O Box 1995
Vancouver WA 98668-1995

AGENCY:

Roy Johnson
Housing Authority of the City of Vancouver
2500 Main Street
Vancouver, WA 98660

12. Amendments.

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

13. Scope of Agreement.

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

14. Ratification.

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

15. Governing Law/Venue.

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

16. Public Disclosure Compliance.

The parties acknowledge that the City is an “agency” within the meaning of the Washington Public Records Act, Ch 42.56 RCW, and that materials submitted by the Sub recipient 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 Sub recipient, 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 Sub recipient to seek judicial protection of such information, provided that the Contractor shall be responsible for attorney fees and costs in such action and shall save and hold harmless the CITY from any costs, attorney fees or penalty assessment under Ch.42.17 RCW for withholding or delaying public disclosure of such information.

17. RCW 35.82.130. The obligations of the AGENCY under this Agreement shall not be a debt of the CITY, the State or any political subdivision thereof and neither the CITY nor the State or any political subdivision thereof shall be liable thereon, nor in any event shall such obligations be payable out of any funds or properties other than those of the AGENCY.

ORAL AGREEMENTS OR ORAL COMMITMENT TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

EXHIBIT A
City of Vancouver Affordable Housing Fund
REQUEST FOR REIMBURSEMENT

Date: _____	Period Covered: _____
Project Title: <u>VHA -</u> <u>Van Vista Rehab</u>	Contact Person: _____
Invoice #: _____	Telephone: _____
AHF Project #: <u>PRJ100322</u>	Other Funding: _____

Activity	AHF Budget	Expended This Period	Expended To Date	Balance
a)	\$850,000			
b)				
c)				
d) Tax				
e) Other (Specify):				
TOTAL:	\$			

Reimbursement Amount Request \$ _____

☐ Check box when this is a final request.

CERTIFICATION: I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS REPORT IS CORRECT AND COMPLETE, AND THAT ALL EXPENDITURES ARE FOR THE PURPOSE SET FORTH IN THE GRANT AWARD DOCUMENTS. SUPPORTING DOCUMENTATION IS ATTACHED.

AUTHORIZATION:

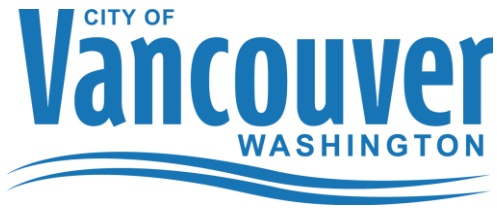
Authorized Signature for Project_____
Title_____
Date**AHF Program Only**AHF Project No: PRJ100322

Initials Drawn By: _____

Date Funds Drawn: _____

Reviewed and Approved Date

Initials Approved By: _____



MEMORANDUM

DATE: Monday, December 16, 2019

TO: Mayor and City Councilmembers

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

CC: Eric J. Holmes, City Manager
Jill Brown, Boards & Commissions

RE: Recommendation for Appointment to the Building and Fire Code Commission
--

The Building and Fire Code Commission is appointed by Vancouver City Council to provide recommendations regarding changes to, or adoption of, building and fire codes. Commission duties include:

- Conduct public meetings as needed to complete commission business
- Investigate building code, fire code and construction-related issues
- Recommend construction and fire prevention regulations related to Title 16 and 17
- Review all proposed new codes or changes to existing building and fire code and make recommendations to the council prior to its action
- Hear and resolve disputes related to building and fire code

Committee 1 reviewed seven applications for this vacancy and recommends the reappointment of Jason Olson. His appointment would begin immediately and expire in December of 2026.

If there are no objections, we would like to make this appointment at the **Monday, December 16, 2019** Council meeting.

Attachments:
Letter of Continued Interest
Roster

10.23.19

City of Vancouver
City Council Committee
PO Box 1995
Vancouver, WA 98668

Re: Letter of Continued Interest – Building-Fire Code Commission

Dear Council Committee,

It has been my honor to serve the Building-Fire Code Commission for the past (4) years. Please accept this letter of continued interest as my formal application for reappointment.

I believe that my participation on the Building-Fire Code Commission has benefitted its work in the following ways:

- Lending a perspective from the Architectural community on issues that affect that sector
- As a citizen of the City of Vancouver, as well, having the opportunity to use my education and experience to influence decisions that affect health and safety of the greater community.

I am proud of what this group has accomplished throughout my term(s) of service, and look forward to future opportunities. There is a new code change coming our way that will directly impact the architecture and design communities. I look forward to discussing the impacts of this and how it will impact projects on a local level.

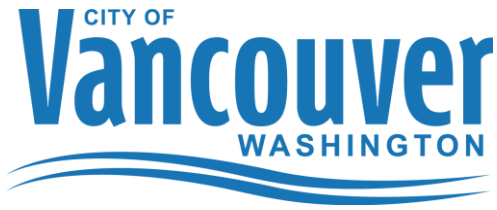
Once again, it has been my honor to serve the Building-Fire Code Commission. I hope that you will grant my request for reappointment.

Thank you in advance for your consideration.

Sincerely,



Jason Olson
Associate Principal
LSW Architects



MEMORANDUM

DATE: Monday, December 16, 2019

TO: Mayor and City Councilmembers

FROM: Council Subcommittee 2 (Stober, Turlay, Lebowsky)

CC: Eric J. Holmes, City Manager
Jill Brown, Boards & Commissions

RE: Recommendation for Appointment to the Planning Commission
--

The Vancouver Planning Commission is appointed by City Council to lead the development or update of the Comprehensive Plan and Development Code and to monitor implementation to ensure that the City achieves its land use and community livability goals. The Planning Commission also reviews, considers public input and makes recommendations to Council regarding major planned developments, mixed use developments and subarea plans.

Committee 2 recently interviewed three candidates for one mid-term vacancy on the Planning Commission and recommends the appointment of Tim Schauer. His appointment would begin immediately and expire December 31, 2021.

If there are no objections, we would like to make this appointment at the **Monday, December 16, 2019** Council meeting.

Attachments:
Applications
Roster

VOUCHER APPROVAL

We, the undersigned council members of the City of Vancouver, Clark County, Washington, do hereby certify that the merchandise or services hereinafter specified have been received and that the vouchers listed below are approved for payment in the amount of:

\$ **2,820,005.10** this 16th day of December 2019.

MAYOR

COUNCILMEMBER



AUDITING OFFICER

COUNCILMEMBER

DATE	INCLUSIVE CHECK NUMBERS	CHECK TOTAL
December 3 - December 9	Accounts Payable Checks (see attached)	\$ 2,814,695.39
December 3 - December 9	Hansen City Payments (see attached)	\$ 1,936.99
December 3 - December 9	Visa Refunds (see attached)	\$ 3,372.72
December 3 - December 9	Payroll Checks (see attached)	\$ -
TOTAL		\$ 2,820,005.10

INVOICE PAYMENTS REPORT

<u>Payment Category</u>	<u>Payment Type</u>	<u>Check Number</u>	<u>Payment Date</u>	<u>Payment Amount</u>	<u>Payment Payee</u>	<u>Payment Memo if applicable</u>
Supplier Payment	Manual Wire	No Reference	12/1/2019	1,464.84	Athlactron Holding	
Supplier Payment	Manual Wire	No Reference	12/1/2019	27,276.82	Gallagher Bassett Services Inc	
Supplier Payment	Manual Wire	No Reference	12/1/2019	25,547.21	Gallagher Bassett Services Inc	
Supplier Payment	Manual Wire	No Reference	12/2/2019	54.00	State of Washington Department of Licensing	
Supplier Payment	Manual Wire	No Reference	12/3/2019	100,000.00	Fidelity National Title Co of Washington	
Supplier Payment	Manual Wire	No Reference	12/5/2019	19,590.74	Bank Of America N.A. - Remit-To: Account Analysis	
Supplier Payment	Manual Wire	No Reference	12/5/2019	680,877.64	Operations Management International Inc	
Supplier Payment	Manual Wire	No Reference	12/5/2019	1,057,327.60	Rotschy Inc	
Supplier Payment	Manual Wire	No Reference	12/6/2019	147,690.87	Blue Cross Blue Shield of Oregon	
Supplier Payment	Manual Wire	No Reference	12/9/2019	651.55	Keybank National Association	
Supplier Payment	Manual Wire	No Reference	12/9/2019	15,164.22	Lynn K Wittwer MD PC	
Supplier Payment	Manual Wire	No Reference	12/9/2019	4,924.87	Lynn K Wittwer MD PC	
Expense Payment	Direct Deposit	EFT-00032594	12/5/2019	102.00	Robert Givens	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00032595	12/5/2019	20.00	Julie Gilbertson	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00032596	12/5/2019	9.00	Jenn Berlanga	Employee Reimbursement
Cash Advance Payment	Direct Deposit	EFT-00032597	12/5/2019	357.50	Dustin Nicholson	Travel Advance
Expense Payment	Direct Deposit	EFT-00032598	12/5/2019	100.00	Bradley French	Employee Reimbursement
Cash Advance Payment	Direct Deposit	EFT-00032599	12/5/2019	395.00	Dustin Goudschaal	Travel Advance
Expense Payment	Direct Deposit	EFT-00032600	12/5/2019	260.00	Carter Coval	Employee Reimbursement
Cash Advance Payment	Direct Deposit	EFT-00032601	12/5/2019	31.50	Donna Batt	Travel Advance
Expense Payment	Direct Deposit	EFT-00032602	12/5/2019	53.91	Heidi Scarpelli	Employee Reimbursement
Cash Advance Payment	Direct Deposit	EFT-00032603	12/5/2019	334.50	David Chamblee	Travel Advance
Expense Payment	Direct Deposit	EFT-00032604	12/5/2019	126.00	Christopher Sneider	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00032605	12/5/2019	205.95	Denver Taylor	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00032606	12/5/2019	1,766.68	Robert Chambers	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00032607	12/5/2019	309.35	Michael Devier	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00032608	12/5/2019	54.06	James Fields	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00032609	12/5/2019	209.25	Kathleen McNicholas	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00032610	12/5/2019	89.72	Timothy McMillan	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00032611	12/5/2019	180.00	Louis Bachleder	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00032612	12/5/2019	131.78	Patricia Clerf	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00032613	12/5/2019	156.95	Christel Nelson	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00032614	12/5/2019	95.26	Karen Krohling	Employee Reimbursement

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

INVOICE PAYMENTS REPORT

<u>Payment Category</u>	<u>Payment Type</u>	<u>Check Number</u>	<u>Payment Date</u>	<u>Payment Amount</u>	<u>Payment Payee</u>	<u>Payment Memo if applicable</u>
Expense Payment	Direct Deposit	EFT-00032615	12/5/2019	46.40	Cody Uskoski	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00032616	12/5/2019	12.50	Aaron Odegard	Employee Reimbursement
Cash Advance Payment	Check	7755	12/4/2019	355.00	Deanna Watkins	
Ad Hoc Payment	Check	7756	12/4/2019	219.49	1500 Block Land Investors	Utility Refunds: 0003000100-13
Ad Hoc Payment	Check	7757	12/4/2019	183.26	1500 Block Land Investors	Utility Refunds: 0003000800-06
Ad Hoc Payment	Check	7758	12/4/2019	145.89	1500 Block Land Investors	Utility Refunds: 0002039200-09
Ad Hoc Payment	Check	7759	12/4/2019	74.73	Anjanette Jackson	Utility Refunds: 0000009132-01
Ad Hoc Payment	Check	7760	12/4/2019	73.71	Brian & Janae Gates	Utility Refunds: 0039076106-02
Ad Hoc Payment	Check	7761	12/4/2019	409.55	Dustin Moore	Utility Refunds: 0107000881-05 Consolidated refund created from multiple refunds
Ad Hoc Payment	Check	7762	12/4/2019	800.00	James Desmond	Utility Refunds: 0099002200-04
Ad Hoc Payment	Check	7763	12/4/2019	189.81	Janus Youth Programs Inc	Utility Refunds: 0002039200-09
Ad Hoc Payment	Check	7764	12/4/2019	12.56	Lawson, Robert N and Vicki L	Utility Refunds: 0002000112-01
Ad Hoc Payment	Check	7765	12/4/2019	85.66	Michael Depaolo	Utility Refunds: 0162001426-05
Ad Hoc Payment	Check	7766	12/4/2019	61.50	Monica Jochim	Utility Refunds: 0030043100-03
Ad Hoc Payment	Check	7767	12/4/2019	92.62	Orhan Konez	Utility Refunds: 0048068666-03
Ad Hoc Payment	Check	7768	12/4/2019	96.14	Summerfield Homes LLC	Utility Refunds: 0114008586-14
Ad Hoc Payment	Check	7769	12/4/2019	72.03	Summerfield Homes LLC	Utility Refunds: 0114008308-12
Ad Hoc Payment	Check	7770	12/4/2019	212.70	Timothy Caplice	Utility Refunds: 0000008516-02 Consolidated refund created from multiple refunds
Ad Hoc Payment	Check	7771	12/4/2019	250.00	24 HR GROUP VANCOUVER ALCOHOLICS ANONYMOUS	Voucher # 2003669.030
Ad Hoc Payment	Check	7772	12/4/2019	30.00	Dustin Mattila	refund duplicate parking citation pmt.
Ad Hoc Payment	Check	7773	12/4/2019	95.00	Kristen Naeini	refund meter hood
Ad Hoc Payment	Check	7774	12/4/2019	25.00	Paul Schmidt	refund overpmt parking citation #7202101216
Ad Hoc Payment	Check	7775	12/4/2019	25.00	PCS	refund overpmt parking citation
Ad Hoc Payment	Check	7776	12/4/2019	30.00	Sara Steinman	refund overpmt parking citation 720200906
Ad Hoc Payment	Check	7777	12/4/2019	7.37	Sean R Hailton	refund parking permit COVE00191
Ad Hoc Payment	Check	7778	12/4/2019	250.00	Zebdi Aispuro	refundable damage deposit
Supplier Payment	Check	7779	12/4/2019	180.78	Accurate Corporate Services Inc	
Supplier Payment	Check	7780	12/4/2019	102.21	Advance Stores Company Incorporated - Remit-To: Advance Auto Parts - Atlanta	
Supplier Payment	Check	7781	12/4/2019	44.80	Airgas, Inc	
Supplier Payment	Check	7782	12/4/2019	8,910.00	Allegiance Benefit Plan Management Inc	
Supplier Payment	Check	7783	12/4/2019	12,215.00	Allegis Group Holdings Inc - Remit-To: TekSystems Inc - Atlanta	
Supplier Payment	Check	7784	12/4/2019	121.80	American Sani-Can	
Supplier Payment	Check	7785	12/4/2019	1,452.56	Anixter Inc	
Supplier Payment	Check	7786	12/4/2019	205.44	Aramark Uniform & Career Apparel LLC - Remit-To: Aramark - Pasadena	
Supplier Payment	Check	7787	12/4/2019	3,437.49	Arborscape Ltd Inc	
Supplier Payment	Check	7788	12/4/2019	428.81	Blairco Inc	
Supplier Payment	Check	7789	12/4/2019	1,068.66	Cadman Materials - Remit-To: Cadman - Chicago	
Supplier Payment	Check	7790	12/4/2019	12,851.32	CECO Inc	
Supplier Payment	Check	7791	12/4/2019	830.24	Cellco Partnership - Remit-To: Cellco - Dallas	
Supplier Payment	Check	7792	12/4/2019	72,205.29	CH2M Hill Engineers Inc - Remit-To: CH2M - Dallas	
Supplier Payment	Check	7793	12/4/2019	664.25	City of Vancouver - Remit-To: COV - Vehicle Reg	

INVOICE PAYMENTS REPORT

<u>Payment Category</u>	<u>Payment Type</u>	<u>Check Number</u>	<u>Payment Date</u>	<u>Payment Amount</u>	<u>Payment Payee</u>	<u>Payment Memo if applicable</u>
Supplier Payment	Check	7794	12/4/2019	961.72	Clark County Fire District 5	
Supplier Payment	Check	7795	12/4/2019	1,695.00	Clark County - Remit-To: Clark County - Treasurer Vancouver	
Supplier Payment	Check	7796	12/4/2019	513.11	Clark Public Utility District No. 1	
Supplier Payment	Check	7797	12/4/2019	1,866.81	Clark Public Utility District No. 1	
Supplier Payment	Check	7798	12/4/2019	10,598.89	Columbia Resource Company	
Supplier Payment	Check	7799	12/4/2019	287.35	Comcast Cable Communications Management - Remit-To: Effectv	
Supplier Payment	Check	7800	12/4/2019	5,853.60	Core and Main LP - Remit-To: Core and Main LP	
Supplier Payment	Check	7801	12/4/2019	75.00	Corey Grandstaff - Remit-To: Grandstaff Consulting	
Supplier Payment	Check	7802	12/4/2019	975.00	David Corey PHD PC	
Supplier Payment	Check	7803	12/4/2019	14,587.70	Dion International Trucks LLC	
Supplier Payment	Check	7804	12/4/2019	58.91	DSU Peterbilt & GMC Inc	
Supplier Payment	Check	7805	12/4/2019	56.37	Experian Marketing Solutions - Remit-To: Experian - Los Angeles	
Supplier Payment	Check	7806	12/4/2019	6,755.01	Financial Consulting Solutions Group Inc	
Supplier Payment	Check	7807	12/4/2019	1,029.80	Fire Systems West	
Supplier Payment	Check	7808	12/4/2019	40.69	Frontier Communications	
Supplier Payment	Check	7809	12/4/2019	1,796.39	Gallagher Bassett Services Inc	
Supplier Payment	Check	7810	12/4/2019	11,930.23	Gelco Supply Inc	
Supplier Payment	Check	7811	12/4/2019	1,239.03	Genuine Parts Company - Remit-To: NAPA - Los Angeles	
Supplier Payment	Check	7812	12/4/2019	2,470.44	Halbert Construction Services LLC	
Supplier Payment	Check	7813	12/4/2019	19,767.85	Harper Houf Peterson Righellis Inc	
Supplier Payment	Check	7814	12/4/2019	30.54	H D Fowler Company Inc	
Supplier Payment	Check	7815	12/4/2019	13,957.60	Hustler Turf Equipment Inc	
Supplier Payment	Check	7816	12/4/2019	4,683.97	J-2 Blueprint Supply Co.	
Supplier Payment	Check	7817	12/4/2019	93,018.00	Jeffrey Barrar PS	
Supplier Payment	Check	7818	12/4/2019	1,140.00	Jensen Hughes Inc	
Supplier Payment	Check	7819	12/4/2019	8,790.00	Keiths Sporting Goods Inc	
Supplier Payment	Check	7820	12/4/2019	4,900.00	KH Scott & Associates LLC	
Supplier Payment	Check	7821	12/4/2019	3,011.20	Kittelson & Associates Inc	
Supplier Payment	Check	7822	12/4/2019	13,058.78	Lakeside Industries Inc - Remit-To: Lakeside - Issaquah	
Supplier Payment	Check	7823	12/4/2019	51.18	Landmark Ford	
Supplier Payment	Check	7824	12/4/2019	200.00	Lee Nicholas	
Supplier Payment	Check	7825	12/4/2019	4,234.11	Leupold & Stevens Inc	
Supplier Payment	Check	7826	12/4/2019	1,257.71	Mallory Safety & Supply LLC	
Supplier Payment	Check	7827	12/4/2019	2,774.00	Maria Tunno	
Supplier Payment	Check	7828	12/4/2019	298.10	Mark IV Enterprises Inc	
Supplier Payment	Check	7829	12/4/2019	8,996.24	McFarlanes Bark Inc	
Supplier Payment	Check	7830	12/4/2019	23,795.10	Metereaders LLC	
Supplier Payment	Check	7831	12/4/2019	8,191.98	Murray Smith Inc	
Supplier Payment	Check	7832	12/4/2019	2,783.71	North Side Electric Inc	
Supplier Payment	Check	7833	12/4/2019	1,600.07	Northwest Cascade Inc	
Supplier Payment	Check	7834	12/4/2019	1,445.57	One Call Concepts Inc	
Supplier Payment	Check	7835	12/4/2019	3,392.92	Pacific Power Group LLC	
Supplier Payment	Check	7836	12/4/2019	561.00	Partnership Landscape Architects Inc	
Supplier Payment	Check	7837	12/4/2019	100.00	PDH Creative	
Supplier Payment	Check	7838	12/4/2019	8,653.60	Pediatric Emergency Standards Inc	

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

INVOICE PAYMENTS REPORT

<u>Payment Category</u>	<u>Payment Type</u>	<u>Check Number</u>	<u>Payment Date</u>	<u>Payment Amount</u>	<u>Payment Payee</u>	<u>Payment Memo if applicable</u>
Supplier Payment	Check	7839	12/4/2019	3,704.03	Physio-Control Inc - Remit-To: Stryker Medical	
Supplier Payment	Check	7840	12/4/2019	1,323.58	Portland Adventist Medical Center	
Supplier Payment	Check	7841	12/4/2019	146.35	Potter Webster Co	
Supplier Payment	Check	7842	12/4/2019	7,134.26	PPC Solutions Inc	
Supplier Payment	Check	7843	12/4/2019	202.62	Praxair Distribution Inc	
Supplier Payment	Check	7844	12/4/2019	1,950.94	Progressive Services, Inc - Remit-To: Supplier	
Supplier Payment	Check	7845	12/4/2019	113.28	Progressive Services, Inc	
Supplier Payment	Check	7846	12/4/2019	1,170.72	Rentokil North America Inc	
Supplier Payment	Check	7847	12/4/2019	92.14	Rexel USA Inc	
Supplier Payment	Check	7848	12/4/2019	1,080.00	Riverside Containers LLC	
Supplier Payment	Check	7849	12/4/2019	7,771.00	Rotschy Inc	
Supplier Payment	Check	7850	12/4/2019	13.92	Sequence Graphics LLC	
Supplier Payment	Check	7851	12/4/2019	1,365.84	Shred It USA LLC	
Supplier Payment	Check	7852	12/4/2019	36,824.00	Shrums Pest Control	
Supplier Payment	Check	7853	12/4/2019	250.00	Sierra-Cedar Inc - Remit-To: Sierra-Cedar Inc. / Atlanta	
Supplier Payment	Check	7854	12/4/2019	171.87	Six Degrees Inc	
Supplier Payment	Check	7855	12/4/2019	7,110.23	SME Solutions LLC	
Supplier Payment	Check	7856	12/4/2019	1,395.00	Software House International SHI - Remit-To: SHI - Dallas	
Supplier Payment	Check	7857	12/4/2019	9.67	Southwest Officials Services Inc	
Supplier Payment	Check	7858	12/4/2019	8,524.00	State of Oregon Department of Transportation - Remit-To: OR DMV - Salem	
Supplier Payment	Check	7859	12/4/2019	20.72	State of Washington Department of Enterprise Services	
Supplier Payment	Check	7860	12/4/2019	615.00	Stericycle Inc	
Supplier Payment	Check	7861	12/4/2019	27,683.25	Steven J Zerfing	
Supplier Payment	Check	7862	12/4/2019	3,000.00	Summit Law Group	
Supplier Payment	Check	7863	12/4/2019	16,657.33	Talx UCM Services Inc	
Supplier Payment	Check	7864	12/4/2019	792.40	The Greg Prothman Company	
Supplier Payment	Check	7865	12/4/2019	94.85	Towing & Recovering Services Inc	
Supplier Payment	Check	7866	12/4/2019	102,396.26	Triple J Enterprises	
Supplier Payment	Check	7867	12/4/2019	8,441.55	Tube Art Display Inc	
Supplier Payment	Check	7868	12/4/2019	1,555.12	Two Rivers Terminal LLC	
Supplier Payment	Check	7869	12/4/2019	13.45	Tyree Oil Inc	
Supplier Payment	Check	7870	12/4/2019	3,796.29	United Parcel Service	
Supplier Payment	Check	7871	12/4/2019	190.63	US Bank - Remit-To: US Bank - Voyager	
Supplier Payment	Check	7872	12/4/2019	2,901.25	Walter E Nelson Company	
Supplier Payment	Check	7873	12/4/2019	990.25	Western Equipment Distributors	
Supplier Payment	Check	7874	12/4/2019	13,802.40	Winterbauer & Diamond PLLC	
Supplier Payment	Check	7875	12/4/2019	28,748.79	Wire Works LLC	
Supplier Payment	Check	7876	12/4/2019	3,363.00	Workday Inc	
Supplier Payment	Check	7877	12/4/2019	8,726.20	W Todd Pascoe	
Supplier Payment	Check	7878	12/4/2019	12,435.58	Clark County - Remit-To: Clark County - Treasurer Vancouver	
Supplier Payment	Check	7879	12/4/2019	500.00	Northwest Staffing Resources Inc - Remit-To: NW Staffing - Portland	
Ad Hoc Payment	Check				Association of Washington State	19-21
			SUBTOTAL	2,814,695.39		

INVOICE PAYMENTS REPORT

<u>Payment Category</u>	<u>Payment Type</u>	<u>Check Number</u>	<u>Payment Date</u>	<u>Payment Amount</u>	<u>Payment Payee</u>	<u>Payment Memo if applicable</u>
Hansen			12/10/2019	1936.99	City Payments	Posted 12/03/19 thru 12/09/19
			SUBTOTAL	1,936.99		
VISA			12/10/2019	992.60	Miscellaneous	Parks Class Refunds - FCC 12-03-19 thru 12-09-19
VISA			12/10/2019	730.12	Miscellaneous	Parks Class Refunds - MCC 12-03-19 thru 12-09-19
VISA			12/10/2019	650.00	Miscellaneous	Parks Class Refunds - Special Events 12-03-19 thru 12-09-19
VISA			12/9/2019	1000.00	Miscellaneous	Parks Class Refunds - WREC 12-03-19 thru 12-09-19
			SUBTOTAL	3,372.72		
			TOTAL	2,820,005.10		

City of Vancouver
Payroll Council Report
December 3, 2019 - December 9, 2019

Check No.	Date	Explanation	Amount
		No payroll this period	

\$ -



Staff Report 195-19

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 12/16/2019

SUBJECT Declaration of Real Property as Surplus

Key Points

- This 15-acre property (two parcels) is not large enough or in the desired geographic location to efficiently accommodate the building of a single centralized Operations Center to serve the citizens of Vancouver.
- The property, which is zoned IL, is owned by the City's Water Utility.
- The City will be replacing its current Operations center at a recently purchased 35-acre site.
- The revenue from disposition of this property will help offset the costs of the new Operations Center.

Strategic Plan Alignment

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

Goal 8: Strengthen commercial, retail and community districts throughout the city.

Present Situation

In 2006 the City of Vancouver purchased approximately 15 acres of property located at SE 162nd Avenue and SE 65th Street for a future east side Operations Center. As the City continued to find increased efficiencies and processes in our Central Operations Center it was determined that our citizens could be served best with one Operations Center more centrally located.

The current Operations Center has outlived its useful life and needs replacement. A 35-acre site has been purchased near the Leichner Landfill. The City will be able to efficiently serve our customers from the new Operations Center location. Accordingly it has been determined there is no longer a public need for the 15 acres purchased in 2006.

Because the subject property was originally acquired by and owned by the City's Water Utility,

RCW 35.94.040 applies to the surplus and disposition of the subject property, rather than VMC Chapter 3.30. RCW 35.94.040 provides that whenever the City determines that any land “is surplus to the city’s needs and is not required for providing continued public utility service, then such legislative authority by resolution and after a public hearing may cause such lands, property, or equipment to be leased, sold, or conveyed,” and that the resolution should state the fair market value or other consideration to be paid. Proper notice was provided and this matter is scheduled for public hearing on December 16, 2019.

In July 2018, the 15 acres was appraised at \$4,260,000. Current value is somewhat higher based on recent market trends. An updated appraisal will be performed in early 2020.

Advantage(s)

1. Declaring these parcels as surplus will allow for potential sale and light industrial redevelopment of vacant real property.
2. Revenue from future sale of these parcels will be returned to the City's Water Utility fund and be used toward the replacement Operations Center.
3. Once sold the 15 acres will return to the county’s tax base.

Disadvantage(s)

None

Budget Impact

In July 2018, the 15 acres was appraised at \$4,260,000. Current value is somewhat higher based on recent market trends. Revenue from future sale of these parcels will be returned to the City's Water Utility fund and be used toward the replacement Operations Center.

Prior Council Review

The Operations Center Replacement Project was the subject of two Council workshops in 2018 ([July 16, 2018](#), and [November 26, 2018](#)). Direction was given to staff at the July 16, 2018 workshop, to pursue acquisition of a new approximately 30-acre suitably zoned and located site either within the current City limits or the City’s current utility service area. At the November 26, 2018 workshop, it was discussed to move forward with surplus the 162nd Avenue-65th Street property upon securing the new replacement site and use the sales proceeds as part of the financing for the new Operations Center project. On November 18, 2019, Council approved a [purchase and sale agreement](#) for approximately 35 acres for the new Operations Center.

Action Requested

On December 16, 2019, following a public hearing, adopt a resolution approving certain real property located at SE 162nd Avenue and SE 65th Street (Assessor’s parcel numbers 159145-010 and 159147-000) as surplus to the needs of the City.

Linda Carlson, Property Management Specialist, 487-8423; Brian Carlson, Public Works Director, 487-7131

ATTACHMENTS:

- ▢ Resolution
- ▢ Exhibit "A"
- ▢ Map

12/16/19

RESOLUTION NO. _____

A RESOLUTION declaring that certain land originally acquired for public utility purposes is now surplus to the needs of the City of Vancouver (the “City”) and authorizing the disposition of the surplus real property.

WHEREAS, the City currently owns two parcels of land at 15811 NE 65th Street, Vancouver, Washington 98682, assigned parcel numbers 159145-010 and 159147-000 by the Clark County assessor, which was originally acquired for public utility purposes; and

WHEREAS, parcel numbers 159145-010 and 159147-000 are currently vacant parcels; and

WHEREAS, the City’s Director of Public Works (“Director”) has determined that parcels 159145-010 and 159147-000, identified in Exhibit A (“Subject Property”), are surplus to the City’s needs and are not required for providing public utility service; and

WHEREAS, the Subject Property was appraised and determined it is worth \$4,260,000 (\$6.50 per square foot) and should be sold through the real estate listing process; and

WHEREAS, RCW 35.94.040 requires that whenever the City determines “that any lands, property, or equipment originally acquired for public utility purposes is surplus to the city’s needs and is not required for providing continued public utility service, then such legislative authority by resolution and after a public hearing may cause such lands, property, or equipment to be leased, sold, or conveyed”; and

WHEREAS, the City held a public hearing concerning the disposition of the Subject Property on December 16, 2019, and after considering any testimony received, the City Council has determined that the Subject Property is surplus to the City’s needs and wishes to enact this resolution authorizing its disposition through the real estate listing process.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY OF VANCOUVER:

Section 1. The foregoing recitals are incorporated and fully made a part of this resolution.

Section 2. The Subject Property, shown on Exhibit A to this Resolution, which was originally acquired for public utility purposes, is surplus to the City's needs and is not required to provide continued public utility service.

Section 3. The City Manager is authorized to dispose of the Subject Property at fair market value through the real estate listing process.

Section 4. The City Manager shall convey the Subject Property by quitclaim deed.

Section 5. This resolution shall take effect and be in force immediately upon its passage.

ADOPTED at a Regular Session of the Vancouver City Council this 16th, of December, 2019.

Anne McEnerny-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

EXHIBIT 'A'

PARCEL I

Lot 3 of SHORT PLATS, recorded in Book "3" of SHORT PLATS, page 661, recorded December 22, 2005, under Auditor's File No. 4101500, records of Clark County, Washington

PARCEL II

The Southeast quarter of the Northeast quarter of the Southwest quarter of Section 12, Township 2 North, Range 2 East of the Willamette Meridian, Clark County, Washington.

EXCEPT the following described property:

A parcel of property in the Southeast quarter of the Northeast quarter of the southwest quarter of Section 12, Township 2 North, Range 2 East of the Willamette Meridian, Clark County, Washington, described as follows:

COMMENCING at the Northwest corner of said Southeast quarter of the Northeast quarter of the Southwest quarter of Section 12; thence South $01^{\circ}33'03''$ West along the West line of said Southeast quarter of the Northwest quarter of the Southwest quarter of Section 12, a distance of 51.73 feet; thence continuing south $01^{\circ}33'03''$ West along said West line 112.87 feet; thence South $88^{\circ}12'57''$ Est 631.58 feet to a point that is 30.00 feet West of, when measured at right angles to, the East line of said Southeast quarter of the Northeast quarter of the Southwest quarter of Section 12; thence North $01^{\circ}33'55''$ East parallel with said East line 164.55 feet to a point on the North line of the Southeast quarter of the Northeast quarter of the Southwest quarter of Section 12; thence North $88^{\circ}12'44''$ West 631.50 feet to the true Point of Beginning.

EXCEPT any portion lying within NE 162nd Avenue.

ALSO EXCEPT that tract of land conveyed to Clark County, a political subdivision of the State of Washington, by deed recorded September 27, 2001, under Auditor's File No. 3373032 and by Deed recorded on March 20, 2003 under Auditor's File No. 3604724.

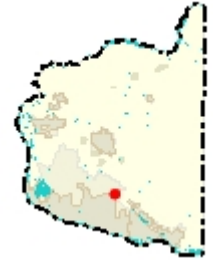
ALSO EXCEPT the following described property:

A strip of land of variable width lying in the Southwest quarter of Section 12, Township 2 North, Range 2 East of the Willamette Meridian, Clark County, Washington, being more particularly described as follows:

All that portion of the Southeast quarter of the Northeast quarter of the Southwest quarter of said Section 12, lying Easterly of a line drawn 50.00 feet Westerly of, when measured at right angles or radial to, the centerline of NE 162nd Avenue, as described in Exhibit B of Deed recorded under Auditor's File No. 3604724, all in Clark County, Washington.



NE 162nd Avenue and NE 65th Street



Legend

- Taxlots
- All Roads
 - Interstate
 - State Route
 - Arterial
 - Forest Arterial
 - Minor Collector
 - Forest Collector
 - Private or Other
- Cities Boundaries
- Urban Growth Boundaries

Notes:

451.9 0 225.95 451.9 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.

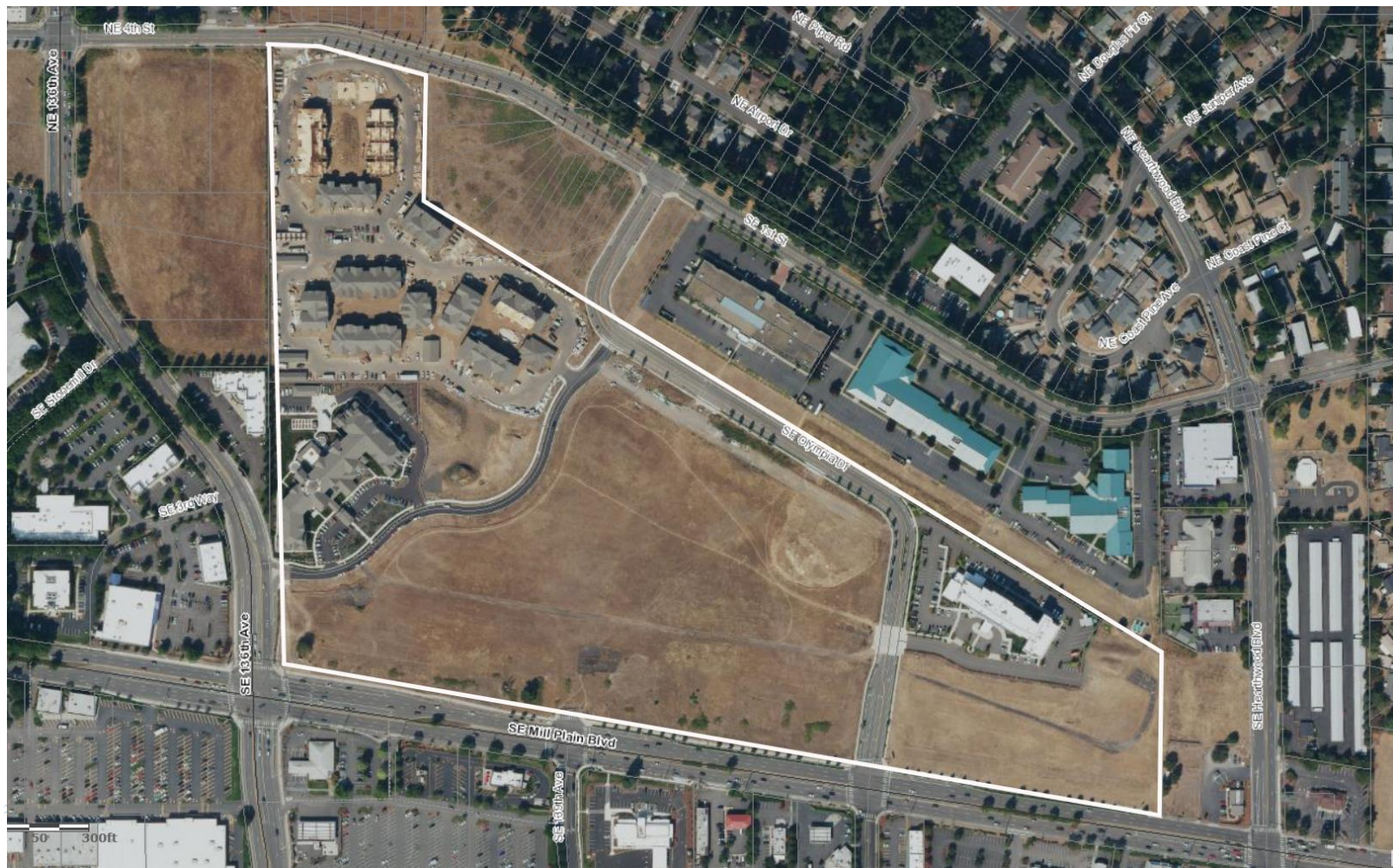
The Landing Development Agreement Modification



December 16, 2019
City Council Hearing
Greg Turner, Land Use Manager

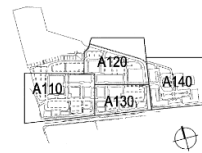
Presentation Overview

- Short overview of The Landing mixed use master plan development
- Request to extend vesting of the project, project alteration provisions and concurrency for 10 years
- Recommendation



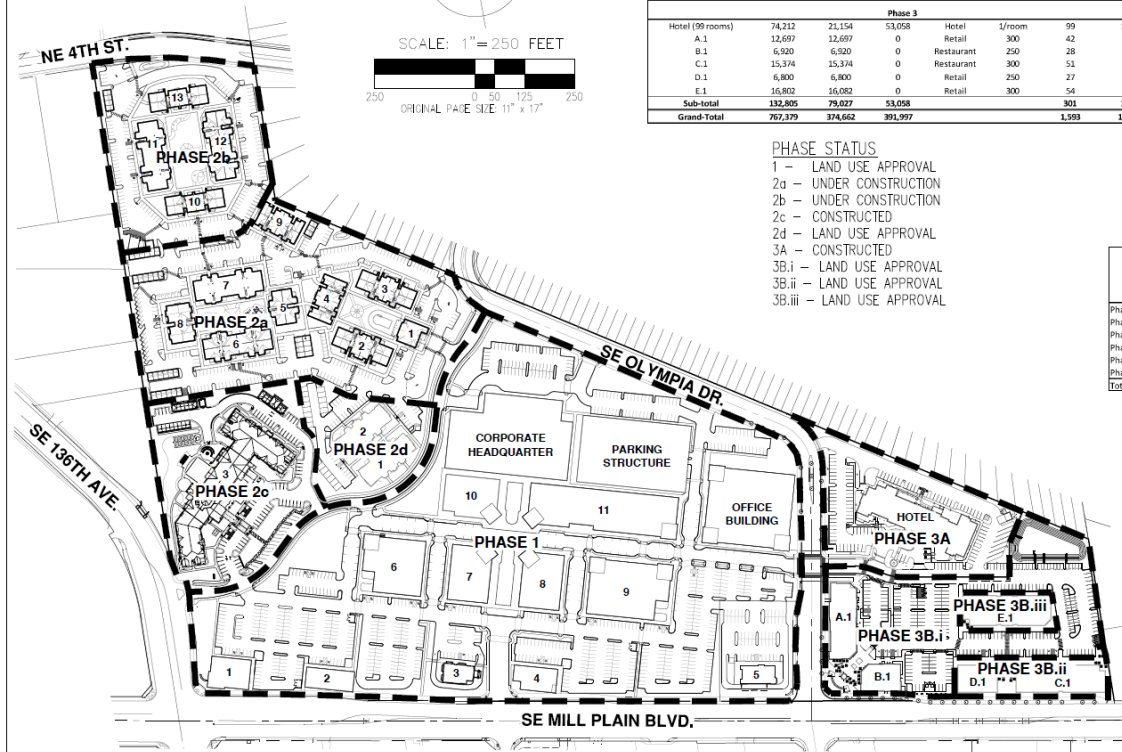
The Landing Development

- The Landing, approved in 2005, is a 51.5 acre mixed use master plan development.
- The master plan was approved with approximately 340,800 square feet of retail space, 135 single family homes and 313,700 square feet of combined office and hotel space.
- A development agreement was approved by the City Council in February, 2006 which vested the allowed uses, design standards, capacity allocations and mitigation measures through 2019.



The Landing Development

- Since approval of the master plan and development agreement, significant portions of the site have been developed or are currently being developed.
- Additionally, administrative modifications to the master plan have occurred as development has occurred. Most significantly the residential portion of the site was changed from single family to multi-dwelling units.
- Phase 1 (the central portion of the site) and Phase 3B (eastern portion of the site) have yet to be developed.



Phase 1 and 3 - Commercial/Retail						
Building	Total Square Footage	1st Floor	Upper Floors	Use	Parking Standard (sq. ft./stall)	Required Parking
Phase 1						
1	7,827	7,827	0	Retail	300	26
2	6,170	6,170	0	Retail	300	21
3	3,425	3,425	0	Bank	400	9
4	6,200	6,200	0	Restaurant	250	25
5	3,750	3,750	0	Restaurant	250	15
6	19,882	19,882	0	Retail	300	66
7	14,561	14,561	0	Retail	300	49
8	14,561	14,561	0	Retail	300	49
9	27,136	27,136	0	Retail	300	90
10	13,955	13,955	0	Retail	250	56
11	38,031	38,031	0	Retail	300	127
Corporate HQ	222,100	55,525	166,575	Office	400	555
Office	81,472	40,736	40,736	Office	400	204
Parking Structure (534 sp.)	175,504	43,876	131,628	Parking		
Sub-total	634,574	295,635	338,939			1,292
Phase 3						
Hotel (99 rooms)	74,212	21,154	53,058	Hotel	1/room	99
A.1	12,697	12,697	0	Retail	300	42
B.1	6,349	6,349	0	Restaurant	250	28
C.1	15,374	15,374	0	Restaurant	300	51
D.1	6,800	6,800	0	Retail	250	27
E.1	16,802	16,802	0	Retail	300	54
Sub-total	132,805	79,027	53,058			301
Grand-Total	767,379	374,662	391,997			1,593

PHASE STATUS

- 1 - LAND USE APPROVAL
- 2a - UNDER CONSTRUCTION
- 2b - UNDER CONSTRUCTION
- 2c - CONSTRUCTED
- 2d - LAND USE APPROVAL
- 3a - CONSTRUCTED
- 3b.i - LAND USE APPROVAL
- 3b.ii - LAND USE APPROVAL
- 3b.iii - LAND USE APPROVAL

Phase 2 - Residential						
Building	Total Square Footage	1st Floor	Upper Floors	Use	Parking Standard (sq. ft./stall)	Required Parking
Phase 2a						
1	3,233	3,233	0	Clubhouse	1.5 DU	0
2 (24 DU)	19,124	6,624	12,500	Multi-Dwelling	1.5 DU	36
3 (24 DU)	19,124	6,624	12,500	Multi-Dwelling	1.5 DU	36
4 (24 DU)	18,080	5,754	12,326	Multi-Dwelling	1.5 DU	36
5 (12 DU)	16,416	5,472	10,944	Multi-Dwelling	1.5 DU	18
6 (24 DU)	13,638	4,510	9,128	Multi-Dwelling	1.5 DU	36
7 (24 DU)	27,219	9,025	18,194	Multi-Dwelling	1.5 DU	36
8 (12 DU)	27,219	9,025	18,194	Multi-Dwelling	1.5 DU	18
9 (24 DU)	15,208	5,048	10,160	Multi-Dwelling	1.5 DU	36
Sub-total	159,261	55,315	103,946			252
Phase 2b						
10 (18 DU)	16,416	5,472	10,944	Multi-Dwelling	1.5 DU	27
11 (24 DU)	18,080	5,754	12,326	Multi-Dwelling	1.5 DU	36
12 (24 DU)	27,231	9,025	18,206	Multi-Dwelling	1.5 DU	36
13 (18 DU)	27,231	9,025	18,206	Multi-Dwelling	1.5 DU	27
Sub-total	88,958	29,276	59,682			126
Phase 2c and 2d						
1 (24 DU)	15,124	6,624	12,500	Multi-Dwelling	1.5 DU	36
2 (24 DU)	15,124	6,624	12,500	Multi-Dwelling	1.5 DU	36
3 (140 DU)	222,000	36,346	185,654	H.L. Cong. Care	1/200	70
Sub-total	160,248	49,594	110,654			142
Grand-total	408,467	134,185	274,282			520

Summary				
Required Parking	Provided Parking	Maximum Parking (125%)	Total Building Square Footage	Total Building Footprint Square Footage
Phase 1 & 3	1,593	1,991	767,379	391,997
Phase 2	520	651	408,467	274,282
Total	2,113	2,641	1,175,846	666,279

The Landing Site Areas Summary				
	Gross Property s.f.	Net Property s.f.	Ground Floor Area	Gross Floor Area
Phase 1	1,001,732	962,000	295,635	634,574
Phase 2a	322,443	319,955	55,315	159,261
Phase 2b	182,085	175,813	29,276	88,958
Phase 2c	170,245	170,245	36,346	122,000
Phase 2d	76,270	76,270	13,248	38,248
Phase 3	379,316	361,823	79,027	132,085
Total	2,113,091	2,064,106	508,847	1,175,126

NOTE: LANDSCAPE AREAS WILL MEET CITY OF VANCOUVER MINIMUM REQUIREMENTS.

DATE: 09/03/2019

OVERALL SITE PLAN

THE LANDING AT VANCOUVER
 AKS ENGINEERING & FORESTRY, LLC
 9600 NE 126TH AVE, STE 2520
 VANCOUVER, WA 98682
 360.882.0419 WWW.AKS-ENG.COM

EXHIBIT

SP1

DRWN: TJW
 CHKD: JMM
 AKS JOB: 4471



The Landing amendment

- The Development Agreement expires at the end of 2019
- Extend the Landing Development Agreement for an additional 10 years to 2029 which would vest the development to the mixed use standards in place when the master plan was approved.

Staff Findings

- Extension of the DA is potentially inconsistent with the upcoming commercial corridor strategy plan
- City's upcoming planning effort for identified commercial corridors is intended to enhance corridors, increase walkability and access to amenities and services, promote efficient and coordinated economic development and add housing at urban densities near transit line.



Findings (cont.)

- The commercial corridor strategy will result in design concepts such as allowed uses, building densities, building orientation in relationship to the street, access and parking requirements, location and density of housing and placemaking recommendations for the future developments along the corridor.
- Allowing the Landing master plan to continue to be vested to the current standards could lead to development inconsistency with the future commercial corridor design requirements

Findings (cont.)

- Additionally, the site is also located along C-Tran's planned Mill Plain BRT line and is in close proximity to two planned BRT stations at 136th and Hearthwood
- Allowing the Landing master plan to remain vested to the current standards could hinder the City's placemaking efforts around the planned BRT station areas

Recommendation

- Based on these reasons, staff recommends the request to extend the development agreement be denied
- In the event the Council decides to approve the request, a resolution for approval has been provided

Questions and Discussion

- Greg Turner, Land Use Manager
- (360) 487-7883
- E-mail: greg.turner@cityofvancouver.us



Staff Report 196-19

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 12/16/2019

SUBJECT Amendment to The Landing Development Agreement

Key Points

- The Landing at Vancouver development was approved in 2006 as a Mixed Use Master Plan consisting of residential, retail, office, hotel and supporting uses within the Mixed Use (MX) zone. The overall Master Plan was divided into three phases.
- A development agreement was approved at the same time which vested uses, design standards, capacity allocations, mitigation measures and project alteration procedures through 2019.
- Since the original approval, the Master Plan has been administratively modified per the project alteration procedures contained in the Development Agreement (DA) and significant portions of the site have been developed.
- The development agreement expires at the end of the year and the Developer is requesting to be extend the vesting provisions for an additional 10 years through 2029.
- Staff is recommending that the request for extension of vesting provisions be denied. (If denied the DA will expire at the end of the year as originally contemplated by the parties.)

Strategic Plan Alignment

N/A

Present Situation

Portions of the overall master plan have been developed. Multifamily residential and a congregate care facility have been developed on Phase 2 as well as a hotel on Phase 3A. Phase 1 (central portion of the site fronting Mill Plain) and Phase 3B (eastern portion of the site fronting Mill Plain) have yet to be developed. In the course of developing the site, the owners have invested significant resources (currently over \$100 million) for a variety of costs related to on-site development, off-site improvements and costs related to traffic impacts.

The request is to extend the vesting of the Development Agreement and all associated approvals for an additional 10 years to 2029. The vesting includes all transportation-related approvals

including transportation concurrency and traffic impact fees already paid. The vesting extension would also apply to the existing project approvals as well as the development standards and alterations procedures.

The requested extension would, however, be in potential conflict with the some of the upcoming City planning efforts since the development of the site would be vested to the current City code. Council should be aware that the subject site is located within the area identified for the City's upcoming planning effort with regard to enhancing identified commercial corridors. The Commercial Corridor Strategy project is intended to enhance commercial corridors, increase walkability and access to amenities and services, promote efficient and coordinated economic development and add housing at urban densities near transit lines. The project will result in the development of general corridor design concepts, amendments and updates to zoning designations and standards related to allowed uses, building densities, building orientation in relationship to the street, and access and parking requirements, recommendations related to the location and density of housing, improvements to multi-modal transportation and access and place making recommendations to provide services and amenities to nearby residents. One of the focused corridors for this effort is Mill Plain Boulevard, from East Reserve to SE 192nd Avenue which includes The Landing site. The extension of the Development Agreement could potentially lead to development inconsistency in what is permitted and built on the subject site with the upcoming commercial corridor development strategies. The existing development agreement vests the development to the development standards in place at the time and the Commercial Corridor Strategy project will facilitate the development of a new set of design standards.

Additionally, the City's identified scope for the Commercial Corridors Strategy project includes developing placemaking recommendations as appropriate in older commercial corridors, and near existing and planned Bus Rapid Transit stations on Fourth Plain and Mill Plain Boulevard. Mill Plain Boulevard has been identified by C-Tran as the next bus rapid transit corridor. The planning process for the new BRT line is currently underway. Two of the identified preliminary station locations are in close proximity to The Landing development with one at 136th and Mill Plain and the other at Hearthwood and Mill Plain. The location of the subject site is located within an older commercial corridor and the extension of the development agreement for this project could potentially hinder the City's placemaking efforts in relation to BRT stations.

Because of these reasons, staff is recommending that Council deny the extension request. An affirmative vote by Council to approve the Action Requested will enact Staff's Recommendation and deny the extension request by the Developer.

Please note that a Resolution and a DA Amendment approving the requested extension have been included in your packets. Adoption of these these documents is not recommended. They have been included solely to provide the City Council with the widest decision-making latitude on this item because this is the last Council meeting prior to expiration of the DA. If the Council hears compelling testimony at the public hearing in favor of an extension, the fact that this resolution is included with the public agenda assures Council has the latitude to make a decision contrary to the recommendation.

In the event Council wishes to approve the requested development agreement extension, an appropriate set of actions would be:

- Move to deny the Action Requested within the Staff Report for the Evergreen Landing development agreement.

- Move to adopt the attached resolution authorizing the City Manager or designee to sign the amendment to the Landing DA.

Advantage(s)

1. Will provide development consistency with the original master plan as the project develops
2. Enables the developer to build upon the development momentum that has been established

Disadvantage(s)

1. Potential development inconsistency with the upcoming Commercial Corridor strategies.
2. Potential development inconsistency with the planned placemaking recommendations which would result from the BRT project along Mill Plain Boulevard
3. Applicant will lose their trip vesting and will need to start over with traffic analysis and mitigation based on present day conditions

Budget Impact

None

Prior Council Review

None

Action Requested

On December 16, 2019, subject to public hearing, deny the request to modify The Landing Development Agreement.

Greg Turner, Land Use Manager, 487-7883

ATTACHMENTS:

- ▢ Resolution
- ▢ Amendment to The Landing Development Agreement
- ▢ Application form
- ▢ Development Agreement modification narrative
- ▢ Updated master plan
- ▢ Proportionate share fee memo
- ▢ Recorded Development Agreement
- ▢ Presentation

RESOLUTION NO. _____

A RESOLUTION relating to approval of an amended and restated development agreement pursuant to RCW Chapter 36.70B between the City of Vancouver, and The Landing at Vancouver LLC, (collectively “the Parties”) extending the effective date, and authorizing the City Manager or his designee to execute the agreement.

WHEREAS, City and Developer are parties to that certain Development Agreement originally between City and Opus Northwest, LLC dated February 7, 2006; and

WHEREAS, ownership of the property subject to the currently effective Development Agreement has changed and new parties should be substituted into the Amended and Restated Development Agreement; and

WHEREAS, The Original Agreement was approved by the City Council on February 6, 2006 by Resolution M-3522; and

WHEREAS, The Original Agreement approved a mixed use master plan for the Project which has since been amended on several occasions, most recently September 10, 2018; and

WHEREAS, the development contemplated for the site has been delayed due to changing market forces and real estate demands; and

WHEREAS, the City will realize benefits in tax revenue coming from property and sales taxes generated at the site; and

WHEREAS, as described in Staff Report _____, it is in the mutual interest of the Parties to amend the development agreement respecting the development of the property described in the attached Amended and Restated Development Agreement (Exhibit “A”); and

RESOLUTION - 1

WHEREAS, a public hearing was duly noticed pursuant to Vancouver Municipal Code Sections 20.250.050(B) and Table 20.210.020-1 and held by City Council on Monday _____, regarding the approval of the attached development agreement amendment;

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY OF VANCOUVER:

Section 1. The City Council, in accordance with RCW 36.70B.200, hereby authorizes the City Manager or his designee to execute on behalf of the City the amendment to the development agreement set forth in the attached Exhibit "A".

ADOPTED at regular session of the Council of the City of Vancouver, this _____ day of _____, 2019.

Anne McEnerny-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, Acting City Attorney

RESOLUTION - 2

AMENDMENT TO DEVELOPMENT AGREEMENT

THIS AMENDMENT TO DEVELOPMENT AGREEMENT (the "**Agreement**") is made and entered into as of December ____, 2019 ("**Amendment Date**") by and between the City of Vancouver, Washington, a Washington municipal corporation ("**City**") and The Landing at Vancouver LLC, a Washington limited liability company ("**Developer**"), with respect to the following facts:

RECITALS

A. City and Developer are parties to that certain Development Agreement originally between City and Opus Northwest, LLC dated February 7, 2006 ("**Original Agreement**") governing the development of certain real property with a project commonly known as The Landing at Vancouver, City File No. PRJ2004-02072. The Original Agreement was approved by the City Council on February 6, 2006 by Resolution M-3522.

B. The Original Agreement approved a mixed use master plan for the Project which has since been amended on several occasions, most recently September 10, 2018 (as amended, the "**Master Plan**"). Developer also holds a preliminary plat approval and several conditional use permits from the City relative to the Project (the "**Land Use Approvals**").

C. City is authorized to enter into development agreements, including this Amendment, pursuant to RCW 36.70B.170 *et seq.* and Vancouver Municipal Code (VMC) 20.250.

D. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Original Agreement.

E. City and Developer wish to amend the Original Agreement, the Master Plan and the Land Use Approvals on the terms and conditions of this Amendment.

NOW, THEREFORE, in consideration of the mutual promises, covenants, undertakings, and other consideration set forth in the Original Agreement and this Amendment (together, the "**Agreement**"), City and Developer agree as follows:

1. ***Extension of Term.*** The Project shall be vested to and with the uses, design standards, capacity allocations and mitigation measures set forth in the Original Agreement, as amended by this Amendment, through January 31, 2029. Without limiting the generality of the foregoing, the PM peak hour trips allocated to the Project as described in Section 3(c)(i) of the Original Agreement, and the corresponding mitigation measures previously approved to mitigate for the traffic impacts of the Project remain vested through January 31, 2029. The Master Plan and the Land Use Approvals are also extended through January 31, 2029.

2. ***Full Force and Effect.*** Except as expressly modified by this Amendment, the Original Agreement, Master Plan and Land Use Approvals remain in full force and effect.

3. **Modifications.** The Agreement may be modified only in writing signed by both parties.

4. **Attorney Fees.** If legal action is commenced in connection with the Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred in the trial court and in the appeal therefrom.

5. **Counterparts.** This Amendment may be executed in counterparts which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Effective Date.

City

City of Vancouver, Washington,
a Washington municipal corporation

By: _____
Its: _____

Developer

The Landing at Vancouver LLC, a Washington
limited liability company

By: Premier Management Services Corp.,
Its: Manager

By: _____
Its: _____



Planning Permit Application

LAND USE PRELIMINARY APPLICATION (LUP)

415 W 6th ST ~ Vancouver, WA 98660, P.O. Box 1995 ~ Vancouver, WA 98668, Phone (360) 487-7800
www.cityofvancouver.us

Email Completed Applications to plans@cityofvancouver.us

Type Of Work		
☐ Type I**	☐ Type II	☐ Type III
☐ Type IV	☐ Tree Removal Only	
Use Type (Check One Box Only)		
☐ Single Family	☐ Commercial	☐ Multi-Family
☐ Industrial	☐ Residential	☐ Duplex
☐ Wireless Communications Facility (new) <i>please see VMC 20.890</i>		
Process Type		
☐ Standard	☐ Streamline-Type II Application Only <i>Pre-Submittal Meeting must be completed prior to submitting this application.</i>	

Project Site Information And Location	
Project site address:	417 SE Olympia Dr
Suite/bldg./apt #:	None
Project name:	The Landing at Vancouver
Tax Assessor Serial Number:	986040362 and 986040360
Nearest intersection if no site address:	

Description Of Project
Land Use - Development Agreement Extension

PROPERTY OWNER	
Name	Landing at Vancouver LLC
Address:	601 S. 74th Place
City/State/Zip:	Ridgefield, WA. 98642
Phone:	360-213-1529
E-mail:	matt.harrell@raptorfamily.com

APPLICANT	
Name	Landing at Vancouver LLC
Address:	601 S. 74th Place
City/State/Zip:	Ridgefield, WA. 98642
Phone:	360-213-1529
E-mail (required):	matt.harrell@raptorfamily.com

ELECTRONIC PLANS SUBMITTER*	
Name	Matthew Harrell
Address:	601 S. 74th Place
City/State/Zip:	Ridgefield, WA. 98642
Phone:	360-213-1529
E-mail (required):	matt.harrell@raptorfamily.com
ePermits Username (if existing account)	Matthew Harrell

Additional Information	
Special Review Type: (if applicable)	☐ Tenant Improvement ☐ Other
	☐ Unoccupied Commercial/Utility Structure
Plan Approval Type: (if applicable)	☐ Conceptual ☐ Detailed ☐ Hybrid
	Sewage Disposal: ☐ Septic ☒ Public
Water Source:	☐ Private Well ☒ Public
# of Units:	tbd
# of Proposed Lots:	tbd
# of Acres:	30.46
Size:	☐ Up to 25 acres ☒ Over 25 acres
New Hard Surface Area:	tbd Sq. Ft.
Replaced Hard Surface Area:	tbd Sq. Ft.
Total Hard Surface Area:	tbd Sq. Ft.
Square Feet:	Ground Floor: tbd
	Upper Floor: tbd

Notice
<i>I/we understand that per VMC 20.210.090 (Review for Counter Complete Status), if it is determined that the application is not complete, the City shall immediately reject and return the application.</i>
<i>If submitting electronically, I/we understand that if my electronic plan submission is deemed to be incomplete I will receive notification after the prescreening process and review will not begin.</i>
<i>I/we agree that City of Vancouver staff may enter upon the subject property at any reasonable time to consider the merits of the application, to take photographs and to post public notices.</i>

Required Signatures	
Applicant signature:	
Print name: Matthew Harrell	Date: 7/9/19
Property Owner signature:	
Print name: Matthew Harrell	Date: 7/9/19

* Please note that the contact listed as "Electronic Plans Submitter" should be the individual responsible for accessing ePlans, (electronic plan review software), and will receive all ePlans correspondence.

** Type I projects may need to complete a Stormwater Applicability form.

APPLICATION SUB TYPES				
Please check all applicable boxes and enter information where necessary				
☐ Archaeological Predetermination (fill out supplemental application)				
☐ Binding Site Plan	☐ Land Extensive	☐ Non-Residential		
	☐ Commercial Pad	☐ Unoccupied Com/Utility Structure		
☐ Boundary Line Adjustment		# of lots to be reviewed:		
☐ Comprehensive Plan Amendment				
☐ Conditional Use Permit	Type of Use:			
	Civil Review required?	☐ Yes	☐ No	
☐ Covenant Release				
☐ Critical Areas Permit	☐ Minor Exception	☐ Reasonable Use		
	Area Types:			
	☐ Fish & Wildlife	☐ Freq. Flooded		
	☐ Geological Hazard	☐ Wetlands		
☐ Design Review (contact case manager for submittal requirements)	☐ Vancouver Central Park			
	☐ Downtown	☐ Exterior Mod. Only		
☒ Development Agreement (see VMC 20.250 for requirements)	☐ Initial Agreement			
	☒ Modification			
	☐ Extension			
☐ Engineering Variance Request / Road Modification (see supplemental checklist)	☐ Administrative			
	☐ Design Major			
	☐ Technical / Minor			
☐ Historic Preservation * (contact case manager for submittal requirements)	Historic Type:			
	☐ Major Modification			
	☐ Place Property on Registry			
	☐ Special Valuation			
	Register Type:			
	☐ State	☐ Local		
☐ National				
☐ Human Services Siting Request (fill out supplemental application)				
☐ Joint Use Parking Agreement (see VMC 20.945.030 for requirements)				
☐ Legal Lot Determination	# of lots to be reviewed:			
☐ Master Plan Public Facilities				
☐ Modification	Modification Type:			
	☐ Conditional Use	☐ Minor		
		☐ Major		
	☐ Mixed Use Master Plan			
	☐ Public Facilities Master Plan			
	☐ Planned Unit Development			
Post Decision Review Type: ☐ Planning ☐ Planning and Engineering				
☐ Planned Unit Development / Master Plan	☐ Commercial			
	☐ Mixed			
	☐ Residential			
☐ Preliminary Land Division	Plat Alteration?	☐ Yes	☐ No	

☐ Preliminary Site Plan Review	☐ Commercial Pad	☐ Land Extensive
	☐ Non-Residential	☐ Residential
	☐ Unoccupied Comm'l/Utility Structure	
☐ Shoreline Permit	Request Type:	
	☐ Conditional Use	
	☐ Variance Request	
	☐ Substantial Development	
	Shoreline Designation:	
	☐ Aquatic	☐ Natural
	☐ High Intensity	☐ Med. Intensity
☐ Urban Conservancy		
☐ Similar Use Determination * (see VMC 20.160.030 for requirements)		
☐ Statement of Exemption*	Exemption Type:	
	☐ Shoreline Permit	
	☐ Critical Area Permit	
	Exemptions Requested: (Critical Areas only)	
	☐ Fish & Wildlife	☐ Wetlands
☐ State Environmental Policy (SEPA) (fill out supplemental application)	☐ Geological Hazard	☐ Frequently Flooded
	Use Type:	
	☐ Single Family	☐ Other
	SEPA Type:	
	☐ Grading	☐ Non-Projects
	☐ Other	☐ Site Plan (RES)
	☐ Land-division or PUD	
☐ Temporary Use * (see VMC 20.885 for requirements)	Temporary Use Type:	
	☐ Commercial/Industrial	
	☐ Unforeseen Emergency	
	☐ Seasonal or Special Event	
	☐ Model Home	
	☐ Temp Sales Office	
☐ Tree Plan (see VMC 20.770.050 for requirements or see submittal requirement document for additional information)	☐ Level 1	☐ Level 2
	☐ Level 3	☐ Level 4
	☐ Level 5	☐ Level 6
	☐ Level 7	
☐ Variance	Total # of Variance Requests:	
☐ Zoning Certification* (see submittal checklist for additional information)	Year Built:	
	Footprint/Lot Coverage:	
	Existing Bldg. Height:	
	Existing # Parking Spaces:	
☐ Zoning Verification * (see submittal checklist for add'l information)		
☐ Zoning Change	Change Type	With Comp Plan Change?
	☐ Map Change	☐ Yes
	☐ Code Change	☐ No
	Proposed Zoning:	

*These application sub-types must be submitted as a separate LUP application. They may not be bundled with other sub-types.

Date: November 25th, 2019

To: City of Vancouver
Community and Economic Development
Land Use Planning

From: Matt Harrell

Subject: Development Agreement Extension and Modification
The Landing (PRJ-2004-02072/LUP-35639, 44685, 52911)

Site Location: 417 SE Olympia Drive, Vancouver, WA 98684; Parcel ID Number 986040362

Summary:

This memorandum is being submitted to support the request to the City of Vancouver to extend and modify the Landing Development Agreement (the Agreement). Specifically, the request seeks to extend the Agreement vesting for an additional 10 years and to make changes to the Agreement design standards. Highlights of this request include:

- Extend vesting of the project, project alteration provisions, and transportation concurrency for 10 years (through 2029).
- Continue vesting of Traffic Impact Fees already paid and accounted for.
- Extend the Mixed Use Master Plan, Preliminary Plat, and Conditional use approvals for 10 years.
- Update the Master Plan Overall Site Plan to show:
 - Master Plan areas now developed, including infrastructure, multi-family residential, senior living, and hotel uses.
 - Reorientation of interior access drives and parking.

Analysis and Request:

The original Development Agreement for The Landing at Evergreen site was approved by the Vancouver City Council on February 6th, 2006 through Resolution M-3522. The Agreement was between the City of Vancouver (the City) and OPUS Northwest, LLC and extends to successors in interest for the subject property. The remaining undeveloped property subject to the Agreement is Parcel ID Number 986040362, currently owned by the Landing at Vancouver, LLC. The Agreement was entered into as authorized by RCW 36.70B170 and Vancouver Municipal Code (VMC) 20.250. The Agreement authorized a preliminary plat, mixed-use master plan, and conditional use permits to construct mixed-use retail, office, and residential uses. The master plan site covered by the Agreement was, and still is zoned Mixed Use (MX) District with a Commercial Comprehensive Plan designation.

Since the Development Agreement was approved, significant portions of site have been developed, or are currently being developed, including apartments and senior living in the northwest portion of the site and a

hotel on the east portion of the site. These areas are shown as Phases 2a-d and Phase 3A on the updated Overall Site Plan which accompanies this memorandum. To facilitate these later phase improvements additional applications for the site have been approved by the City under project PRJ2004-02072, including:

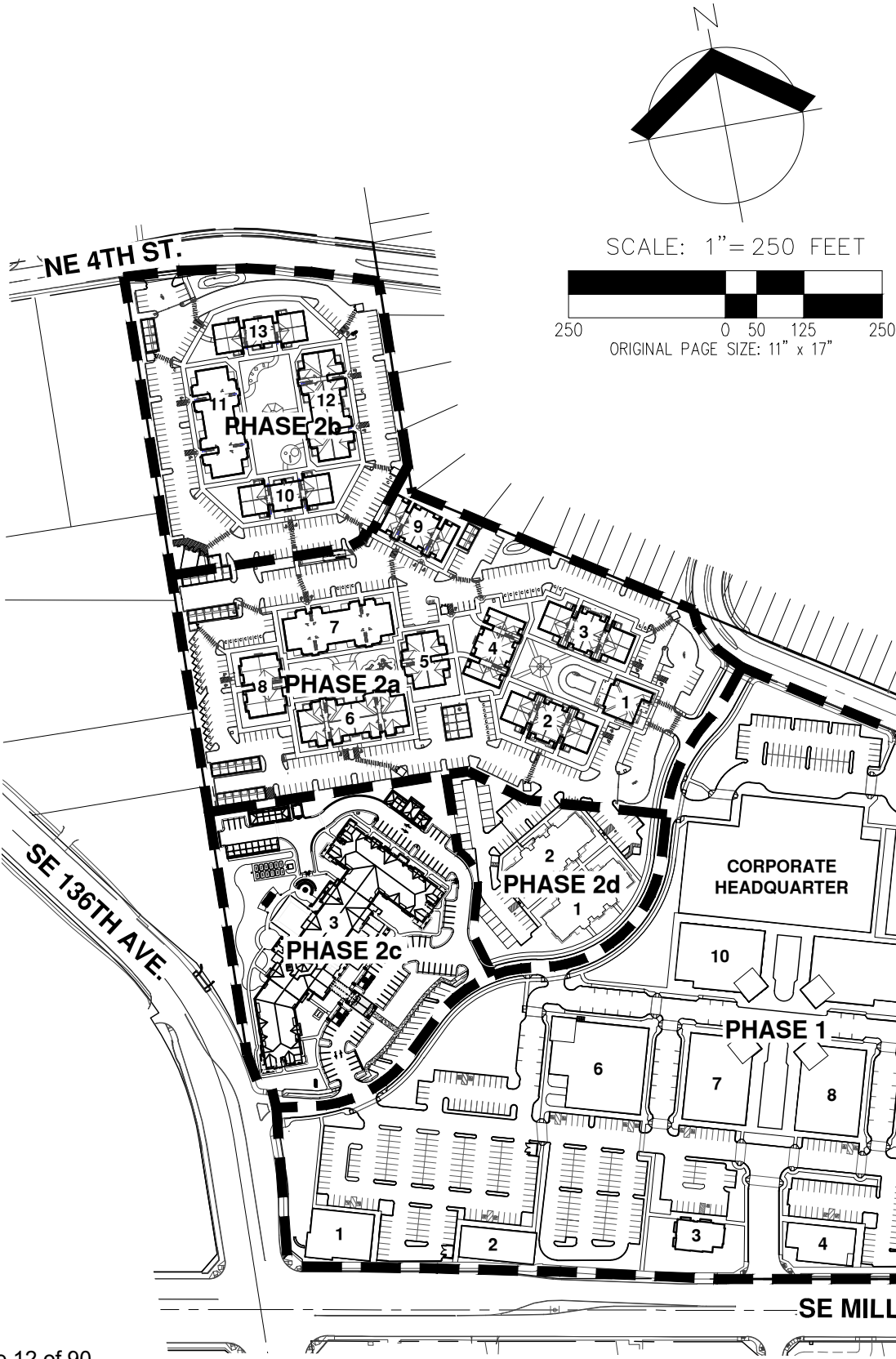
- The Landing Master Plan Modifications – Phases I and IIIB approved May 7, 2014 (LUP-35639),
- The Landing Post Decision Review approved June 25, 2015 (LUP-44685), and
- The Landing Phase IIA and IIB – Post Decision Review approved June 6, 2016 (LUP-52911).

Currently, the master plan areas yet to be developed are all of Phase I (the central portion of the site fronting SE Mill Plain Boulevard between SE 136th Avenue and SE Olympia Drive) and Phase IIIB, i-iii (the eastern portion of the site fronting SE Mill Plain Boulevard east of SE Olympia Drive). In the course of developing this site the owners have invested significant resources (currently totaling over \$100 million) for a variety of costs related to on-site development, off-site improvements, and costs related to traffic impacts. These total investment costs are expected to be well over \$ 150 million at project completion.

As stated in the introductory comments, because the site is not yet fully-developed, the Owners request that the Agreement and all associated approvals remain vested and be extended for an additional 10 years, through 2029. This vesting extension would include all transportation-related approvals including transportation concurrency and TIFs already accounted for. The vesting extension would apply to the master plan, preliminary plat, and conditional use permits for the project, as currently permitted, as well as the development standards and alteration procedures found in Section 3 of the Agreement. As stated above, the updated Overall Site Plan which accompanies this memorandum shows both current and planned development of the entire master plan area. It is the intent of this application to adopt this map as the current master plan.

Conclusion:

This memorandum and the accompanying Overall Site Plan provide support for the owner's request to extend vesting and substantively modify the Landing Development Agreement. Based on extensive project expenditures to date and considering changing economic conditions since initial approval, the Agreement modifications requested are reasonable and necessary to maintain the viability of this project. Extension of the vesting timelines are critical to allow full development of the site. The evidence is substantial and in conformance with RCW 36.70B170 and Vancouver Municipal Code (VMC) 20.250. Thus, the request can properly be approved by the City of Vancouver.



Phase 1 and 3 - Commercial/Retail							
Building	Total Square Footage	1st Floor	Upper Floors	Use	Parking Standard (sq. ft./stall)	Required Parking	Provided Parking
Phase 1							
1	7,827	7,827	0	Retail	300	26	26
2	6,170	6,170	0	Retail	300	21	21
3	3,425	3,425	0	Bank	400	9	25
4	6,200	6,200	0	Restaurant	250	25	25
5	3,750	3,750	0	Restaurant	250	15	31
6	19,882	19,882	0	Retail	300	66	66
7	14,561	14,561	0	Retail	300	49	49
8	14,561	14,561	0	Retail	300	49	49
9	27,136	27,136	0	Retail	300	90	90
10	13,955	13,955	0	Retail	250	56	56
11	38,031	38,031	0	Retail	300	127	141
Corporate HQ	222,100	55,525	166,575	Office	400	555	592
Office	81,472	40,736	40,736	Office	400	204	204
Parking Structure (534 sp.)	175,504	43,876	131,628	Parking			
Sub-total	634,574	295,635	338,939			1,292	1,375
Phase 3							
Hotel (99 rooms)	74,212	21,154	53,058	Hotel	1/room	99	120
A.1	12,697	12,697	0	Retail	300	42	55
B.1	6,920	6,920	0	Restaurant	250	28	38
C.1	15,374	15,374	0	Restaurant	300	51	71
D.1	6,800	6,800	0	Retail	250	27	33
E.1	16,802	16,082	0	Retail	300	54	64
Sub-total	132,805	79,027	53,058			301	381
Grand-Total	767,379	374,662	391,997			1,593	1,756

- PHASE STATUS
- 1 – LAND USE APPROVAL
 - 2a – UNDER CONSTRUCTION
 - 2b – UNDER CONSTRUCTION
 - 2c – CONSTRUCTED
 - 2d – LAND USE APPROVAL
 - 3A – CONSTRUCTED
 - 3B.i – LAND USE APPROVAL
 - 3B.ii – LAND USE APPROVAL
 - 3B.iii – LAND USE APPROVAL

Phase 2 - Residential							
Building	Total Square Footage	1st Floor	Upper Floors	Use	Parking Standard (sq. ft./stall)	Required Parking	Provided Parking
Phase 2a							
1	3,233	3,233	0	Clubhouse	1.5 DU	0	9
2 (24 DU)	19,124	6,624	12,500	Multi-Dwelling	1.5 DU	36	36
3 (24 DU)	19,124	6,624	12,500	Multi-Dwelling	1.5 DU	36	41
4 (24 DU)	18,080	5,754	12,326	Multi-Dwelling	1.5 DU	36	41
5 (12 DU)	16,416	5,472	10,944	Multi-Dwelling	1.5 DU	18	22
6 (24 DU)	13,638	4,510	9,128	Multi-Dwelling	1.5 DU	36	41
7 (24 DU)	27,219	9,025	18,194	Multi-Dwelling	1.5 DU	36	41
8 (12 DU)	27,219	9,025	18,194	Multi-Dwelling	1.5 DU	18	20
9 (24 DU)	15,208	5,048	10,160	Multi-Dwelling	1.5 DU	36	41
Sub-total	159,261	55,315	103,946			252	292
Phase 2b							
10 (18 DU)	16,416	5,472	10,944	Multi-Dwelling	1.5 DU	27	43
11 (24 DU)	18,080	5,754	12,326	Multi-Dwelling	1.5 DU	36	44
12 (24 DU)	27,231	9,025	18,206	Multi-Dwelling	1.5 DU	36	44
13 (18 DU)	27,231	9,025	18,206	Multi-Dwelling	1.5 DU	27	44
Sub-total	88,958	29,276	59,682			126	175
Phase 2c and 2d							
1 (24 DU)	19,124	6,624	12,500	Multi-Dwelling	1.5 DU	36	36
2 (24 DU)	19,124	6,624	12,500	Multi-Dwelling	1.5 DU	36	36
3 (140 DU)	122,000	36,346	85,654	H.L. - Cong. Care	1/2 DU	70	112
Sub-total	160,248	49,594	110,654			142	184
Grand-total	408,467	134,185	274,282			520	651
Summary							
		Required Parking	Provided Parking	Maximum Parking (125%)	Total Building Square Footage	Total Building Footprint Square Footage	
Phase 1 & 3		1,593	1,756	1,991	767,379	391,997	
Phase 2		520	651	650	408,467	274,282	
Total		2,113	2,407	2,641	1,175,846	666,279	

The Landing Site Areas Summary				
	Gross Property s.f.	Net Property s.f.	Ground Floor Area	Gross Floor Area
Phase 1	1,001,732	962,000	295,635	634,574
Phase 2a	321,443	319,955	55,315	159,261
Phase 2b	182,065	173,813	29,276	88,958
Phase 2c	170,245	170,245	36,346	122,000
Phase 2d	76,270	76,270	13,248	38,248
Phase 3	379,316	361,823	79,027	132,085
Total	2,131,091	2,064,106	508,847	1,175,126

NOTE: LANDSCAPE AREAS WILL MEET CITY OF VANCOUVER MINIMUM REQUIREMENTS.

DATE: 11/25/2019

OVERALL SITE PLAN

THE LANDING AT VANCOUVER

AKS ENGINEERING & FORESTRY, LLC
9600 NE 126TH AVE, STE 2520
VANCOUVER, WA 98682
360.882.0419 WWW.AKS-ENG.COM

EXHIBIT

SP1

DRWN: TJW
CHKD: JMM
AKS JOB: 4471



BEND, OR
2777 NW Lolo Drive, Suite 150
Bend, OR 97703
(541) 317-8429
www.aks-eng.com

KEIZER, OR
3700 River Road N, Suite 1
Kelzer, OR 97303
(503) 400-6028

TUALATIN, OR
12965 SW Herman Road, Suite 100
Tualatin, OR 97062
(503) 563-6151

VANCOUVER, WA
9600 NE 126th Avenue, Suite 2520
Vancouver, WA 98682
(360) 882-0419

Date: 9/13/2019
To: Greg Turner
From: Dave Weston
Project Name: The Landing at Vancouver
AKS Job No.: 4471
Project Site: 417 SE Olympia Drive, Vancouver, WA 98684; Parcel Number 986040362
Subject: Proportionate Share Fee Payment

The applicable Proportionate Share Fees listed in Exhibit E have been paid, as supported by the accompanying documentation.

- The first two items listed on Exhibit E were constructed by the Applicant (The Landing at Vancouver LLC/ B52 Pointe at Evergreen LLC). You can physically see that the work was completed.
- The remainder of the items on Exhibit E were paid per the schedule on Table 3 on Page 8 of the accompanying documentation and discussed below.

- Per Table 3 on Page 8, Opus was required to make three payments for a total of \$1,132,531.11.

Payment # 1	Payment #2	Payment #3	Total Contribution
June 30, 2006	June 30, 2007	June 30, 2008	
\$226,506.22	\$339,759.33	\$566,265.56	\$1,132,531.11

- Of the \$1,132,531.11 Proportionate Share Fee that was paid, Opus and the Applicant were eligible for TIF Credits in the amount of \$914,543.90 as shown on Table 2 on Page 7.
- The City issued Proportionate Share TIF Credits (\$146,606.73) to OPUS on September 7, 2006 as discussed on Page 10.
- The City issued the remaining Proportionate Share TIF Credits (\$767,937.17) to the Applicant on April 8, 2010 as discussed on Page 10.

In summary, we believe that the documentation provided supports the fact that Proportionate Share Fees were paid to the City as required by The Landing at Evergreen's Developer's Agreement.

B52 POINTE AT EVERGREEN LLC

9310 NE Vancouver Mall Drive, Suite 200
Vancouver, Washington 98662

February 22, 2010

Ahmad Qayoumi
Transportation Concurrency Manager
City of Vancouver
4400 NE 77th Ave, Suite 350
Vancouver, WA 98668

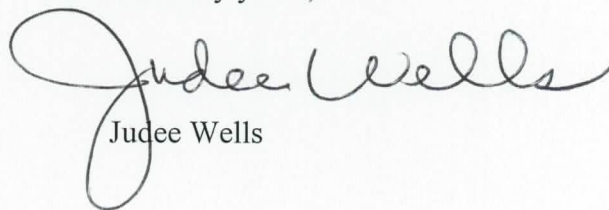
Dear Ahmad,

Here is the following Traffic Impact Fee Credit Applications:

- a. East City district – \$681,426.81 TIF credit – Intersection at S.E. Mill Plain Blvd./SE 136th Avenue;
- b. East City district -- \$59,541.01 TIF credit – Intersection at NE 18th Street/NE 112th Avenue;
- c. Evergreen district -- \$59,540.99 TIF credit – Intersection at NE 18th Street/NE 11st Avenue; and
- d. Evergreen district -- \$114,035.09 TIF credit – Intersection at NE 137th Avenue/NE 49th Street.

Please let me know if you need any additional information. We appreciate your assistance.

Sincerely yours,



Judee Wells

Cc: Eric Holmes

TRAFFIC IMPACT FEE CREDIT APPLICATION SUBMITTAL REQUIREMENTS

The following checklist identifies information required to be included with the Type I Traffic Impact Fee Credit Application. **All** items with a number followed by an underlined space (i.e., 1.) must be submitted before the application will be considered "Counter Complete." **All** items with a check box (i.e., ☐) must be complete for the application to be determined "Fully Complete."

1.
2.

APPLICATION FORM completed and signed by applicant.
WRITTEN REQUEST which describes the roadway improvements or right-of-way dedication for which TIF credits are being requested.

3.

- **FOR REQUESTS FOR TIF CREDITS IN ADVANCE OF CONSTRUCTION**

- Approved construction plans showing the extent of construction (with highlighting).
- Financial guarantee in the amount of TIF credits requested (e.g., escrow account, bond)

OR

- **FOR REQUESTS FOR TIF CREDITS AFTER ACCEPTANCE OF IMPROVEMENTS FOR MAINTENANCE**

- "As built" plans showing the extent of construction (with highlighting)
- Proof of dedication of right-of-way (recorded quit claim deed or plat)

OR

- **FOR REQUESTS FOR TIF CREDITS FOR DEDICATION OF RIGHT-OF-WAY**

- Map or plan showing location of right-of-way dedication.
- Proof of dedication of right-of-way (recorded quit claim deed or plat).

Staff Notes:

1. _____
2. _____
3. _____
4. _____
5. _____

This application was determined to be Counter Complete on: ____/____/____

Community Development Specialist: _____

Traffic Impact Fee Credit Application Form

Form DS77 Revised 04/16/2003



proud past, promising future

TIF CREDIT REQUEST (Description):

TIF Credit Request for Mitigation Payments for Concurrency Corridors. See attached Exhibit A.

APPLICANT NAME:

B52 Pointe at Evergreen LLC

Address:

9310 NE Vancouver Mall Drive
Suite 200, Vancouver, Washington

E-mail Address: wellj@foster.com

Phone and Fax:

(206) 612-7207 (fax) 206-749-2028

CONTACT PERSON NAME (list if not same as
APPLICANT): Judee Wells

Address:

9310 NE Vancouver Mall Drive
Suite 200, Vancouver, Washington

E-mail Address: wellj@foster.com

Phone and Fax:

(206) 612-7207 (fax) 206-749-2028

ASSOCIATED DEVELOPMENT PROPOSAL (Development conditioned to provide transportation
improvement for which TIF credits are being requested):

Landing at Evergreen/The Village at Evergreen

Case Number: PRJ2004-02072

Parcel Number:

165166-000, 165167-000, 165176-000,
165177-000, 165179-000, 167680-000,
167677-000, 167671-000, 167669-000

Site Address:
13910 SE Mill Plain Blvd, Vancouver, Washington

LOCATION OF REQUEST:

Traffic Impact Fee District: East City

Amount of Credit Requested: \$59,541.01

Street:

Intersection at NE 18th Street & NE 112th Avenue

Intersection From:

Intersection To:

AUTHORIZATION – The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request.

Authorized Signature

Date

Assigned at Permit
Services Center

CASE NUMBER:

WORK ORDER NUMBER:

EXHIBIT A TO TRAFFIC IMPACT FEE CREDIT APPLICATION FORM

This is a request for TIF Credits for the Mitigation Payments made for Concurrency Corridors as required by that certain Development Agreement between OPUS Northwest, LLC and the City of Vancouver dated February 7, 2006 and as such payments and TIF credits are outlined in the Concurrency Corridor Mitigations/TIF Credit Process & Payment Schedule Letter dated September 7, 2005 from the City of Vancouver. A copy of the TIF Credit Process & Payment Schedule Letter is attached hereto. Mitigation Payments in the amounts of \$226,506.22, \$339,759.33 and \$566,265.56 were made in 2006, 2007 and 2008, respectively by predecessors in interest to B52 Pointe at Evergreen LLC. Under VCM 20.915.090(A), B52 Pointe at Evergreen LLC is entitled to TIF credits for these Mitigation Payments.

Transportation Services
1300 Franklin Street – 4th Floor
P.O. Box 1995
Vancouver, WA 98668-1995



Phone: (360) 696-8290
Fax: (360) 696-8588
www.ci.vancouver.wa.us

September 7, 2005

Randall B. Printz
Landerholm, Memovich, Lansverk
& Whitesides, P.S.
P.O. Box 1086
Vancouver, WA 98666-1086

The Landing at Evergreen PRJ2004-02072; PSR2005-00026, CON20056-00058
Concurrency Corridor Mitigations
TIF Credit Process & Payment Schedule

Dear Randy:

Pursuant to our meetings and communications, you have generally agreed to the proportionate contribution amount as calculated. This information regards the voluntary cost contribution and TIF credit eligibility for the number of intersections. Some of the improvements are TIF creditable and some are not. The intent of this letter is to provide additional information on memorializing how the proportionate share has been calculated, trip vesting, and a payment schedule.

The City performed a separate Concurrency Model run to determine the impact of the additional PM peak trips on the City Concurrency Corridors. The five large projects and to accommodate some future smaller developments needing the additional PM peak trips are included in Table 1:

Table 1

Project - Land Use	Weekday PM Peak Hour Project Trips		
	In	Out	Total
The Landing at Evergreen	550	740	1,290
Walt Musa Property	240	320	560
Mission Hills Phase III	68	175	243
Kirkwood 164 th Avenue	340	450	790
Columbia Tech Center	927	1,873	2,800
Future Growth & Other Smaller Projects*	450	450	900

**For the purpose of evaluation, these are the total trips entering the corridor, as opposed to site-generated trips.*

The City's Consultant, The Transpo Group, ran the concurrency model. The proposed allocation projects were evaluated using the Traffix and Synchro models from the 2004 City of Vancouver Concurrency analysis. The 2004 model included the forecasted growth and approved in-process developments for which concurrency certificates were issued in 2004. The future horizon year of the analysis was 2009. Based on the model runs reflect information provided by the respective developers and engineers. The trips from the aforementioned proposed developments were added on the year 2009 model.

Concurrency Model Run Results

The detailed results were analyzed, included intersection performance, a review of the worst operating movement, and the corridor travel speeds. Where intersections or corridors do not meet current City of Vancouver standards, potential improvements have been identified. The following provides a short summary for each of the concurrency corridors.

The results of the concurrency analysis indicate that the number of intersections along the SE 164th Avenue corridor, including average travel speed standards along all corridor segments, is not met for the northbound or southbound directions in 2009. Therefore, additional improvements are required to improve the corridor travel speeds. These improvements are outlined in the attached spreadsheet. Additionally, two intersections along the Mill Plain Corridor and NE 137th Avenue/NE 49th Street exceed the intersection LOS standard. A review of the LOS worksheets for all study intersections, with the proposed allocation projects, indicates that some of the intersections are expected to exceed the maximum delay value by 2009. Potential improvements needed to correct these deficiencies were analyzed, including overlap phasing for the northbound, eastbound, and westbound right turn movements.

Staff has reviewed the needed improvements and has assigned an estimated engineering cost to each project. The cost contributions are calculated to two ways:

- 1- **Regionally Significant Intersections:** There are three intersections that fit within this category: Mill Plain Boulevard/ I-205 NB off Ramp, SE 164th Avenue/SE 1st Street, and NE 18th Street/NE 112th Avenue. The trip rates are calculated based on the total volumes divided by the estimated cost.
- 2- **Locally Significant Intersections:** These are the rest of the intersections that are listed in the attached spreadsheet. They are calculated based on the impact of total new trips from the proposed six developments and future projects, divided by the total cost of the improvements.

The following table indicates the total amount due for each project and the amount of TIF creditable amounts as shown in Table 2:

Table 2

Project Name	Total \$ Contribution	TIF Amount in East City District	TIF Amount in Evergreen District	Total Non-TIF Creditable
Opus Project Trips	\$1,132,531.11	\$740,967.81	\$173,576.08	\$217,987.22
Kirkwood-164th	\$329,466.86	\$16,666.67	\$15,536.72	\$297,263.47

Retail				
Walt Musa Property	\$1,249,924.18	\$983,552.63	\$217,514.12	\$48,857.43
CTC	\$1,350,708.99	\$68,518.52	\$97,104.52	\$1,185,085.95
Mission Hills	\$312,951.00	\$156,927.87	\$115,598.62	\$40,424.51
Other Projects & 5-Year Growth	\$3,586,453.00	\$1,059,291.87	\$990,467.32	\$1,536,693.90
Totals	\$7,962,035.39	\$3,025,925.37	\$1,609,797.39	\$3,326,312.63

As each project for your site is submitted for review and approval, the staff report will include TIF charges due, and the TIF rate will be the same for three years. After three years the TIF rate will be adjusted to the applicable rate at the time of building permit issuance. You are required to pay TIF prior to the issuance of a building permit for each single family lot. The TIF can be paid using TIF credits.

The City provides the following payment schedule in Table 3:

Table 3

Project Name	Payment #1, 20%, June 30, 2006	Payment #2, 30%, June 30, 2007	Payment #3, 50%, June 30, 2008	Total \$ Contribution
Opus Project				
Trips	\$226,506.22	\$339,759.33	\$566,265.56	\$1,132,531.11
Kirkwood-164th				
Retail	\$65,893.37	\$98,840.06	\$164,733.43	\$329,466.86
Walt Musa Property	\$249,984.84	\$374,977.25	\$624,962.09	\$1,249,924.18
CTC	\$270,141.80	\$405,212.70	\$675,354.50	\$1,350,708.99
Mission Hills	\$62,590.20	\$93,885.30	\$156,475.50	\$312,951.00
Other Projects & 5-Year Growth	\$717,290.60	\$1,075,935.90	\$1,793,226.50	\$3,586,453.00
Total	\$1,592,407.08	\$2,388,610.62	\$3,981,017.70	\$7,962,035.39

1. The applicant will need to pay the amount as outlined in the table above.
2. Please make the payment to the City of Vancouver. Payments can be made in person at the City's Finance Services, 610 Esther Street.
3. Upon payment of the aforementioned amount, please submit a copy of the payment receipt, with a formal request for TIF credits for the amount listed in Table 2, to City of Vancouver Transportation Services as per VMC 20.915.
4. The City will issue a formal TIF credit letter and the City's Finance Department will establish a TIF credit account and an account number for your project, which will track the TIF credit amount for each project.

5. As your client or your client's designee applies for building permits for each lot, they can pay the TIF through TIF credits, using the TIF credit account number issued by the City.
- 6.

If you have any questions let me know at 360-696-8290 x8479 or ahmad.qayoumi@ci.vancouver.wa.us.

Sincerely,

Thayer K. Rorabaugh
Manager of Transportation Services

cc: Ahmad Qayoumi, P.E., Concurrency Manager, Transportation Services
Matt Ransom, Transportation Planning Manager, Transportation Services
Tracy Tuntland, Engineering Supervisor, Development Review Services
Amy Drought, Case Manager, Development Review Services
Gerald Baugh, Economic Development, CMO
Jim McNamara, Assistant City Attorney, Law Department
Dave Perlick, Transportation Services

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Ransom, Matt [mailto:Matt.Ransom@ci.vancouver.wa.us]
Sent: Thursday, March 25, 2010 5:25 PM
To: Ransom, Matt; Judee Wells
Subject: RE: City of Vancouver - TIF Credits
Importance: High

Judee

Unfortunately I need to amend my earlier email. Prior to finalizing the TIF credits for your client I reviewed the past history of the CON2005-00058 case related to the subject project and I determined that I have previously issued TIF credits for a payment made on roughly August 4, 2006. This was the first installment payment for the project. Please see the attached letter that was issued on September 7, 2006.

With this information; I will revise my email below to state: TIF credits due to your client are as follows:

Evergreen: \$141,470.14

East City: \$626,467.03

Should you need to pursue transferring credits between Opus Northwest LLC and your client; please use the attached form for processing at the City's permit center.

Please contact me with any further questions, albeit I am out of the office until April 5.

Matt Ransom
Transportation Planning Manager

City of Vancouver
PO Box 1995
Vancouver, WA 98668-1995
p. 360-487-7707

From: Ransom, Matt
Sent: Thursday, March 25, 2010 3:39 PM
To: 'Judee Wells'
Subject: RE: City of Vancouver - TIF Credits

Thank you Judee

At this time; the summary is: \$ 914,543.90 with the sum divided between East City and Evergreen TIF districts as follows: East City - \$740,967.82; and, Evergreen - \$173,576.08

Matt Ransom
Transportation Planning Manager

City of Vancouver
PO Box 1995
Vancouver, WA 98668-1995
p. 360-487-7707

From: Judee Wells [mailto:WellJ@foster.com]
Sent: Thursday, March 25, 2010 12:30 PM
To: Ransom, Matt
Subject: RE: City of Vancouver - TIF Credits

Matt,
Yes, please issue the TIF credits under the name of B52 Pointe at Evergreen LLC (no comma in name.)
B52 is the owner of the property and will be the developer.
Would you email me the dollar amount of the TIF credits that will be issued to B52?
Thanks.
Judee Wells
(cell 206-612-7207)

From: Ransom, Matt [mailto:Matt.Ransom@ci.vancouver.wa.us]
Sent: Thursday, March 25, 2010 10:30 AM
To: Judee Wells
Subject: City of Vancouver - TIF Credits

Ms Wells

I am in the process of issuing the TIF credits in relation to your applications submitted on behalf of the B51 Pointe at Evergreen project client.

In issuing the credits, I need to assign them a legal name. Can you confirm, on behalf of your client, the name under which the credits should be issued?

At this time I am assuming that the credits will be issued under the name: B52 Pointe at Evergreen, LLC.

Thank you

Matt Ransom | VDOT Planning Manager

CITY OF VANCOUVER

Department of Transportation

P.O. Box 1995 | Vancouver, WA 98668-1995

P: 360.487.7707 | **F:** 360.487.7699

www.cityofvancouver.us

This e-mail and related attachments and any response may be subject to public disclosure under state law.

This e-mail and related attachments and any response may be subject to public disclosure under state law.

Transportation Services
601 W Evergreen Blvd
P.O. Box 1995
Vancouver, WA 98668-1995



Phone: (360) 696-8290
Fax: (360) 696-8588
www.ci.vancouver.wa.us

September 7, 2006

Opus Northwest LLC
c/o Kyle Bertelsen
1500 SW First Avenue, Suite 1100
Portland, OR 97201
ph. 503-916-8963

Subject: Impact Fee Credit Request – Evergreen Landing Development Concurrency Corridor Mitigations (CON2005-00058; PRJ2004-02072)

Dear Kyle Bertelsen:

Our office has received your construction cost contribution payment as defined in the staff report for the Evergreen Landing development and as conveyed in a letter dated September 7, 2005. TIF credits are to be remitted in accordance with the TIF eligible portion of the intersection modification costs in accordance with the TIF Program guidelines. Opus Northwest, LLC did pay \$226,506.22 to the City on August 3, 2006 for the construction of the city's transportation capital projects identified in the staff report. A portion of those funds paid are eligible for TIF credit remittance in accordance with the TIF program policy. The TIF credit eligible projects are as follows: Mill Plain Blvd / 136th Avenue (East City); NE 137th Ave / NE 49th Street (Evergreen); and NE 18th St / NE 112th Ave (split 50/50 between East City and Evergreen). Credits eligible under the program have been calculated based on the payment received according to the aforementioned distribution and are to be distributed as follows:

East City	Mill Plain Blvd / 136th Ave	\$102,592.59
	NE 18th St / NE 112th Ave	\$11,908.20
Total		\$114,500.79
Evergreen	NE 137th Ave / NE 49th St	\$20,197.74
	NE 18th St / NE 112th Ave	\$11,908.20
Total		\$32,105.94

By copy of this letter, I request that the City of Vancouver issue in an account to Opus Northwest, LLC TIF Credits in the following amounts:

- **EVERGREEN TIF credits** in the amount of \$32,105.94 (Thirty-two Thousand One Hundred Five Dollars and Ninety-four Cents).
- **EAST CITY TIF credits** in the amount of \$114,500.79 (One Hundred Fourteen Thousand Five Hundred Dollars and Seventy-nine Cents).

These credits should be available to your client no later than 10 business days after receipt of this letter by the city finance department.

Please contact me directly at 696-8290, x. 8412 with any questions.

Sincerely,



Matt Ransom

Transportation Planning Manager

cc: Tanya Bogush, Accountant (TIF Program)



City of Vancouver • P.O. Box 1995 • Vancouver, WA 98668-1995
www.cityofvancouver.us

October 31, 2013

DBN Administrative Services LLC
Attn: The Landing at Vancouver LLC
9310 NE Vancouver Mall Drive, Suite #200
Vancouver, WA 98662

City of Vancouver
PO Box 1995
Vancouver, WA 98668

RE: Partial refund for proportionate share payment

The Landing at Vancouver LLC is receiving this letter because **ROF Evergreen LLC paid a proportionate share payment to the City of Vancouver** over five years ago and the City has not spent all of the money. ROF Evergreen LLC was purchased by B52 Pointe of Evergreen LLC who subsequently changed their name to The Landing at Vancouver LLC.

The proportionate share payment was made on December 14, 2007 in association with the development **The Landing at Evergreen for a City of Vancouver street project named Mill Plain & I-205 Intersection Improvements**. Prior to December, 2012 the City spent \$3,714.95 of your contribution on the Mill Plain & I-205 Intersection Improvement project. However, the remainder of your contribution was not spent within five years as required by RCW 82.02.020. Therefore, a portion of your proportionate share payment is being refunded due to insufficient local and other funding to timely construct the project originally envisioned.

Per the Revised Code of Washington (RCW) 82.02.020, the City must return the payment with interest if not expended within five years. Therefore, enclosed please find a check in the amount of \$12,252.52, which is the sum of the unspent proportionate share payment of \$9,539.26 + the interest due of \$2,713.26.

Per RCW 84.69.100, the rate of interest shall be the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve System) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid. Therefore, the rate of interest used to calculate interest due was 5.012%.

Please feel free to contact Chris Malone in the City of Vancouver Public Works Department via email at chris.malone@cityofvancouver.us or via telephone at 360-487-7711 if you have any additional questions pertaining to this refund.

Sincerely,

Carrie Lewellen,
City of Vancouver Treasurer,
Financial and Management Services

RecFee = \$138.00 Pages: 49 - LANDERHOLM LAW OFFICE
Clark County, WA 12/06/2007 12:59

City of Vancouver
City Clerk's Office
PO BOX 1995
Vancouver, WA 98668-1995

Signature of Requesting Party

Page 28 of 90

TO BE RECORDED

RETURN ADDRESS

City of Vancouver
City Clerk's Office
PO Box 1995
Vancouver, WA 98668-1995

**DEVELOPMENT AGREEMENT
OPUS Northwest, LLC**

This Development Agreement (this "Agreement") is entered into by and between the CITY OF VANCOUVER, a Washington Municipal Corporation (the "City") and OPUS NORTHWEST, LLC, ("OPUS") and shall be effective as of the last signed date below.

RECITALS

WHEREAS, OPUS, owns or controls that certain real property, located in the City of Vancouver, more fully described in Exhibit "A" which is attached hereto and incorporated by reference herein (hereafter, the "Property"); and,

WHEREAS, OPUS has applied for Preliminary Plat, Mixed Use Master Plan and Conditional Use Permit approvals to construct a mixed use retail, office and residential project ("The Project"). A copy of the Master Plan is attached hereto as Exhibit "B" and incorporated by reference herein; and,

WHEREAS, the City is a Washington Municipal Corporation with land use planning and permitting authority over all land within its corporate limits; and,

WHEREAS, the City has the authority to enter into Development Agreements pursuant to RCW 36.70B.170 which provides:

The Legislature finds that the lack of certainty of the approval of development projects can result in a waste of public and private resources escalate housing

DEVELOPMENT AGREEMENT - 1

A5112902/GT:MW

Clark Auditor Thu Dec 06 12:59:26 PST 2007 4401791 Page 2

costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all is set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic cost of development; and,

WHEREAS, the City is further authorized to enter into Development Agreements pursuant to Vancouver Municipal Code ("VMC") 20.250; and

WHEREAS, The Project is proposing to invest over One Hundred Fifty Million and No/100 Dollars (\$150,000,000.00) in construction improvements to the Evergreen Landing Site, including approximately Six Million Five Hundred Thousand and No/100 Dollars (\$6,500,000.00) in public transportation infrastructure, all of which will provide substantial employment opportunities and economic benefit to the City and its residents; and

WHEREAS, the City and OPUS recognize that the development of the Project may take as long as ten years to fully build out; and because of that, there is increased need and desire for long term predictability; and

WHEREAS, the City and OPUS wish to provide increased predictability to both OPUS and the City on these issues.

NOW, THEREFORE, based on the foregoing Recitals, the parties agree as follows:

AGREEMENT

1. **Development Agreement:** This Agreement is a Development Agreement to be implemented in accordance with RCW 36.70B.170 through RCW 36.70B.210 and VMC 20.250. It shall become a contract between OPUS and the City upon the City's approval by ordinance or resolution following a public hearing as provided for in RCW 36.70B.170 and CMC 18.55.340.
2. **Effective Date and Duration of Agreement:** This Agreement shall take effect immediately upon its adoption by the City Council and execution by all parties; provided that, any time periods specified in this Agreement shall be tolled pending any appeals of any city, state or federal land use decisions entitling OPUS to commence or complete development.
3. **Vesting**

The Project shall be vested to, and with, the following uses, design standards, capacity allocations and mitigation measures through the year 2019:

DEVELOPMENT AGREEMENT - 2

A5112902/GT:MW

a. Uses

All uses approved with this application, including conditional uses, together with uses currently permitted within the MX zone, as provided for in Exhibit C, which is attached hereto and incorporated by reference herein.

b. Design Standards

All setbacks, landscape standards, design and architectural standards, street and pedestrian standards, parking standards, floor area ratio and building coverage standards, storm water, sewer, water and other utility standards and all other planning or engineering standards applicable to the development of the Project; all as provided for or identified on the approved Master Plan as identified in Exhibit B.

c. Transportation / Concurrency Standards

(i) As part of the approval of the Project, the Project has been vested with 1290 of PM peak hour trips, as evidenced by the City's issuance of a Certificate of Concurrency which is attached hereto as Exhibit D.

(ii) The City has required as a Condition of Approval that OPUS: (1) construct certain transportation improvements which are identified in Exhibit E, which is attached hereto and is incorporated herein by reference; (2) make mitigation payments to various concurrency corridors in the amount provided for in Exhibit E; (3) make mitigation payments for impacts to non concurrency corridor intersections in the amount provided for in Exhibit E; and (4) make Transportation Impact Fee payments in the amount of One Million Eight Hundred Sixty-Four Thousand One Hundred Forty-Three and 93/100 Dollars (\$1,864,143.93).

(iii) The Project's trip generation to the City's transportation system shall be vested through the year 2019.

(iv) OPUS' construction of improvements and payments to the City as identified in Exhibit E shall constitute full and final satisfaction of any and all mitigation or other regulatory requirements related to any of the Project's transportation impacts; provided, however, if changes in the Project are proposed and approved in the future that increase the number of PM Peak hour trips currently approved for the Project, then the City shall have the right to impose additional lawful mitigation requirements upon such excess future trips.

d. Threat to Public Health

As provided for in RCW 36.70B, the City reserves the right to impose new standards or changes in development regulations to the extent required by a serious threat to public health and safety.

4. Service

The City acknowledges that upon payment of the applicable system development charges ("hook up fees") that the City has sewer and water facilities, and capacity, adequate to serve the site, and the City shall provide such service. Notwithstanding the foregoing, nothing in this agreement shall be construed to require the City to construct any sewer or water lines or other sewer or water conveyance mechanisms including pumps or lift stations on the OPUS property.

5. Project Alterations

a. Type I

Any changes or alterations to the Project that affect the location or shape of any building, landscape feature, parking area or internal pedestrian or vehicular passageway (but specifically excluding any public roads or sidewalks within the public right-of-way), change the location of a utility, or change the proposed use of a building to an otherwise permitted use in the MX zone as it currently exists on the date of this agreement; AND, which do not increase the cumulative vehicle trips approved for the Project, or increase the amount of impervious service or increase the probably significant adverse environmental impacts of the Project shall be reviewed by the City as a Type I process.

b. Type II

Any other proposed alterations to the Project that are not provided for in Section 4(a) above, and are not a request to change the zoning or comprehensive plan designation of the property or request to create additional legal lots in excess of what the City allows through the Short Plat process; shall be processed by the City as a Type II review.

c. Type III

Any request to rezone the property that does not require a comprehensive plan change and any request for additional preliminary plat approval of the Project (as opposed to a request for a Short Plat) shall be reviewed as a Type III process.

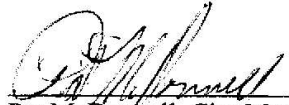
6. Miscellaneous

- a. Failure by either party at any time to require performance by the other party of any of the provisions hereof shall in no way affect the parties' rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.
- b. This Agreement shall be construed with, and governed by, the laws of the State of Washington. The parties agree to venue in the Superior Court for Clark County, State of Washington, to resolve any disputes that may arise under this Agreement.
- c. If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.
- d. Binding on Successors and Recording: This Agreement is assignable and shall run with the land and be binding upon and insure to the benefit of the parties, their respective heirs, successors and assigns. This Agreement shall be recorded.
- e. Each of the recitals contained herein are intended to be, and are incorporated as, covenants between the parties and shall be so construed.
- f. This Agreement may only be amended by mutual agreement of the parties.

DATED this 7 day of February, 2006.

CITY OF VANCOUVER, WASHINGTON

OPUS NORTHWEST, LLC



Pat McDormell, City Manager



Title VICE PRESIDENT-GENERAL MANAGER

Attest:

Approved as to form:



R. Lloyd Tyler, City Clerk

By: Carrie Lewellen, Deputy City Clerk



Ted H. Gathe, City Attorney

By: **Judith Zeider**
Chief Assistant City Attorney

DEVELOPMENT AGREEMENT - 5

A5112902/GT:MW

STATE OF WASHINGTON)
) ss.
County of Clark)

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

Dated: February 7, 2006



Mary L. White
Notary Public in and for the State of
Washington, residing at Vancouver.
My appointment expires: 11-8-07

STATE OF WASHINGTON)
) ss.
County of Clark)

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

Dated: 5.16.06



Kristi Gallacher
Notary Public in and for the State of
~~OREGON~~ Washington, residing at ~~Vancouver~~ PORTLAND.
My appointment expires: 12.13.08

DEVELOPMENT AGREEMENT - 6

A5112902/GT:MW



PROVIDING SURVEYING AND PLANNING SERVICES WITH A PERSONAL COMMITMENT TO EXCELLENCE.

2407 NE 292nd Avenue
Camas, WA 98607
360.834.2519
fax.834.5498
c.halcumb@verizon.net

**The Landing at Evergreen
Legal Description
March 29, 2005**

A PORTION OF THE SOUTHWEST 1/4 OF SECTION 26, TOGETHER WITH A PORTION OF THE NORTH 1/2 OF SECTION 35, TOWNSHIP 2 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF VANCOUVER, COUNTY OF CLARK, STATE OF WASHINGTON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF S.E. MILL PLAIN BOULEVARD, A 100.00-FOOT WIDE PUBLIC ROADWAY, AT THE SOUTHEAST CORNER OF LOT 1 OF THAT SHORT PLAT RECORDED ON NOVEMBER 29, 1989 IN BOOK 2, PAGE 382, CLARK COUNTY PLAT RECORDS, BEING ALSO A POINT ON THE WEST LINE OF THAT TRACT OF LAND DESCRIBED IN DEED TO ROY C. SUGG, RECORDED ON AUGUST 9, 1943 IN BOOK 344, PAGE 177, AUDITOR'S FILE NUMBER F12194, CLARK COUNTY DEED RECORDS; THENCE ALONG SAID WEST LINE, BEING ALSO THE EAST LINE OF SAID LOT 1, AND CONTINUING ALONG THE EAST LINE OF LOTS 2 AND 3 OF SAID PLAT, N01°15'15"E, 1635.05 FEET TO THE SOUTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN DEED TO 1234 L.L.C., RECORDED IN AUDITOR'S FILE NUMBER 3433987, CLARK COUNTY DEED RECORDS; THENCE ALONG THE SOUTH LINE OF SAID TRACT OF LAND, S88°42'41"E, 399.60 FEET TO THE SOUTHEAST CORNER THEREOF, BEING ALSO A POINT ON THE WEST LINE OF TRACT A, AIRPORT GREEN INDUSTRIAL PARK, AS RECORDED ON DECEMBER 19, 1979 IN BOOK H, PAGE 40, SAID PLAT RECORDS; THENCE ALONG SAID WEST LINE, AND CONTINUING ALONG THE WEST LINE OF LOTS 1 THROUGH 5 OF SAID PLAT, S01°15'15"W, 430.54 FEET TO THE SOUTHWEST CORNER OF SAID LOT 5, BEING ALSO A POINT ON THE NORTHEASTERLY LINE OF THAT TRACT OF LAND DESCRIBED IN DEED TO WALDO S. OLSON, RECORDED ON FEBRUARY 11, 1950 IN BOOK 486, PAGE 33, AUDITOR'S FILE NUMBER G44069, SAID DEED RECORDS; THENCE ALONG SAID NORTHEASTERLY LINE, BEING ALSO THE SOUTHWESTERLY LINE OF LOTS 6 THROUGH 78 OF SAID PLAT AND THE EASTERLY EXTENSION THEREOF, S57°12'24"E, 2205.45 FEET TO THE NORTHEAST CORNER OF SAID OLSON TRACT OF LAND; THENCE ALONG THE EAST LINE OF SAID OLSON TRACT OF LAND, BEING ALSO THE WEST LINE OF LOT 3 OF THAT SHORT PLAT RECORDED ON OCTOBER 19, 1990 IN BOOK 2, PAGE 479, SAID PLAT RECORDS, S01°13'14"W, 229.33 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE CONTINUING ALONG THE EAST LINE OF SAID OLSON TRACT OF LAND, BEING ALSO THE WEST LINE OF THAT TRACT OF LAND DESCRIBED IN DEED TO THE PRUITT LIVING TRUST, RECORDED IN AUDITOR'S FILE NUMBER 9105010194, SAID DEED RECORDS, S01°00'05"W, 179.96 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SAID S.E. MILL PLAIN BOULEVARD; THENCE ALONG SAID LINE, N79°53'14"W, 1207.99 FEET TO AN ANGLE POINT; THENCE CONTINUING ALONG SAID LINE, N79°43'09"W, 1100.24 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,243,346 SQUARE FEET (51.500 ACRES)

Exhibit A
Page 1

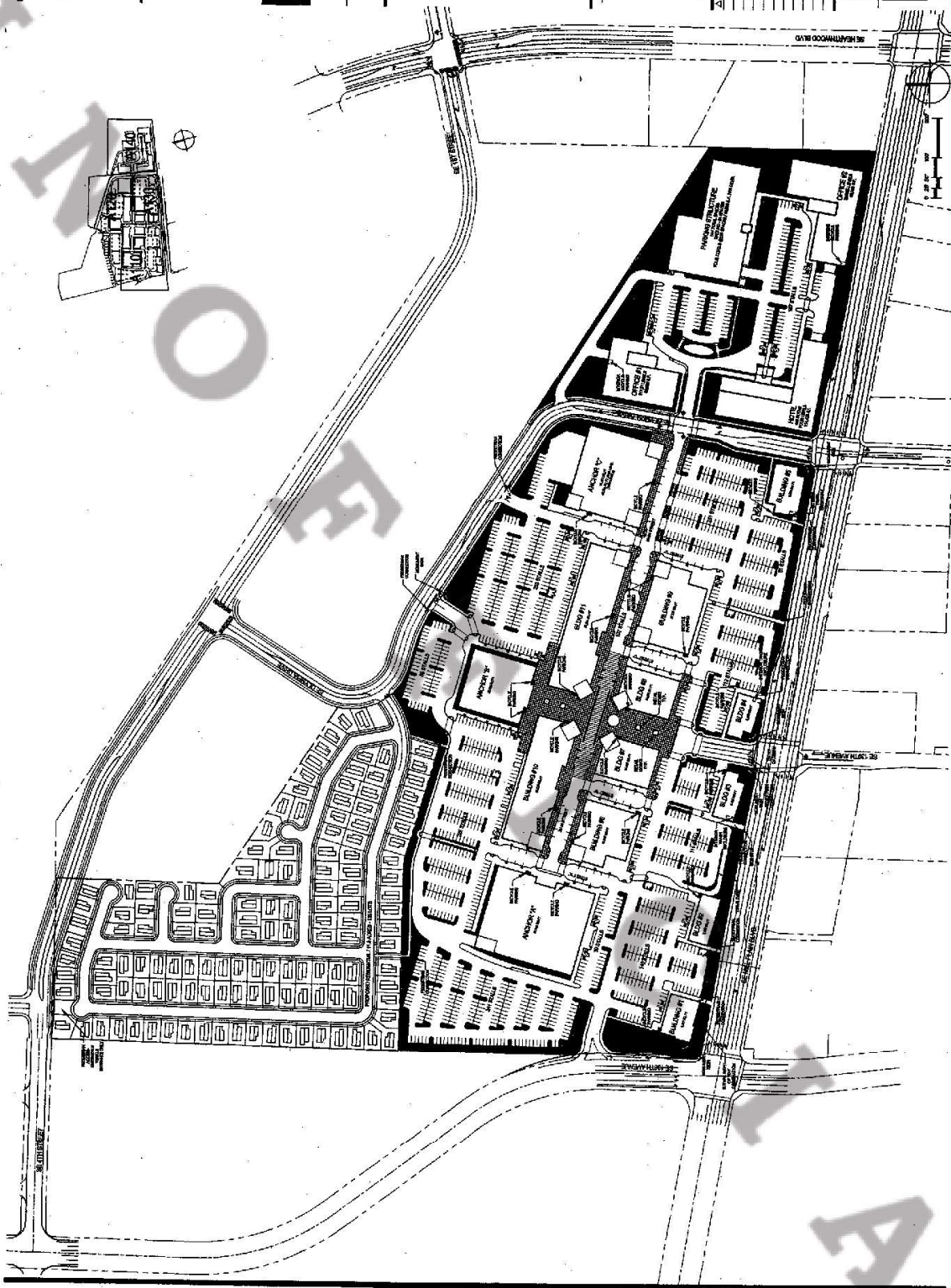
Clark Auditor Thu Dec 06 12:59:26 PST 2007 4401791 Page 8

That set of drawings and specifications relating to the Evergreen Landing Mixed Use Master Plan dated ____ day of ____ 2005 , which are on file with the City of Vancouver.

Exhibit 6
Page 1



NO.	DATE	DESCRIPTION
1	01/11/07	PRELIMINARY
2	02/14/07	REVISIONS TO PRELIMINARY
3	03/14/07	REVISIONS TO PRELIMINARY
4	04/11/07	REVISIONS TO PRELIMINARY
5	05/11/07	REVISIONS TO PRELIMINARY
6	06/11/07	REVISIONS TO PRELIMINARY
7	07/11/07	REVISIONS TO PRELIMINARY
8	08/11/07	REVISIONS TO PRELIMINARY
9	09/11/07	REVISIONS TO PRELIMINARY
10	10/11/07	REVISIONS TO PRELIMINARY



Chapter 20.430 COMMERCIAL AND MIXED USE DISTRICTS

Section 20.430.030 Uses.

A. Types of uses. For the purposes of this chapter, there are four kinds of use:

1. A permitted (P) use is one that is permitted outright, subject to all of the applicable provisions of this Title.
2. A limited (L) use is permitted outright providing it is in compliance with special requirements, exceptions or restrictions.
3. A conditional use (C) is a discretionary use reviewed through the process set forth in Chapters 20.245 VMC and 20.210 VMC, governing Conditional Uses and Decision-Making Procedures, respectively.
4. A prohibited use (X) is one that is not permitted in a zoning district under any circumstances.

B. Use table. A list of permitted, limited, conditional, and prohibited uses in the commercial and mixed use zones is presented in Table 20.430-1.

Table 20.430-1
Commercial and Mixed-Use Districts Use Table

USE	CN	CC	CG	CX	WX	CPX ¹	MX ²	OCI ³
RESIDENTIAL								
Household Living	L ⁴	L ⁴	L ⁴	L ⁵	L ⁵		P ⁶	L ⁴
Group Living	P/C ⁷	P/C ⁷	P/C ⁷	P/C ⁷	P/C ⁷		P ⁶	P ⁸ /X
Transitional Housing	X	C ⁹	L ⁹	L ⁹	C ⁹			P ⁸ /X
Home Occupation	L ¹⁰	L ¹⁰	L ¹⁰	L ¹⁰	L ¹⁰		L ¹⁰	L ¹⁰
CIVIC (Institutional)								
Basic Utilities	C	C	C	P	C		C	P
Colleges	X	C	C	P	C		P	X
Community Recreation	X	L ¹¹	L ¹¹	L ¹¹	L ¹¹		L ¹¹	L ¹¹
Cultural Institutions	X/C ¹²	P	P	P	P		P	X
Day Care								
Family Day Care Home	P/L ¹³	P/L ¹³	P/L ¹³	P/L ¹³	P/L ¹³		P/L ¹³	L ¹³
-Child Care Center	L ¹³	L ¹³	L ¹³	L ¹³	L ¹³		P/L ¹³	L ¹³
-Adult Day Care	P/C ¹⁴	P	P	P	P		P	P
Emergency Services	X	C	P	P	C		P	P
Human Service Facilities	L ⁹	L ⁹	L ⁹	L ⁹	L ⁹		L ⁹	L ⁹
Medical Centers	X	C	C	P	C		C	C
Parks/Open Space								
- Neighborhood Parks	P	P	P	P	P		P	P
- Community Parks	L/C ¹⁵	P	P	P	P		P	L/C ¹⁵
- Regional Parks	X	L/C ¹⁵	L/C ¹⁵	L/C ¹⁵	L/C ¹⁵		L/C ¹⁵	L/C ¹⁵

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- Trails	L/C ¹⁶	L/C ¹⁶	L/C ¹⁶	L/C ¹⁶	L/C ¹⁶	L/C ¹⁶	L/C ¹⁶
Postal Service	C	P	P	P	P	P	X
Religious Institutions	X	P	P	P	C	P	X
Schools	X	C	P	P	P	P	X
Social/Fraternal Clubs	C	L ¹¹	L ¹¹	L ¹¹	L ¹¹	L ¹¹	X
Transportation Facility	P	P	P	P	P	P	P/X ¹⁷
COMMERCIAL							
Commercial Lodging	X	C	P	P	L/C ¹⁸	L/C ¹⁸	X
Eating/Drinking Establishments	L ^{19/20}	P	P	P	P	P ²¹	L ²²
Entertainment-Oriented							
- Adult Entertainment	X	X	L ²³	X	X	X	X
- Indoor Entertainment	X	P/L ²⁴	P/L ²⁴	P/L ²⁴	P/L ²⁴	P/L ²⁴	X
- Major Event Entertainment	X	X	P	P	C	C	X
General Retail							
- Sales-Oriented	L ¹⁹	P	P	P ²⁵	P	P	P
- Personal Services	L ¹⁹	P	P	P	P	P ²¹	P
- Repair-Oriented	X	P	P	P	X	P	P
- Bulk Sales	X	P	P	P	X	P	X
- Outdoor Sales	X	C	P/L ²⁶	P/L ²⁶	X	P/L ²⁶	X
Motor Vehicle Related							
- Motor Vehicle Sales/Rental	X	X/C ²⁷	P	P	X	C ²⁷	X
- Motor Vehicle Servicing/Repair	X	L ²⁸	L ²⁸	L ²⁸	X	C ²⁸	X
- Vehicle Fuel Sales	X	L ²⁸	L ²⁸	L ²⁸	C	C ²⁸	X
- Elec. Vehicle Recharging Station	X	P	P	P	P	P	P
Office							
- General	L ¹⁹	P	P	P	P	P	P
- Medical	L ¹⁹	P	P	P	P	P	P
- Extended	X	P	P	P	X	X	P
Marina (See also VMC 20.760)	X	P	P	P	P	P	X
Non-Accessory Parking	X	C	C	C	C	C	X
Self-Service Storage	X	C	P	X	X	X	P
INDUSTRIAL							
Industrial Services	X	C	C	X	X	X	P ²⁹
Manufacturing and Production	X	C/X ³⁰	P/X ³¹	P/X ³¹	X	C/X ³²	P ²⁹
Railroad Yards	X	X	X	X	X	X	X
Research and Development	X	X	P	C	C	C	P
Warehouse/Freight Movement	X	X	X	X	X	X	X
Waste-Related	X	X	X	X	X	X	X
Wholesale Sales	X	X	C	C	X	X	P
OTHER							

Agriculture/Horticulture	X	X	X	X	X	X	X
Port/Airpark	X	X	X	X	X	X	X
Animal Kennel/Shelters	X	L ³³	L ³³	X	X	X	X
Cemeteries	X	C ³⁴	C ³⁴	C ³⁴	X	C ³⁴	X
Detention & Post Detention Facilities	X	X	C/X ³⁵	C/X ³⁵	X	X	X
Dog Day Care	L ³⁶	L ³⁶	L ³⁶	L	L ³⁶	L ³⁶	L ³⁶
Heliports	X	X	X	C ³⁷	C ³⁷	C ³⁷	C ³⁷
Mining	X	X	X	X	X	X	X
Rail Lines/Utility Corridors	C	P	P	P	C	C	P/X ³⁸
Temporary Uses	L ²⁶	L ²⁶	L ²⁶	L ²⁶	L ²⁶	L ²⁶	L ²⁶
Wireless Communication Facilities	X	U/C/X ³⁹	U/C/X ³⁹	U/C/X ³⁹	U/C/X ³⁹	U/C/X ³⁹	U/C/X ³⁹

1 See uses permitted in "A Park for Vancouver: A Concept Plan." (Ordinance M-2011)

2 Refer to Mixed Use standards in 20.430.060.

3 All uses locating in the OCI zone shall comply with the special use limitations of 20.430.040(E) VMC and 20.430.050(B) VMC. Development agreements in existence on the effective date of this ordinance shall control the uses and development standards of the affected properties. In order to protect the investments made in reliance upon such agreements, improvements made or site plans approved consistent with these agreements shall not be deemed non-conforming.

4 Must be located above the ground floor of the structure.

5 Must have a minimum density of 10 dwelling units/net acre.

6 Minimum residential density in the MX district is 12 dwelling units/acre.

7 Residential Care Homes with six or fewer residents and any required on-site staff permitted by right in housing above the ground floor; all larger group home uses are permitted conditionally.

8 Existing group living and transitional housing uses are permitted. New group living and transitional housing uses are prohibited.

9 Subject to provisions of Chapter 20.870 VMC Human Service Facilities.

10 Subject to the provisions of Chapter 20.860 VMC Home Occupations.

11 Subject to provisions of Section 20.895.040 VMC Community Recreation and Related Facilities.

12 Libraries only permitted outright; all other cultural institutions are conditional uses.

13 Family day care homes for no more than 12 children are permitted when licensed by the state. Child care centers (13 or more children) are Limited (L), subject to a Type II procedure in Chapter 20.210. Child care centers can also be approved as part of a Planned Development, VMC 20.260. In all cases child care centers must meet the standards outlined in Chapter 20.840 VMC.

14 In the CN zone, adult day care facilities for six or fewer adults allowed outright in the CN zone, all other facilities are permitted as conditional uses.

15 Community and regional parks that meet all of the criteria contained in Section 20.430.050(A)(1) and (2) VMC, respectively, are limited uses; all others require a Conditional Use.

16 Trails that meet all of the criteria contained in Section 20.430.050 (A)(3) VMC are limited uses; all others require

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a Type III Conditional Use.

Transportation facilities are permitted except for large or land-intensive facilities such as park-and-ride lots and water taxi and ferry stations.

18 Bed-and-breakfast establishments are allowed as limited uses, subject to the provisions in Chapter 20.830 VMC, and all other lodging allowed as conditional uses.

19 Limited uses subject to the development standards in Section 20.430.040(D) VMC.

20 Eating and drinking establishments are permitted only in conjunction with another permitted use on site. Exclusively or predominantly drive-through eating and drinking establishments are prohibited.

21 See Section 20.430.060(C)(1)(a)-(c) for provisions pertaining to drive-through facilities.

22 Limited uses subject to the development standards in Section 20.430.050(B) VMC.

23 Subject to provisions in Section 20.820 VMC Adult Entertainment.

24 Provisions in Section 20.895.060 VMC apply to Indoor Target Shooting Ranges.

25 Pawnshops allowed in CX and CG Districts only. No more than four (4) pawnshop establishments allowed in the CX District.

26 Subject to provisions in Chapter 20.885 VMC Temporary Uses.

27 Sales lots for passenger vehicles only will be allowed by conditional use subject to the following criteria: (a) the lot size is approximately 200' by 200', or 100' by 100' if a corner lot, though smaller lots will be considered if shown to meet all other requirements; (b) reviewed and approved by the City Transportation Manager for on-site circulation, access, and parking plan; (c) located on a primary arterial with average traffic in excess of 10,000 vehicle trips per day; (d) employee/customer parking is provided at a rate of one space plus an additional space per each 5,000 sq. ft. of lot area; (e) there is no vehicle display in setback areas, and all setbacks are landscaped rather than paved.

28 Subject to provisions in Section 20.895.070 VMC, Motor Vehicle Fuel Sales and Repair.

29 See 20.430.050(B) VMC below for clarification of permitted industrial services, manufacturing and production uses.

30 Micro-breweries and manufacturing of optical, medical and dental devices, goods, and equipment allowed by conditional use; all others prohibited.

31 Micro-breweries, bakeries, printing, publishing, binding, lithography, repair shops for tools, scientific/professional instruments and motors, and manufacturing of optical, medical and dental devices, goods, and equipment allowed outright; all others prohibited.

32 Micro-breweries allowed by conditional use; all others prohibited.

33 Subject to provisions in Section 20.895.020 VMC Animal Kennel/Shelters.

34 Subject to provisions in Section 20.895.030 VMC Cemeteries.

35 Secure Transition Facilities as per 20.855.020(B)(6)(a) are prohibited.

36 Subject to the provisions in Chapter 20.850 VMC Dog Day Care.

37 Subject to provisions in Section 20.895.080 VMC Private Landing Strips and Heliports. Airpark related uses are permitted in Pearson Airpark and Evergreen Airport only.

38 Prohibited within 200' of a residential zone.

Exhibit C
Page 9

tion 20.430.030 Uses.

³⁹ Subject to requirements in Chapter 20.890 VMC Wireless Telecommunications Facilities.

(M-3667, Amended, 09/13/2004, Prior Text; M-3663, Amended, 08/02/2004, Prior Text; M-3643, Added, 01/26/2004)

Exhibit 5

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CERTIFICATE OF CONCURRENCY

Exhibit 0
Page 1



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

www.ci.vancouver.wa.us

September 9, 2005

Randall B. Printz
Landerholm, Memovich, Lansverk
& Whitesides, P.S.
P.O. Box 1086
Vancouver, WA 98666-1086

The Landing at Evergreen
PRJ2004-02072; PSR2005-00026; CON2005-00058
CERTIFICATE OF CONCURRENCY

All projects submitted for review by the City of Vancouver require a certificate of concurrency, per VMC 11.95 and City Ordinances M-3354, M-3538, M-3536 and M-3537. Additionally, the applicant is required to submit a traffic study to assess the impact of the development to intersections serving the site per VMC 11.90 and VMC 11.95.

This applicant proposes to develop a multi-use commercial center consisting of approximately 315,500 square-feet of retail floor space, 25300 square-feet of restaurant space, 183,600 square-feet of office space, a 156-room hotel, and 135 residential units. The development site is located 13910 SE Mill Plain Boulevard. Based on submitted information the assessor's serial number is 1651670000. The project received technically complete status on June 30, 2005.

The following Average Daily Trips (ADT) and AM and PM peak hour vehicular trips are based on the traffic analysis dated May 2005 from Chris Brehmer, PE and Hermanus Steyn, PE from Kittelson & Associates. The trip generation is based on ITE Trip Generation Manual, 7th Edition, Land Use Codes 820; Shopping Center, 710; General Office, 310; Hotel, 230; Townhouses

Plan Period	Existing Trips	Adding Trips	Total Trips
ADT	6,535	6,535	13,070
AM Peak Hour	400	170	570
PM Peak Hour	550	740	1,290

The project is located within Mill Plain Blvd (136th Avenue to 164th Avenue) Transportation Management Zones (TMZs).

Corridor Name	Corridor Limits	Number of PM Peak Trips to Corridor	PAZ
Mill Plain Boulevard	SE 136 th Ave to SE 164 th Ave	676	268
Mill Plain Boulevard	I-205 to SE 136 th Avenue	206	
SE 136 th Avenue	Mill Plain Blvd to NE 28 th St	269	

Based on the submitted trip distribution the project will distribute trips to the following TMZs, where the project is not located within the TMZ.

Corridor Name	Corridor Limits	Number of PM Peak Trips to Corridor	PAZ
NE 18 th	112 th Ave to 138 th Ave	97	268
NE 18 th	138 th to 162 nd	0	
NE 28 th	112 th to 138 th	26	
NE 28 th	138 th to 162 nd	39	
Mill Plain Boulevard	Andresen to I-205	59	
Andresen Road	Mill Plain to SR 500	0	
Burton Road	18 th to 112 th	0	
NE 162 nd	1 st to Fourth Plain	58	
SE 164 th	SR 14 to 1 st	230	
NE 112 th	Mill Plain to 28 th	26	
NE 112 th	28 th to 51 st	7	

I. FINDINGS

The applicant has submitted a traffic analysis report for the proposed project dated May 2005, which includes a trip generation, distribution, level of service and safety analysis for impacted intersections. On Thursday, December 16, 2004, the applicant held a pre-application meeting with City staff. The pre-application staff report included a traffic study scoping from concurrency staff requiring a traffic study to evaluate the impact of the proposed development onto the affected City of Vancouver intersections and the concurrency corridors. The impacted concurrency corridors with operational models will be evaluated by the City as part of the concurrency model maintenance. The applicant, per the traffic study scoping, was required to complete a full intersection analysis for intersections outlined in the pre-application. The submitted traffic analysis completed the required analysis of the intersections as summarized in both reports.

Mill Plain Boulevard (I-205 to 136th Ave) Allocation Plan

Per the applicant's traffic studies, the proposed development will send 206 PM peak hour trips into the Mill Plain Boulevard Corridor (I-205 to NE 136th Avenue). The project is located within the Mill Plain Corridor (I-205 to 136th Ave.) TMZ, therefore, the project is subject to the allocation plan.

The City's Consultant, The Transpo Group, ran the concurrency model. The proposed allocation projects were evaluated using the Traffix and Synchro models from the 2004 City of Vancouver Concurrency analysis. The 2004 model included the forecasted growth and approved in-process developments for which concurrency certificates were issued in 2004. The future horizon year of the analysis was 2009 which included proposed trips from total of five proposed projects. Based on the model runs reflect information provided by the respective developers and engineers.

Concurrency Model Run Results

The detailed results were analyzed, included intersection performance, a review of the worst operating movement, and the corridor travel speeds. Where intersections or corridors do not meet current City of Vancouver standards, potential improvements have been identified. The following provides a short summary for each of the concurrency corridors.

The results of the concurrency analysis indicate that the number of intersections along the SE 164th Avenue corridor, including average travel speed standards along all corridor segments, is not met for the northbound or southbound directions in 2009. Therefore, additional improvements are required to improve the corridor travel speeds. These improvements are outlined in the attached spreadsheet. Additionally, two intersections along the Mill Plain Corridor and NE 137th Avenue/NE 49th Street exceed the intersection LOS standard. A review of the LOS worksheets for all study intersections, with the proposed allocation projects, indicates that some of the intersections are expected to exceed the maximum delay value by 2009. Potential improvements needed to correct these deficiencies were analyzed, including overlap phasing for the northbound, eastbound, and westbound right turn movements. A proportionate share method was developed to mitigate the impacts to the concurrency corridors. The amount of the mitigations is outlined in section "C" of this certificate. Outlined projects are in the City's 6-year TIP (Transportation Improvement Plans) considered as reasonably funded projects per provisions of VMC 11.95.100.

A. Level of Service (LOS)

The traffic studies included level of service (LOS) analysis for the impacted intersections with 10 or more PM peak trips for the non-concurrency intersections. The existing intersection LOS is shown in Figures 5 and 6 of the analysis. The 2007 background traffic conditions are shown in Figures 8. The 2005 to 2010 City of Vancouver

Transportation Improvement Program (TIP) identifies three intersections and several road improvements that are in the vicinity of the new development and the traffic studies for the 2007 background reflect these road and intersection improvements in their analysis. The study also has the LOS for 2007 background traffic, and the newly added traffic from the proposed project is shown in Figures 17, with the same LOS for the majority of the intersection as Figures 8. The analysis also includes LOS evaluation for the project's built-out condition in 2012, as shown in Figure 19. Two non-signalized intersections are projected to be at LOS "F". Two of the intersections that are failing are located at SE 7th St./NE 136th St. and SE 20th St/ SE 176th St. The LOS of the other impacted intersections is maintained at or above minimum LOS as outlined in the VMC 11.90. Therefore, City of Vancouver LOS standards are met for all impacted intersections, except for SE 20th Street /SE 176th Avenue, SE 15th Street/SE 166th Avenue, and SE 20th Street/McGillivray Boulevard, which are discussed in the traffic mitigation section of this certificate.

B. Accident Analysis

The submitted traffic impact analysis has evaluated the impacted intersection based on the crash history of the intersections for a period of five years. The analysis is shown on pages 22 and 23 in tables 2 and 3. A total of seventeen intersections' crash history have been evaluated; according to the Table 3, the analyzed intersections have a critical rate of accident below one accident per million entering vehicles (MEV) the intersection. For the analyzed intersections, no accident safety mitigation measures are recommended as part of this proposal.

C. Traffic Mitigations

The applicant's traffic analysis, as well as the City's model run for the concurrency corridors, have identified mitigations. The concurrency mitigations are discussed in the Concurrency model report findings. The traffic study has identified the following intersections for full mitigations and proportionate share mitigations. The applicant's traffic engineer has reviewed methodology and has concurred with the City.

- 1- **164th Ave /34th Street:** This intersection improvement is listed in the City's future capital improvements in the Traffic Impact Fee (TIF) program project list. The applicant is proposing to pay proportionate share based on the critical movement analysis. The City has reviewed the submitted calculations and agrees with \$70,945.95 proportionate mitigation share.
- 2- **Mill Plain Blvd/SE 139th Avenue:** The applicant will construct the signal as part of the development. The traffic signal shall be installed prior to issuance of the certificate of occupancy for the first phase of the development. The proposed new intersection will convert the existing Tee intersection to the south and will impact the existing driveway for the property located at south corner of Mill Plain Boulevard/SE 139th Avenue. The driveway would need to be moved to SE 139th Avenue with sufficient distance from the intersection. The intersection improvement also include a 150 feet westbound right turn

lane and eastbound and westbound left turn lanes 200 feet and 150 feet respectively for queuing storage.

- 3- **Mill Plain Blvd/136th Ave:** This intersection improvement is listed in the City's Six-Year capital improvements program project list. The applicant is proposing to pay proportionate share based on the critical movement analysis. The City has calculated with the proportionate share to be at \$512,962.96.
- 4- **Mill Plain Blvd/I-205 NB off-ramp:** This intersection improvement is listed in the City's future capital improvements. The applicant is proposing to pay proportionate share based on the critical movement analysis. The City has reviewed the submitted calculations and agrees with \$44,180.73 proportionate mitigation share.
- 5- **137th Ave/NE 49th Street:** This intersection improvement is listed in the City's future capital improvements. The applicant is proposing to pay proportionate share based on the critical movement analysis. The City has reviewed the submitted calculations and agrees with \$100,988.70 proportionate mitigation share.
- 6- **164th Ave/15th Street:** This intersection improvement is listed in the City's future capital improvements. The applicant is proposing to pay proportionate share based on the critical movement analysis. The City has reviewed the submitted calculations and agrees with \$41,188.96 proportionate mitigation share.
- 7- **164th Ave/McGillivray:** This intersection improvement is listed in the City's future capital improvements. The applicant is proposing to pay proportionate share based on the critical movement analysis. The City has reviewed the submitted calculations and agrees with \$41,538.46 proportionate mitigation share.
- 8- **164th Ave/12th Street:** This intersection improvement is listed in the City's future capital improvements. The applicant is proposing to pay proportionate share based on the critical movement analysis. The City has reviewed the submitted calculations and agrees with \$50,408.31 proportionate mitigation share.
- 9- **164th Ave/Mill Plain Blvd:** This intersection improvement is listed in the City's future capital improvements. The applicant is proposing to pay proportionate share based on the critical movement analysis. The City has reviewed the submitted calculations and agrees with \$88,047.48 proportionate mitigation share.

10- 164th Ave/20th Street: This intersection improvement is listed in the City's future capital improvements. The applicant is proposing to pay proportionate share based on the critical movement analysis. The City has reviewed the submitted calculations and agrees with \$16,842.61 proportionate mitigation share.

11- 164th Ave/1st Street: This intersection improvement is listed in the City's future capital improvements. The applicant is proposing to pay proportionate share based on the critical movement analysis. The City has reviewed the submitted calculations and agrees with \$46,344.96 proportionate mitigation share.

12- NE 18th St/112th Ave: This intersection improvement is listed in the City's future capital improvements. The applicant is proposing to pay proportionate share based on the critical movement analysis. The City has reviewed the submitted calculations and agrees with \$119,081.99 proportionate mitigation share.

13- Mill Plain & Olympia: Currently this intersection is Tee intersection, with the proposed project it will be modified to a four-legged intersection. Olympia Drive will be extended to the north as collector arterial to the north with connection to SE 1st Street. The intersection improvement also include a 150 feet westbound right turn lane and eastbound left turn lane with length of 200 feet for queuing storage.

14- SE 7th Street & SE 136th Avenue: The applicant's traffic engineer is recommending installation of a traffic signal at this intersection. According to the analysis completed in the traffic study, the intersection is project to be at LOS "F" and with a traffic signal the LOS improve to "A". The applicant shall pay their proportionate share toward mitigation of the intersection.

D. Site Plan Access Review

The applicant is proposing to construct two new public roads: SE Olympia Drive and SE 4th Street SE 1 Street connection. SE Olympia Drive and SE 4th Street SE 1 Street connection has been listed as a future collector arterial in the City Street Classification Map, adopted by the City Council on October 4, 2004 per Ordinance M-3469. The roadways will be posted with 25 MPH speed limit signs. The applicant will be required the required sight distance for driveway and access points for each parking lot.

The applicant is also proposing a right-in only access north of Mill Plain Boulevard & SE 136th Avenue intersection. Based on the preliminary site plans, the driveway will include a right turn lane. The applicant's shall show the ultimate location on the civil drawings of the right in right out driveway access.

E. Concurrency Modeling

The city will incur a modeling expense for evaluating the impact of the proposed development on the concurrency corridors. The following is the operational model corridor impacted by the development, and appropriate fees based on the submitted trip distribution. The fee is based on \$30.00 /PM peak hour trip entering the corridor. This expense shall be reimbursed to the City by the applicant prior to civil plan approval.

Corridor Name	Corridor Limits	Number of PM Peak Trips in Corridor	Concurrency Model Charge
18th	112th Ave to 138th Ave	97	\$1,500
28th	112th to 138th	26	\$780
28th	138th to 162nd	39	\$1,170
Mill Plain Boulevard	Andresen to I-205	59	\$1,500
Mill Plain Boulevard	I-205 to 136th	206	\$1,500
Mill Plain Boulevard	136th to 164th	676	\$1,500
164th/162nd	1st to Fourth Plain	58	\$1,500
164th/162nd	SR 14 to 1st	230	\$1,500
112th	Mill Plain to 28th	26	\$780
112th	28th to 51st	7	\$210
136th/138th	Mill Plain to 28th	269	\$1,500

The City completed a Concurrency model run analysis for the above project. There are a number of concurrency intersections that are impacted by the proposed development. The City has completed mitigation and proportionate share calculations and the applicant's proportionate share are calculated to be **\$1,132,531.11**. The applicant will be required to pay the amount as part of the concurrency corridors mitigations. The payment terms and payment schedule will be outlined in the developer's agreement with the applicant and the letter sent to the applicant dated September 8, 2005. In the absence of a developer's agreement the entire amount **\$1,132,531.11** would be due no later than June 30 of 2008.

F. Transportation Impact Fee (TIF)

The proposed project is located within the East City TIF Subarea, with the fee rate of \$207/ADT. Based on the ADT as calculated in the previous findings in this report, the TIF due at the time of building permit for all phases is **\$1,777,623.00**. See attached TIF calculation sheet.

The proposed project is also located within the Mill Plain - I-205 TIF Overlay which has a rate of \$10.00/ADT. The overlay TIF is also calculated based on the ADT information in the approved traffic study. The TIF overlay due at time of building permit issuance is **\$85,876.00** See attached TIF calculation sheet.

The total TIF due at the time building permit is **\$1,863,499.00**, (see attached TIF calculation sheet). As this is a multi-phased development; the applicant shall submit a

trip generation and a trip accounting for each phase during the building permit. The calculated TIF is vested until September 7, 2008. If any building permit is obtained after September 7, 2008, the TIF rate after applicable at September 7, 2008 will apply.

Although the pass-by and internal capture as shown is higher than typically allowed, the applicant has presented justifications to permit the pass-by and internal capture as shown in the TIF calculations sheets. This is intended to set a precedent.

G. Final Plat/Certificate of Occupancy

The proposed project is subject to VMC 11.95.120, which requires that the applicant obtain final plat/certificate of occupancy approval for all phases of the proposed project within 30 months from the issuance date of the certificate of concurrency and prior to permanently vesting the trips for the project. The applicant may apply for an additional 6-month extension if 50% of the required improvements are complete at the time of application.

The applicant has mentioned on obtaining a development agreement to extend the timeline for the concurrency trip vesting. Development agreements are subject to City Council approval.

II. CONCLUSIONS

This letter certifies that concurrency requirements can be met for the project with conditions, based on the traffic analysis submitted by the applicant. The following are the conditions that will apply to the project as part of this certificate of concurrency:

A. Prior to Civil Engineering Plan Approval:

- The applicant shall pay the model run and maintenance fees totaling \$13,440.00 for the modeling of the following transportation corridor

Corridor Name	Corridor Limits	Number of PMF Peak Trips to Corridor	Concurrency Model Run Fees
18th	112th Ave to 138th Ave	97	\$1,500
28th	112th to 138th	26	\$780
28th	138th to 162nd	39	\$1,170
Mill Plain Boulevard	Andresen to I-205	59	\$1,500
Mill Plain Boulevard	I-205 to 136th	206	\$1,500
Mill Plain Boulevard	136th to 164th	676	\$1,500
164th/162nd	1st to Fourth Plain	58	\$1,500
164th/162nd	SR 14 to 1st	230	\$1,500
112th	Mill Plain to 28th	26	\$780
112th	28th to 51st	7	\$210
136th/138th	Mill Plain to 28th	269	\$1,500

B. Prior to Issuance of Building Permit:

- The applicant shall submit a trip generation and trip accounting for each building for the purpose of TIF calculations at the time of building permit.
- The applicant shall pay the total Transportation Impact Fee (TIF) due of \$1,863,499.00; this amount includes the East City subarea TIF of \$1,777,623.00 and the Mill Plain TIF overlay of \$85,876.00. This calculate amount is good for the period of three years; September 7, 2008, where any building permit submitted and issued after this date the TIF will be calculated and assessed based on the applicable rate at the time of building permit application.

C. Prior to Final Plat Approval/ Issuance of Certificate of occupancy:

- The applicant shall pay their proportionate share toward the outlined intersections in the amount of \$1,138,039.11 as shown in Page 3 Executive Summary of the traffic study. The payment shall be in conformance to the letter sent to the applicant dated September 7, 2005 (please see attached copy).
- To permanently vest the trips for the project, the final plat approval/certificate of occupancy, for all phases of the project, shall be obtained 30 months from the issuance date of this certificate of concurrency or have an approved.
- Pay proportionate share toward mitigation of SE 7th Street & Se 136th Avenue intersection.
- Obtain an approved development agreement prior to February 8, 2008, in order to extend the concurrency trip vesting

Additional transportation improvements are required as part of site development review, per the City of Vancouver's Street Standards, including but not limited to VMC 11.90.020 (Abutting street - Frontage improvements - Traffic Signal Participation), VMC 11.90.060 (Sight Distances), and VMC 11.90.083 (Arterial-Residential Street Intersections).

Sincerely,



FOR

Thayer K. Rorabaugh
Manager of Transportation Services

cc Ahmad Qayoumi, PE, Concurrency Manager, Transportation Services
Tracy Tuntland, Engineering Supervisor, Development Review Services
Greg Turner, Case Manager, Development Review Services
Dave Perlick, Transportation Services
Jennifer Campos, Transportation Services
File Evergreen Landing, CON2005-00058



City of Vancouver Transportation Services
Trip and Traffic Impact Fee Calculation Worksheet

Project Name The Landing at Evergreen
 Project Address 13910 SE Mill Plain Boulevard
 Project Number PRJ2004-02072
 Concurrency Number CON2005-00058
 Type of Development Mixed/Multiple Use
 TIF District: East City
 TIF Overlay District: Mill Plain Boulevard Overlay

Date: September 12, 2005
 TC Date: April 14, 2005
 TAZ: 268
 Primary Corridor: Mill Plain Blvd. - 136th Ave. to 164th Ave.
 Parcel 1 ID: 1651670000
 Parcel 2 ID: _____
 Parcel 3 ID: _____
 Parcel 4 ID: _____

Existing Site Trips^^											
LU Description	ITE LU Code	Existing AM Peak Rate	Existing PM Peak Rate	Existing ADT Rate	Unit of Measure*	Size**		Existing AM Peak Trips	Existing PM Peak Trips	Existing ADT	
							Existing Trips Totals				
^^equals zero if this is a new development on greenfield or if old use has been gone > 1 year.								Existing Trips Total	0.00	0.00	0.00

^{^^} equals zero if this is a new development on greenfield or if old use has been gone > 1 year.

New Trip Generation Calculation											
LU Description	ITE LU Code	Am Peak Rate	PM Peak Rate	ADT Rate	Unit of Measure*	Size**	Trip Capture***	Passby reduction***	New AM Peak	New PM Peak	New ADT
Shopping Center 820	820					340800		34%	220.00	930.00	9890.00
General Office 710	710					183600	20%	n/a	245.00	230.00	1690.00
Hotel (rooms) 310	310					156	20%	n/a	55.00	65.00	820.00
Residential Condo/Townhome 230	230					135	20%	n/a	50.00	65.00	670.00
New Project Trips									670.00	1290.00	13070.00
Net New Project Trips (new trips - existing trips)									670.00	1290.00	13070.00

*Unit of Measure = ITE Unit by which total size is divided by in order to calc. trip generation

**Size = Total size of development, eg 10 dwelling units or 50,000 sqft.

***% reduction applied to trip generation, eg .35 passby reduction for 100 trips = $(1-.35) * 100 = .65 * 100 = 65$ - from approved traffic impact study only

****% reduction applied to trip generation, eg .10 internal capture reduction for 100 trips = $(1-.10) * 100 = .9 * 100 = 90$ - from approved traffic impact study only

Traffic Impact Fee Calculation									
LU Description	ITE LU Code	Proposed Project ADT	Net New Project ADT	TIF Rate/Trip	TIF Overlay rate/trip	BEF Reduction = .3 for retail commercial uses & ITE LU 912	Tax Reduction	TIF Due	Overlay TIF Due
Shopping Center 820	820	9890.00	9890.00	\$207	\$10	30%	15%	\$1,218,101.85	\$58,845.50
General Office 710	710	1690.00	1690.00	\$207	\$10	n/a	15%	\$297,355.50	\$14,365.00
Hotel (rooms) 310	310	820.00	820.00	\$207	\$10	n/a	15%	\$144,279.00	\$6,970.00
Residential Condo/Townhome 230	230	670.00	670.00	\$207	\$10	n/a	15%	\$117,886.50	\$5,695.00
Sum		13070.00	13070.00					TIF Totals: \$1,777,623	\$85,876

To Calculate Partial Fee Payments:

- Find the land use description that applies to the partial payment in the Trip Generation Table.
- Divide the size of the permit currently being applied for by the total size of that land use category.
- Multiply the TIF and the Overlay TIF Due for that land use by the result of Step 2. This is the partial fee due.

Comments: TIF fees were calculated using the ADT from the applicant's traffic study (May 2005).
 The Applicant shall submit new trip generation for each building. The TIF rate will be different after September 7, 2008 for any building permit. The rate will be the applicable rate after September 8, 2008.

District: <u>East City</u>	District TIF = <u>\$1,777,623</u>
Mill Plain Boulevard Overlay	Overlay TIF = <u>\$85,876</u>
	Total TIF = <u>\$1,863,499</u>

SF Dwellings Fee per SF DU		District Fee / Trip				
		District	Pre-2000 Fees	Fees (August 6, 2001)	Fees (Jan. 1, 2003)	New Fees (Jan. 1, 2005)
		Vancouver	\$23	\$101	\$108	\$114
		East City	\$113	\$181	\$192	\$207
		Evergreen	\$159	\$168	\$178	\$193
		Orchards	\$107	\$150	\$159	\$172
		Hazel Dell	\$142	\$148	\$157	\$170
		M.P. Overlay	\$10	\$10	\$10	\$10

Modelling Fees			
Corridor	PM Peak Trips	Cost /Trip	max. \$1600/corridor
NE 18th St.-112th Ave. to 138th Ave.	97	\$30	\$1,500
Mill Plain Blvd.-Andresen to I-205	59	\$30	\$1,500
Mill Plain Blvd.-I-205 to 136th Ave.	206	\$30	\$1,500
Mill Plain Blvd.-136th Ave. to 162nd Ave.	676	\$30	\$1,500
162nd Ave.-SE 1st to Fourth Plain Blvd.	58	\$30	\$1,500
164th Ave.-SE 1st to SR14	230	\$30	\$1,500
NE 112th Ave.-Mill Plain Blvd. to NE 28th St.	26	\$30	\$780
NE 112th Ave.-NE 28th St. to NE 51st St.	7	\$30	\$210
NE 136th Ave.-Mill Plain Blvd. to NE 28th St.	269	\$30	\$1,500
Total Modelling Fee =		\$13,440	

Total TIF = \$1,863,499

Total Modelling Fee = \$13,440

Calculated by: ASQ

Disclaimer: This information is provided based on the TIF program in place as of the date shown above and is only an estimate of the fee. The fee will be recalculated based on approved development dimensions and reflecting any changes to the TIF program that are applicable. Per VMC 20.97.060 B, ...for non-residential development, the impact fee shall be calculated at the time of site plan approval or building permit application if the proposed development is not sufficiently defined to permit such calculations. Notwithstanding the foregoing, the fee shall be re-calculated for building permit applications filed more than 3 years following the date of the applicable preliminary plat, preliminary short plat or site plan approval. See VMC 20.97 for more information. Note: TIF overlay fees can not be paid with TIF Credits from a district other than the TIF overlay district.

Transportation Services
1300 Franklin Street - 4th Floor
P.O. Box 1995
Vancouver, WA 98668-1995



Phone: (360) 696-8290
Fax: (360) 696-8588
www.ci.vancouver.wa.us

September 8, 2005

Randall B. Printz
Landerholm, Memovich, Lansverk
& Whitesides, P.S.
P.O. Box 1086
Vancouver, WA 98666-1086

**The Landing at Evergreen PRJ2004-02072; PSR2005-00026, CON20056-00058
Concurrency Corridor Mitigations
TIF Credit Process & Payment Schedule**

Dear Randy:

Pursuant to our meetings and communications, you have generally agreed to the proportionate contribution amount as calculated. This information regards the voluntary cost contribution and TIF credit eligibility for the number of intersections. Some of the improvements are TIF creditable and some are not. The intent of this letter is to provide additional information on memorializing how the proportionate share has been calculated, trip vesting, and a payment schedule.

The City performed a separate Concurrency Model run to determine the impact of the additional PM peak trips on the City Concurrency Corridors. The five large projects and to accommodate some future smaller developments needing the additional PM peak trips are included in Table 1:

Table 1

Project - Land Use	Weekday PM Peak Hour Project Trips		
	In	Out	Total
The Landing at Evergreen	550	740	1,290
Walt Musa Property	240	320	560
Mission Hills Phase III	68	175	243
Kirkwood 164 th Avenue	340	450	790
Columbia Tech Center	927	1,873	2,800
Future Growth & Other Smaller Projects*	450	450	900

**For the purpose of evaluation, these are the total trips entering the corridor, as opposed to site-generated trips.*

The City's Consultant, The Transpo Group, ran the concurrency model. The proposed allocation projects were evaluated using the Traffix and Synchro models from the 2004 City of Vancouver Concurrency analysis. The 2004 model included the forecasted growth and approved in-process developments for which concurrency certificates were issued in 2004. The future horizon year of the analysis was 2009. Based on the model runs reflect information provided by the respective developers and engineers. The trips from the aforementioned proposed developments were added on the year 2009 model.

Concurrency Model Run Results

The detailed results were analyzed, included intersection performance, a review of the worst operating movement, and the corridor travel speeds. Where intersections or corridors do not meet current City of Vancouver standards, potential improvements have been identified. The following provides a short summary for each of the concurrency corridors.

The results of the concurrency analysis indicate that the number of intersections along the SE 164th Avenue corridor, including average travel speed standards along all corridor segments, is not met for the northbound or southbound directions in 2009. Therefore, additional improvements are required to improve the corridor travel speeds. These improvements are outlined in the attached spreadsheet. Additionally, two intersections along the Mill Plain Corridor and NE 137th Avenue/NE 127th Avenue intersection LOS standard. A review of the LOS proposed allocation projects, indicates that some maximum delay value by 2009. Potential improvements were analyzed, including overlap phasing for turn movements.

SE 164th Avenue/NE 127th Avenue intersection has assigned an estimated engineering cost to each project. These costs are calculated in two ways:

- 1- **Regionally Significant Intersections:** There are three intersections that fit within this category: Mill Plain Boulevard/ I-205 NB off Ramp, SE 164th Avenue/SE 1st Street, and NE 18th Street/NE 112th Avenue. The trip rates are calculated based on the total volumes divided by the estimated cost.
- 2- **Locally Significant Intersections:** These are the rest of the intersections that are listed in the attached spreadsheet. They are calculated based on the impact of total new trips from the proposed six developments and future projects, divided by the total cost of the improvements.

The following table indicates the total amount due for each project and the amount of TIF creditable amounts as shown in Table 2:

Table 2

Project Name	Total \$ Contribution	TIF Amount in East City District	TIF Amount in Evergreen District	Total Non-TIF Creditable
Opus Project Trips	\$1,132,531.11	\$740,967.81	\$173,576.08	\$217,987.22
Kirkwood 164th Retail	\$329,466.86	\$16,666.67	\$15,536.72	\$297,263.47

Walt Musa Property	\$1,249,924.18	\$983,552.63	\$217,514.12	\$48,857.43
CTC	\$1,350,708.99	\$68,518.52	\$97,104.52	\$1,185,085.95
Mission Hills	\$312,951.00	\$156,927.87	\$115,598.62	\$40,424.51
Other Projects & 5-Year Growth	\$3,586,453.00	\$1,059,291.87	\$990,467.32	\$1,536,693.90
Totals	\$7,962,035.39	\$3,025,925.37	\$1,609,797.39	\$3,326,312.63

As each project for your site is submitted for review and approval, the staff report will include TIF charges due, and the TIF rate will be the same for three years. After three years the TIF rate will be adjusted to the applicable rate at the time of building permit issuance. You are required to pay TIF prior to the issuance of a building permit for each single family lot. The TIF can be paid using TIF credits.

The City provides the following payment schedule in Table 3:

Table 3

Project Name	Payment #1 20%, June 30, 2006	Payment #2 30%, June 30, 2007	Payment #3 50%, June 30, 2008	Total \$ Contribution
Opus Project Trips	\$226,506.22	\$339,759.33	\$566,265.56	\$1,132,531.11
Kirkwood-164th Retail	\$65,893.37	\$98,840.06	\$164,733.43	\$329,466.86
Walt Musa Property	\$249,984.84	\$374,977.25	\$624,962.09	\$1,249,924.18
CTC	\$270,141.80	\$405,212.70	\$675,354.50	\$1,350,708.99
Mission Hills	\$62,590.20	\$93,885.30	\$156,475.50	\$312,951.00
Other Projects & 5-Year Growth	\$717,290.60	\$1,075,935.90	\$1,793,226.50	\$3,586,453.00
Total	\$1,592,407.08	\$2,388,610.62	\$3,981,017.70	\$7,962,035.39

1. The applicant will need to pay the amount as outlined in the table above.
2. Please make the payment to the City of Vancouver. Payments can be made in person at the City's Finance Services, 610 Esther Street.
3. Upon payment of the aforementioned amount, please submit a copy of the payment receipt, with a formal request for TIF credits for the amount listed in Table 2, to City of Vancouver Transportation Services as per VMC 20.915.
4. The City will issue a formal TIF credit letter and the City's Finance Department will establish a TIF credit account and an account number for your project, which will track the TIF credit amount for each project.
5. As your client or your client's designee applies for building permits for each lot, they can pay the TIF through TIF credits, using the TIF credit account number issued by the City.

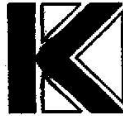
6.

If you have any questions let me know at 360-696-8290 x8479 or
ahmad.qayoumi@ci.vancouver.wa.us.

Sincerely,

Thayer K. Rorabaugh
Manager of Transportation Services

cc: Ahmad Qayoumi, P.E., Concurrency Manager, Transportation Services
Matt Ransom, Transportation Planning Manager, Transportation Services
Tracy Tuntland, Engineering Supervisor, Development Review Services
Amy Drought, Case Manager, Development Review Services
Gerald Baugh, Economic Development, CMO
Jim McNamara, Assistant City Attorney, Law Department
Dave Perlick, Transportation Services



KITTELSON & ASSOCIATES, INC.

TRANSPORTATION PLANNING/TRAFFIC ENGINEERING

610 SW ALDER, SUITE 700 • PORTLAND, OR 97205 • (503) 228-5230 • FAX (503) 273-8169

May 31, 2005

Project #: 6302

Ahmad Qayoumi
City of Vancouver Transportation Services
1300 Franklin Street, 4th Floor
Vancouver, WA 98666

**RE: *The Landing at Evergreen Request for Certificate of Concurrency –
Vancouver, Washington***

Dear Ahmad,

This letter is intended to formally request a Certificate of Concurrency for the proposed Landing at Evergreen to be located on the Northeast Quadrant of the SE Mill Plain Boulevard/SE 136th Avenue intersection in the City of Vancouver, Washington. The new development is expected to be built-out and occupied in 2007.

The corresponding Transportation Analysis Zone (TAZ) for the site is zone number 268, and the following are the affected Transportation Management Zones (TMZ) identified in the Transportation Impact Analysis:

- St. Johns Boulevard (Fourth Plain Boulevard to NE 78th Street)
- NE Andresen (Mill Plain Boulevard to NE 78th Street)
- NE 112th Avenue (Mill Plain Boulevard to NE 51st Street)
- NE 136th/138th Avenue (Mill Plain Boulevard to NE 28th Street)
- NE 162nd/164th Avenue (SR 14 to Fourth Plain Boulevard)
- NE 192nd Avenue (SR 14 to NE 18th Street)
- E Fourth Plain Boulevard (I-5 to I-205)
- NE 18th Street (112th Avenue to 162nd Avenue)
- NE Burton Road (Andresen to NE 112th Avenue)
- NE 28th Street (NE 112th Avenue to 162nd Avenue)
- SE Mill Plain Boulevard (Andresen to 164th Street)

The proposed development is estimated to generate approximately 13,070 net new weekday daily trips. Of these trips, 1,290 are expected during the weekday p.m. peak hour (550 in, 740 out).

Recommended transportation mitigation measures identified in the May 2005 transportation impact analysis prepared for the project include:

Clark Auditor Thu Dec 06 12:59:26 PST 2007 4401791 Page 32

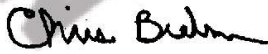
- The SE Mill Plain Boulevard/SE 139th Street-Site Access intersection should be reconfigured and signalized.
 - The southbound approach to the intersection should be striped to provide a separate left-turn lane with at least 160 feet of storage as well as separate through and right-turn lanes.
 - The northbound approach to the intersection should be striped as a shared left/through/right-turn lane.
 - A 150-foot westbound right-turn lane should be constructed with a 104-foot transition as per City of Vancouver Standard Drawing T04-05.
 - An eastbound left-turn lane with 200 feet of storage should be constructed.
 - A westbound left-turn lane with at least 150 feet of storage should be constructed.
- The SE Mill Plain Boulevard/SE Olympia Drive intersection should be reconstructed.
 - The southbound approach to the intersection should be striped to provide a separate left-turn lane with 175 feet of storage as well as separate through and right-turn lanes.
 - A 150-foot westbound right-turn lane should be constructed with a 104-foot transition as per City of Vancouver Standard Drawing T04-05.
 - An eastbound left-turn lane with 200 feet of storage should be constructed.
- A new connection of NE 4th Street/SE 1st Street should be constructed from the existing east terminus of NE 4th Street to the west terminus of SE 1st Street. The new roadway will feature a 60-foot right-of-way and a pavement width of 44 feet (5-foot bike lanes, 11-foot through lanes, and 12-foot center turn lane) as directed by the City of Vancouver.
- A single-lane roundabout should be constructed at the intersection of SE Olympia Drive extension with NE 4th Street/SE 1st Street connection.
- A single-lane roundabout should be constructed at the SE 1st Street/SE Hearthwood Boulevard intersection.
- A northbound right-turn lane should be constructed at the right-in/right-out site-access driveway on SE 136th Avenue. The new 75-foot long turn-lane should include a 104-foot transition as per City of Vancouver Standard Drawing T04-05.
- In the interim, the right-in/right-out site-access driveway on SE 136th Avenue should be designed with the appropriate geometry, signing and striping to discourage left-turns at this unsignalized intersection. As part of the City's improvement project at the SE Mill Plain Boulevard/SE 136th Avenue intersection, a raised median should be installed on SE 136th Avenue between SE Mill Plain Boulevard and a point 50 feet north of the new right-in/right-out site-access driveway to properly restrict turning movements at this driveway.
- Based upon the City of Vancouver's concurrency corridor analysis, the City has identified this project's proportionate impacts to various transportation facilities within identified corridors. The City has also identified specific mitigation measures (improvements) that will adequately mitigate this, and other, projects', impacts to the

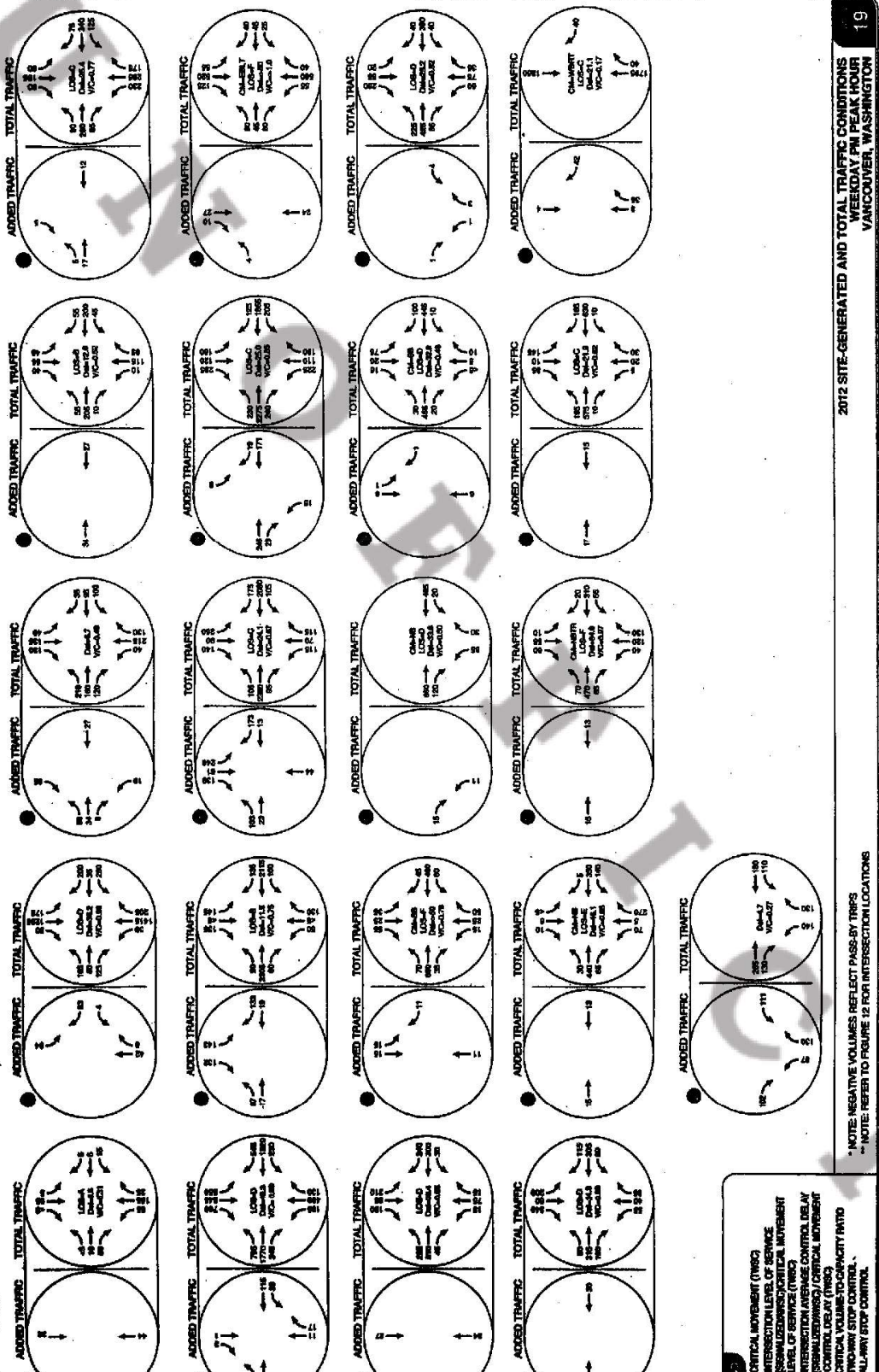
those transportation facilities. Finally, the City has determined that these facilities are reasonably funded and has calculated this project's proportionate financial contribution to those facilities. The amount of contribution requested by the City is \$1,138,039.11. The specific funded improvements include:

- SE 164th Avenue/SE 34th Street intersection: Install right-turn overlap phasing on all approaches feasible and add both a southbound right-turn lane and an eastbound right-turn lane.
- SE Mill Plain Boulevard/SE 136th Avenue intersection: Construct dual left-turn lanes on the northbound and southbound approaches, a second southbound through lane, a westbound right-turn lane, and implement right-turn overlap phasing on the southbound and westbound approaches.
- SE Mill Plain Boulevard/I-205 Northbound off-ramp: Construct a third northbound right-turn lane and a second eastbound left-turn lane.
- SE 137th Avenue/NE 49th Street intersection: Construct a roundabout.
- SE 164th Avenue/SE 15th Street intersection: Provide northbound right-turn overlap phasing, convert eastbound and westbound left-turn lanes to protected/permissive phasing, and add a second southbound left-turn lane.
- SE 164th Avenue/SE McGillivray Boulevard intersection: construct a northbound right-turn lane and operate with overlap phasing.
- SE 164th Avenue/SE 12th Street intersection: Construct a northbound right-turn lane with overlap phasing and convert eastbound and westbound left-turn lanes to protected/permissive phasing.
- SE 164th Avenue/SE Mill Plain Boulevard intersection: Construct northbound, southbound, and westbound right-turn lanes and operate each with overlap phasing.
- SE 164th Avenue/SE 20th Street intersection: Provide westbound right-turn overlap phasing.
- SE 164th Avenue/SE 1st Street intersection: Construct a northbound right-turn lane with overlap phasing and add a second southbound left-turn lane.
- NE 18th Street/NE 112th Avenue intersection: Construct a grade-separated interchange.
- SE 7th Street/SE 136th Avenue intersection: Install a traffic signal.
- Any new landscaping and/or above-ground utilities installed along the site frontage and internal roadways should be properly located and maintained to ensure adequate sight distance is available.

If any additional information should be required to process this request, please call us at (503) 228-5230.

Sincerely,
KITTELSON & ASSOCIATES, INC.


Chris Brehmer, P.E.
Associate Engineer

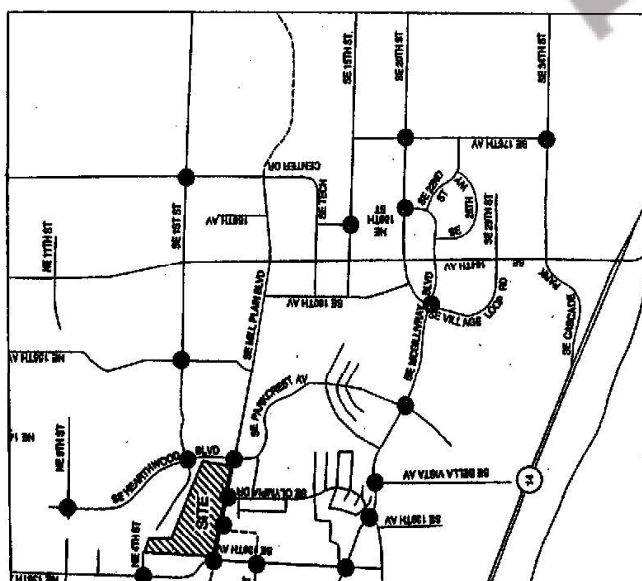
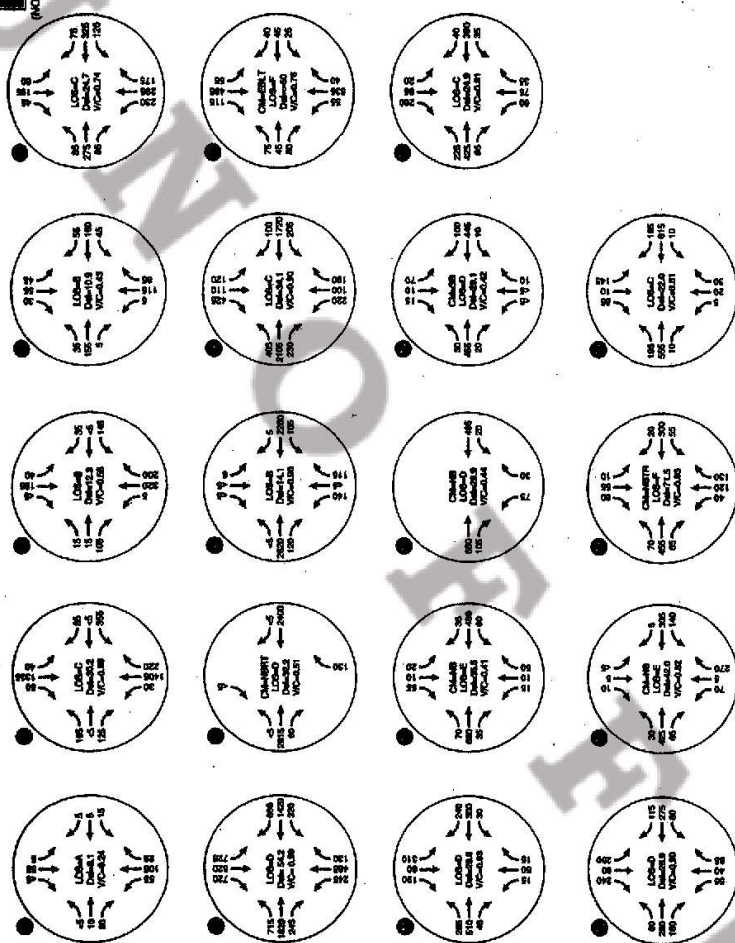


2012 SITE-GENERATED AND TOTAL TRAFFIC CONDITIONS
WEEKDAY PM PEAK HOUR
VANCOUVER, WASHINGTON

* NOTE: NEGATIVE VOLUMES REFLECT PASSBY TRIPS
** NOTE: REFER TO FIGURE 12 FOR INTERSECTION LOCATIONS

CRITICAL MOVEMENT (TRIP)
LEVEL OF SERVICE
CRITICAL MOVEMENT
LEVEL OF SERVICE (TRIP)
INTERSECTION AVERAGE CONTROL DELAY
(SIGNAL/DELAY) / CRITICAL MOVEMENT
CONTROL DELAY (TRIP)
CRITICAL MOVEMENT TO CRITICALITY RATIO
CRITICALITY STOP CONTROL
ALL-ANY STOP CONTROL

NOTES: 1. ALL-ANY STOP CONTROL
2. CRITICALITY STOP CONTROL
3. CRITICALITY TO CRITICALITY RATIO
4. CRITICAL MOVEMENT TO CRITICALITY RATIO
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19. CRITICAL MOVEMENT TO CRITICALITY RATIO
20. CRITICAL MOVEMENT TO CRITICALITY RATIO



CM = CRITICAL MOVEMENT (INCH)
LOS = INTERSECTION LEVEL OF SERVICE
(GENERALIZED/CRITICAL MOVEMENT
LEVEL OF SERVICE) (INCH)
DMA = INTERSECTION AVERAGE CONTROL DELAY
(GENERALIZED/CRITICAL MOVEMENT
CONTROL DELAY) (INCH)
V/C = CRITICAL VOLUME-TO-CAPACITY RATIO
WST = TWO-WAY STOP CONTROL
ALL-WAY STOP CONTROL

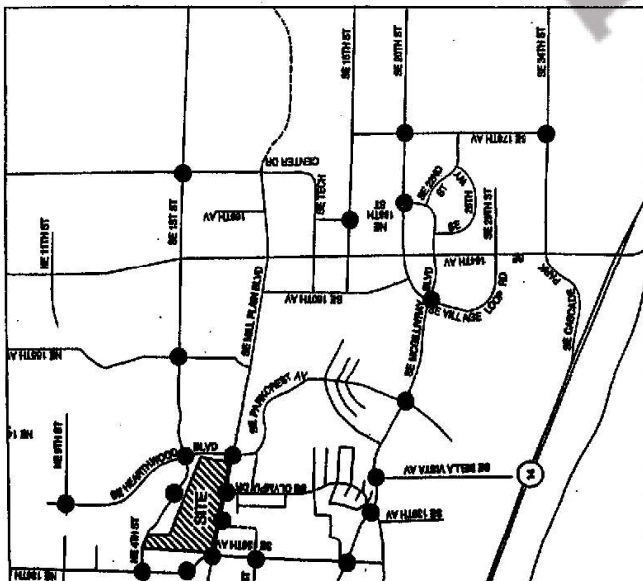
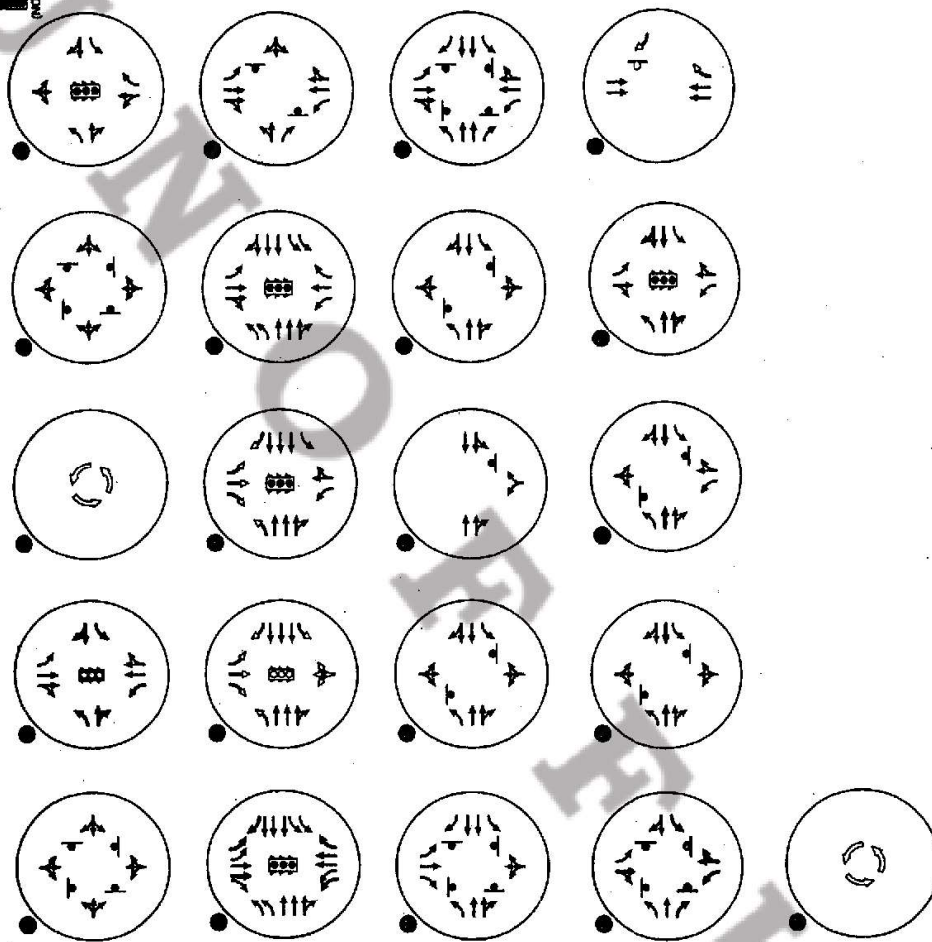
KITTELSON & ASSOCIATES, INC.

**2012 BACKGROUND TRAFFIC CONDITIONS
WEEKDAY PM PEAK HOUR
VANCOUVER, WASHINGTON**

88



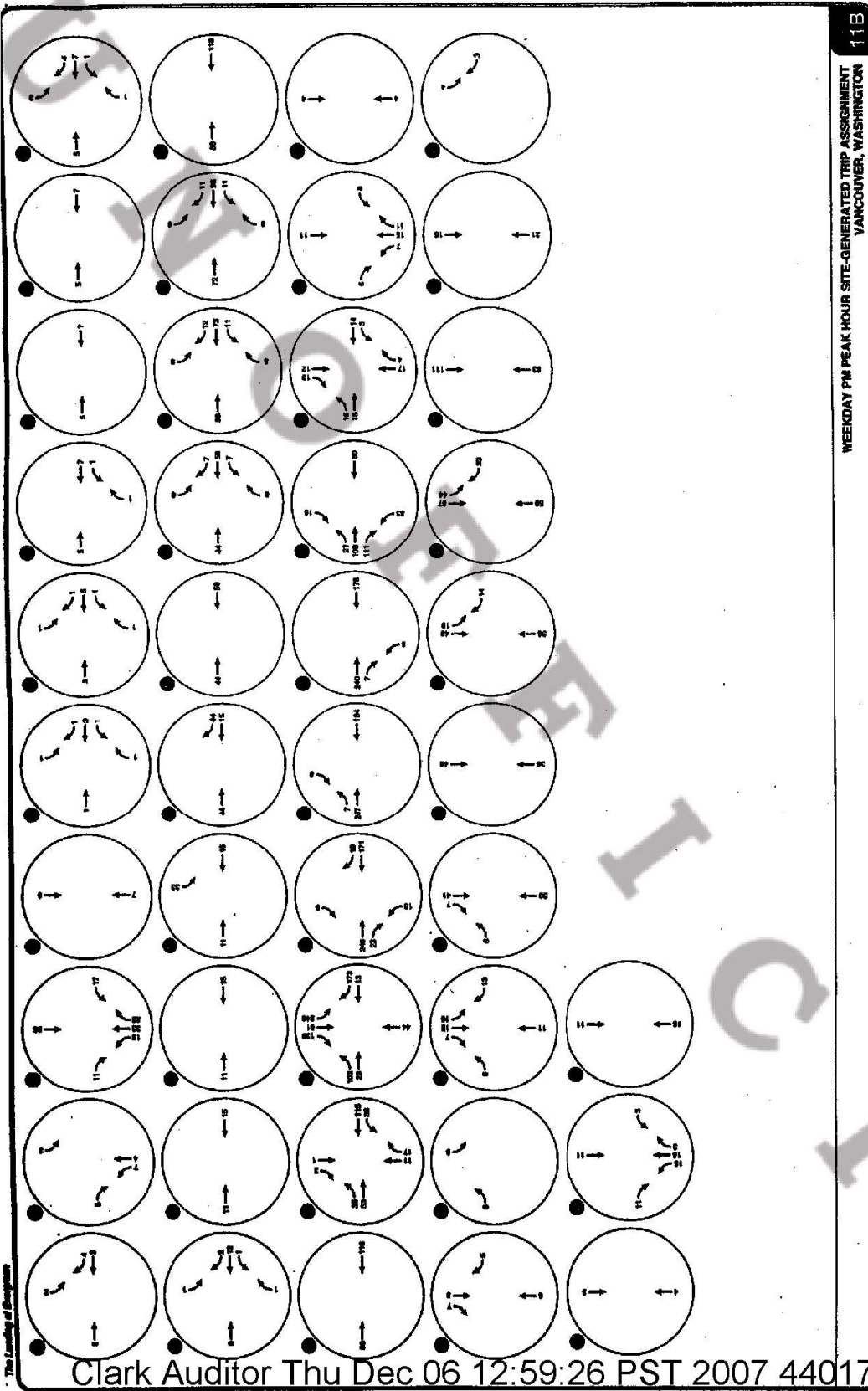
2
(NO SCALE)



- BACKGROUND IMPROVEMENT
- PROPOSED IMPROVEMENT
- STOP SIGN
- TRAFFIC SIGNAL
- MODERN ROUNDABOUT

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TRANSPORTATION ENGINEERING

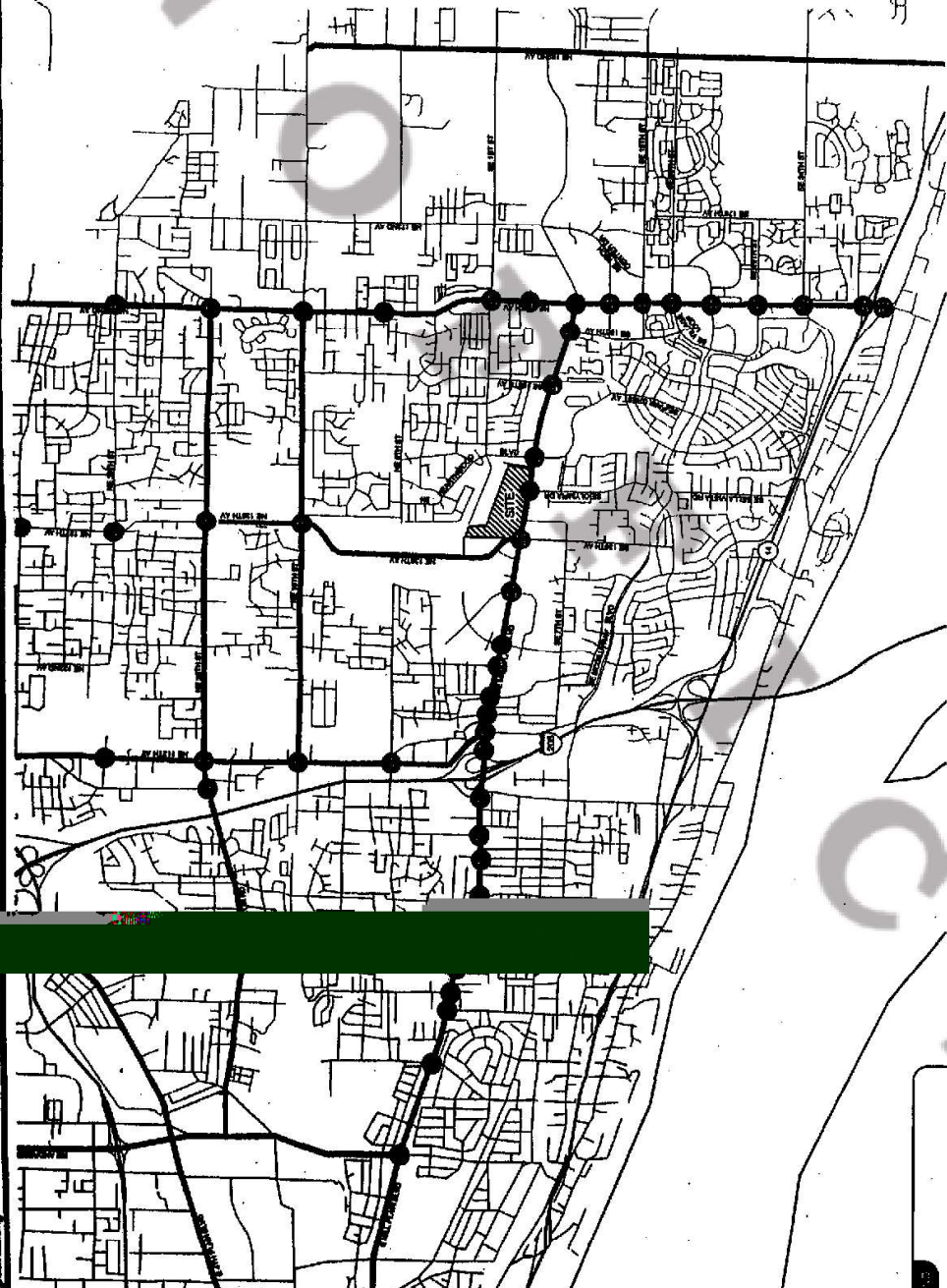
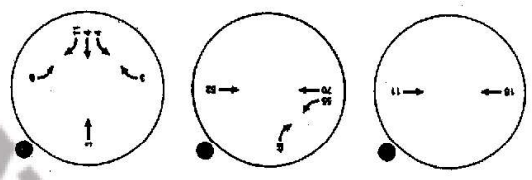
16
PROPOSED LANE CONFIGURATIONS
AND TRAFFIC CONTROL DEVICES
VANCOUVER, WASHINGTON



WEEKDAY PM PEAK HOUR SITE-GENERATED TRIP ASSIGNMENT
VANCOUVER, WASHINGTON
11B

MITTELSON & ASSOCIATES, INC.
TRANSPORTATION ENGINEERING

Clark Auditor Thu Dec 06 12:59:26 PST 2007 4401791 Page 40

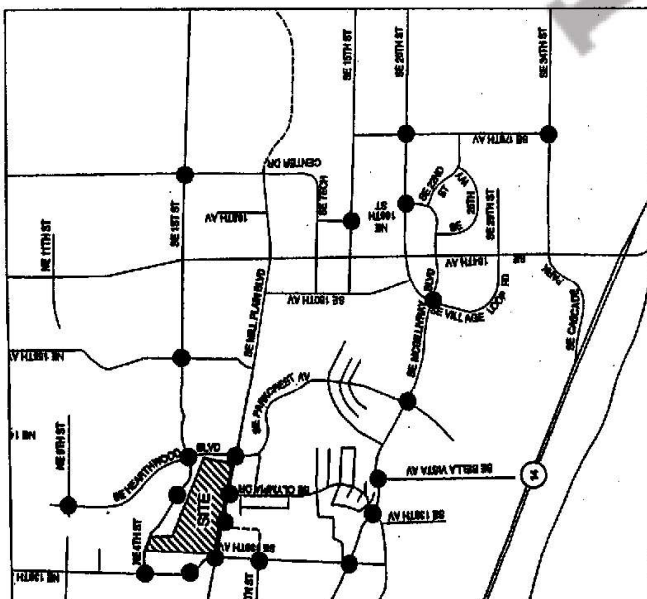
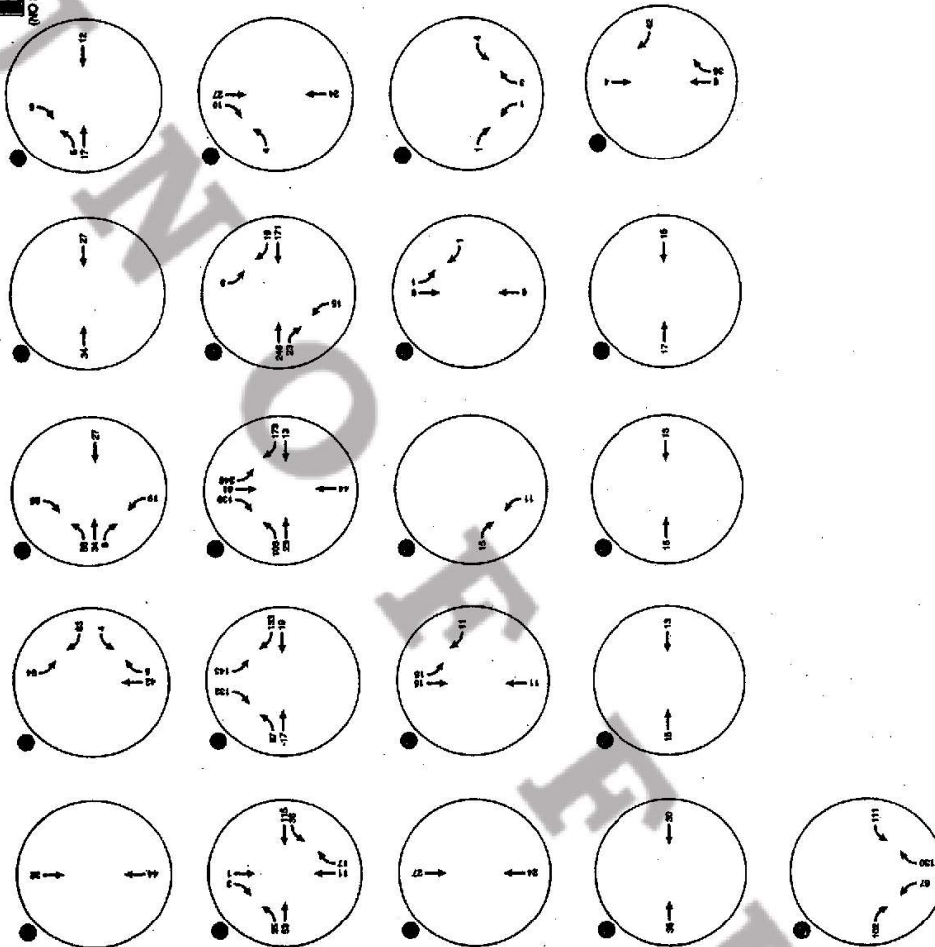


The Landing at Evergreen
WEEKDAY PM PEAK HOUR SITE-GENERATED TRIP ASSIGNMENT
VANCOUVER, WASHINGTON 11A

STUDY INTERSECTION
CONCURRENCY CORRIDOR

WITTELSON & ASSOCIATES, INC.
TRANSPORTATION PLANNING & ENGINEERING

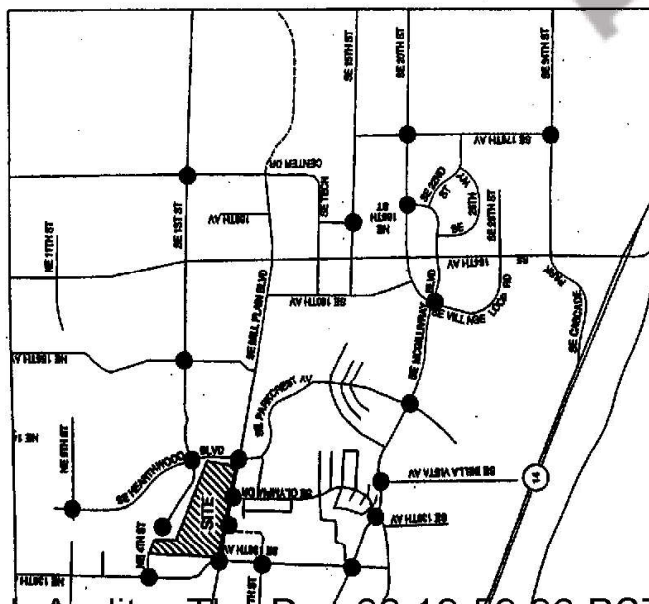
May 2005



10
SITE-GENERATED TRAFFIC CONDITIONS
WEEKDAY PM PEAK HOUR
VANCOUVER, WASHINGTON

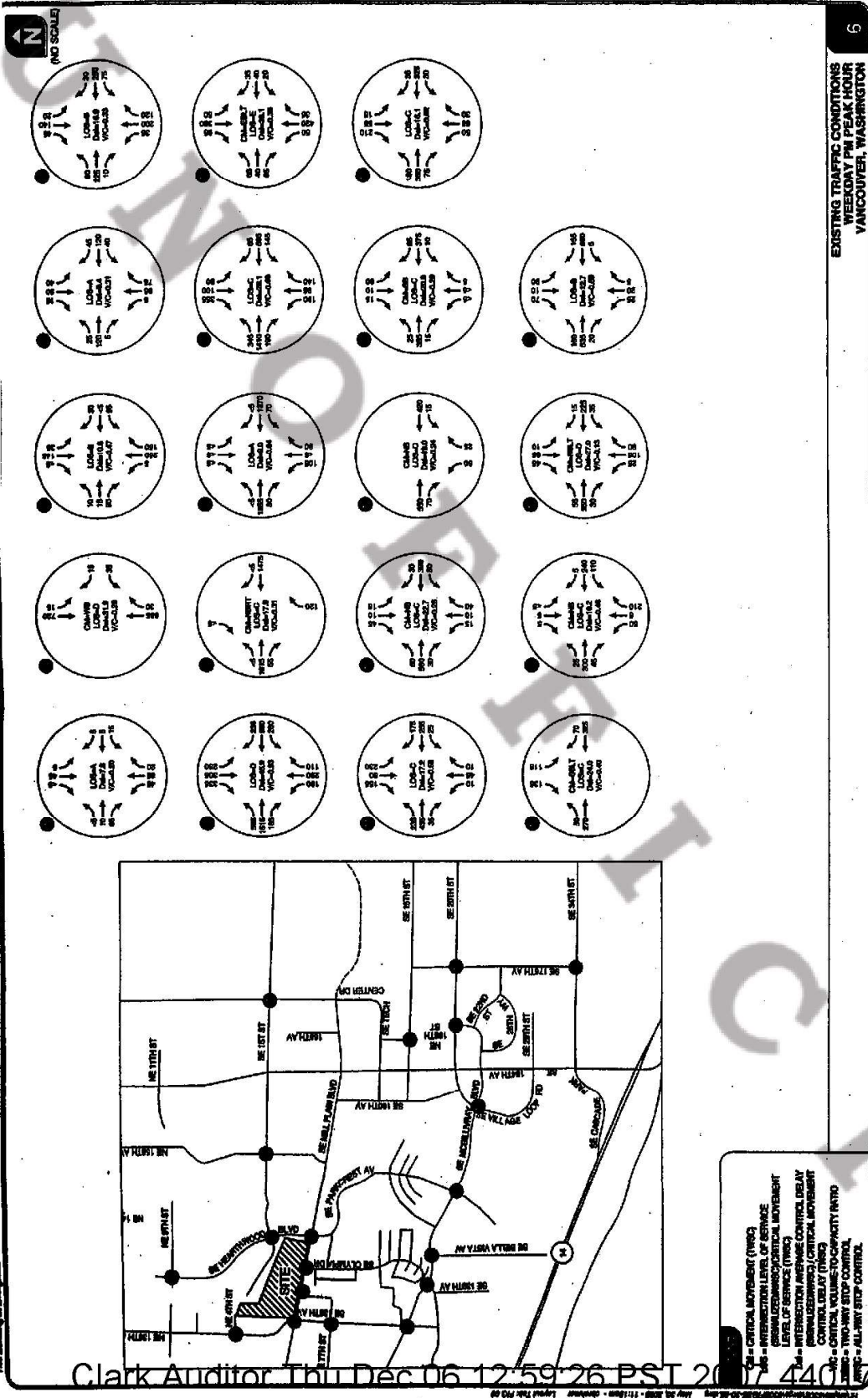
NOTE: NEGATIVE VOLUMES REFLECT PHOS-BY TRIPS

WATSON & ASSOCIATES, INC.
TRANSPORTATION ENGINEERING



KUTLER, SON & ASSOCIATES, INC.

**2007 BACKGROUND TRAFFIC CONDITIONS
WEEKDAY PM PEAK HOUR
VANCOUVER, WASHINGTON**



Summary of Weekday PM Peak Hour Intersection Operational Analysis Findings: Signalized and All-Way Stop-Controlled (AWSC) Intersections

Intersection	Time of Day	Year 2006 Existing Traffic			Year 2007 Background Traffic			Year 2007 Traffic With Site			Year 2012 Traffic With Site		
		V/C	Delay	LOS	V/C	Delay	LOS	V/C	Delay	LOS	V/C	Delay	LOS
SE Mill Plain Boulevard/ SE 130 th Avenue	PM Peak	0.93	46.9	D	0.93	46.9	D	0.98	46.4	D	0.99	49.3	D
SE Mill Plain Boulevard/ SE 130 th Avenue (Site access)*	PM Peak	SEE UNSIGNALIZED INTERSECTION RESULTS			SEE UNSIGNALIZED INTERSECTION RESULTS			0.73	11.2	B	0.75	11.5	B
SE Mill Plain Boulevard/ SE Olympic Drive (Site access)	PM Peak	0.64	9.0	A	0.64	9.0	A	0.85	23.6	C	0.85	25.0	C
SE Mill Plain Boulevard/ SE Olympic Drive (Site access)	PM Peak	0.69	28.1	C	0.69	28.1	C	0.82	23.4	C	0.87	24.1	C
SE Mill Plain Boulevard/ SE Heathwood Boulevard	PM Peak	SEE UNSIGNALIZED INTERSECTION RESULTS			SEE UNSIGNALIZED INTERSECTION RESULTS			0.94	34.6	C	0.96	36.2	D
NE 4 th Street/ NE 130 th Avenue	PM Peak	0.47	10.8	B	0.47	10.8	B	0.47	6.4	-	0.49	6.7	-
SE 14 th Street/ SE Heathwood Boulevard	PM Peak	0.20	7.8	A	0.20	7.8	A	0.29	8.4	A	0.31	8.6	A
NE 9 th Street/ NE Heathwood Boulevard	PM Peak	0.31	6.4	A	0.31	6.4	A	0.47	11.6	B	0.52	12.6	B
SE 14 th Street/ SE 130 th Avenue	PM Peak	0.33	16.9	B	0.33	16.9	B	0.70	23.5	C	0.77	26.4	C
SE 14 th Street/ SE 172 nd Avenue	PM Peak	0.68	17.2	C	0.74	22.6	C	0.76	23.6	C	0.86	30.4	D
SE 14 th Street/ SE 172 nd Avenue	PM Peak	0.62	16.1	C	0.72	19.8	C	0.72	20.0	C	0.82	26.2	D
SE 10 th Street/ SE Village Loop Road	PM Peak	SEE UNSIGNALIZED INTERSECTION RESULTS			0.81	22.4	C	0.89	27.1	D	0.96	34.3	D
SE 10 th Street/ SE Tech Center Phase	PM Peak	0.59	12.7	B	0.56	21.5	C	0.57	21.3	C	0.62	21.9	C
SE 10 th Street/ SE 170 th Avenue	PM Peak												

LOS: Level of Service
V/C: Volume/Capacity Ratio
Delay: Intersection control delay (in seconds) for signalized and all-way stop-controlled intersections, critical movement delay (in seconds) for unsignalized intersections.
* Reported "with alter" operations reflect provision of a new roundabout intersection. Level of service was calculated based on the methodology presented in FHWA document, Roundabout: An Informational Guide.

Summary of Weekday PM Peak Hour Intersection Operational Analysis Findings: Unsignalized Intersections¹

Intersection	Time of Day	Year 2008 Existing Traffic				Year 2007 Traffic With Site				Year 2012 Traffic With Site			
		W/O	Delay	LOS	W/O	Delay	LOS	W/O	Delay	W/O	Delay	LOS	W/O
SE Mill Plain Boulevard/ SE 13th Avenue (Rth access) ²	PM Peak	0.31/ 0.01	17.9/ 13.5	C/ B	0.27/ 0.01	25.2/ 15.8	C/ B	0.27/ 0.01	25.2/ 15.8	0.27/ 0.01	25.2/ 15.8	C/ B	0.27/ 0.01
NE 4th Street/ NE 12th Avenue	PM Peak	0.28/ 0.02	21.9/ 10.1	C/ B	0.27/ 0.01	25.2/ 15.8	C/ B	0.27/ 0.01	25.2/ 15.8	0.27/ 0.01	25.2/ 15.8	C/ B	0.27/ 0.01
SE 7th Street/ SE 13th Avenue	PM Peak	0.38/ 0.06	38.1/ 8.8	E/ A	0.38/ 0.06	38.1/ 8.8	E/ A	0.38/ 0.06	38.1/ 8.8	0.38/ 0.06	38.1/ 8.8	E/ A	0.38/ 0.06
SE McDillway Boulevard/ SE Olympia Drive	PM Peak	0.26/ 0.05	22.7/ 9.1	C/ A	0.26/ 0.05	22.7/ 9.1	C/ A	0.26/ 0.05	22.7/ 9.1	0.26/ 0.05	22.7/ 9.1	C/ A	0.26/ 0.05
SE McDillway Boulevard/ SE Bush Vista Road	PM Peak	0.24/ 0.02	19.0/ 8.1	C/ A	0.24/ 0.02	19.0/ 8.1	C/ A	0.24/ 0.02	19.0/ 8.1	0.24/ 0.02	19.0/ 8.1	C/ A	0.24/ 0.02
SE McDillway Boulevard/ SE Park Crest Road	PM Peak	0.29/ 0.02	20.3/ 8.5	C/ A	0.29/ 0.02	20.3/ 8.5	C/ A	0.29/ 0.02	20.3/ 8.5	0.29/ 0.02	20.3/ 8.5	C/ A	0.29/ 0.02
SE 20th Street/ SE McDillway Boulevard	PM Peak	0.40/ 0.09	16.2/ 8.3	C/ A	0.40/ 0.09	16.2/ 8.3	C/ A	0.40/ 0.09	16.2/ 8.3	0.40/ 0.09	16.2/ 8.3	C/ A	0.40/ 0.09
SE 16th Street/ SE Tenth Center Plaza	PM Peak	0.40/ 0.05	24.0/ 8.4	C/ A	0.40/ 0.05	24.0/ 8.4	C/ A	0.40/ 0.05	24.0/ 8.4	0.40/ 0.05	24.0/ 8.4	C/ A	0.40/ 0.05
SE 20th Street/ SE 17th Avenue	PM Peak	0.15/ 0.03	27.0/ 8.2	C/ A	0.15/ 0.03	27.0/ 8.2	C/ A	0.15/ 0.03	27.0/ 8.2	0.15/ 0.03	27.0/ 8.2	C/ A	0.15/ 0.03
SE 14th Street/ NE 4th Street/Olympia Drive ³	PM Peak	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SE 13th Avenue/ SE 13th Avenue	PM Peak	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

LOS: Level of Service, Ratio

W/O: Without, Ratio

Delay: Intersection control delay (in seconds) for unsignalized intersections, critical movement delay (in seconds) for signalized intersections.

1: Note: "N/A" reports unsignalized intersection minor street critical movement operations, ("V"), and critical major street movement operations, ("V").

2: Reported "with site" operations reflect provision of a new traffic signal. Reported existing and background traffic operations reflect the existing two-way stop-control.

3: Reported 2007 and 2012 "with site" operations reflect provision of a new roundabout intersection. Level of service was calculated based on the methodology presented in FHWA document, Roundabouts: An Informational Guide.

4: Major street operations experience little or no delay as a result of the right-of-way-out access.

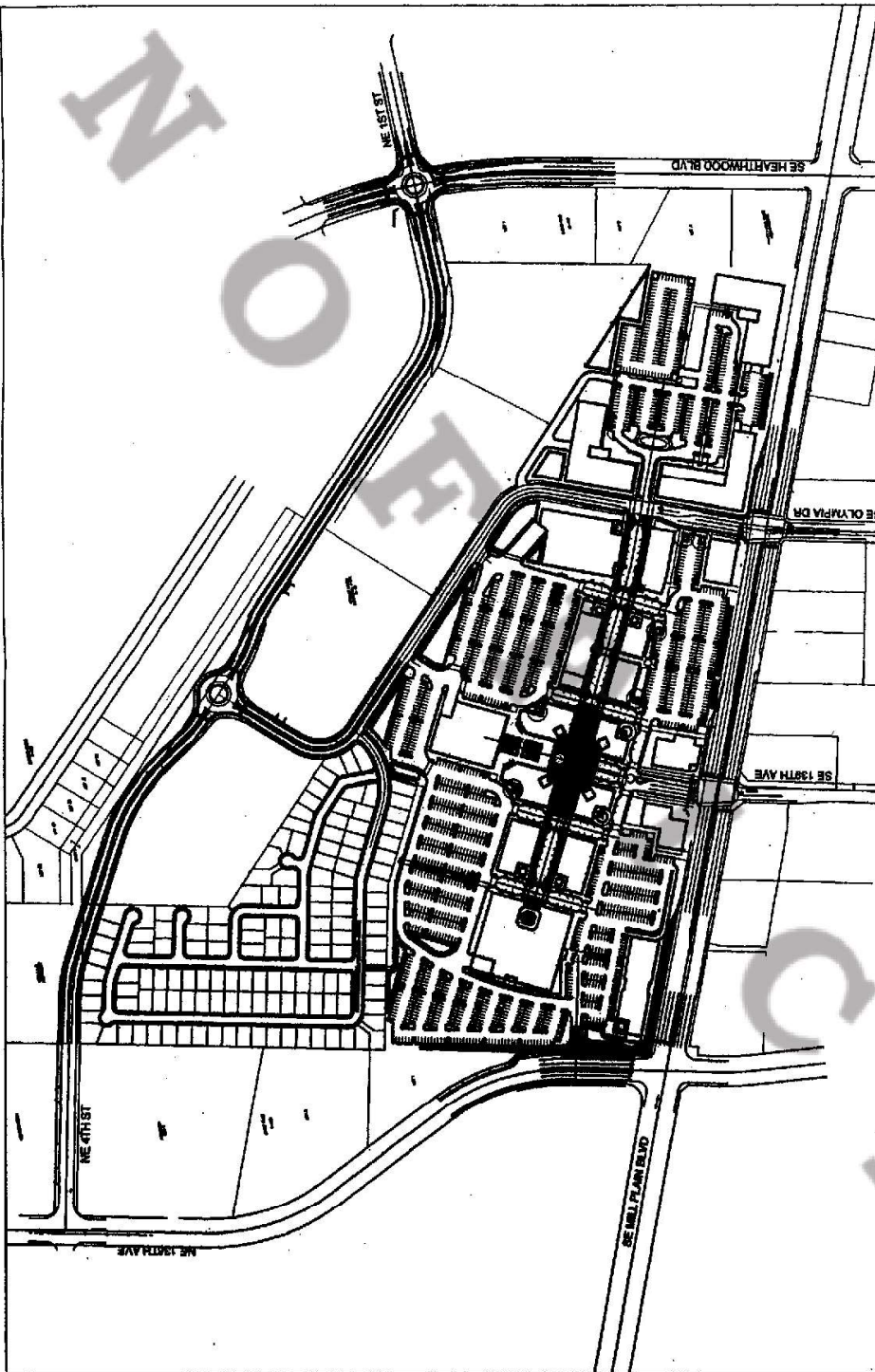


EXHIBIT E

Table 1 Summary of Projects along Concurrency Corridors

Roadway/ Intersection	Improvement Description	Contribution
SE Mill Plain Boulevard/ SE 139th Street	Stripe southbound approach to provide left, through and right-turn lanes	\$650,000.00
	Stripe northbound approach as a shared left/through/right-turn lane	
	Construct 150-foot westbound right-turn lane with a 104-foot transition	
	Construct eastbound left-turn lane with 200 feet storage	
	Construct westbound left-turn lane with 150 feet storage	
SE Mill Plain Boulevard/ SE Olympia Drive	Stripe southbound approach to provide left, through and right-turn lanes	\$425,000.00
	Stripe northbound approach as a shared left, and through/right-turn lanes	
	Construct 150-foot westbound right-turn lane with a 104-foot transition	
	Construct eastbound left-turn lane with 200 feet storage	
SE 164th Avenue/ SE 34th Street	Install right-turn overlap, southbound right-turn lane, and an eastbound right-turn lane	Proportional Share \$70,945.95
SE Mill Plain Boulevard/ SE 136th Avenue	Construct dual left-turn lanes on the northbound and southbound approach, a second southbound through lane, a westbound right-turn lane, and right-turn overlap on southbound and westbound approaches	Proportional Share \$512,962.96
SE Mill Plain Boulevard/ 205 Northbound off-ramp	Construct a northbound right-turn lane and an eastbound left-turn lane	Proportional Share \$44,180.73
SE 137th Avenue/ NE 49th Street	Construct a roundabout	Proportional Share \$100,988.70
SE 164th Avenue/ SE 15th Street	Provide northbound right-turn overlap phasing, convert eastbound and westbound left-turn lanes to protected/permissive, and add a southbound left-turn lane	Proportional Share \$41,188.96
SE 164th Avenue/ SE McGillivray Boulevard	Construct a northbound right-turn lane	Proportional Share \$41,538.46
SE 164th Avenue/ SE 12th Street	Construct a northbound right-turn lane, convert eastbound and westbound left-turn lanes to protected/permitted phasing	Proportional Share \$50,408.31
SE 164th Avenue/ SE Mill Plain Boulevard	Construct northbound, southbound, and westbound right-turn lanes	Proportional Share \$88,047.48
SE 164th Avenue/ SE 20th Street	Provide westbound overlap phasing	Proportional Share \$16,842.61
SE 164th Avenue/ SE 1st Street	Construct northbound right-turn lane, add southbound left-turn lane	Proportional Share \$46,344.96
NE 18th Street/ NE 112th Avenue	Construct a grade-separated interchange	Proportional Share \$119,081.99
SE 7th Street/ SE 136th Avenue	Install a traffic signal	Proportional Share \$5,508.00

Kittelson & Associates, Inc.

Portland, Oregon

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Table 2 Summary of Projects along Non-Concurrency Corridors

Roadway/ Intersection	Improvement Description	Contribution
NE 4th Street/SE 1st Street Connection	Construct a new connection between SE 1st Street and NE 4th Street	\$2,450,000.00 ¹
	Construct T-Intersection	
SE Olympia Drive	Construct new 3-lane roadway between SE Mill Plain Blvd. and SE 1st Street	\$3,045,000.00
SE 1st Street/ SE Hearthwood Boulevard	Construct curb extensions and ADA pedestrian ramps.	\$20,000.00
	Stripe eastbound approach to provide left, and shared through/right-turn lanes	
SE 136th Avenue at Site-access	Construct northbound right-turn lane	\$125,000.00
	Install a raised median	

Note 1 Project Cost includes the construction of the SE 4th/1st Street connection across Matt Olsen's property (\$1,300,000.00).

Table 3 Summary of Projects to be Constructed by Opus

Roadway/ Intersection	Improvement Description	Contribution
SE Mill Plain Boulevard/ SE 139th Street	Stripe southbound approach to provide left, through and right-turn lanes	\$650,000.00
	Stripe northbound approach as a shared left/through/right-turn lane	
	Construct 150-foot westbound right-turn lane with a 104-foot transition	
	Construct eastbound left-turn lane with 200 feet storage	
	Construct westbound left-turn lane with 150 feet storage	
SE Mill Plain Boulevard/ SE Olympia Drive	Stripe southbound approach to provide left, through and right-turn lanes	\$425,000.00
	Stripe northbound approach as a shared left, and through/right-turn lanes	
	Construct 150-foot westbound right-turn lane with a 104-foot transition	
	Construct eastbound left-turn lane with 200 feet storage	
NE 4th Street/SE 1st Street Connection	Construct a new connection between SE 1st Street and NE 4th Street	\$2,450,000.00 ¹
	Construct T-Intersection	
SE Olympia Drive	Construct new 3-lane roadway between SE Mill Plain Blvd. and SE 1st Street	\$3,045,000.00
SE 1st Street/ SE Hearthwood Boulevard	Construct curb extensions and ADA pedestrian ramps.	\$20,000.00
	Stripe eastbound approach to provide left, and shared through/right-turn lanes	
SE 136th Avenue at Site-access	Construct northbound right-turn lane	\$125,000.00
	Install a raised median	

Note 1 Project Cost includes the construction of the SE 4th/1st Street connection across Matt Olsen's property (\$1,300,000.00).

Table 4 Summary of Transportation Impact Fee (TIF)

Description	Contribution
Transportation Impact Fee	\$1,864,143.93

Proposed Transportation and Mobility Commission

VANCOUVER
CITY HALL



December 16, 2019

City Council Public Hearing

Jennifer Campos, Principal Transportation Planner

Presentation Overview

- Why a Transportation and Mobility Commission?
- Proposed Commission Role and Scope of Authority
- Interaction with Other Boards and Commissions
- Proposed Commission Structure
- Timeline/Next Steps

Why a Transportation and Mobility Commission

- No existing boards or commissions tasked with transportation policy and implementation
- Increasingly complex transportation projects and competing uses of ROW
- Identified as a need by City Council at their 2019 retreat
- Recommended strategy in multiple citywide plans



**WESTSIDE
BIKE MOBILITY**
— PROJECT —

Help the City design north-south bike routes west of I-5 – because good bike routes help everyone get around safely.

Through the Westside Mobility Strategy, community members made clear that the Fruit Valley, Northwest, Lincoln, Shumway, Carter Park, Hough, Arnada, and Esther Short neighborhoods need bikeway routes to downtown Vancouver.

Now it's time to implement the bikeway recommendations from that strategy. From now through December 2018, you can help the City decide which streets and what features to use.

WE WANT TO HEAR FROM YOU!

The project is underway now through December 2018. You can take part in engagement events this September through November.

COME VISIT US AT:

- The Downtown Vancouver farmer's market (near the roundabout) on **Sept. 22**
- The Waterfront Grand Opening on **Sept. 29**
- Open house events in October and November

CAN'T MAKE IT?

Visit bit.ly/westsidebike:

- Share your thoughts online.
- Sign up for our email list to stay up to date as the project progresses.

QUESTIONS?

Ask Anna Dearman, Senior Transportation Planner: 360-487-7738 or Anna.Dearman@cityofvancouver.us

 Fall 2018 factsheet



Potential bikeway concepts from Westside Mobility Strategy

Possible routes will:

- Be located east of Fruit Valley Road and west of Main Street
- Consider Columbia Street, Daniels Street, Lincoln Street, and/or Washington Street
- Connect the Burnt Bridge Creek Trailhead at NW Lakeshore Avenue to the Columbia River Renaissance Trail at the south end of Columbia Street

Proposed Commission Role and Scope of Authority

- Advise City Council, the City Manager, and staff on transportation-related issues
- Review and make recommendations on transportation programs, policies, and large capital projects related to public ROW
- Programs: TIP, Pavement Management, Safety Program
- Policies: TSP, Complete Streets, Title 11 Updates, Smart Mobility
- Projects: In the public ROW, exceeds \$2 million, area-wide significance

Interaction with Other Commissions

Planning Commission

- GMA-related policies will still go to PC – Transportation System Plan is transportation element of the Comprehensive Plan

Parking Advisory Committee

- Projects that occur within our parking management zones will go to the PAC as well as the Transportation and Mobility Commission

Bike and Pedestrian Stakeholders Group

- Bike/Ped representation on new Transportation and Mobility Commission; BPSG no longer formally supported by City

Proposed Commission Structure

- 11 Member Commission
- Membership representatives shall include: Youth (16-19), person 65+ years old, person with a disability, member of an active neighborhood association, transit user, cyclist, pedestrian, car commuter, person with expertise in freight, person with expertise in transportation field, 1 at large member
- 3-year terms, limit of 2 consecutive terms (youth appointee – 1-year terms)
- Food and language services to be provided, if needed
- Principal transportation planner as formal liaison with designated Public Works representative present at each meeting

Next Steps

- Outreach to ensure diversity of perspectives and expertise are included on the commission
- Open Position Advertising in January 2020
- On-boarding expected to conclude April 2020
- Target date for first Mobility Commission meeting is May 2020

Questions and Discussion

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





Staff Report 188-19

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 12/16/2019

SUBJECT Establishment of a Transportation and Mobility Commission

Key Points

- The City has experienced increasingly complex transportation projects and competing uses of the public right-of-way.
- There are no existing boards or commissions tasked with citywide transportation policy and implementation.
- During their 2019 policy setting retreat, City Council identified the need for establishing a transportation commission that would look at comprehensive transportation issues.

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 of Vancouver is experiencing significant growth, which has led to increases in both the number and complexity of the transportation challenges it must address. Given competing demands for this limited right-of-way and the need to evolve the transportation system to more efficiently move people throughout the City, there is a need to develop a new citizen oversight function to advise staff and the City Council on transportation programs, policies and projects.

Within the City of Vancouver, there are no existing boards or commissions tasked with advising City Council on transportation policy and implementation or providing guidance on citywide transportation issues. At their 2019 retreat, City Council directed the creation of a Transportation and Mobility Commission that would be responsible for making recommendations on transportation matters affecting the public right-of-way.

The proposed commission will utilize diverse representation and experience to provide advice to City Council, the City Manager and City staff on programs, policies, and large capital projects related to the public right-of-way. The Transportation and Mobility Commission will also provide ongoing feedback and guidance on the development of citywide transportation policy through the update to the Transportation System Plan that is currently underway.

Advantage(s)

The proposed Transportation and Mobility Commission will advise City Council, the City Manager, and staff on complex and technical transportation issues.

Disadvantage(s)

None.

Budget Impact

The Transportation and Mobility Commission will have a budget of \$10,000 per year to cover meeting costs, training activities, and capacity building.

Prior Council Review

- [March 1, 2019](#) Council retreat
- Council workshop on [November 25, 2019](#)
- First reading of ordinance, [December 9, 2019](#)

Action Requested

On Monday, December 16, 2019, subject to second reading and public hearing, approve ordinance.

Shannon Williams, Active Transportation Planner, 487-7898; Jennifer Campos, Principal Transportation Planner, 487-7728

ATTACHMENTS:

- ▢ Ordinance
- ▢ Presentation

12/09/19
12/16/19

ORDINANCE NO. M-

AN ORDINANCE establishing a Transportation and Mobility Commission under Title 11 of the Vancouver Municipal Code; adding a new Chapter 11.75; and providing for severability and an effective date.

WHEREAS, the City is experiencing significant growth which has led to increasingly complex transportation projects and competing uses of the public right-of-way; and

WHEREAS, City Council recognizes the need to balance competing demands for the public right-of-way and the need to evolve the transportation system to more efficiently move people throughout the City; and

WHEREAS, City Council has recognized a need to develop a Transportation and Mobility Commission, comprised of members of the community with diverse interests, experiences, and transportation needs, with the purpose of providing advice to City Council on transportation programs, policies and projects.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. A new Chapter 11.75 is added to the Vancouver Municipal Code to read as follows:

Chapter 11.75

TRANSPORTATION AND MOBILITY COMMISSION

Sections

11.75.010 Establishment and Purpose

- 11.75.020 **Representative Membership**
- 11.75.030 **Authority and Responsibilities**
- 11.75.040 **Meetings and Voting**

11.75.010 Establishment and Purpose

- A. ***Establishment.*** A Vancouver Transportation and Mobility Commission is hereby established, comprised of eleven (11) members in accordance with VMC 11.75.020.
- B. ***Purpose.*** The Transportation and Mobility Commission will advise and make recommendations to City Council as authorized under VMC 11.75.030 for the purpose of ensuring that transportation policy and projects adhere to the Transportation System Plan, the Vancouver Strategic Plan, and Vancouver's Complete Streets Policy. The Transportation and Mobility Commission shall provide informed decisions that are based on a review of information including competing transportation and mobility needs and concerns, with a goal toward developing a transportation system that is one of the safest, environmentally responsible, and well-maintained in the Pacific Northwest.

11.75.020 Representation and Membership Terms

A. Representation.

- (1) The Transportation and Mobility Commission shall consist of eleven (11) volunteer members, who are residents of the City or Vancouver Urban Growth Area. No more than two members of the Transportation and Mobility Commission may represent the Urban Growth Area.
- (2) Membership representatives shall include the following:
 - a.
 - i. Youth – between the ages of sixteen and nineteen
 - ii. ADA community member
 - iii. Person 65+ or older
 - iv. Neighborhood association member
 - v. Person with expertise or experience with the movement of freight
 - vi. Person with expertise or experience in the transportation field
 - vii. At large member
 - viii. At large member
 - b. The remaining members shall use the listed mode of transportation as their primary mode of transportation:
 - ix. Transit
 - x. Bicycle

xi. Walking

- (3) In selecting members for appointment to the Transportation and Mobility Commission, the mayor and City Council shall seek to encompass a diversity of perspectives concerning transportation and mobility interests.

B. *Membership Terms.*

- (1) *Initial Board.*** When the Transportation and Mobility Commission is first established, the Mayor, with City Council approval, shall appointment members with terms as follows:

- (a) Four members shall serve a one-year term, which shall include the Youth Appointment;
- (b) Four members shall serve a two-year term; and
- (c) Three members shall serve a three-year term.

- (2) *Subsequent Appointments.*** All subsequent appointments shall be for three years, with the exception that the Youth Appointment shall serve for only one year. All members may serve for a maximum of two consecutive terms. If a Youth Appointment Member no longer qualifies for a Youth Appointment following the first term, he or she may apply as a non-Youth Appointment Member and may serve for an additional two consecutive terms (for a maximum of seven consecutive years). A member may reapply for appointment after not being on the Transportation and Mobility Commission for at least one year.

- (3) *Vacancies.*** Vacancies that occur before the expiration of a term will be filled for the remainder of the term.

- (4) *Member Removal.*** Members may be removed by the Mayor with the concurrence of City Council for misconduct or neglect of duties, including three consecutive unexcused absences from scheduled meetings.

11.75.030 Authority and Responsibilities

- A. *Role of the Commission.*** The Transportation and Mobility Commission shall act in a policy advisory capacity to the City Council in order to support efforts to create and maintain a transportation system that enhances the economic, social and environmental quality of life in Vancouver now and into the future.
- B. *Recommendations to Council.*** The Transportation and Mobility Commission shall provide recommendations to City Council concerning:
- (1) Amendments to Title 11 of the Vancouver Municipal Code (VMC).

- (2) The Transportation System Plan (TSP) and Amendments to the Complete Streets Policy.
- (3) Updates to transportation programs, including but not limited to the following programs: the Six Year Transportation Improvement Program (TIP), sidewalk management, pavement management, transportation demand management, and transportation safety, accessibility, and mobility.
- (4) Transportation projects in the public right-of-way that exceed two million dollars (\$2,000,000) in estimated project costs, or projects of area-wide significance, even if the two million dollar threshold is not met.
- (5) Street Funding Strategy and any future transportation funding planning.
- (6) Other transportation-related matters as directed by City Council.

C. **Technical Advisory Groups.** The Transportation and Mobility Commission may appoint technical advisory groups (TAGs) to which it may assign specific responsibilities. Such TAGs shall make no recommendations except to the Transportation and Mobility Commission as directed.

D. **Limitations on Responsibility.** The Transportation and Mobility Commission is not responsible for traffic operations, street maintenance, or other activities where staff has received direction and authority from City Council.

11.75.040 Meetings and Voting

A. **Meetings.** The Transportation and Mobility Commission will meet a minimum of four times per year, but may meet more frequently if needed.

B. **Voting.** All actions of the Transportation and Mobility Commission shall be determined by a majority vote in a meeting at which a quorum is present. A majority of total appointed membership of the Transportation and Mobility Commission, excluding vacancies, shall constitute a quorum.

C. **Chair and Vice-chair.** At the first meeting of the Transportation and Mobility Commission, and then in each December of every year thereafter, the Transportation and Mobility Commission shall appoint a Chair and Vice-Chair. The term of office for each officer shall run until the subsequent election; provided, that vacancies caused by resignation or removal shall be filled for the remaining term of office.

D. **Bylaws.** The Transportation and Mobility Commission shall adopt bylaws that govern the transaction of its business at the first meeting of the Commission. The Transportation and Mobility Commission may thereafter amend the bylaws or repeal and

replace the bylaws. The bylaws may contain any provisions for the regulation and management of the affairs of the Transportation and Mobility Commission not inconsistent with law or this Chapter. As necessary and appropriate, the City Council may amend the bylaws by ordinance.

- E. ***Public Meetings.*** All Transportation and Mobility Commission meetings will be conducted in accordance with the Open Public Meetings Act, Chapter 42.30 RCW. Written and audio records of Transportation and Mobility Commission meetings and actions shall be kept by City staff and be made public.

Section 2. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstance 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 effect or invalidate the remainder of any parts thereof to any 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 3. Effective Date. This ordinance shall be effective thirty (30) days after final passage.

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 _____, 2019.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

SUMMARY

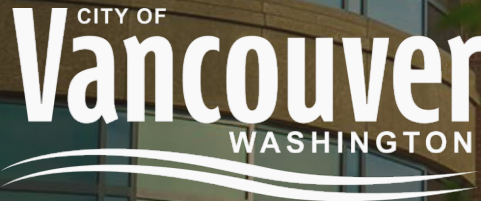
ORDINANCE NO. _____

AN ORDINANCE establishing a Transportation and Mobility Commission under Title 11 of the Vancouver Municipal Code; adding a new Chapter 11.75; and providing for severability and an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).

Fall 2019 Comprehensive Plan and zoning map corrections and text changes

VANCOUVER
CITY HALL



December 16, 2019

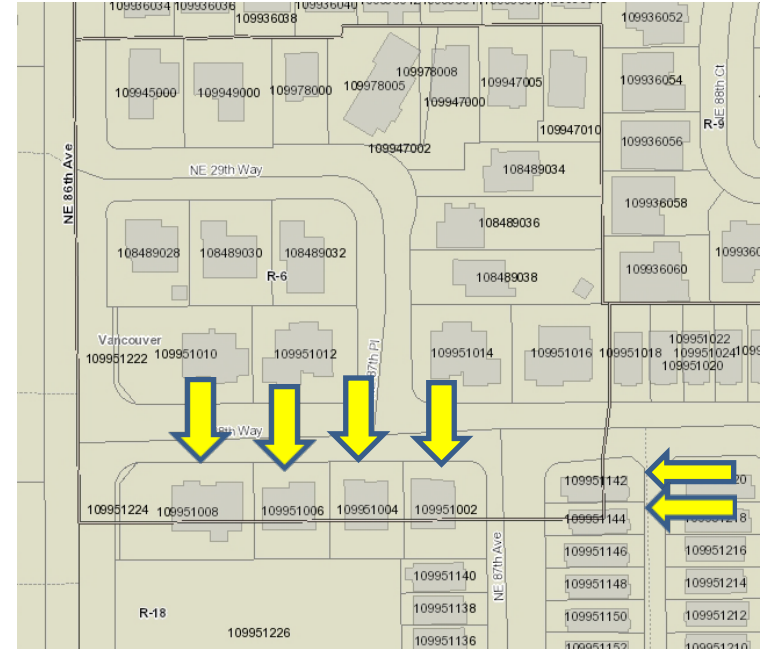
Vancouver City Council Public Hearing

**Bryan Snodgrass, Principal Planner, Community
and Economic Development**

**bryan.snodgrass@cityofvancouver.us, 360-487-
7946**

Map Corrections

- Resolution of split R-6/R-18 zoning on six adjacent single family homesites at 28th Way and 87th Avenue
- Removal of inappropriate OS (Open Space) Comprehensive Plan designations at an existing homesite, and at an existing school
- Addition of missing OS designation at a park



Comprehensive Plan Text Change

- Adopt by reference into Appendix E the Evergreen School District Capital Facilities Plan (CFP) 2019-2025.
- The ESD CFP is needed to authorize updated School Impact Fees in zoning code. It was previously adopted by the District in May 2019 and Clark County in September 2019.

Zoning Text Changes with Policy Implications

- Planned Developments - Clarify requirement that open space be centralized, increase site density bonus allowances to 15% above underlying zoning, and allow duplexes, triplexes, and townhomes
- School Impact Fees – Adopt updated ESD fees as noted
- Conditional Use Permit (CUP) requirements – Streamline thresholds for new school CUPs, and expansion CUPs for all uses
- Accessory Structures – Eliminate 800 s.f. limit on accessory structures. Keep requirements that detached ADUs, including converted garages, cannot exceed 800 square feet.

Zoning Text Changes – Limited Policy Implications

- Update Site Plan Type I and II thresholds.
- Allow parks as permitted uses in some circumstances currently listed as limited use or requiring CUP
- Clarify requirement for mobile homes in single family zones so as not to prohibit ADUs
- Update various application requirements to reflect electronic submittal or other factors
- Update various cross references and correct errors and omissions

Map Corrections and Text Changes – Return to Council

- Questions
- Public testimony
- Deliberations and decision



Staff Report 197-19

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 12/16/2019

SUBJECT Proposed 2019 Vancouver Comprehensive Plan and zoning map corrections, and text changes

Key Points

- At a December 2 public hearing the City Council approved ordinances for three site-specific Comprehensive Plan and zoning map changes. The Council also took testimony and deliberated on a fourth ordinance for Comprehensive Plan and zoning map corrections and text changes, and remanded to the Planning Commission two code changes from the ordinance relating to parking for affordable and senior housing, and allowances for mixed use buildings on non-arterial roadways.
- As required by City Charter, the removal of the two proposed code changes constituted a substantive change to the ordinance, requiring a re-advertised public hearing on December 16 to consider the remaining map corrections and text changes. These consist of four site-specific map corrections identified by staff, one Comprehensive Plan text change, and 21 zoning code text changes. Only four of the zoning text changes are estimated to have significant policy implications.
- All of map corrections and text changes to be reviewed on December 16 were unanimously recommended by the Planning Commission. No public testimony on these items was offered at the October 8 Planning Commission hearing or December 2 City Council hearing.

Strategic Plan Alignment

N/A

Present Situation

Council is requested to review and make final determinations on the proposed map corrections and text changes:

- Four Comprehensive Plan or zoning map corrections – resolution of split-zoning designations on six single-family residential properties at 28th Way and 87th Avenue, removal of an inappropriate Open Space Comprehensive Plan designation on homesite and

school properties, addition of Open Space designation on a park site.

- One Comprehensive Text Change – Adoption by reference of the Evergreen School District Capital Facilities Plan 2019-2025
- Twenty-One Zoning Code Text Changes - Changes with policy implications consist of:
 - Updates to Planned Development standards to allow densities of up to 15% beyond base zoning; to allow duplexes, triplexes and town homes within overall density limits; and to clarify that open space must be centralized
 - Updates to School Impact Fees in the Evergreen School District pursuant to the District Capital Facilities Plan, increasing fees per single family unit from \$6,100 to \$6,432, and decreasing fees per multi-family unit from \$7,641 to \$3,753.
 - Streamlining of Conditional Use Permit requirements for schools and other uses
 - Elimination of 800 s.f. limit on residential accessory structures other than Accessory Dwelling Units. Detached ADUs remain limited to 800 s.f. in size.

Advantage(s)

1. Approval of map corrections would eliminate situations where properties have split zoning designation or Comprehensive Plan designations that are inconsistent with current uses of the properties.
2. Approval of text changes would adopt the Evergreen School District Capital Facilities Plan previously adopted by the District and Clark County and update associated school impact fees, update Planned Development and other standards, and correct for errors and cross references.

Disadvantage(s)

Update of the School Impact Fees in the Evergreen School District would modestly increase single family housing costs.

Budget Impact

No direct impacts.

Prior Council Review

A City Council [workshop](#) was held on October 14, and a [public hearing](#) on December 2, 2019.

Action Requested

On Monday, December 16, 2019, following second reading and public hearing, approve the ordinance.

Bryan Snodgrass, Principal Planner, 487-7946

ATTACHMENTS:

- ▣ Ordinance
- ▣ Presentation

11/25/19
12/02/19
12/16/19

ORDINANCE NO. M_____

AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and Vancouver Municipal Code (VMC) Title 20; amending text of Vancouver Comprehensive Appendix E, and Vancouver Municipal Code 20.150, 20.225, 20.245, 20.270, 20.290, 20.320, 20.330, 20.410, 20.420, 20.430, 20.440, 20.450, 20.630, 20.680, 20.700, 20.730, 20.740, 20.790, 20.890, 20.945, 20.960; providing for severability; and establishing an effective date.

WHEREAS, pursuant to the Growth Management Act the City Council has adopted a Comprehensive Plan for the City of Vancouver (Ordinance M-3994), and Title 20 zoning standards (last amended through Ordinance M-4034); and

WHEREAS, Vancouver staff annually reviews citywide Comprehensive Plan and zoning map designations, and the text of the Comprehensive Plan and VMC Title 20 to determine if updates are warranted to correct errors, update references or amend policies, and through said review identified the proposed amendments subject to this ordinance; and

WHEREAS, the Vancouver Planning Commission reviewed the proposed changes at duly advertised work sessions on August 13, September 10, September 24 and October 8, 2019, and duly advertised public hearings on October 8, and October 22, 2019, and at those hearings, in consideration of cumulative impacts of all the proposed Comprehensive Plan changes, voted to recommend approval of the Comprehensive Plan and zoning text amendments described herein for adoption to the City Council; and

WHEREAS, the City Council conducted a duly advertised public work session on October 14, a first reading of the proposed ordinance on November 25, and a public hearings on

December 2 and December 16 2019, following which the Council agrees with the Planning Commission recommendations, except that proposed changes to VMC 20.430.060 regarding mixed use buildings along arterial and collector streets and VMC 20.945.070 regarding minimum parking requirements for affordable and senior housing projects are remanded back to the Planning Commission for further consideration; and

WHEREAS, the cumulative environmental impacts of the proposed Comprehensive Plan and zoning changes have been reviewed and determined to be nonsignificant pursuant to the State Environmental Policy Act. Notices of Determinations of Non-significance (DNS) were issued on September 17, 2019 for the proposed Comprehensive Plan and zoning text changes, and no SEPA comments or appeals were received; and

WHEREAS, the City Council finds and concludes that the proposed changes are consistent with the policies and provisions of the Comprehensive Plan that encourage orderly development within the community and the Growth Management Act pursuant to the requirements of Chapter 36.70A. RCW; and

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Findings and Conclusions. The Planning Commission findings and conclusions as set forth in the staff reports for the October 8 and October 22 public hearings, are hereby adopted as the City Council's findings of fact; and

Section 2. Comprehensive Plan and Zoning Map Changes.

A. Zoning map designations for parcels 109951008, 109951006, 109951004, and 109951002 at 8601, 8607, 8613 and 8701 NE 28th Way are amended from a split of

- R-6 and R-18 to R-6 on the entirety of said properties. Zoning map designations for parcels 109951142 and 109951144 at 2721 and 2725 NE 87th Avenue are amended from a split of R-6 and R-18 to R-18 on the entirety of said properties.
- B. The Comprehensive Plan designation for parcel 110084285 at 3100 NE 96th Avenue is amended from Open Space to Urban Low Density
- C. The Comprehensive Plan designation for parcel 22960000 at 2908 S Street is amended from a split of Open Space and Public Facility to Public Facility on the entire property
- D. The Comprehensive Plan designation for parcel 164254000 at 3704 NE 162nd Avenue S Street is amended from a split of Urban Low Density to Open Space

Section 3. Comprehensive Plan Text Changes.

- A. Vancouver Comprehensive Plan 2011-2030 Appendix E, Other Plans and Documents adopted by Reference, Item 1, 9th bullet, last adopted by Ordinance M-4147, is amended as follows:**

- *Vancouver Public Schools Capital Facilities Plan 2014-2020, Evergreen Public Schools Capital Facilities Plan ~~2015-2021~~ 2019-2025, and Camas School District, Capital Facilities Plan 2015-2021.*

Section 4. Zoning Code Text Changes.

- A. VMC 20.150.040.A, which was adopted by Ordinance M-3643, and last amended by M-4179, is amended as follows.**

20.150-4 Definitions

Accessory Structure. A building or structure, ~~no larger than 800 square feet~~, which is clearly incidental to the primary structure on the same lot.

B. Table 20.225.020-1, in VMC 20.225, which was last amended by M-3959, is amended as follows:

Table 20.225.020 -1. SUMMARY OF LAND USE PERMITS AND RELATED ACTIONS

PERMIT/ ACTION	PROCEDURE TYPE	PROCEDURAL REQUIREMENTS	APPROVAL CRITERIA	OTHER DEVELOPMENT REGULATIONS
Essential Public Facilities	III/HE	20.210.060	20.855.020	20.245
Human Services Facilities				
Initial approval	III/HE Conditional Use	20.210.060	20.780.040	20.245
Co-location of services	II Conditional Use	20.210.050	20.870.040	20.245
Modifications of spacing requirements	III/HE Conditional Use	20.210.060	20.870.040	20.245
Interpretations				
Only	I	20.210.040	20.255.030	---
Concurrent with application	Same as development	---	20.255.030	---
Codification	IV	20.210.070	20.255.020 (C)	---

C. VMC 20.245, which was adopted by Ordinance M-3643, and last amended by M-3959, is amended as follows.

20.245.020

B. Major modification of an approved or existing conditional use.

1. The Planning Official shall determine that a major modification(s) has resulted if one or more of the changes listed below have been proposed:
 - a. A change of any applicable condition of approval;
 - b. A change in use classification as defined in Chapter [20.160](#) VMC;
 - c. An 10% increase in dwelling unit density, providing the proposed density does not exceed the maximum density established in the underlying base zoning district;
 - d. An increase in the approved floor area proposed for nonresidential use by more than ~~10~~25%, except for schools, which shall have a threshold of ~~25~~50% increase in floor area;
 - e. ~~A reduction of more than 10% of the area reserved for common space, recreational facilities and/or landscaped areas;~~
 - f. ~~A reduction of approved setbacks by more than 20%;~~
 - g. ~~A decrease or increase of parking of more than 10%;~~ and
 - he. A change in the operational use deemed to be a possible adverse impact to adjacent properties by the Planning Official.
2. Upon the Planning Official determining that the proposed modification to the conditional use plan is a major modification, the applicant shall submit a new application to be processed as a Type II application, pursuant to Section [20.210.0650](#) VMC.

20.245.030.A.8. Certified mailing list. Current Clark County Assessor map(s) showing the property(ies) within a 500' radius of the site, per the requirements in Chapter 20.210.050 and 20.210.060 VMC, Decision-Making Procedures, and two sets of mailing labels with the names and addresses of owners of all properties within the 500' radius. Such list shall be certified as accurate and complete by the Clark County Assessor, or a title company. For non-owner occupied properties, provide mailing labels addressed to "occupant" as can be determined from available County Assessor records (two copies).

D. VMC 20.260, which was adopted by Ordinance M-3643, and last amended by M-3840, is amended as follows.

20.260.020.B.

B. Permitted uses. The following uses shall be allowed in various base zoning districts:

1. Lower-Density Residential Zoning Districts. In the R-2, R-4, R-6 and R-9 zoning districts, an applicant with a planned development approval may develop the site to contain a mixture of uses subject to the maximum density provisions of the underlying zone, as contained in Chapter [20.410](#) VMC, plus ~~5%~~ 15% density bonus per the provisions of [20.260.060](#) (D) VMC.
 - a. The following uses are allowed by right within planned developments:
 1. Single-family detached residential units with or without accessory dwelling units.
 2. Two or more single-family attached residential units, duplex, triplex, and townhome and other fourplex residential units. Duplexes, triplexes, fourplexes, and townhomes located on the perimeter of the development directly abutting single-family zoning districts shall have a height limit of 35 feet.
 3. Accessory uses directly serving the planned development only and which are customary or associated with, but clearly incidental to, the residential uses permitted in the zone including:
 - a. Community building with indoor and/or outdoor recreation facilities;
 - b. Recreational vehicle storage area;
 - c. Consolidated mini-storage;
 - d. Consolidated guest parking facilities.
 4. Home occupations, subject to development standards in 20.860.
 5. Child care centers of all types including those with 13 or more children, subject to development standards in 20.840.
 6. Adult day care.
 7. Any other use allowed by right in the base zoning district.

20.260.040.C.

C. Common open space. In exchange for the approval of higher residential densities, smaller lots and relaxed development standards, the developer of a planned development is required to provide common open space for the active and passive recreational activities of residents, employees and visitors. Such space shall be aggregated ~~and centralized to the development where to the fullest extent feasible~~ and shall consist primarily of a combination of landscaped open areas. ~~Unlandscaped natural areas or paved hardscape areas may also be included if they also promote active or passive recreational uses and congregation. paved (hard-scaped) areas. Such common open space shall include some combination of the following: Features may include~~ plazas, arbors, sitting areas, picnic areas, playing fields and trails ~~to accommodate a variety of active and passive activities and promote visual interest.~~

E. VMC 20.270, adopted by Ordinance M-3664, and last amended by Ordinance M-3959, is amended as follows:

20.270.020.C. Development subject to Type I Site Plan Review. New development or modifications to an existing permitted development or existing legal nonconforming use shall require a Type I review if the proposal would result in any of the following:

1. New residential developments of between 3 and 19 dwelling units or, if existing, an increase in dwelling unit density of up to 20%, provided the proposed density does not exceed the maximum allowed density in the underlying base zoning district;
2. ~~New~~ Nonresidential development of less than 12,000 square feet. or, if existing, an increase in the floor area of a nonresidential structure or use by up to 6,000 square feet; 20%, ~~provided the cumulative threshold for SEPA review is not exceeded;~~
3. For existing developments a reduction in the area reserved for open space, recreational facilities and/or landscaped areas by up to 20%;
4. New parking lots of 11 to 39 parking spaces or, if existing, an increase in the number of existing parking spaces by up to 20%, ~~provided the cumulative threshold for SEPA review is not exceeded;~~

D. Development subject to Type II Site Plan Review. New development or modifications to an existing permitted development or existing legal nonconforming use shall require a Type II review if the proposal would result in any of the following:

1. New residential development of 20 units or more or, if existing, an increase in dwelling unit density of more than 20%, provided the proposed density does not exceed the maximum allowed density in the underlying base zoning district;
2. New nonresidential developments of 12,000 square feet or more of, if existing, an increase in the floor area of a nonresidential structure or use by more than 6,000 square feet; 20% or 12,000 square feet, whichever is less;
3. For existing developments, a reduction in the area reserved for open space, recreational facilities and/or landscaped areas by more than 20%;
4. New parking lots of 40 or more spaces or, if existing, an increase in the number of existing parking spaces by more than 20% or an increase of more than 40 parking spaces, whichever is greater;
5. An increase in vehicular traffic to and from the site of more than 200 average daily trips, based on the latest edition of the International Transportation Engineer's (ITE) Trip Generation Manual, or substantial evidence by a professional engineer licensed in the State of Washington with expertise in traffic engineering.

20.270.040.A.4. Certified mailing list (not applicable for Type I applications). Current Clark County assessor map(s) showing the property(ies) within a 500-foot radius of the site, per the requirements in VMC [20.210.050](#) and [20.210.060](#), decision-making procedures, and two sets of mailing labels with the names and addresses of owners of all properties within the 500-foot radius. Such list shall be certified as accurate and complete by the Clark County assessor or a title company. For nonowner occupied properties, provide mailing labels addressed to "occupant" as can be determined from available county assessor records (two copies).

F. VMC Chapter 20.290.030, adopted by Ordinance M-3643, and last amended by Ordinance M-3840, is amended as follows:

20.290.030 Submission Requirements.

A. ~~General. An applicant for a variance shall submit the requisite fee, as contained in Chapter [20.180](#) VMC, a completed application form provided for that purpose by the Planning Official and 10 copies of the information required in Subsection (B) below. Application - Fees. The applicant must submit a completed application form as prescribed by the planning official with applicable fee per Chapter [20.180](#) VMC.~~

B. Required information.

1. Narrative statement describing the requested variance(s) and demonstration of compliance to the appropriate approval criteria contained in Section [20.290.040](#) VMC.
2. A site plan drawn to scale legible for digital reproduction showing the arrangement of the proposed development, and accurate representation of the size and shape of the parcel(s) including easements of any kind, all dimensions and parcel orientation. Include appropriate scale and north arrow.
3. Locations, dimensions and height of all existing and proposed buildings and structures, including garages, carports, fences, decks, patio covers and other accessory structures. Include dimensions from each other and from all property lines. Show dimension of eaves projecting beyond a wall or supporting post. Indicate usage of all structures.
4. Elevation of site at 2' contour intervals for grades zero to 10% and at 5' contour intervals for grades greater than 10%.
5. Existing and proposed curbs, sidewalks and curb-cuts. Indicate center line of street(s).
6. Location and detailed layout of off-street parking and loading areas.
7. Location of unstable ground, including high seasonal water table, impermeable soils, areas having a severe soil erosion potential, areas having severely weak foundation soils, significant historical, cultural or archaeological resources, significant wildlife habitat, and rock outcroppings. Note if none of these apply.
8. Archaeological pre-determination report, if necessary.
9. The approximate location and type of vegetation, including individual trees that have a diameter of 6" or more measured 4' above grade. The plan may show clusters of such trees rather than individual trees when individual trees are near one another. Provide proposed plan for compliance with Chapter [20.770](#) VMC, Tree Conservation, if necessary.
10. Certified mailing list (Type II only). Current Clark County Assessor map(s) showing the property(ies) within a 500' radius of the site, per the requirements in Chapter [20.210.050](#) and [20.210.060](#) VMC, Decision-Making Procedures, and two sets of mailing labels with the names and addresses of owners of all properties within the 500' radius. Such list shall be certified as accurate and complete by the Clark County Assessor, or a title company. For nonowner occupied properties, provide mailing labels addressed to "occupant" as can be determined from available County Assessor records (two copies).
- ~~11. Pre-application conference summary, as well as additional information required in the summary, if applicable.~~
- ~~12. Include one 8 1/2" x 11" reduced plan.~~

G. VMC Chapter 20.320, adopted by Ordinance M-3643, and last amended by Ordinance M-4254, is amended as follows:

20.320.020 Approval Process.

A. Decision-making process.

1. Short subdivisions. The planning official shall approve, approve with conditions or deny an application for a short subdivision preliminary plat by means of a Type II procedure, pursuant to VMC ~~[20.285.050](#)~~ [20.210.050](#), using approval criteria contained in VMC [20.320.040](#), and additional requirements of Chapter [20.920](#) VMC if a qualifying infill development, and Chapter [20.927](#) VMC if a qualifying narrow lot development.

20.320.030.B.2. Preliminary plat. The proposed preliminary plat shall include the name of the subdivision or short subdivision which shall not be named the same as an existing plat recorded in Clark County Washington along with the following:

20.320.030.B.4.i. Supplementary information. The following supplemental information shall also be submitted unless otherwise indicated in parentheses:

i. *Certified mailing list.* Current Clark County assessor map(s) showing the property(ies) within a 500-foot radius of the site, per the requirements in VMC [20.210.050](#) and [20.210.060](#), decision-making procedures, and two sets of mailing labels with the names and addresses of owners of all properties within the 500-foot radius. Such list shall be certified as accurate and complete by the Clark County assessor or a title company. For nonowner occupied properties, provide mailing labels addressed to "occupant" as can be determined from available county assessor records (two copies);

H. VMC Chapter 20.330, adopted by Ordinance M-3643, and last amended by Ordinance M-3840, is amended as follows:

20.330.030 Application Submission Requirements.

A. Submission requirements-New developments. Whenever an applicant desires to create legal lots by means of a binding site plan pursuant to this Chapter in conjunction with a new development, the applicant shall be subject to the site plan review procedures of Chapter [20.270](#) VMC. In such event and in addition to all of the submission requirements for site plan review, the applicant shall clearly indicate on all of the plans required for site plan review the proposed lots to be created and how their size, dimensions and other features comply with the requirements of this title.

B. Submission requirements-Existing developments. In cases where an applicant desires to create legal lots by means of a binding site plan pursuant to this Chapter in conjunction with an existing development or when no development is proposed, the applicant shall provide the following information in the application:

~~1. Application. The applicant shall provide one original and ten copies of the application for a preliminary plat of a binding site plan consisting of the following information:~~

~~1.2. The binding site plan name, which that must be other than the name of an existing subdivision, short subdivision or binding site plan addition or plat;~~

C. Preliminary plat information. The applicant shall provide ~~one original and seven copies of~~ the following information:

C.2. Preliminary Binding Site Plan. The proposed preliminary binding site plan shall include the following information presented on one or more drawings: ~~Drawings shall be on sheets not smaller than 21" X 34" nor larger than 24" X 36". Preliminary binding site plans shall be drawn at a scale of 1"=50' or larger. Other scales may be used with the approval of the Planning Official. Plans for the preliminary plat will not be accepted if they are not collated and folded.~~

C.4. *Supplementary information.* ~~One original and eight copies of~~ The following supplemental information shall also be submitted unless otherwise indicated in parenthesis:

a. Environmental checklist that complies with Chapter [20.790](#) VMC, SEPA Regulations, if applicable;

~~b. Legal description;~~

~~c. Paper reproducible copies of all plans in 8 1/2 x 11" format;~~

~~d. Assessor's map(s) covering the area within 500' of the plat boundary;~~

~~e. Results of any completed percolation tests, if applicable (four copies);~~

~~f. A copy of the proposed plat map, reduced to fit on 8 1/2" x 11" or 11" x 17" paper;~~

~~g. b. Geotechnical/soils survey (four copies); if applicable;~~

~~h. c. Tree plan that complies with the requirements of Chapter [20.770](#) VMC, Tree Conservation, if applicable;~~

~~i. d. Preliminary stormwater and erosion control plans as governed by Chapters [14.25](#) VMC, Stormwater Control, and Chapter [14.24](#) VMC, Erosion Control (four copies); if applicable;~~

~~j. e. Landscape plan, if known at the time of land division, that complies with the requirements of Chapter [20.925](#) VMC Landscaping Standards. If applicable, the landscape plan shall be drawn at the same scale as the existing conditions plan, or a larger scale if necessary. Where proposed development affects only a portion of~~

a site, the landscape plan need show only the areas where existing soil contours and vegetation will be disturbed by the construction or use, or other areas where landscaping is required. Note: many aspects of this plan, including street trees, may already be incorporated into the Tree Plan;

- k. ~~f.~~ Archaeological Pre-Determination Report, if applicable, that complies with the requirements of Chapter [20.710](#) VMC, Archaeological Resource Protection (~~four~~ two copies);
- ~~l. Sales history. A deed history of all applicable properties dating back to 1969 or to the date when a legal lot determination was made (one copy);~~
- ~~g m. Southwest Washington Clark County Public Health District Development Review Evaluation Form (four copies);~~
- ~~n. Pre-application conference notes; and~~

20.330.030.C.4 o. h. Certified mailing list. Current Clark County Assessor map(s) showing the property(ies) within a 500' radius of the site, per the requirements in Chapter [20.285](#) [20.210](#) VMC, Decision-Making Procedures, and two sets of mailing labels with the names and addresses of owners of all properties within a 500' radius certified as accurate and complete by the Clark County Assessor or a title company. For nonowner occupied properties, provide mailing labels addressed to "occupant" as can be determined from available County Assessor records.

I. VMC 20.410, adopted by Ordinance M-3643 and last amended by M-4255, is amended as follows:

Table 20.410.030-1

-Parks/Open Space	R-2	R-4	R-6	R-9
- Neighborhood Parks	P	P	P	P
- Community Parks	P $\frac{1}{10}$ / C	P $\frac{1}{10}$ / C	P $\frac{1}{10}$ / C	P $\frac{1}{10}$ / C
- Regional Parks	C	C	C	C
- Trails	P $\frac{1}{10}$ / C	P $\frac{1}{10}$ / C	P $\frac{1}{10}$ / C	P $\frac{1}{10}$ / C

~~10 Community parks that meet all of the criteria contained in VMC [20.410.050\(E\)\(1\)](#) are permitted by limited uses; all others require conditional use approval. Trails are limited uses subject to the additional development standards contained in VMC [20.410.050\(E\)](#).~~

20.410.050

D. *Criteria for institutions as limited uses.* As noted in Table 20.410.030-1 above, a school, religious institution, government building, fire station, child care center or emergency services facility is allowed as a limited use if it meets all of the criteria described below. An institution that does not comply with all of these criteria must be reviewed as a conditional use, except for school modular classrooms, which shall be permitted outright.

1. The site contains no more than 12 acres for an ~~elementary~~ school, not to exceed 75,000 gsf.
2. The site contains no more than two acres for a religious institution, not to exceed 30,000 gsf.
3. The site contains no more than one acre for a child care center, not to exceed 10,000 gsf.
4. The site takes its primary access from no less than a minor arterial.
5. If a religious institution also has a ~~private elementary~~ school, the total development shall not exceed 60,000 gsf and seven acres.

20.410.050.E. ~~Criteria for Parks/Open Space as limited uses.~~(Reserved for future use)

20.410.050.F 2. Manufactured Home Placement Standards:

Except as allowed in subsections 1c and 1d above, all manufactured homes placed within the City of Vancouver shall comply with the following standards:

- a. Manufactured homes must meet the development standards of the base zone unless otherwise noted.
- b. The manufactured home must meet the definition of a "new manufactured home", unless otherwise noted. A new manufactured home means any manufactured home required to be titled under Title 46 RCW, which was not titled to retail purchaser before July 1, 2005, and was not a "used mobile home" as defined in RCW 82.45.032(9).
- c. The manufactured home must meet the requirements of a "designated manufactured home". Provided that manufactured homes built to 42 USC Section 5401-5403 standards (as amended in 2000) must be regulated in the same manner as site built homes.
- d. The manufactured home must meet the following requirements
 1. For the principal dwelling unit: Is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long;

J. VMC 20.420.020, adopted by Ordinance M-3643, and last amended by M-4255, is amended to read as follows:

20.420.010 Purpose.

Promote a range of housing choices while preserving neighborhood livability and ~~protecting~~ protecting the consumer's choices in housing. These districts are designed to promote medium- to high-density residential neighborhoods. Housing types include manufactured homes, duplexes, rowhouses, and multi-unit structures. A mix of nonresidential uses, such as professional office and limited commercial, civic, and institutional uses, is permitted outright or conditionally subject to provisions to minimize adverse impacts, if any, on the residential character. However, the encouragement of mixed uses should not result in a predominance of business or commercial uses in areas designated for residential development by the Comprehensive Plan.

Table 20.420.030-1

-Parks/Open Space	R-18	R-22	R-30	R-35
-Neighborhood Parks	P	P	P	P
- Community Parks	P L ¹⁺³ /C	P L ¹⁺³ /C	P L ¹⁺³ /C	P L ¹⁺³ /C
- Regional Parks	C	P L ¹⁺³ /C	P L ¹⁺³ /C	P L ¹⁺³ /C
- Trails	P L ¹⁺³ /C	P L ¹⁺³ /C	P L ¹⁺³ /C	P L ¹⁺³ /C

~~1+3 Community, regional parks and trails that meet all of the development standards in VMC 20.420.050(E)(1), (2) and (3), respectively, are permitted by as limited uses; all others require a Conditional Use approval.~~

20.420.050.E. Criteria for Parks/Open Space as limited uses.(Reserved for future use)

K. VMC 20.430, adopted by Ordinance M-3643 and last amended by M-4255 is amended to read as follows:

20.430.020 List of Zoning Districts

CC: Community Commercial. The CC zoning district is designed to provide for retail goods and services purchased regularly by residents of several nearby neighborhoods. The zone also accommodates offices, institutions and mixed use housing.

~~Housing located at ground floor is allowed on properties fronting Broadway Street only. In all other cases, housing is located above the ground floor.~~ Because of the limited trade area, there are significant opportunities for walking, bicycle and transit trips that should be encouraged and accommodated through building/site design, landscaping and access.

C. CG: General Commercial. The CG zoning district is designed to allow for a full range of retail, office, mixed use and civic uses with a City-wide to regional trade area. Some light industrial uses also are allowed, but limited so as not to detract from the predominant commercial character of the district. Development is generally expected to be auto-accommodating given the large service area but trips by alternative modes— walking, cycling and transit — should be encouraged through building/site design, landscaping and access. Because such areas generate more traffic than less-intense commercial zones, such developments should take their primary access from a street with at least the capacity of a Minor Arterial. The CG zoning district was referred to as General Commercial (GC) prior to March 11, 2004.

Table 20.430.030-1 Commercial and Mixed Use Districts Use Table

Table 20.430.040-1 Development Standards								
USE	CN	CC	CG	CX**	WX**	CPX**	MX***	RGX****
Residential								
Household Living	L ⁴	L ^{4, 8}	L ^{4, 8}	L ^{42, 8}	L ^{5, 8}		P ⁸	P ⁸

Table 20.430.030-1 footnote 4 All ~~of~~ or part of residential uses must be located above the ground floor of the structure as specified by VMC [20.430.060\(B\)\(2\)](#) with exception of Community Commercial (CC) zoned properties fronting Broadway Street and located within the Uptown Village District of the Vancouver City Center Subarea Plan (refer to VMC [20.430.020\(B\)](#)).

Table 20.430.040-1 Commercial Development Standards

Table 20.430.040-1 Development Standards								
STANDARD	CN	CC	CG	CX**	WX**	CPX**	MX***	RGX****
Minimum Lot Size	None	None	None	None	None		None	None
Minimum Lot Width	None	None	None	None	None		None	None

Table 20.430.040-1 Development Standards								
STANDARD	CN	CC	CG	CX**	WX**	CPX**	MX***	RGX****
Minimum Lot Depth	None	None	None	None	None		None	None
Maximum Lot Coverage	Maximum determined by compliance with screening and buffering standards contained in VMC Tables 20.925.030-1 and 20.925.030-2, stormwater standards, erosion control regulations, and all other applicable development standards.			100%	70%		100%	100%
Minimum Setbacks								
Front yard	See <u>minimum setbacks sharing property line</u> below	See <u>minimum setbacks sharing property line</u> below <u>3</u>	See <u>minimum setbacks sharing property line</u> below <u>3</u>	None	All 25' except parking lots, 10' and driveways		All 10' abutting an R zone; otherwise, same as abutting zone	All 10' abutting an R zone; otherwise, zero
Rear yard	See <u>minimum setbacks sharing property line</u> below	See <u>minimum setbacks sharing property line</u> below <u>3</u>	See <u>minimum setbacks sharing property line</u> below <u>3</u>	None	All 25' except parking lots, 10' and driveways		All 10' abutting an R zone; otherwise, same as abutting zone	All 10' abutting an R zone; otherwise, zero
Rear through-street	See <u>minimum setbacks sharing property line</u> below	See <u>minimum setbacks sharing property line</u> below <u>3</u>	See <u>minimum setbacks sharing property line</u> below <u>3</u>	None				None

Table 20.430.040-1 Development Standards								
STANDARD	CN	CC	CG	CX**	WX**	CPX**	MX***	RGX****
Side yard	See <u>minimum setbacks sharing property line</u> below	See <u>minimum setbacks sharing property line</u> below <u>3</u>	See <u>minimum setbacks sharing property line</u> below <u>3</u>	0/5' ⁴	5'			0/5' ⁴
Street Side yard	See <u>minimum setbacks sharing property line</u> below	See <u>minimum setbacks sharing property line</u> below <u>3</u>	See <u>minimum setbacks sharing property line</u> below <u>3</u>	None	None			None
Between buildings on site	None	None	None	None	None		None	None
Maximum Height	35'	50'	None	Refer to Figure 20.630 ⁴	60'		35' – 75' ⁵	35' – 75' ⁶
Minimum setbacks adjacent to residential district	Pursuant to the screening and buffering standards contained in VMC Tables 20.925.030-1 and 20.925.030-2, plus an additional 1/2 foot for each foot the building exceeds 20 feet in height to a maximum setback requirement of 40 feet. Buildings in excess of 20 feet may be stepped.							
Minimum setbacks adjacent to nonresidential districts	Pursuant to screening and buffering standards contained in VMC Tables 20.925.030-1 and 20.925.030-2.							

Table 20.430.040-1 Development Standards								
STANDARD	CN	CC	CG	CX**	WX**	CPX**	MX***	RGX****
Minimum Landscaping Requirement (percentage of total net area)	15%	15%	15%	None	20%		15%	15%, unless adjusted through master plan

** Subject to additional development standards of 20.600 Plan Districts.

*** Subject to development standards of [20.430.060](#).

**** Subject to development standards of 20.680, and associated Master Plan Adopted for the area of proposed development. Single-family residential development shall meet the development standards of the R-6 zone, except that the minimum lot size shall be 7,000 square and maximum lot size shall be 14,500 square feet. Any changes to platted single family lots including lot line adjustments, adding new lots or consolidating lots shall comply with the approved master plan and applicable provisions of VMC Chapter 20.680 Riverview Gateway Plan District.

1 Deleted.

2 Commercial condominiums shall have no minimum lot size.

3 Zero setbacks allowed for buildings along Main Street and Broadway between McLoughlin and Fourth Plain.

4 None except when abutting residentially-zoned property, when the minimum setback is 5' .

5 In the MX District, maximum building height shall be the same as that of the abutting zone within a distance of the same number of feet from the property line. Farther from the property line, height may increase by 2' for every additional 1' that a structure is set back from the property line to a maximum height of 75'. (For example, where the MX district abuts a residential district with a maximum height of 35', the maximum height in the MX district would be 35' for the first 35' from the property line. The height may then be increased by 2' for every additional 1' the structure or portion of the structure is removed from the property line to a maximum of 75'.) Where the abutting zone is MX or OCI, the maximum height shall be 35'; however, the height may be increased 2' for every additional 1' that a structure is set back from the property line, to a maximum of 75' (For example, a building which is set back 10' from an abutting MX or OCI property may be 45' tall).

6 Maximum heights in the RGX District shall be the same as the MX District as described herein including footnote 5, except where indicated otherwise through Master Plan review and approval pursuant to VMC [20.680](#), subject to conditions therein.

20.430.070 Waterfront Mixed Use (WX) District.

~~The following design guidelines, development standards and application procedures shall apply to all development that occurs or is proposed in the Waterfront Mixed Use (WX) District.~~

~~A. General. This district is intended to provide for a significant level of mixed use development such as commercial, retail, office, institutional, some warehouse uses, residential, parks, public uses, pedestrian access~~

~~along the Columbia River and including compatible industrial uses as well as regional scale facilities, while maintaining environmental and scenic resources and compatibility among uses.~~

~~B. Proposals for development. All proposals for development within this district are required to submit a Master Development Plan according to the specifications of the Columbia River Shoreline Enhancement Overlay District as provided in Chapter [20.620](#).~~

~~C. District goals and objectives. The goals and objectives of the waterfront mixed use district are as follows:~~

~~1. To implement the goals and policies of the comprehensive plan and specifically the Vancouver Eastside Plan for mixed use development within the waterfront area.~~

~~2. Insure functionally coordinated, cohesive site planning and design which maximizes land use through mixed use developments.~~

~~3. Insure compatibility of mixed use developments with the surrounding area and minimize any off-site impacts associated with development.~~

~~4. Encourage water dependent, water related and water oriented uses within the waterfront area.~~

~~5. Encourage a high activity and high density urban environment which permits access to the waterfront not only to the residents of developments but also to the public at large and invokes a sense of community and compatibility with other uses.~~

~~6. Prohibit the development of single family detached dwellings.~~

~~D. Building design.~~

~~1. Multiple buildings on a single site shall be designed to create a strong visual relationship between or among the buildings. Architectural treatment of a building should be consistent on all sides.~~

~~2. Development should take into account the relationship of adjacent buildings in terms of height, materials, scale, and architecture. The goal is to achieve attractive structures and preserve significant views.~~

~~3. Encourage mixed use developments to provide increased opportunities for informal and planned activities beyond the typical 9 a.m. to 5 p.m. In addition, promote design which will increase opportunities for activities both within the project boundaries and between existing adjacent developments and neighborhoods.~~

~~4. Recognize the interest created by both the repetition and changes in various patterns from window openings to paving designs. Development should consider the use of decorative pavement accents in sidewalks and near street intersections.~~

~~5. When a project occurs in a visually rich context, such as the waterfront, its form, materials, orientation, and detailing should incorporate the assets offered by its setting.~~

~~6. Relate the size, character, and siting of proposed projects to the functions of adjacent streets and pedestrian networks. Buildings should be oriented to the public rights of way and should be placed close to pedestrian movement.~~

~~7. Create environments that encourage a number of specific activities to front a street, court, or plaza at ground level to provide variety at a human scale.~~

~~8. Where feasible, encourage the design of multi-use facilities to accommodate retail and other uses at the pedestrian level which increase activity and use.~~

~~9. Buildings shall be designed and located to complement and preserve existing buildings, streets and paths, bridges, and other elements of the built environment.~~

~~a. Buildings shall be designed to be complementary in appearance to adjacent structures of good design with regard to:~~

~~1. Materials, color, and texture;~~

~~2. Setbacks;~~

~~3. Roof lines;~~

~~4. Height;~~

~~5. Overall proportions.~~

~~b. Where existing buildings are to remain on site, new development shall be designed to:~~

~~1. Integrate the remaining buildings into the overall design, or~~

~~2. Provide separate landscaping, remodeling, or other treatment which establishes a distinct character and function for the remaining buildings.~~

~~3. Respect existing developed pedestrian paths or public areas; these should not be eliminated.~~

~~c. Design bus shelters, drinking fountains, benches, mail boxes, etc., to be complementary in appearance to buildings.~~

~~d. Design those items listed below to be complementary in appearance to those buildings or structures upon which they are located. Windows, doors, mailboxes, mechanical equipment, downspouts, utility connections and meters, chimneys, lights, signs, awnings, foundations, vents, stairs, decks and railings, weather vanes, aerials, and other appendages attached to the roof or projecting above the roofline.~~

~~e. Design awnings, signs, and lights at a specific height to define the first floor or retail cornice height.~~

~~f. Use trees and other natural elements to help define building proportion relationships and to provide scale to the structure as a whole.~~

~~g. Encourage thematic consistency and minimize the variety of styles of building elements while allowing a diversity of architecture.~~

~~10. Buildings shall be designed and located to complement and preserve existing natural landforms.~~

~~a. Consider landforms as design elements which must relate to building elevations to determine scale and proportion.~~

~~b. Design foundations to match the scale of the building being supported. Berming, re-siding, or sheathing the foundation structure with wall siding are examples of methods which accomplish this purpose.~~

~~c. Use decks, railings, and stairs to relate a building to the contours of the land.~~

~~11. Buildings should be designed to minimize the personal security risks of users and to minimize the opportunities for vandalism and theft.~~

~~12. Buildings shall be designed and constructed to reduce noise impacts on interior occupied spaces and adjacent property.~~

~~a. Use natural barriers where possible and where it is not possible, consider the use of solid barriers such as fences, berms, natural landforms, and structures to reduce sound levels.~~

~~b. Heat pumps or similar mechanical equipment shall be located so that operating noise does not affect use of living areas such as bedrooms, outdoor decks, patio areas, or adjacent property.~~

~~E.—Building scale/transition.~~

- ~~1. A large structure should contain design elements which create a transition to the human scale, particularly near the ground.~~
- ~~2. If a development is larger or smaller than its adjacent physical context, the design should provide transitional scaled elements at the perimeter to integrate it with its surroundings.~~
- ~~3. Transition using variety of scale, pattern, and texture of building and landscaping elements is encouraged to create a more visually interesting project.~~
- ~~4. Buildings should be designed to reveal or express their primary patterns of use and entry. This will not only assist comprehensibility, but also achieve a desirable variety.~~
- ~~5. The proposed building orientation should respect the orientation of surrounding buildings and streets and should relate to other buildings on the same site in regard to pedestrian circulation. The proposed building should also respect the scale of those buildings located on adjacent properties and, where desirable, serve as an orderly transition to a different scale.~~
- ~~6. Buildings shall be designed and located to complement and preserve existing natural landforms, trees, shrubs, and other natural vegetation, where appropriate.~~
- ~~7. Buildings should be articulated to create transitional scaled elements that relate to existing buildings.~~

~~F.—Building heights/view.~~

~~1.—Guidelines~~

- ~~a. Protect views from the residential areas above the river to the river;~~
 - ~~b. Protect views within the waterfront property to the river. Consider the access to views of both the project users and the general public.~~
 - ~~c. Protect major views and view corridors that give special emphasis to open space, the river, and special man-made or natural landmarks.~~
 - ~~d. Design and locate buildings to provide access to desirable views, while not blocking the views of others unnecessarily.~~
 - ~~e. The maximum overall height allowed in general is 60'. Higher structures may be allowed if views are not significantly impaired.~~
- ~~2.—View analysis. As part of the Master Development Plan, an analysis of views from the residential area above the site including view corridors, view profiles and vertical profiles from various locations is required. The views and/or view corridors to be protected are perpendicular and at angles to the river and include those views from the residential area above to the river and those seen from within the site to the river.~~

~~G.—Blank facades/bulk.~~

~~1.—Guidelines~~

- ~~a. Achieve a balance in the height, bulk, and scale of the buildings constructed within the site so that large and/or long blank walls are either not constructed or their features are minimized.~~
 - ~~b. Provide and protect view corridors and create a pedestrian-oriented environment.~~
- ~~2.—Implementation of guidelines. These guidelines can be achieved by the use of certain landscape features, specific building materials, limited size and length of buildings, preserving significant existing trees, screening mechanical equipment, innovative signage, limiting or having no structures within side building setbacks, limited~~

~~fences and/or hedges within view corridors, visual penetration through structures and other items deemed similar by the Planning Commission.~~

~~H. Pedestrian access/orientation:~~

~~1. Buildings should reflect a strong sense of human scale and interest within the pedestrian environment.~~

~~2. Ground floor levels of buildings shall include elements of pedestrian interest.~~

~~3. Development, especially buildings taller than 40', should address pedestrian scale and open space requirements and maintain human scale by creating variation of the urban form.~~

~~4. Encourage separation of pedestrians and automobiles.~~

~~5. Incorporate architectural and landscape elements at the pedestrian level.~~

~~6. The areas immediately adjacent to buildings should be designed to integrate with the surrounding landscape and pedestrian walkways. Design court yards, colonnades, and public art to define this space.~~

~~7. Development should provide convenient pedestrian access via sidewalks to transit stops.~~

~~8. Building entrances should be identifiable and directly accessible from a public sidewalk. Entry areas should be emphasized and strengthened through design articulation.~~

~~I. Landscaping/screening/open space:~~

~~1. Structures such as antennas and satellite dishes shall be integrated into the project architecture and/or landscaping.~~

~~2. Open space should be an integral part of any proposal. Exterior plazas, entry gardens, urban parks, and sufficient landscaped areas should be clearly defined to strengthen the human scale and reduce the visual impact of tall buildings.~~

~~3. Promote the creation of public and semi-public places at both large and small scales to encourage a sense of community, where appropriate.~~

~~4. Open space should be designed to be accessible and usable by people in general and those with physical limitations and disabilities.~~

~~5. The public should be attracted to open spaces through the creation of comfortable places, attractive exhibits, and easy access. Any open space should be designed to human scale to encourage human interaction.~~

~~6. The size and spacing of landscape elements should be consistent with the size of the project and should relate to any identifiable streetscape.~~

~~7. Landscaping should provide variety and interest and improve the aesthetic quality of a project, in addition to providing a functional purpose.~~

~~8. Coordinate the landscape design with all site utility elements such as power lines, transformers, meter boxes, backflow preventers, and fire protection devices to effectively diminish the impact of such elements on the character of the site.~~

~~J. Clarity/accessibility:~~

~~1. Environments should be created that are understandable and help orient the user and the general public.~~

~~2. Developments should be convenient to and accessible by persons with physical limitations and disabilities.~~

~~3. Sites should be planned to respect existing natural and man-made landmarks and to create landmarks for the ease of public recognition.~~

~~4. Protect major vistas and panoramas that give special emphasis to open space and the river.~~

~~K. Public amenities.~~

~~1. Overhangs and canopies should be integrated in the building design along all pedestrian thoroughfares.~~

~~2. Comfortable and attractive street furniture that is accessible to the physically disabled should be provided in public spaces for public enjoyment and comfort, such as seating and tables, fountains, trash receptacles, information kiosks, and directories.~~

~~L. Site grading.~~

~~1. Site design should minimize the removal of mature trees and other existing mature vegetation.~~

~~2. The proposed grading should be designed with slopes and topographic features which match the natural grade and context area.~~

~~3. Sites should be designed to minimize erosion.~~

~~4. Where they exist in their natural state, significant wetlands, drainageways, and streams should be preserved.~~

~~M. Drainage.~~

~~1. Surface, site drainage, and retention should be integrated with the overall landscape design.~~

~~2. Retention areas should be integrated into usable open space.~~

~~N. Art and furnishings.~~

~~1. Art is encouraged and should be integrated into the overall design of a project, if proposed.~~

~~2. Lighting fixtures and illumination should be of similar design and character as the project's building components.~~

~~O. Pathway guidelines/requirements.~~

~~1. Assure public use and access to the Columbia River shoreline.~~

~~2. Secure public shoreline access along the waterfront, to include waterfront access plans and construction of a waterfront pathway.~~

~~3. Provide a trail that extends along the entire waterfront from the Burlington Northern Railroad Bridge to the eastern city limits with viewpoints and access points. Flexibility may be allowed to vary the location of the path, keeping it as close to the river as possible. Under special circumstances, the path may be allowed to vary or depart from the river for short distances. Also, it may be necessary from time to time to temporarily close a portion of the path. As part of the Master Development Plan (MDP), the location of the path, viewpoints, and access points shall be shown and an explanation shall be submitted as to why the proposed location is the most appropriate for the site and that the equivalent of the pathway requirement can be met.~~

~~4. As part of the development, a pedestrian pathway is required along the river within 35' of the ordinary high water mark.~~

~~5. Along the pathway there shall be viewpoints and access points provided for the public. The location of the viewpoints and access points shall be determined after the analysis required under Subsection [C](#) of this Section, Building Heights/Views is complete.~~

~~6. All applications submitted will comply with the intent and purposes of Resolution No. M-2739 regarding the pathway along the river. Resolution M-2739 outlines the city's responsibilities in terms of the pathway requirement including, but not limited to, planning for a trail from the Burlington Northern Bridge to the eastern city limits which includes some public amenities and includes the providing by the city of adequate maintenance and public safety.~~

~~P. Screening. All trash cans, trash collection areas, storage yards, service areas, and mechanical equipment (including heat pumps, air conditioners, emergency generators, and water pumps), must be screened from view or placed in locations where they will generally not be visible. Screened materials shall be incorporated into the building design. Small rooftop mechanical equipment, including vents, need not be screened if the total area of such equipment does not exceed 10 sq. ft. per structure.~~

~~Q. Fencing. A minimum six (6) foot high sight obscuring fence is required for the storage/assembly/fabrication use area when allowed as a conditional use.~~

~~R. Signage:~~

~~1. Requirements. Business Park type monument base signs are permitted. Free-standing pole signs are not permitted in this zone. The maximum height of a monument base sign is 15'. The maximum size of a monument base sign is 50 sq. ft. Rotating signs and flashing signs are prohibited. Rooftop signs are not permitted. Fascia signs are permitted as set forth in Chapter [20.960](#) Signs of this code, provided that they are consistent with the guidelines set forth in this subsection.~~

~~2. Guidelines~~

~~a. The size, shape, location, and design of all signs should be compatible with building proportions and features and be consistent with the overall character of the site.~~

~~b. Sign locations should be integrated within the design of the site and adjacent streetscape.~~

~~c. Signs should be placed so they are not obscured by landscaping when it has reached full maturity and should be integrated with landscape elements such as walls, planters, and street furniture.~~

~~d. Consideration should be given to the location and design of signs on adjacent parcels.~~

~~e. Multi-tenant buildings and shopping centers should all have a comprehensive sign program. Provisions should be made for coordination of sign dimensions, materials, textures, colors, illumination, and method and location of mounting. These signs should be delineated in a uniform and consistent manner.~~

~~f. Traffic directional signage should be placed to promote safe and efficient traffic flow.~~

~~g. Signs should be oriented to promote readability and serve their intended function.~~

~~h. The use of individual letters for signs is preferred over cabinet signs with brightly lit backgrounds or signs which have emphasized backgrounds. Sign letters should be illuminated rather than the background area or backlit signs should have opaque backgrounds.~~

~~i. The light source of externally illuminated signs shall be shielded or out of the public's view.~~

~~j. Visible braces and other supporting devices should be avoided but, if required, be incorporated as a design feature.~~

~~S. Maximum lot coverage, 70% (parking included).~~

~~T. Minimum landscaping/open space. Twenty percent. The height of all planted trees shall be coordinated with view corridors and with the height of adjacent buildings. This will help ensure that the view corridors are protected.~~

~~U. Parking requirements. See Chapter [20.945](#) for additional requirements.~~

~~V. Transit facilities:~~

~~1. Depending on the type and intensity of development proposed, certain transit facilities may be required including, but not limited to: bus shelters, bus pull-outs, etc.~~

~~2. Where bus shelters and other transit facilities are provided, they should be located near building access and/or activity areas and be incorporated in the building design.~~

~~W. Utilities. All required utilities shall be constructed underground.~~

~~X. Lighting. Lighting for development shall be provided in a uniform and consistent manner in terms of location and design within a development and in coordination with adjacent development and/or zoning. Lighting shall not create offensive glare on adjacent uses and parcels. Lighting shall be uniform and consistent along pathways and/or open spaces and public areas and shall be complimentary within developments.~~

~~Y. Setback requirements:~~

~~1. Required perimeter setbacks from the project boundary shall be based upon the setbacks of the adjacent zone or the following requirements whichever is greater:~~

~~a. For a structure: 25"~~

~~b. For a parking lot: 10'~~

~~c. For a vehicular accessway: 5'~~

~~2. An accessway shared by property zoned commercial and residential is not subject to the yard requirement.~~

~~3. There are no mandatory setbacks required within the site; however, a requirement may be established at the time of Planning Commission review depending upon the type and intensity of development proposed.~~

~~Z. Application procedures:~~

~~1. Pre-application conference. Purpose statement. The purpose of the pre-application conference is to provide the applicant with the opportunity to explain the proposed development concepts, and for the staff to explain all the policies, ordinances, standards, opportunities and other constraints which may be applicable to the site and type of proposed development, before the applicant has invested substantial design time or become committed to particular design solutions.~~

~~2. Pre-application requirements. Applicants are required to participate in a pre-application conference prior to submission of an application. One or more pre-application conferences may be scheduled to allow the applicant and staff to discuss the proposal, the applicable criteria and the requirements for completing the application. The discussion shall be based upon a check list of information to be considered in preparing an application. Other information may be discussed as pertinent to a particular request. The checklist shall include, but not be limited to:~~

~~a. Parcel size and location.~~

~~b. Name and address of owner.~~

~~c. Authorization of agent to act for owner if applicable.~~

~~d. Comprehensive plan and zoning designations.~~

~~e. Existing conditions on the applicant's property and on abutting properties including adjacent land uses, potential cooperation or conflict in land use (i.e., shared parking or need for buffers).~~

~~f. Specifics of the proposal.~~

~~g. Provision of utilities.~~

~~h. Access to the site: transit, including transit facilities (i.e. bus shelters, bus pull-out, etc.), roads, pedestrian and bikeways.~~

~~i. Capacity of other services, such as schools.~~

~~j. Special districts, as applicable, i.e., Shoreline Enhancement Overlay, flood plains, Shoreline Act, etc.~~

~~k. Natural features on the site (i.e., land forms, drainage, wooded areas, and large trees).~~

~~l. Protection of views.~~

~~3. Application procedure. Application to the Planning Commission. Zone Changes, Comprehensive Plan Amendments, Conditional Uses and Site Plan Review shall be applied for by the property owner(s) and/or their agent(s) and shall include the following information and any additional information as determined by the pre-application conference. All maps other than vicinity and detail maps of a particular portion of the site shall be at the same scale.~~

~~a. Zone Text or Map Amendment.~~

~~1. Vicinity map showing subject property and surrounding parcels and uses, contour lines, and nearest public roads.~~

~~2. Tax map of area being considered for zone change, indicating boundaries, existing zoning and existing Comprehensive Plan designation.~~

~~3. Statement of proposed zone change including existing zoning and proposed zoning, reasons for requesting the zone change.~~

~~4. Existing site conditions including topography, drainage, natural areas and natural features, transportation, public facilities, and present use of site.~~

~~5. Explanation of how the proposed zone change complies with the Comprehensive Plan and VMC 18.04 and address the effect of the proposed use of the site on natural resources, natural areas, transportation, and public facilities.~~

~~6. Boundary survey of the site.~~

~~b. Comprehensive Plan Amendment~~

~~1. A statement of the specific language proposed for the amendment.~~

~~2. A full description of any property involved, including:~~

~~a. Map numbers and a tax map of the site.~~

~~b. Lot and block, or metes and bounds, whichever is applicable.~~

~~c. Statement of physical and environmental characteristics of the site.~~

~~d. A description of how the proposed change in land use or intensity would affect public facilities and services, including streets, traffic control, sewer, water, drainage, parks, and public costs.~~

~~e. A description of how the proposed change in policy would meet the requirements of VMC 18.04 and VMC 18.08, community needs and stated plan objectives and how it would affect the social, economic, and environmental characteristics, including natural resources and hazards, of the site.~~

~~e. Shoreline management application.~~

~~1. General information~~

~~a. The application shall be submitted at least forty-five (45) calendar days prior to the requested hearing date.~~

~~b. General location of proposed project.~~

~~c. Name of water area and/or wetlands within which development is proposed.~~

~~d. Current use of the property, including buildings and improvements.~~

~~e. Proposed use of property, including number and use of buildings.~~

~~2. Site plan. Include the following information:~~

~~a. Site boundary.~~

~~b. Property dimensions in vicinity of project.~~

~~c. Ordinary high water mark.~~

~~d. Typical cross section or sections showing:~~

~~i. Existing ground elevations.~~

~~ii. Proposed ground elevation.~~

~~iii. Height of existing structures.~~

~~iv. Height of proposed structures.~~

~~e. Where appropriate, proposed land contours using five-foot (5) intervals in water area and ten-foot (10) intervals on areas landward of ordinary high water mark, if development involves grading, cutting, filling, or other alteration of land contours.~~

~~f. Show dimensions and locations of existing structures which will be maintained.~~

~~g. Show dimensions and locations of proposed structures.~~

~~h. Identify source, composition, and volume of any extracted materials, and identify proposed disposal area.~~

~~i. Identify composition and volume of any extracted materials, and identify proposed disposal area.~~

~~j. Location of proposed utilities, such as sewer, septic tanks and drain fields, water, gas, and electricity.~~

~~k. If the development proposes septic tanks, show how proposed development complies with local health and state regulations.~~

~~l. Shoreline designation according to master program.~~

~~m. Show which areas are shorelines and which are shorelines of statewide significance.~~

~~3. Vicinity map:~~

~~a. Indicate site location using natural points of reference (roads, state highways, prominent landmarks, etc.).~~

~~b. If the development involves the removal of any spoils by dredging or otherwise, identify the proposed disposal site on the map. If the disposal site is beyond the confines of the vicinity map, provide another vicinity map showing the precise location of the site and its distance to the nearest city or town.~~

~~c. Indicate the general nature of the improvements and land use within 1,000' in all directions from the development site (i.e., residential to the north, commercial to the south, etc.).~~

~~d. Conditional uses:~~

~~1. Must meet the goals, guidelines and purposes of the Waterfront Mixed Use District.~~

~~2. Site plan, drawn to scale, indicating existing and proposed structures, setbacks, lot line dimensions, building elevations, lot area, utility lines and/or easements and structures of adjacent lots which may be affected.~~

~~3. Narrative which includes a description of the project and statement of compliance with the Zoning Ordinance, and Comprehensive Plan policies.~~

~~4. The following criteria must be addressed:~~

~~a. The requirements of the zone are met;~~

~~b. The requirements of section [20.245](#) VMC Conditional Use Permits are met;~~

~~c. The site is physically capable of accommodating the proposed use; and~~

~~d. The functional characteristics of the proposed use are such that it can be made to be reasonably compatible with uses in its vicinity.~~

~~e. Site plan review. The Shoreline Enhancement Overlay requires the submission of a Master Development Plan which is comprised of a Concept Plan, a Development Plan and a Phasing Schedule. The Waterfront Mixed Use (WX) guidelines that are applicable to each of these plans are as follows:~~

~~1. Concept Plan. Applicable Guidelines:~~

~~a. Building Design; [20.650.030](#) (A) (1) - (23).~~

~~b. Building Scale/Transition; [20.650.030](#) (B) (1) - (7).~~

~~c. Building Heights/Views; [20.650.030](#) (C) (1) - (2).~~

~~d. Blank facades/Bulk; [20.630.030](#).~~

~~e. Pedestrian Access/Orientation; [20.650.040](#) (A) (1) - (7).~~

~~f. Landscaping/Screening/Open Space; [20.650.050](#) (A-C).~~

~~g. Accessibility and clarity; [20.650.040](#) (B) (1) - (3).~~

~~h. Site Grading; [20.650.060](#) (B) (1) - (4).~~

~~i. Pathway Guidelines/Requirements; [20.650.060](#) (D) (1) - (4).~~

~~2. Development Plan. Applicable Guidelines:~~

~~a. Building Design; [20.650.030](#) (A) (1) - (23).~~

~~b. Building Scale/Transition; [20.650](#) (B) (1) - (7).~~

~~c. Building Heights/Views; [20.650.030](#) (C) (1) - (2).~~

~~d. Blank Facades/Bulk; [20.630.030](#).~~

~~e. Pedestrian Access/Orientation; [20.650.040](#) (A) (1) - (7).~~

- ~~f. Landscaping/Screening/Open Space, [20.650.050](#)(A-G).~~
- ~~g. Public Amenities, [20.650.060](#)(1)-(2).~~
- ~~h. Site Grading, [20.650.060](#)(1)-(4).~~
- ~~i. Drainage.~~
- ~~j. Art and Furnishings, [20.650.060](#)(C)(1)-(2).~~
- ~~k. Pathway Guidelines/Requirements, [20.650.060](#)(D)(1)-(4).~~
- ~~l. Screening, [20.650.060](#)(E).~~
- ~~m. Fencing, [20.650.060](#)(F).~~
- ~~n. Signage, [20.650.060](#)(C).~~
- ~~o. Maximum Lot Coverage, [20.650.060](#)(H)(1).~~
- ~~p. Minimum Landscaping/Open Space, [20.650.060](#)(H)(2).~~
- ~~q. Parking Requirements, [20.650.060](#)(I)(1)-(4).~~
- ~~r. Utilities, [20.650.060](#)(K).~~
- ~~s. Lighting, [20.650.060](#)(L).~~
- ~~t. Setback Requirements [20.650.060](#)(M)(1)-(3). (Ord. M-3643, 2004~~

L. VMC 20.440, adopted by Ordinance M-3643, and last amended by Ordinance M-4255, is amended as follows:

Table 20.440.030-1. Industrial Zoning Districts Use Table

Parks/Open Space	OCI	IL	IH	ECX
- Neighborhood Parks	P	€ P	€ P	P
- Community Parks	€ P	€ P	€ P	€ P
- Regional Parks	C	C	C	C
- Trails	€ P	€ P	€ P	P

Table 20.440.030-1. Industrial Zoning Districts Use Table, footnote 11

11. ~~Subject to NAICS Table 20.440-2. (reserved for future use)~~

M. VMC 20.630.070, adopted by Ordinance M-3643, and last amended by Ordinance M-4071, is amended as follows:

Table 20.630.070-1. City Center West Employment Overlay Use Table

Use	
Human Service Facilities	L ²

~~2 Subject to provisions of Chapter [20.870](#) VMC Human Service Facilities.~~

N. VMC 20.650, adopted by Ordinance M-3643, is amended as follows:

**Chapter 20.650
WATERFRONT MIXED USE (WX) PLAN DISTRICT**

20.650.010 Purpose.

A. The Waterfront Plan District (WX) district is intended to:

1. Implement the goals and policies of the Comprehensive Plan for mixed-use development within the waterfront area.
2. Ensure functionally coordinated, cohesive site planning and design that maximizes land use through mixed-use developments.
3. Ensure compatibility of mixed-use developments with the surrounding uses and minimize any off-site impacts associated with development.
4. Encourage water-dependent, -related and -oriented uses within the waterfront area.
5. Encourage a high-activity and high-density urban environment that permits access to the waterfront not only to the residents of developments, but also to the public at large and invokes a sense of community and compatibility with other uses.
6. Prohibit the development of single-family detached dwellings.
7. Secure public shoreline access to or along the waterfront, to include waterfront access plans, construction of waterfront parks, trails, esplanades, bikeways and viewpoints. (Ord. M-3643, 2004)

20.650.020 Applicability.

~~A. Small sites. Development on a site located in the WX zone that is 20,000 sq. ft. or less in size shall be reviewed by means of site plan review, as governed by Chapter VMC 20.265 Site Plan Review, using the design and development standards contained in this Chapter.~~

~~B. Large sites. Development on a site located in the WX zone that is greater than 20,000 sq. ft. shall require a master plan to be reviewed by the Planning Commission as governed by the regulations in VMC 20.260 Planned Developments, using the design and development standards contained in this Chapter. (Ord. M-3643, 2004)~~

The requirements of this Chapter apply to property that is zoned Waterfront Mixed Use (WX)

20.650.025 Administration.

~~A. Master plan required. An applicant who proposes any~~ Prior to development within the Columbia River Shoreline Enhancement District, the applicant must obtain approval of master plan ~~must submit a master development plan per the requirement of Chapter 20.260 VMC, Planned Developments.~~ Chapter 20.620 Columbia River Shoreline Enhancement Plan District.

B. Purposes of master plan.

1. Assure that the proposed development is considered as a whole and will conform to the Comprehensive Plan and the underlying requirements of the zoning district.
2. Require any changes to the Comprehensive Plan and underlying zoning district to be integrated into the master plan.
3. Assure that phased development is properly coordinated.
4. Provide the developer/property owner with reliable assurances of the City's expectations for the overall project as a basis for detailed planning and investment.
5. Coordinate the master plan process with the requirements of the State Shoreline Management Act and the City's shoreline program, and insofar as applicable with the City's adopted policy for a waterfront trail. (Ord. M-3643, 2004)

20.650.030 Design and Development Standards.

A. Building design. The following design and development standards shall apply to all development that occurs or is proposed in the WX district:

1. Multiple buildings on a single site shall be designed to create a strong visual relationship between or among the buildings. Architectural treatment of a building shall be consistent on all sides.
2. Development shall take into account the relationship of adjacent buildings in terms of height, materials, scale and architecture. The goal is to achieve attractive structures and preserve significant views.
3. Mixed-use developments shall be encouraged to provide increased opportunities for informal and planned activities beyond the typical 9 a.m. to 5 p.m. work hours, including secure, well-lighted amenity zones and programmed activities. In addition, design that will increase opportunities for activities both within the project boundaries and between existing adjacent developments and neighborhoods shall be promoted.

4. Interest shall be created by both the repetition and changes in various patterns from window openings to paving designs. Developers shall consider the use of decorative pavement accents in sidewalks and near street intersections.
5. When a project occurs in a visually rich context, such as the waterfront, its form, materials, orientation, and detailing shall incorporate the assets offered by its setting.
6. The size, character and siting of proposed projects shall relate to the functions of adjacent streets and pedestrian networks. Buildings shall be oriented to the public rights-of-way and shall be placed close to pedestrian movement.
7. Environments shall be created that encourage a number of specific activities to front a street, court or plaza at ground level to provide variety at a human scale.
8. Where feasible, the design of multi-use facilities to accommodate retail and other uses at the pedestrian level that increase activity and use shall be encouraged.
9. Buildings shall be designed and located to complement and preserve existing buildings, streets and paths, bridges and other elements of the built environment.
10. Buildings shall be designed to be complementary in appearance to adjacent structures of good design with regard to:
 - a. Materials, color and texture;
 - b. Setbacks;
 - c. Roof lines;
 - d. Height; and
 - e. Overall proportions.
11. Where existing buildings are to remain on site, new development shall be designed to:
 - a. Integrate the remaining buildings into the overall design; or
 - b. Provide separate landscaping, remodeling or other treatment that establishes a distinct character and function for the remaining buildings.
 - c. Existing pedestrian paths or public areas shall be retained whenever feasible.
12. Bus shelters, drinking fountains, benches, mail boxes and related amenities shall be designed to be complementary in appearance to buildings.
13. The following amenities shall be designed to be complementary in appearance to those buildings or structures upon which they are located: windows, doors, mailboxes, mechanical equipment, downspouts, utility connections and meters, chimneys, lights, signs, awnings, foundations, vents, stairs, decks and railings, weather vanes, aerials and other appendages attached to the roof or projecting above the roofline.
14. Awnings, signs and lights shall be placed at the specific location on the wall to define the first floor or retail cornice height.
15. Trees and other natural elements shall be used to help define building proportion relationships and to provide scale to the structure as a whole.
16. Thematic consistency shall be encouraged and the variety of styles of building elements shall be minimized while allowing a diversity of architecture.

17. *Buildings shall be designed and located to complement and preserve existing natural landforms.*
18. *To the extent practicable, landforms shall be incorporated as design elements that relate to building elevations to determine scale and proportion.*
19. *Foundations shall be designed to match the scale of the building being supported., Use of berms, re-siding, or sheathing the foundation structure with wall siding are methods that accomplish this purpose.*
20. *Decks, railings and stairs that relate a building to the contours of the land shall be used.*
21. *Buildings shall be designed to minimize the personal security risks of users and to minimize the opportunities for vandalism and theft.*
- 22 *Buildings shall be designed and constructed to reduce noise impacts on interior occupied spaces and adjacent property.*
23. *Natural barriers shall be used where possible, and where it is not possible, the use of solid barriers such as fences, berms, or structures to reduce sound levels shall be considered.*
24. *Heat pumps or similar mechanical equipment shall be located so that operating noise does not affect use of living areas such as bedrooms, outdoor decks, patio areas of the use or adjacent uses.*

B. Building scale/transition.

1. *A large structure shall contain design elements that create a transition to the human scale, particularly near the ground.*
2. *If a development is larger or smaller than surrounding uses, the design shall provide transitional elements at the perimeter to integrate it with its surroundings.*
3. *Transition using variety of scale, pattern and texture of building and landscaping elements is encouraged to create a more visually interesting project.*
4. *Buildings shall be designed to reveal or express their primary patterns of use and entry.*
5. *The proposed building orientation shall respect the orientation of surrounding buildings and streets and shall relate to other buildings on the same site in regard to pedestrian circulation.*
6. *Buildings shall be designed and located to complement and preserve existing natural landforms, trees, shrubs and other natural vegetation, where appropriate.*
7. *A balance in the height, bulk and scale of the buildings constructed within the site shall be achieved so that large and/or long blank walls are either not constructed or their features are minimized. These standards can be achieved by the use of certain landscape features, specific building materials, limited size and length of buildings, preserving significant existing trees, screening mechanical equipment, innovative signage, limiting or prohibiting structures within side building setbacks, limited fences and/or hedges within view corridors, and visual penetration through structures.*

C. Building heights/views.

1. *Views from the residential areas above the river to the river shall be protected to the greatest extent practicable;*
2. *Views within the waterfront property to the river shall be protected to the greatest extent practicable. Access to views of both the project' s users and the general public shall be considered.*
3. *Major views and view corridors that give special emphasis to open space, the river, and special man-made or natural landmarks shall be protected to the greatest extent practicable.*

4. Buildings shall be located and designed to provide access to desirable views, while not blocking the views of others unnecessarily.

~~5. The maximum overall height allowed in general is 60'. Higher structures may be allowed if views are not significantly impaired by means of a Type II Variance, as governed by VMC 20.290 Variances.~~

D. View analysis. As part of the master development plan, an analysis of views from the residential area above the site including view corridors, view profiles and vertical profiles from various locations is required. The views and/or view corridors to be protected are perpendicular and at angles to the river and include those views from the residential area above to the river and those seen from within the site to the river. (Ord. M-3643, 2004)

20.650.040 Accessibility.

A. Pedestrian access/orientation.

1. Buildings shall reflect a strong sense of human scale and interest within the pedestrian environment.
2. Ground floor levels of buildings shall include elements of pedestrian interest.
3. Development, especially buildings taller than 40', shall address pedestrian scale and open space requirements and maintain human scale by creating variation of the urban form.
4. Separation of pedestrians and automobiles shall be encouraged. This can be accomplished by providing on-street parking and/or planting strips between the street and sidewalk.
5. The areas immediately adjacent to buildings shall be designed to integrate with the surrounding landscape and pedestrian walkways. Elements such as courtyards, colonnades and public art may be used to define this space.
6. Development shall provide convenient pedestrian access via sidewalks to transit stops.
7. Building entrances shall be identifiable and directly accessible from a public sidewalk. Entry areas shall be emphasized and strengthened through design articulation.

B. Accessibility and clarity.

1. Environments shall be created that are understandable and help orient the user and the general public.
2. Sites shall be planned to respect existing natural and man-made landmarks and to create landmarks for the ease of public recognition.
3. Major vistas and panoramas that give special emphasis to open space and the river shall be protected to the greatest extent practicable. (Ord. M-3643, 2004)

20.650.050 Landscaping and Screening.

A. Ground-level equipment. Structures such as antennas and satellite dishes shall be integrated into the project architecture and/or landscaping.

B. Open space. Open space shall be an integral part of any proposal. Exterior plazas, entry gardens, urban parks and sufficient landscaped areas should be clearly defined to strengthen the human scale and reduce the visual impact of tall buildings.

C. *Public and semi-public places.* Creation of public and semi-public places at both large and small scales shall be promoted to encourage a sense of community, where appropriate. Open spaces shall be designed to attract the public through the creation of comfortable places, attractive exhibits and easy access. Any open space shall be designed at a human scale to encourage human interaction.

D. *ADA compliance.* Open space shall be designed to be accessible and usable by people those with physical limitations and disabilities by complying with the provisions of the Americans With Disabilities Act.

E. *Landscaping size and spacing.* The size and spacing of landscape elements shall be consistent with the size of the project and should relate to any identifiable streetscape.

F. *Landscaping purpose.* Landscaping shall provide variety and interest and improve the aesthetic quality of a project, in addition to providing a functional purpose.

G. *Coordination with utilities.* The landscape design shall be coordinated with all site utility elements such as power lines, transformers, meter boxes, backflow preventers and fire protection devices to effectively diminish the impact of such elements on the character of the site. (Ord. M-3643, 2004)

20.650.060 Other Development Standards.

A. *Public amenities.*

1. Overhangs and canopies shall be integrated in the building design along all pedestrian thoroughfares.
2. Comfortable and attractive street furniture, such as seating and tables, fountains, trash receptacles, information kiosks, and directories which are accessible to the physically disabled shall be provided in public spaces for public enjoyment and comfort.

B. *Site grading.*

1. Site design shall minimize the removal of mature trees and other existing mature vegetation.
2. The proposed grading shall be designed with slopes and topographic features that match the natural grade to the maximum extent practicable.
3. Sites shall be designed to minimize erosion.
4. Where they exist in their natural state, significant wetlands, drainageways and streams shall be preserved.

C. *Art and furnishings.*

1. The use of art is encouraged and shall be integrated into the overall design of a project, if proposed.
2. Lighting fixtures and illumination shall be of similar design and character as the project's building components.

D. *Pathway guidelines/requirements.*

1. Public use and access to the Columbia River shoreline shall be provided.
2. A trail that extends along all of the waterfront from the Burlington Northern Railroad bridge to the eastern city limits with viewpoints and access points shall be provided within 35' of the ordinary high water mark. Flexibility may be allowed to vary the location of the path, keeping it as close to the river as possible. Under special circumstances, the path may be allowed to vary or depart from the river for short distances. Also, it may be necessary from time to time to temporarily close a portion of the path. As part of an application submitted in compliance with Section [20.650.025](#) VMC, the location of the path, viewpoints and access points shall be shown

and an explanation shall be submitted as to why the proposed location is the most appropriate for the site and that the equivalent of the pathway requirement can be met.

3. Along the pathway there shall be viewpoints and access points provided for the public. The location of the viewpoints and access points shall be determined after the analysis ~~required under subsection C above, as stated in Building Heights/Views, is complete.~~

4. All applications submitted shall comply with the intent and purposes of Resolution No. M-2739 regarding the pathway along the river, which outlines the city's responsibilities in terms of the pathway requirement including, but not limited to planning for a trail from the Burlington Northern bridge to the eastern city limits which includes some public amenities and includes the providing by the city of adequate maintenance and public safety.

E. Screening. All trash cans, trash collection areas, storage yards, service areas and mechanical equipment, including heat pumps, air conditioners, emergency generators and water pumps, shall be screened from view or placed in locations where they will generally not be visible. Screened materials shall be incorporated into the building design. Small rooftop mechanical equipment, including vents, need not be screened if the total area of such equipment does not exceed 10 square feet per structure.

F. Fencing. A minimum 6' sight-obscuring fence is required for storage, assembly and/or fabrication uses ~~when allowed as a conditional use.~~

G. Signage.

1. Types: Business park type monument base signs are permitted. The maximum height of a monument base sign is 15'. The maximum size of a monument base sign is 50 square feet. Rotating, flashing and free-standing pole, and roof-top signs are prohibited. Fascia signs are permitted as set forth in VMC [20.960](#) Signs, provided that they are consistent with the standards set forth in this subsection.

2. Standards

a. The size, shape, location and design of all signs shall be compatible with building proportions and features and be consistent with the overall character of the site.

b. Sign locations shall be integrated within the design of the site and adjacent streetscape.

c. Signs shall be integrated with landscape elements such as walls, planters, and street furniture and be placed so they are not obscured by landscaping when it has reached full maturity.

d. Consideration shall be given to the location and design of signs on adjacent parcels.

e. Multi-tenant buildings and shopping centers shall all have a comprehensive sign program. Provisions should be made for coordination of sign dimensions, materials, textures, colors, illumination and method and location of mounting. These signs shall be delineated in a uniform and consistent manner.

f. Traffic directional signs should be placed to promote safe and efficient traffic flow.

g. Signs shall be oriented to promote readability and serve their intended function.

h. The use of individual letters for signs is preferred over cabinet signs with brightly lit backgrounds or signs that have emphasized backgrounds. Sign letters shall be illuminated rather than the background area or backlit signs should have opaque backgrounds.

i. The light source of externally illuminated signs shall be shielded or out of the public's view.

j. Visible braces and other supporting devices should be avoided but, if required, be incorporated as a design feature.

H. Other development standards.

1. *Maximum lot coverage.* The maximum lot coverage shall be 70%, including building footprints and all paved areas devoted to vehicular parking, loading and circulation.

2. *Minimum landscaping/open space.* The minimum landscaped area shall be 20%. The height of all planted trees shall be coordinated with view corridors and with the height of adjacent buildings. This will help ensure that the view corridors are protected.

I. *Parking requirements.*

1. *Parking adjacent to the river.* No parking shall be allowed adjacent to the river. This is to avoid potential problems related to storm water run-off and other water quality problems impacting the river and to enhance the view corridors through and along the river. In some cases, parking may be allowed adjacent to the river but only if

a. The parking is required for a water-dependent or a water-related use and no reasonable alternative exists; or

b. The area of the lot where the parking would be located is depressed 4' or more below street level.

2. *Shared parking between and among uses* shall be encouraged.

3. *Joint circulation and shared access between abutting properties* is encouraged.

4. *Adequate lighting for parking lots* shall be provided to ensure personal safety. Lighting shall be integrated into the architectural character both in terms of illumination.

J. *Transit facilities.*

1. *Depending on the type and intensity of development proposed*, certain transit facilities may be required including, but not limited to bus shelters and bus pull-outs.

2. *Where bus shelters and other transit facilities are provided*, they shall be located near building access and/or activity areas and be incorporated in the building design.

K. *Utilities.* All required utilities shall be constructed underground.

L. *Lighting.* Lighting for development shall be provided in a uniform and consistent manner in terms of location and design within a development and in coordination with adjacent development and/or zoning. Lighting shall not create glare beyond the subject parcel's boundaries. Lighting shall be uniform and consistent along pathways and/or open spaces and public areas and shall be complimentary within developments.

M. *Setback requirements.*

1. *Required perimeter setbacks from the project boundary* shall be based upon the setbacks of the adjacent zone or the following requirements whichever is greater:

a. *For a structure:* 25'.

b. *For a parking lot:* 10'.

c. *For a vehicular accessway:* 5'.

2. *An accessway shared by property zoned commercial and residential* is not subject to the yard requirement.

3. *There are no mandatory setbacks required within the site.* However, a requirement may be established at the time of Planning Commission review depending upon the type and intensity of development proposed. (Ord. M-3643, 2004)\

O. VMC 20.680.040 which was adopted by Ordinance M-3643, and last amended by Ordinance M-4179, is amended as follows:

20.680.040.c.

6. The Master Plan achieves the following objectives:

j Includes standards or legal agreements ensuring shared parking is utilized to the maximum extent practicable throughout the master plan area. The number of non-structured parking spaces provided for individual uses shall be no less than indicated in VMC Table 20.945.070-12, Minimum Off-Street Vehicle Parking Requirements and no more than 115% of that amount.

P. VMC 20.740 which was adopted by Ordinance M-3643, is amended as follows:

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 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 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.

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. (Ord. M-4017 § 4, 2012; Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

E. Interpretation of Critical Area Boundaries. The 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 Section [20.255.020\(D\)](#).

20.740.030 Applicability and Exemptions from Requirement to Obtain Permit.

A. Applicability.

1. Unless exempted by this chapter ~~[VMC [20.740.030\(B\)](#)]~~ 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. 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. ~~[VMC [20.740.030\(B\)](#)]~~.

B. Statements of Exemption Process { Process is moved to this location for better flow.}

For exempt activities listed in 20.740.030(C)(1) below, a written Statement of Exemption from securing a Critical Areas Permit must be obtained prior to undertaking any development activity. Activities exempt 20.740.030(C)(2) do not require a statement of exemption.

All exempt activities are still subject to the policies and regulations of this Chapter. The 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.

C. Exemptions from Requirement to Obtain a Critical Areas Permit.

1. Activities for which a Statement of Exemption is required.

~~Applicants for the exempt activities listed in VMC [20.740.030\(B\)\(1\)\(a-c\)](#) 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 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.~~

{Moved to B}

The following activities shall obtain a Statement of Exemption under [20.740.030\(B\)](#) above:

a. Existing Structure Remodel – Impervious Surface Increase Less than 500 Square {Header Added}

Development or clearing, outside areas of special flood hazards and other than tree removal, as minimally necessary to remodel an existing structure, 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.

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 VMC [20.740.030\(B\)](#), shall be exempt from the provisions of VMC [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:

1. 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);
2. 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
3. Mitigation for those impacts consistent with the requirements of this chapter.

d. Fence

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 [20.7.40](#) (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.

e. 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 Planning Official determines that the critical areas and buffers will be clearly avoided using the following procedures and criteria:

1. The Planning Official 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 Planning Official 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).

f. Fire-Defensible Space

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 [20.7.40.040\(I\)](#)) or undertaking other development requires a Critical Areas Permit under VMC [20.7.40.040\(B\)\(1\)\(f\)](#) 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 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 follow activities are exempt from needing a Critical Areas Permit and do not require a statement of exemption:

a. Emergencies.

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 timeframe too short to allow for compliance with the requirements of this chapter, so long as all of the following apply:

1. The emergency action uses reasonable methods to address the emergency.

2. The emergency action must have the minimum possible impact to the critical area or its buffer.

3. The property owner, person or agency undertaking such action shall notify the city within one working day following commencement of the emergency activity.

4. Within 14 days the planning official shall determine if the action taken was within the scope of the emergency actions allowed in this section. If the 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.

5. 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.

6. Restoration and/or mitigation activities must be initiated within three months of the date of the emergency or as otherwise determined by the planning official, and completed in a timely manner.

b. 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 VMC [20.770](#)) conducted so that critical area impacts are minimized.

d. Landscape Maintenance

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 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 Federal 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

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

Existing and ongoing agricultural activities protected under the federal Food Security Act occurring in wetland areas.

~~m.~~ 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

Implementation of a state or federally approved restoration or enhancement project not related to any development project.

n. Operation, Repair and Maintenance

~~e.~~ 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.

~~pe.~~ Public improvement projects located within existing impervious surface areas.

pf. 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 VMC [20.150](#).

ps. Clearing in Frequently Flood 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\(B\)\(1\)\(f\)](#)).

~~pt.~~ Clearing vegetation in critical areas that are only seismic hazard areas (see VMC [20.740.040\(B\)\(1\)\(f\)](#)).

~~st.~~ Fence Repair

Maintenance, repair, and in-kind replacement of existing fences.

t. Seismic Hazard Areas Only

Sites identified as located within only a Seismic Hazard Area (VMC 20.740.130 – Geologic Hazard Areas) shall be exempt from needing to 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.

{ Comment - Requiring a report from a geotech prior to building permit has only created extra work for applicants and staff as all the code only says that the project must comply with the building code. Therefore it makes sense to not require a critical areas permit at land use permit as this is best handled at building permit. }

(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. 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 found to be exempt under Exemptions [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 or within any critical areas for proposals involving only an addition to an existing single family home, including accessory structures.~~

~~The planning official 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 planning official 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 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 Section [20.255.020\(D\)](#).~~

~~2. Pre-application Waiver. In the event that the planning official grants a pre-application waiver pursuant to VMC [20.210.080\(B\)](#) the planning official 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 planning official shall make one of the following decisions in the pre-application staff report:~~

~~a. Critical Areas Permit Not Required. If the planning official's analysis indicates that there is no critical area or buffer on the subject property, then the planning official shall determine that the initial critical area review is complete and that no further review is required. The planning official shall issue a Statement of Exemption and include it with the Pre-application report.~~

~~b. Critical Areas Permit Required. If the planning official determines that a critical area or its buffer may be located on the subject property, the planning official 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 planning official's Initial Critical Area Determination. A determination may be reconsidered by the planning official 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 A. Critical Areas Permit Process. {Process is hard to follow simplifying}~~

~~1. Pre-application Conference Required. A preapplication meeting or waiver per VMC 20.210 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.

~~21. —Type I Application-Critical Areas Permit. The following activities shall be processed as a All Critical Areas Permits as determined to be necessary under Chapter 20.740 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 VMC 20.210. ~~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, not otherwise exempted ~~by this Chapter~~ by VMC ~~20.740.030(B)(2)(g)~~.
- 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)(e)~~); (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(H)~~). 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 (B)(2)(s) and (H)~~).
- g. Approval of programmatic 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 planning official shall make a determination as to whether the proposed activity and mitigation, if any, are consistent with the provisions of 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 VMC [20.740.040\(~~C B~~\)\(1\)](#) to projects that involve platting on properties containing fish and wildlife habitat conservation areas, wetlands, and their buffers. The 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 VMC [20.740.040\(~~C B~~\)\(2\)\(b\)](#) for exceptions.

a. The property owner shall place the subject critical areas and buffers in one or more nondevelopable 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\(~~C B~~\)\(2\)\(a\)](#) 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 Planning Official 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 Planning Official.

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 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 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 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.

~~D-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.

~~E-F.~~ Reconsideration of planning official'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 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-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.

~~G-H.~~ Programmatic Permits. The purpose of a programmatic 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 programmatic permit shall submit a proposed management plan. The management plan shall contain:

- a. A narrative explaining the need for the programmatic 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 programmatic 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 Planning Official summarizing activities undertaken under the programmatic permit including any issues to be resolved. The report shall also document the training provided in accordance with VMC Section [20.740.040\(HG\)\(1\)\(e\)](#).

4. The applicant or the City may initiate an amendment to the programmatic 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 programmatic permit shall be submitted at least 90 days prior to the date the current permit expires. Programmatic 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 permit, the Planning Official may extend the duration of the current 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 VMC ~~20.740.040(BA)(+2)(f)~~) when one or more of the criteria in VMC ~~20.740.030(B)(1)(g)(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 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 VMC ~~20.260~~ or .268 as appropriate, demonstrating:
 - a. how the maximum critical area(s) and maximum buffer(s) will be clearly avoided (~~VMC 20.740.030(B)(2)(e)(1-3)~~) 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)(1)(a)) the maximum critical area(s) and buffer(s).

20.740.140 Wetlands.

{Minor Change to table to be consistent with recent change in state law}.

Table 20.740.140-2. RATING SYSTEM

Level of Function	Habitat Score in Rating System
-------------------	--------------------------------

Level of Function	Habitat Score in Rating System
High	8 – 9
Moderate	5–7 <u>6-7</u>
Low	3–4 <u>3-5</u>

Q. VMC 20.790.630, which was adopted by Ordinance M-3643, and last amended by Ordinance M-4034, is amended as follows:

20.790.630.G2

2. The City incorporates by reference the policies in the cited City codes, ordinances, resolutions and plans, and all amendments to them in effect prior to the date of fully-complete application of any building permit or preliminary plat, or prior to issuance of a DNS or DEIS for any other action:

~~ooo. 20.870 VMC, Human Service Facilities,~~

R. VMC 20.890.070, which was adopted by Ordinance M-3643, and last amended by Ordinance M-4147, is amended as follows:

20.890.070.C 4. A report from a qualified licensed engineer documenting:

- a. The anticipated capacity of the support structure, including the number and types of antennae which can be accommodated; at a minimum, the structure must be designed to accommodate at least two wireless antennae installations.
- b. A projection of the wireless communication facilities within the coverage area of the facility proposed, that can be reasonably anticipated to be sited during the next five years.
- c. A summary of findings that support the need for the facility at the location proposed.
- d. The facility complies with all applicable standards of the FAA and FCC, including RF energy standard.

S. VMC 20.915.060, which was adopted by Ordinance M-3643, and last amended by Ordinance M-4223, is amended as follows:

Table 20.915.060-1

Table 20.915.060-1 School District Impact Fees		
School District	Single-Family	Multi-Family
Battle Ground	\$6,397	\$2,285
Camas	\$5,371	\$5,371
Evergreen	\$6,100 <u>\$6,432</u>	\$7,641 <u>\$3,753</u>
Vancouver	\$2,880.75	\$2,381.93

- T. VMC 20.945, which was adopted by Ordinance M-3643, and last amended by Ordinance M-4255, is amended as follows:**

20.945.040.D. *Location. Parking spaces shall not be permitted in any setback except as otherwise specified in this title. For single-family and duplex dwellings, vehicle, vessel, recreational vehicle trailer parking is permitted in the front yard setback provided it is: located on a legally established driveway; located out of sight triangles as per [20.895](#) VMC; does not extend into City right-of-way; and is currently licensed and registered. Parking of motor homes, trailers recreational vehicles and boats is allowed in one side or rear setback on an impervious surface and served by a paved driveway. Such parking must be screened from ~~the street and~~ adjoining properties by a 6' sight obscuring fence or hedge.*

- U. VMC 20.960.320, which was adopted by Ordinance M-3643, is amended as follows:**

~~20.960.320 — Structural and Material Requirements.~~

~~All existing legally erected signs which are rendered nonconforming by the adoption of this Chapter must comply with structural and material Code requirements of the Uniform Sign Code and the City Adopted Building Code at the time of any replacement, an alteration, or modification over and above routine maintenance (Ord. M-3643, 2004)~~

Section 4. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any parts thereof to any other person or circumstances and to this end the

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

Section 5. Effective Date. This ordinance shall go into effect on January 1, 2020.

Section 6. Instruction to City Clerk. The City Clerk shall transmit a copy of the revised development code to the Washington Department of Commerce.

Read First Time: December 2, 2019

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

Nays: None

Absent: Councilmember Turlay

Read Second Time:

PASSED BY THE FOLLOWING VOTE:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

SIGNED this _____ day of _____, 2019

Anne McEnerny-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

ORDINANCE - 48

SUMMARY

ORDINANCE NO. M_____

AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and Vancouver Municipal Code (VMC) Title 20; amending text of Vancouver Comprehensive Plan Appendix E, and Vancouver Municipal Code 20.150, 20.225, 20.245, 20.270, 20.290, 20.320, 20.330, 20.410, 20.420, 20.430, 20.440, 20.450, 20.630, 20.680, 20.700, 20.730, 20.740, 20.790, 20.890, 20.945, 20.960; providing for severability; and providing for an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).



Staff Report 198-19

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 12/16/2019

SUBJECT Block 10 Disposition and Development Agreement First Amendment

Key Points

- On October 21, 2019, City Council approved a Disposition and Development Agreement (DDA) between Holland Acquisition Co., LLC (Holland) and the City of Vancouver to facilitate the construction of a large mixed use project on Block 10 to include Holland's corporate headquarters, located northeast of the intersection of Columbia and Eighth Streets, to be leased by Holland for up to 99 years with opportunities to purchase the property at years 60, 80 and after year 99;
- The DDA as approved stipulates a deadline for Holland to complete its due diligence of 60 days following approval of the DDA (December 20, 2019), as well as a deadline of December 31, 2019, for executing the ground lease;
- Due to unforeseen delays, Holland has requested that the DDA be amended to allow for more time to complete their due diligence and execute the ground lease;
- The proposed amendment to the DDA would revise the date for Holland to complete their due diligence to January 27, 2020, and to execute the ground lease no later than March 31, 2020;
- No changes to the target dates for submitting permit applications, commencing construction or completing construction are requested or granted by way of this amendment to the DDA.

Strategic Plan Alignment

Goal 8: Strengthen commercial, retail and community districts throughout the City.

Objective 8.1: Surplus Block 10 and issue an RFP to solicit a use that will contribute to downtown vitality.

Present Situation

As lessee of Block 10, Holland is entitled to a due diligence period to examine any and all aspects of the property such as grading, settling, soil composition and conditions, drainage, hydrology,

existence of Hazardous Materials (if any) structural aspects, easements, rights-of-way, feasibility, building and other permits, approvals, laws and restrictions, land use and other governmental conditions and restrictions, zoning matters, traffic and flight patterns, demographics, title matters, etc. Due to extenuating circumstances, Holland has not been able to thoroughly complete its due diligence within 60 days and is asking for an additional six weeks.

The initial deadline for closing on the lease agreement of December 31, 2019, was requested by Holland in order to fully utilize the Opportunity Zone benefits; however, they have now indicated that they would like to extend the deadline to February 28, 2020, with a right by Holland to extend the closing date upon request to no later than March 31, 2020.

There will be no changes to the target dates for submitting permit applications or commencing and completing construction.

Advantage(s)

1. The requested changes to the Disposition and Development Agreement for Block 10 are needed to ensure that the lessee has an opportunity to thoroughly determine that the project is feasible;
2. The permitting and construction timeline as outlined in the initial DDA will remain in effect.

Disadvantage(s)

None.

Budget Impact

None.

Prior Council Review

- [November 18, 2019](#): Council approval of Lease Agreement
- [October 21, 2019](#): Council Public Hearing on DDA
- [September 9, 2019](#): City Manager Communications
- [May 6, 2019](#): Council Workshop

Action Requested

On Monday, December 16, 2019, subject to public hearing, approve the resolution authorizing the City Manager or designee to sign the proposed First Amendment to the Block 10 Disposition and Development Agreement.

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

ATTACHMENTS:

- ▣ Resolution
- ▣ Exhibit A: Amendment 1 to Disposition and Development Agreement
- ▣ Block 10 Disposition and Development Agreement

12/16/2019

RESOLUTION NO. M-_____

A RESOLUTION relating to the approval of a the first amendment to the disposition and development agreement pursuant to RCW Chapter 36.70B entered into between the City of Vancouver (City) and Holland Acquisitions Co., LLC (Holland); and authorizing the City Manager to execute a disposition and development agreement.

WHEREAS, pursuant to RCW 36.70B.170, on October 25, 2019, the City entered into a Land Disposition and Development Agreement (DDA) with Holland to set forth the terms for the development of Block 10 (bounded by Columbia, West 8th, West 9th, and Washington Streets) Vancouver, Washington; and

WHEREAS, City and Holland desire to clarify the meaning of the term “Due Diligence Contingency Period”, used in the DDA, to mean Monday, January 27, 2020; and

WHEREAS, the City and Holland desire to amend the meaning of the term “Closing Date” to mean February 28, 2020 ; and

WHEREAS, City and Holland desire to allow the extension of the closing date to a date selected by Holland but not later than March 31, 2020; and

WHEREAS, it is in the mutual interest of the City and Holland to enter into this agreement respecting the development of the property; and

WHEREAS, City and Holland desire to affirm the DDA in all respects other than as modified by the First Amendment to the DDA as attached hereto as Exhibit “A”.

RESOLUTION - 1

WHEREAS, a public hearing was duly noticed and held by the City Council on Monday, December 16, 2019, regarding the approval of the attached amendment to the disposition and development agreement;

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY OF VANCOUVER:

Section 1. The City Council, in accordance with RCW 36.70B.200, hereby authorizes the City Manager to execute on behalf of the City, the First Amendment to the DDA in the form attached hereto as Exhibit "A".

ADOPTED at a Regular Meeting of the Vancouver City Council this _____, of _____, 2019.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney

RESOLUTION - 2

**FIRST AMENDMENT TO
LAND DISPOSITION AND DEVELOPMENT AGREEMENT
(Block 10, Vancouver, Washington)**

Between: **City of Vancouver,** “City”
a Washington municipal corporation

And: **Holland Acquisition Co., LLC,** “Holland”
a Washington limited liability company

Effective Date: December __, 2019

Background

A. City and Holland entered into a Land Disposition and Development Agreement (Block 10, Vancouver, Washington) dated as of October 25, 2019 (the “Agreement”) for the development of the real property commonly known as Block 10 bounded by Washington, Columbia, West 8th and West 9th Streets in the City of Vancouver, Washington, as more particularly described in the Agreement. Capitalized terms used but not defined in this Amendment shall have the meanings given to such terms in the Agreement.

B. This First Amendment to Land Disposition and Development Agreement (this “Amendment”) sets forth the terms under which the Agreement is amended.

Agreement

1. Due Diligence Contingency Period. The defined term “Due Diligence Contingency Period” is amended to mean Monday January 27, 2020.

2. Closing Date. The defined term “Closing Date” is amended to mean the date of recording of the ground lease or memorandum of ground lease but in no event later than February 28, 2020, which date is subject to extension as provided in Section 3 of this Amendment.

3. Extension of Closing Date. Holland shall have the right to extend the Closing Date to a date specified by Holland but in all events no later than March 31, 2020, provided that Holland delivers written notice of the extension to the City by no later than February 25, 2020 and represents in that written notice that Holland has a mutually executed letter of intent with a third-party equity partner and that Holland intends to close the financing described in the letter of intent.

4. Affirmation. Except as modified by this Amendment, the Agreement is affirmed. Each party hereby certifies that the other party is not in breach or default under the Agreement, and to each party’s actual knowledge (without any duty of investigation or inquiry) no event has occurred nor does any condition currently exist, which with notice and/or the expiration of any

applicable cure period, would constitute a breach or default by the other party under the Agreement or entitle the other party to terminate the Agreement.

5. Counterparts. This Amendment may be signed in one or more counterparts, and by electronic mail transmission, and each counterpart and electronic mail copy so signed shall be deemed an original hereof.

[Signature Page Follows]

**SIGNATURE PAGE TO FIRST AMENDMENT TO
LAND DISPOSITION AND DEVELOPMENT AGREEMENT**

The City of Vancouver,
a Washington municipal corporation

By: _____
Name: _____
Title: _____

Holland Acquisition Co., LLC,
a Washington limited liability company,

By: Holland Partner Group Management, Inc.,
a Delaware corporation,
its Manager

By: _____
Clyde P. Holland, Jr.,
Chairman and CEO

BLOCK 10 VANCOUVER, WASHINGTON

LAND DISPOSITION AND DEVELOPMENT AGREEMENT

AMONG

THE CITY OF VANCOUVER, a Washington municipal corporation,

AS GROUND LESSOR

AND

HOLLAND ACQUISITION CO., LLC a Washington limited liability company

AS GROUND LESSEE

As of OCTOBER __, 2019

4821-9970-0136.v5

**LAND DISPOSITION AND DEVELOPMENT AGREEMENT
(BLOCK 10 VANCOUVER, WASHINGTON)**

THIS LAND DISPOSITION AND DEVELOPMENT AGREEMENT (this "Agreement") is made as of October _____, 2019 (the "Effective Date"), by and between the CITY OF VANCOUVER, a Washington municipal corporation ("City"), and HOLLAND ACQUISITION CO., LLC a Washington limited liability company ("Lessee" or "Holland").

RECITALS

WHEREAS, City owns the real property commonly referred to as Block 10 bounded by Washington, Columbia, West 8th and West 9th Streets in the City of Vancouver, Washington, and legally described on Exhibit A attached hereto (the "Property");

WHEREAS, City declared the Property surplus by Resolution No. M-3991, dated February 22, 2016;

WHEREAS, Holland submitted to the City a Letter of Intent for Ground Lease of Block 10 dated September 18, 2019 ("LOI") which outlines Holland's proposal to ground lease the Property and construct a mixed-use building on the Property consisting a four-story office tower and a five-story residential tower over a common two-story podium containing structured parking and retail on the ground floor;

WHEREAS, the City executed the LOI on October 3, 2019;

WHEREAS, Lessee shall cause the Holland Partners Group to relocate its Corporate Headquarters to the office tower upon completion which is expected to occupy 40,000 square feet of the office space on an initial base lease term no less than 10 years;

WHEREAS, Lessee intends to apply for the Multi-Family Housing Tax Exemption ("MFTE") Program, which is authorized under state law (RCW 84.14) and codified in Chapter 3.22 of the Vancouver Municipal Code;

WHEREAS, the Parties desire to cause the construction and development of the Property including the construction of a mixed-use building, landscaping and other site and adjacent right of way improvements all in accordance with and subject to this Agreement;

WHEREAS, the parties acknowledge and agree that the City would not lease the Property to Holland without the development terms, conditions and obligations set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, Lessee and the City agree as follows:

ARTICLE 1. DEFINITIONS AND EXHIBITS

Section 1.1 Definitions.

In addition to the terms defined elsewhere in this Agreement, the following definitions shall apply throughout this Agreement.

(a) "Agreement" means this Disposition and Development Agreement, including the attached Exhibits and all subsequent operating memoranda and amendments to this Agreement.

(b) **"Business Days"** mean any day other than Saturday, Sunday or a holiday in which banks are not open in the state of Washington.

(c) **"Certificate of Occupancy"** means the final certificate of occupancy issued by the City, or comparable City sign-off, on the completion of construction of the Improvements.

(d) **"City"** means the City of Vancouver, Washington, a municipal corporation.

(e) **"Closing Date"** means the date of recording of the ground lease or memorandum of ground lease but in no event later than December 31, 2019.

(f) **"Construction Plans"** means all construction documentation upon which Lessee, and Lessee's contractors, shall rely in building the Improvements and shall include, but not necessarily be limited to, final architectural drawings, landscaping plans and specifications, final elevations, building plans and specifications (also known as "working drawings") and a time schedule for construction.

(g) **"Corporate Headquarters"** means the headquarters of Holland Partners Group which is located presently at 1111 Main Street, Suite 700, Vancouver, WA 98660.

(h) **"Development"** means the Property and the Improvements.

(i) **"Effective Date"** has the meaning set forth in the first sentence of this Agreement.

(j) **"Escrow"** means the escrow established with the Title Company for the purpose of conveying a ground lease for the Property from the City to Lessee.

(k) **"Hazardous Materials"** means any substance, material, or waste which is: (1) defined as a "hazardous waste", "hazardous material", "hazardous substance", "extremely hazardous waste", "restricted hazardous waste", "pollutant" or any other terms comparable to the foregoing terms under any provision of Washington law or federal law; (2) petroleum and any fraction thereof; (3) asbestos and asbestos containing materials; (4) polychlorinated biphenyls; (5) radioactive materials; (6) mold; (7) Methyl Tertiary Butyl Ether ("MTBE"); or (8) determined by Washington, federal or local governmental authority to be capable of posing a risk of injury to health, safety, property or the environment. Without limiting the foregoing, Hazardous Materials means and includes any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, a hazardous, toxic or radioactive substance, or other similar term, by any Hazardous Materials Laws including any federal, state or local environmental statute, regulation or ordinance presently in effect that may be promulgated in the future, as such as statutes, regulations and ordinances may be amended from time to time.

(l) **"Hazardous Materials Laws"** means all federal, state, and local laws, ordinances, regulations, orders and directives governing hazardous waste, hazardous substances, discharges of pollutants to soil or groundwater, wastewater discharges, drinking water, air emissions, Hazardous Materials releases or reporting requirements, Hazardous Materials use, storage or disposal, and employee or community right-to-know requirements related to the work being performed under this Agreement.

(m) **"Improvements"** means the planned re-development of the Property with a multi-story, mixed-use building, landscaping and related improvements that comply with the City of Vancouver Municipal Code, in general reflect the design drawings attached at Exhibit C and meets the following minimum standards: (i) a minimum floor-area ratio of no less than 5.5:1 (including parking); (ii) a four-story office tower of a minimum of 80,000 gross square feet (plus or minus 2,500 square feet); a five-story residential tower with 105-110 residential units; and a two-story podium upon which the office and

residential towers will be constructed; (iii) use of high quality materials brick, stone or glass for exterior (no exterior insulation and finish system or wood siding (wood beam accents are acceptable); (iv) garage access located off of 9th Street and 8th Street; (v) 10,000 square feet of ground floor retail or restaurant as identified on Exhibit C located along Columbia, West 8th and Washington Streets; (vi) a minimum 110 parking stalls in a two-level internal garage; (vii) an open and windowed ground-level façade along Columbia, West 8th and Washington Streets; (viii) full frontage improvements (i.e. replacement of sidewalks, curbs, street lights and trees); (ix) locating all overhead utilities on the rights-of-way abutting the Property underground; and (ix) achieves, at a minimum, one of the following design standards: (A) Leadership in Energy Efficiency and Design (LEED) designation, (B) Earth Advantage Commercial Certificate, (C) Green Globes Certification, or (D) other equivalent sustainable design standard reasonably acceptable to the City. The Improvements will be reduced in size pursuant to Section 4.2 in the event of an Overhang Redesign.

(n) "Lessee" means Holland Acquisition Co., LLC a Washington limited liability company, and its permitted successor and assigns

(o) "Parties" means the City and Lessee.

(p) "Property" has the meaning set forth in the Recitals.

(q) "Schedule of Performance" means the summary projected schedule of actions to be taken by the Parties pursuant to this Agreement to achieve disposition of the Property to Lessee and the development of the Improvements on the Property. The Schedule of Performance is attached to this Agreement as Exhibit B. The Schedule of Performance is subject to force majeure and sidewalk Overhang Redesign delays.

(r) "Term" means the term of this Agreement, which shall commence on the Effective Date and shall continue until Closing unless earlier terminated pursuant to the terms hereof.

(s) "Title Company" means the Seattle, Washington office of Fidelity National Title, 600 University Street, Ste. 2424, Seattle, WA 98101, unless modified pursuant to Section 3.3.

Section 1.2 Exhibits.

The following exhibits are attached to and incorporated in the Agreement:

Exhibit A: Legal Description

Exhibit B: Schedule of Performance

Exhibit C: Design Renderings

Exhibit D: Letter of Intent

Exhibit E: Form Completion and Performance Guaranty

Exhibit F: Form of Payment Guaranty

ARTICLE 2. PREDISPOSITION REQUIREMENTS

Section 2.1 Conditions Precedent to City's Obligation to Ground Lease the Property. The requirements set forth in this Section 2.1 are conditions precedent to the City's obligation to execute and close on the Ground Lease:

- (a) Escrow Deposit. Lessee shall have deposited the Deposit in Escrow pursuant to Section 3.2(a);
- (b) Initial Ground Lease Rent. Lessee shall have deposited the initial rent payment pursuant to the Ground Lease;
- (c) Pre-Application Conference. Lessee shall have held a pre-application conference with the City to discuss the Improvements to be developed on the Property;
- (d) Preliminary Design Plans. Lessee shall have timely delivered to and the City shall have approved the conceptual design plans pursuant to Section 4.1(b) below;
- (e) No Default. Lessee shall not be in default of its obligations under this Agreement beyond any applicable cure period;
- (f) City Council Approval of Ground Lease. The City Council shall have duly reviewed and approved the form of Ground Lease negotiated by the parties pursuant to this Agreement;
- (g) Representations and Warranties. All representations and warranties of Lessee contained in any part of this Agreement shall be true and correct in all material respects.
- (h) Closing Documents. Lessee shall have delivered to escrow duly executed copies of the following documents:
 - (i) Ground Lease;
 - (ii) Memorandum of Ground Lease in recordable form;
 - (iii) Completion and Performance Guaranty substantially in the form attached at Exhibit E hereto;
 - (iv) Such affidavits and other documents as the Title Company may reasonably request to issue a leasehold policy of title insurance; and
 - (v) Such other documents as may be reasonably required to effectuate the Closing of the Ground Lease.

Section 2.2 Conditions Precedent to Lessee's Obligation to Ground Lease the Property. The requirements set forth in this Section 2.2 are conditions precedent to Lessee's obligation to execute and close on the Ground Lease:

- (a) No Default. Lessor shall not be in default of its obligations under this Agreement beyond any applicable cure period;
- (b) City Council Approval of Ground Lease. The City Council shall have duly reviewed and approved the form of Ground Lease negotiated by the parties pursuant to this Agreement;
- (c) Drive Thru Teller. The City shall have provided the Drive Thru Teller notice pursuant to Section 2.6;

(d) Closing Documents. Lessor shall have delivered to escrow duly executed copies of the following documents:

(i) Ground Lease;

(ii) Memorandum of Ground Lease in recordable form;

(iii) Such affidavits and other documents as the Title company may reasonably request to issue a leasehold policy of title insurance;

(iv) Such other documents as may be reasonably required to effectuate the Closing of the Ground Lease; and

(e) Title Insurance. Title Company shall be irrevocably committed to issue the leasehold Title Policy to Lessee for insuring the cost of the Improvements showing title to the Property vested in the City subject only to the Permitted Exceptions (as defined in Section 3.6 below) and the documents to be recorded under this Agreement.

(f) Representations and Warranties. All representations and warranties of the City contained in any part of this Agreement shall be true and correct in all material respects.

Section 2.3 Payment Guaranty.

Concurrent with execution of this Agreement, Lessee shall deliver to the City a duly executed original of the Payment Guaranty in the form attached hereto at Exhibit F. Failure to timely deliver the Payment Guaranty shall be a material default of this Agreement.

Section 2.4 Ground Lease Negotiations

(g) Ground Lease Negotiations and Termination Right: The Parties shall undertake good faith negotiations on the terms and conditions of a Ground Lease for the Property. The Ground Lease shall incorporate the material terms and conditions outlined in the LOI attached at Exhibit D, the additional terms and conditions outlined in Article 4 below and such other customary and commercially reasonable terms the parties may agree upon to effectuate the terms and conditions of this Agreement, the LOI and the redevelopment of the Property. If the parties are unable to reach agreement on a mutually acceptable ground lease within thirty (30) days of the Effective Date, then either party may terminate this Agreement upon written notice to the other party, the Deposit shall be promptly disbursed to Lessee as Lessee's sole and exclusive remedy, and thereafter neither party hereto shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement. The Parties may extend the thirty (30) day negotiation period upon written agreement executed by both Parties.

(h) City Council Review and Approval of Ground Lease. If the Parties timely reach a mutually agreeable form of Ground Lease, then the City shall as soon as practicable present such Ground Lease for review, consideration and approval by the City Council. Nothing herein shall be deemed or construed to require the City Council to approve the form of Ground Lease presented. If the Vancouver City Council does not approve the Ground Lease by Closing, then this Agreement shall terminate, the Deposit shall be returned to Lessee as Lessee's sole and exclusive remedy, and thereafter neither party hereto shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.

Section 2.5 Lessee Due Diligence Contingency.

(a) **City Due Diligence Materials.** Within five (5) days after the Effective Date, City shall make available for inspection to Lessee documents relating to the Property only to the extent such items are in City's possession or control (collectively the "Due Diligence Materials").

(b) **Lessee Due Diligence Contingency.** Lessee shall have a period (the "Due Diligence Period") commencing on the Effective Date and continuing until the date that is sixty (60) days following the Effective Date, (the "Due Diligence Expiration Date") to examine any and all aspects of the Property, including without limitation grading, settling, soil composition and condition, drainage, hydrology, existence of Hazardous Materials (if any), structural aspects, easements, rights of way, feasibility, building and other permits, approvals, laws and restrictions, land use and other governmental conditions and restrictions, likelihood of condemnation, zoning matters, traffic and flight patterns, demographics, title matters, matters disclosed by a survey of the Property if Lessee should obtain such a survey and/or desire an ALTA policy of title insurance, contracts that will survive Closing (if any), income and expenses of the Property and each portion thereof (if any), matters that would be disclosed by investigations of the types contemplated by this Section 2.2, and all other matters related to the suitability of the Property for Lessee's intended purposes, use and investment. All square footages, dimensions and sizes (if any) in any materials furnished or made available by City are approximate. Lessee has been urged to independently verify all such information. Lessee has also been urged to conduct its own investigations regarding any impact the zoning of the Property and development regulations may have on Lessee's intended use of the Property. Lessee may perform invasive inspections, borings, sampling and testing of soils, water air or other materials by (x) submitting to City the scope and specifications for such testing; and (y) obtaining the prior written consent of the City for such testing.

(c) **Access.** Lessee may enter the Property to conduct its due diligence. Lessee shall be solely responsible for all costs of inspections and shall restore the Property to the same condition it was in prior to inspection. Lessee agrees to indemnify and defend City from all liens, costs, claims and expenses, including attorneys' fees and experts' fees, arising from or relating to entry onto or inspection of the Property by Lessee, its agents and representatives. This agreement to indemnify and defend City shall survive Closing or termination of this Agreement.

Section 2.6 Notice of Removal of Drive-Thru Teller Permit.

On or before Closing, the City shall have provided the permit holder (the "Bank") for the bank drive-thru teller located in the West 9th Street right-of-way between Columbia and Washington Streets a notice of termination and removal of such structures with a compliance date no later than 30 days prior to estimated commencement of construction of the podium.

ARTICLE 3. DISPOSITION OF PROPERTY

Section 3.1 Ground Lease.

Provided the pre-disposition requirements set forth in Article 2 have all been satisfied or waived and the additional closing conditions set forth in Section 3.5 have been satisfied or waived, the City shall ground lease to Lessee, and the Lessee shall ground lease from the City, the Property pursuant to the Ground Lease.

Section 3.2 Opening Escrow.

(a) Not later than three (3) days of the Effective Date of this Agreement Lessee shall deposit with Escrow the sum of Two Hundred and Fifty Thousand Dollars (\$250,000.00) ("Deposit") in good funds, by federal wire transfer. If Lessee fails to timely deposit the Deposit, Seller shall have the right, as its sole remedy therefor, to terminate this Agreement by giving Lessee written notice.

(b) Upon the expiration of the Due Diligence Period in Section 2.2(a), unless Lessee shall have terminated this Agreement, the Deposit shall be fully earned by the City and shall be non-refundable to Lessee except in the event of a default by City as provided in Section 7.3 below, the failure of a condition precedent for the benefit of Lessee described in Sections 2.2 or 3.3, or as otherwise expressly set forth in this Agreement. If Lessee elects to terminate this Agreement prior to the Due Diligence Expiration Date or the Entitlement Expiration Date the Deposit shall be immediately refunded to Lessee and the parties shall owe each other no obligations except for those that survive the termination of this Agreement.

(c) Escrow Agent shall hold the Deposit in an interest-bearing account in accordance with the terms and conditions of this Agreement. All interest accruing on such sums shall become a part of the Deposit and shall be distributed as part of the Deposit to the party entitled to such distribution in accordance with the terms of this Agreement. Notwithstanding any provision of this Agreement to the contrary, in no event shall either party have any responsibility or liability to the other in connection with the accrual or payment of interest on any portion of the Deposit.

(d) At Closing the Deposit shall be disbursed to the City and held by the City as a security deposit under the Ground Lease and shall thereafter be governed by the terms and conditions of the Ground Lease.

Section 3.3 Title and Survey.

(a) Title Examination. Within ten (10) days after the Effective Date, City shall deliver or cause to be delivered to Lessee a preliminary leasehold report for the Property (the "Title Commitment") from Title Company, and, to the extent available, a legible copy of each document referenced in the Title Commitment as an exception to title (each, an "Exception"). Lessee may, at its cost, obtain an ALTA survey of the Property ("Survey") within twenty (20) days after the Effective Date.

(b) Approval. No later than thirty (30) days following Lessee's receipt of the Title Commitment (the "Title Exam Deadline"), Lessee shall notify City in writing of Lessee's objections to any matters shown in the Title Commitment and stating Lessee's objections to such matters. Any item(s) contained in the Title Commitment to which Lessee does not timely object prior to the Title Exam Deadline, shall be automatically and irrevocably be deemed a Permitted Exception unless such item constitutes a Must Remove Exception (as defined in Section 3.3(c)(ii) below).

(c) Title Update: Title Objections: Cure of Title Objections.

(i) In the event, following the Title Exam Deadline, the Title Commitment is revised (each, a "Title Update") to disclose an Exception that was not on the Title Commitment or any earlier Title Update, or if The Title Company reduces coverage in any way or refuses to issue any endorsement (each, a "New Exception"), Lessee shall have until the date (the "Updated Title Exam Deadline") which is five (5) business days after Lessee's receipt of such Title Update, to notify City in writing that Lessee objects to any matters shown in the Title Update and stating Lessee's objections to such matters. Any item(s) contained in a Title Update to which Lessee does

not timely object prior to the applicable Updated Title Exam Deadline shall be automatically and irrevocably deemed a Permitted Exception unless such item constitutes a Must Remove Exception.

(ii) City agrees that any of the following shown on the Title Commitment or any Title Update shall not constitute Permitted Exceptions and shall be cured or removed by City on or prior to Closing regardless of whether objected to by Lessee as provided in Section 3.3(b) or 3.3(c)(i): (A) any judgment liens against City for a defined and ascertainable amount, (B) any mechanics liens for a defined and ascertainable amount for work performed requested by or on behalf of the City, and (C) any Exception created voluntarily by City after the effective date of the Title Commitment, unless Lessee has approved of such Exception (collectively, the "Must Remove Exceptions").

(iii) In the event Lessee shall timely notify City of objections to Exceptions shown in the Title Commitment, Survey or a Title Update prior to the applicable Title Exam Deadline or Updated Title Exam Deadline and in accordance with Section 3.3(b) or 3.3(c)(i), City shall have the right, but not the obligation, to cure such objections. Within five (5) days after receipt of the applicable Lessee's notice of objections (whether to the Title Commitment, Survey or any Title Update), City shall notify Lessee in writing whether City elects to attempt to cure any or all of such objections (the "City's Cure Notice"). If City elects to attempt to cure, and provided that Lessee shall not have terminated or be deemed to have terminated this Agreement in accordance with Sections 2.2(a) or (b) hereof, City shall have until the Closing Date to attempt to remove, satisfy or cure the same. Any Title Exception objected to by Lessee shall be deemed cured if it is removed as an exception in the Title Policy (including, through the posting of a bond) or if Title Company issues an endorsement insuring over such exception in a form reasonably acceptable to Lessee, which benefits not only Lessee but its successor and assigns who acquire an interest in the Property.

(iv) If City elects not to cure any matters properly objected to by Lessee in accordance with Section 3.3(b) or 3.3(c)(i) above, or if City is unable to effect a cure of those objections which it elected to cure prior to the Closing and so notifies Lessee in writing, or if City fails to respond to Lessee's notice within said five (5) day period (which shall be deemed City's election to not cure), Lessee shall have the following options to be exercised by Lessee in strict accordance with Section 3.3(c)(v) below: (A) to ground lease the Property subject to the those uncured objections; or (B) to terminate this Agreement by sending written notice thereof to City, and upon delivery of such notice of termination, this Agreement shall terminate and the Deposit shall be returned to Lessee as Lessee's sole and exclusive remedy, and thereafter neither party hereto shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.

(v) Lessee shall, within three (3) Business Days after receipt of City's Cure Notice (or if no notice is given, within three (3) Business Days after expiration of the five (5) day period for Seller to provide the Seller's Cure Notice) notify City in writing whether Lessee shall elect to accept the conveyance under clause (A) or to terminate this Agreement under clause (B) of Section 3.3(c)(iv) above. Lessee's failure to notify City of termination of this Agreement within such three (3) business day period shall be deemed to be an election under clause (A) of Section 3.3(d)(iv) above.

(e) **Title Policy.** City agrees to execute an owner's affidavit ("Title Affidavit") in such form as the Title Company shall require for the issuance of the Title Policy. At Closing, the Title Company shall issue to Lessee at Closing a Leasehold Policy of Title Insurance ("Title Policy"), and if requested by or binding commitment to issue the Title Policy, provided that City shall not be required to cure any title exceptions or incur any liability in connection with the issuance of such policy (other than in connection

with the execution of the Title Affidavit as set forth above) unless expressly required hereunder or unless Seller elects under this Section 3.3. Furthermore, Lessee's request for extended coverage and/or endorsement shall not in any way be a condition to or cause a delay in Closing, unless such endorsement is due to a cure elected by City under Section 3.3(c)(iii).

Section 3.4 Covenants of City Prior to Closing. During the period from the Effective Date until the earlier of (a) the Closing or (b) the termination of this Agreement, City shall, in addition to the covenants set forth elsewhere in this Agreement:

- (a) Maintain existing insurance coverage for the Property;
- (b) Not permit or suffer to exist any encumbrance, charge or lien to be placed or claimed upon the Property unless such encumbrance, charge or lien has been approved in writing by Lessee, or unless such encumbrance, charge or lien will be removed by City prior to the Closing;
- (c) Cause all Leases and tenancies of any portion of the Property to be terminated as of the Closing Date except for that Construction Parking Bulk Lease between the City and NASH-Holland Washington & Sixth, LLC with an effective Date of May 1, 2019;
- (d) Not enter into any new contracts or leases affecting the Property which extend past the Closing Date or amend any current contracts or leases affecting the Property, without the prior written consent of Lessee, which consent may be withheld in Lessee's sole discretion;
- (e) Maintain the Property and keep the Property in substantially the same condition on the Closing Date as on the Effective Date normal wear and tear and casualty or condemnation excepted;
- (f) Not sell, mortgage, pledge, hypothecate or otherwise transfer or dispose of all or any part of the Property or any interest therein (except in the ordinary course of business);
- (g) Comply with all laws applicable to the Property, or the use or occupancy thereof, or any operations or activities therein or thereon;
- (h) Comply with all existing permits, licenses and approvals required for the use and occupancy of, and all operations activities on, the Property, and keep all such permits, licenses and approvals in full force and effect; and
- (i) Not take any other action which would violate any laws applicable to the Property, or which would have an adverse effect upon the Property, or upon Lessee after Closing.

Section 3.5 Closing.

The Closing Date shall occur within thirty (30) days following the date on which all conditions precedent to conveyance set forth in Article 2 have been satisfied or waived, but in no event later than December 31, 2019 subject to satisfaction or waiver of the conditions in Article 2.

Section 3.6 Condition of Title.

On the Closing Date, City shall deliver possession of the Property to Lessee subject only to the Exceptions which are listed below in this Section 3.6 (the "Permitted Exceptions"):

- (a) applicable building and zoning laws and regulations;

- (b) the provisions of this Agreement;
- (c) items appearing of record or shown on the Title Commitment and, in any case, not objected to by Lessee or waived or deemed waived by Lessee in accordance with Sections 3.3(b) and 2.2(c) hercof;
- (d) any recordable documents which the parties hereto may mutually direct to be recorded against the Property or required to be recorded by Lessee's lender in connection with its financing;
- (e) any matter shown on the Survey (or would be shown on a correct survey); and
- (f) the Construction Parking Bulk Lease between the City and NASH-Holland Washington & Sixth, LLC with an effective date of May 1, 2019.

Section 3.7 Condition of Property.

(a) **"AS IS" CONVEYANCE.** LESSEE SPECIFICALLY ACKNOWLEDGES AND AGREES THAT IT IS GROUND LEASING THE PROPERTY ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT LESSEE IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM THE CITY AS TO ANY MATTERS CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION: (A) THE QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, TOPOGRAPHY, CLIMATE, AIR, WATER RIGHTS, WATER, GAS, ELECTRICITY, UTILITY SERVICES, GRADING, DRAINAGE, SEWERS, ACCESS TO PUBLIC ROADS AND RELATED CONDITIONS); (B) THE QUALITY, NATURE, ADEQUACY, AND PHYSICAL CONDITION OF SOILS, GEOLOGY AND GROUNDWATER; (C) THE EXISTENCE, QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF UTILITIES SERVING THE PROPERTY; (D) THE DEVELOPMENT POTENTIAL OF THE PROPERTY, AND THE PROPERTY'S USE, HABITABILITY, MERCHANTABILITY, OR FITNESS, SUITABILITY, VALUE OR ADEQUACY OF THE PROPERTY FOR ANY PARTICULAR PURPOSE; (E) THE ZONING OR OTHER LEGAL STATUS OF THE PROPERTY OR ANY OTHER PUBLIC OR PRIVATE RESTRICTIONS ON THE USE OF THE PROPERTY; (F) THE COMPLIANCE OF THE PROPERTY OR ITS OPERATION WITH ANY APPLICABLE CODES, LAWS, REGULATIONS, STATUTES, ORDINANCES, COVENANTS, CONDITIONS AND RESTRICTIONS OF ANY GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITY OR OF ANY OTHER PERSON OR ENTITY; (G) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS IN, ON, AT, UNDER OR ABOUT THE PROPERTY OR THE ADJOINING OR NEIGHBORING PROPERTY; AND (H) THE CONDITION OF TITLE TO THE PROPERTY. LESSEE AFFIRMS THAT LESSEE HAS NOT RELIED ON THE SKILL OR JUDGMENT OF THE CITY OR ANY OF ITS RESPECTIVE AGENTS, EMPLOYEES OR CONTRACTORS TO SELECT OR FURNISH THE PROPERTY FOR ANY PARTICULAR PURPOSE, AND THAT THE CITY MAKES NO WARRANTY THAT THE PROPERTY IS FIT FOR ANY PARTICULAR PURPOSE. LESSEE ACKNOWLEDGES THAT IT SHALL USE ITS INDEPENDENT JUDGMENT AND MAKE ITS OWN DETERMINATION AS TO THE SCOPE AND BREADTH OF ITS DUE DILIGENCE INVESTIGATION WHICH IT SHALL MAKE RELATIVE TO THE PROPERTY AND SHALL RELY UPON ITS OWN INVESTIGATION OF THE PHYSICAL, ENVIRONMENTAL, ECONOMIC AND LEGAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, WHETHER THE PROPERTY IS LOCATED IN ANY AREA WHICH IS DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL AGENCY). LESSEE UNDERTAKES AND

ASSUMES ALL RISKS ASSOCIATED WITH ALL MATTERS PERTAINING TO THE PROPERTY'S LOCATION IN ANY AREA DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL AGENCY.

(b) Survival. The terms and conditions of this Section 3.7 shall expressly survive the Closing Date. The City is not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Property furnished by any contractor, agent, employee, servant or other person except as set forth herein. Lessee has fully reviewed the disclaimers and waivers set forth in this Agreement with Lessee's counsel and understands the significance and effect thereof.

(c) Acknowledgment. Lessee acknowledges and agrees that: (1) to the extent required to be operative, the disclaimers of warranties contained in this Section are "conspicuous" disclaimers for purposes of all applicable laws and other legal requirements; and (2) the disclaimers and other agreements set forth herein are an integral part of this Agreement, that the City would not have agreed to ground lease the Property to Lessee pursuant to this Agreement without the disclaimers and other agreements set forth in this Section 3.6.

(d) Lessee's Release of the City. Lessee, on behalf of itself and anyone claiming by, through or under Lessee hereby waives its right to recover from and fully and irrevocably releases the City, its governing council, employees, officers, directors, representatives, and agents (the "Released Parties") from any and all claims, responsibility and/or liability that Lessee may have or hereafter acquire against any of the Released Parties for any costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to: (1) the condition (including any construction defects, errors, omissions or other conditions, latent or otherwise), valuation, salability or utility of the Property, or its suitability for any purpose whatsoever; (2) any presence of Hazardous Materials; and (3) any information furnished by the Released Parties under or in connection with this Agreement except as set forth herein.

(e) Scope of Release. The release set forth in Section 3.6(d) hereof includes claims of which Lessee is presently unaware or which Lessee does not presently suspect to exist which, if known by Lessee, would materially affect Lessee's release of the Released Parties. Lessee specifically waives the provision of any statute or principle of law that provides otherwise. In this connection and to the extent permitted by law, Lessee agrees, represents and warrants that Lessee realizes and acknowledges that factual matters now unknown to Lessee may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and Lessee further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Lessee nevertheless hereby intends to release, discharge and acquit the City from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses.

Section 3.8 Costs of Escrow and Closing.

City shall pay the cost for a standard leasehold insurance policy. Lessee shall pay the cost for ALTA coverage and any other endorsements, transfer tax, Title Company document preparation, recordation fees and the escrow fees of the Title Company, if any, and any additional costs to close the Escrow.

Section 3.9 Real Estate Commissions.

City and Lessee each represent and warrant to the other that it has not engaged, in any manner, any broker or finder nor incurred any liability for any brokerage or finders' fees or commissions, in connection with this Agreement or the transactions contemplated thereby. City and Lessee shall indemnify, defend and hold harmless each other from and against any and all claims incurred or asserted against the other, and from and against all losses, liabilities, damages, costs and expenses, including reasonable attorneys' fees, actually incurred by the other as a result of any claims of any broker or finder in connection with this Agreement or the transactions contemplated thereby where such claims are allegedly based on actions of the indemnifying party or its agents or representatives.

The provisions of this Section 3.9 shall survive termination of this Agreement.

ARTICLE 4. ADDITIONAL GROUND LEASE TERMS

The Ground Lease negotiated by the parties shall include the terms already agreed to in the LOI attached at Exhibit D and such other mutual acceptable and customary terms of a ground lease. In addition, the Ground Lease shall contain terms that substantially conform to the intent of the following provisions:

Section 4.1 Permits and Conceptual Plan Approval

(a) **Approval of Permits for Improvements.** Lessee shall secure all permits and approvals needed to construct the Improvements. Lessee shall use commercially reasonable efforts to apply for and secure all necessary permits and approvals to construct the Improvements as set forth in the Schedule of Performance attached hereto as Exhibit B. Failure to secure permits by the target deadlines in Schedule B shall not constitute an event of default.

Lessee acknowledges that execution of this Agreement by the City does not constitute approval by the City of any required or additional permits, applications, or other required approvals, if any, and in no way limits the discretion of the City in the permit approval process.

(b) **Conceptual Design Plans.** By the date identified in Schedule B, Lessee shall submit conceptual design plans for the Improvements, including the most current plan set available, to the City for the City's review and approval.

The City shall approve or disapprove the conceptual design plans for the Improvements in writing within thirty (30) days following the City's receipt of the conceptual design plans for the Improvements. If the conceptual design plans for the Improvements are disapproved by the City, the City shall deliver a written notice to Lessee setting forth, in reasonable detail, the reasons for such disapproval. Lessee shall have fifteen (15) days following the receipt of such notice to submit revised conceptual design plans for the Improvements.

Lessee acknowledges that execution of this Agreement by the City does not constitute approval by the City of any required or additional permits, applications, or other required approvals, if any, and in no way limits the discretion of the City in the permit approval process.

Section 4.2 Improvements to Conform to Design Renderings.

Unless modified by operation of Section 4.3, the Improvements shall be designed and constructed substantially in accordance with the approved conceptual design plans. The Improvements shall be constructed in a good and workmanlike lien free manner and the terms and conditions of the land use permits and approvals and building permits granted by the City.

Section 4.3 Change in Design or Construction of Improvements.

(a) Within the timeframe set forth in the Schedule of Performance, the City shall prepare and present to the Vancouver City Council an amendment to section 20.630.020 "Building Lines" of the Vancouver Municipal Code to allow the Improvements to overhang the public right-of-way at a height of not less than twelve feet up to a maximum height of 85 feet and with a maximum overhang of not more than five (5) feet. The code revision would authorize a charge of \$1.40 per square foot of total floor area located in the right-of-way. The fee may be increased by percentage increase in the Consumer Price Index subject to a 3% cap ("Code Amendment"). Lessee agrees that the provision shall not be construed as a binding obligation on the City to amend the VMC and the City Council retains the sole and absolute discretion to approve this amendment to the VMC in accordance with their approval criteria.

(b) In the event the City does not approve the Code Amendment, City acknowledges that Lessee will be required to amend the scope of the Improvements to reduce their size ("Overhang Redesign"). Lessee shall propose changes in the Improvements to conform to existing zoning regulations. Lessee shall submit the Overhang Redesign to the City for its prior review and approval (which shall be separate from the City's permit review and approval process), which approval shall not be unreasonably conditioned, withheld or delayed. City and Lessee shall work in good faith to agree upon the Overhang Redesign.

(c) The approval of changes in the Construction Plans by the City pursuant to this Section shall be in addition to any approvals required to be obtained from the City pursuant to building permit requirements. Approval of changes in the Construction Plans by the City shall not constitute approval by the City and shall in no way limit the City's discretion in approving changes to the Construction Plans.

Section 4.4 Property Tax Exemption.

Subject to Holland submitting a complete the application and information as required and in compliance with the VMC Chapter 3.22, the parties hereby confirm and agree that the City will consider conditional approval of the eight (8) year tax exemption with 20% of the units renting at no more than 100% Area Median Income which shall be applicable to a five story multi-family building with approximately 105 to 110 units constructed substantially in accordance with the architectural elevations attached hereto as Exhibit C. Nothing herein shall be deemed an approval of such tax exemption.

Section 4.5 Commencement of Construction Improvements.

(a) Lessee shall commence construction of the Improvements no later than the date set forth in the Schedule of Performance. Lessee's failure to commence construction by the deadline in the Schedule of Performance, subject to delay due to force majeure or an Overhang Redesign, shall constitute an event of default under the Ground Lease and shall entitle the City to exercise its remedies under the Ground Lease including without limitation to terminate the Ground Lease.

(b) Prior to the start of construction, Lessee shall give sixty (60) days' written notice to the Vancouver Downtown Association ("VDA") to remove improvements installed by VDA at the Property. If VDA does not remove the improvements before construction, Lessee shall remove and deliver such improvements to the VDA at Lessee's sole cost and expense.

Section 4.6 Completion of the Improvements.

Lessee shall diligently prosecute to completion the construction of the Improvements no later than the date set forth in the Schedule of Performance. Lessee's failure to complete the Improvements by the deadline in the Schedule of Performance, subject to delay due to force majeure or an Overhang Redesign, shall constitute an event of default under the Ground Lease and entitle City to exercise its remedies under the Ground Lease including without limitation the City's rights under the Performance Obligation and Guaranty.

Section 4.7 Progress Report.

Until such time as Lessee has completed construction of the Improvements, as evidenced by issuance of final Certificates of Occupancy by the City for the Development, Lessee shall provide the City with monthly progress reports, or more frequent updates if City reasonably requires, regarding the status of the Development.

Section 4.8 Construction Responsibilities.

(a) It shall be the responsibility of Lessee to coordinate and schedule the work to be performed so that commencement and completion of construction will take place in accordance with this Agreement including without limitation the Schedule of Performance.

(b) Lessee shall be solely responsible for all aspects of Lessee's conduct in connection with the Development, including (but not limited to) the quality and suitability of the plans and specifications, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and managers. Any review or inspection undertaken by the City with reference to the Development is solely for determining whether Purchaser is properly discharging its obligations to the City and should not be relied upon by Lessee or by any third parties as a warranty or representation by the City as to the quality of the design or construction of the Development.

Section 4.9 Certificate of Completion.

Promptly after completion of all the Improvements on the Property in accordance with those provisions of this Agreement relating solely to the obligations of Lessee to construct the Improvements, the City shall provide an instrument so certifying the completion of the Improvements on the Property (the "Certificate of Completion"). The Certificate of Completion shall be conclusive determination that the covenants in this Agreement with respect to the obligations of Lessee to construct the Improvements on the Property have been met and provide grounds for termination of this Agreement as an encumbrance on the Property. Issuance of a Certificate of Completion by the City, however, shall not terminate the indemnity obligations of Lessee that survive the termination of this Agreement. The issuance of such Certificate of Completion shall be in addition to any approvals required to be obtained from the City pursuant to building permit requirements concerning temporary or permanent occupancy of the Improvements and such issuance shall City shall not constitute approval by the City regrading occupancy or any way limit the City's discretion in approving the Improvements for temporary or permanent occupancy.

Section 4.10 Entry by the City.

Lessee shall permit the City, through its officers, agents, or employees, at all reasonable times to enter into the Development after reasonable advanced written notice and acceptance by Lessee: (a) to inspect the work of construction to determine that the same is in conformity with the requirements of this Agreement; and (b) following completion of construction, to inspect the ongoing operation and management of the Development to determine that the same is in conformance with the requirements of

this Agreement. Purchaser acknowledges that the City is under no obligation to supervise, inspect, or inform Lessee of the progress of construction, or operations and Lessee shall not rely upon the City therefore. Any inspection by the City during the construction is entirely for its purposes in determining whether Lessee is in compliance with the Ground Lease and is not for the purpose of determining or informing Lessee of the quality or suitability of construction. Lessee shall rely entirely upon its own supervision and inspection in determining the quality and suitability of the materials and work, and the performance of architects, subcontractors, and material suppliers.

ARTICLE 5. REPRESENTATIONS AND WARRANTIES

Section 5.1 Representations and Warranties of City.

City hereby makes the following representations and warranties to Lessee as of the Effective Date, which representations and warranties shall be deemed re-made as of the Closing, subject to the qualifications and exceptions provided in this Agreement:

(a) **Organization and Authority.** City is a Washington municipal corporation. City has the full right and authority to enter into this Agreement and to ground lease all of the Property and to otherwise consummate or cause to be consummated the transactions contemplated herein. The person signing this Agreement on behalf of City is authorized to do so. No consent, approval or action of, filing with or notice to any governmental or regulatory authority or any other person or entity on the part of City is required in connection with the execution, delivery and performance of Agreement or the consummation of the transactions contemplated.

(b) **No Breach.** The execution, delivery and performance of this Agreement by City and the consummation of the transaction contemplated herein will not: (i) to City's knowledge, result in a breach or acceleration of or constitute a default or event of termination under the provisions of any agreement or instrument by which the Property is bound or affected which would have a material adverse impact on the value of the Property or Lessee's ability to ground lease the Property; (ii) except for the Ground Lease, result in the creation or imposition of any lien, charge or encumbrance, against the Property or any portion thereof; or (iii) constitute or result in the violation or breach by City of any judgment, order, writ, injunction or decree issued against or imposed upon City or, to City's knowledge, result in the violation of any applicable law, rule or regulation of any governmental authority.

(c) **Litigation.** City has not received written notice of any litigation, claim, suit, hearing or investigation which has been filed or served against City or, to City's knowledge, the Property, that arises out of the ownership of the Property or would materially and adversely affect City's ability to perform its obligations hereunder.

(d) **Condemnation.** City has not received written notice of any pending condemnation proceedings relating to the Property, and to City's knowledge no such proceeding has been threatened.

(e) **Hazardous Materials.** To City's knowledge, except as disclosed in writing to Lessee City has received no written notice that the Property is in violation of any Hazardous Materials Laws.

Section 5.2 City's Knowledge

The term "City's knowledge" or any reference thereto shall mean and apply to the actual knowledge of the Community and Economic Development Director without any investigation or inquiry having been made or any implied duty to investigate or to make any inquiries.

Section 5.3 Survival of City's Representations and Warranties: Indemnification

City's liability with respect to the representations and warranties of City set forth in this Agreement shall survive the Closing Date for a period of twelve (12) months (the "Survival Period"). From and after the Closing and until the end of the Survival Period City shall indemnify, defend and hold harmless Lessee, and each of Lessee's members, managers, employees, agents, successors and assigns ("Lessee Parties"), from and against any and all claims, demands, actions, losses, costs, expenses, obligations, liabilities, damages, recoveries and deficiencies, including interest, penalties and reasonable attorneys' fees, that Lessee shall incur or suffer as a result of, or that arise, result from or relate to any intentional, material breach of any of City's representations, warranties or covenants under this Agreement.

Section 5.4 Representations and Warranties of Lessee

Lessee hereby represents and warrants to City:

(a) **ERISA**. Lessee is not financing the ground lease or construction of Improvements on the Property with the assets of an employee benefit plan as defined in Section 3(3) of ERISA.

(b) **Organization and Authority**. Lessee has been duly organized or formed and is validly existing under the laws of Washington. Lessee has the full right, power and authority to ground lease the Property as provided in this Agreement and to carry out Lessee's obligations hereunder, and all requisite action necessary to authorize Lessee to enter into this Agreement and to carry out its obligations hereunder have been, or by the Closing will have been, taken. The person signing this Agreement on behalf of Lessee is authorized to do so, and this Agreement is enforceable against Lessee in accordance with its terms, subject to bankruptcy, insolvency and similar laws.

(c) **Pending Actions**. There is no action, suit, arbitration, unsatisfied order or judgment, government investigation or proceeding pending against Lessee which, if adversely determined, could individually or in the aggregate materially interfere with Lessee's ability to consummate of the transaction contemplated by this Agreement.

(d) **Patriot Act and OFAC Compliance**. Neither Lessee nor, to Lessee's knowledge, any individual or entity having any interest in Lessee is (i) listed on the Specially Designated Nationals and Blocked Persons List or any other similar list maintained by the Office of Foreign Assets Control or the U.S. Department of the Treasury, pursuant to any authorizing statute, executive order or regulation; or (ii) a "specially designated global terrorist" or other person listed on Appendix A to Chapter V of 31 C.F.R., as the same has been from time to time updated and amended; or (iii) a person either (A) included within the term "designated national" as defined in the Cuban Assets Control Regulations, 31 C.F.R. Part 515; or (B) designated under Sections 1(a), 1(b), 1(c) or 1(d) of Executive Order No. 13224, 66 Fed. Reg. 49079 (published September 25, 2001) or a person similarly designated under any related enabling legislation or any other similar Executive Orders.

(e) **Corporate Headquarters**. Lessee shall cause Holland Partner Group to lease no less than two (2) full floors, containing approximately 40,000 square feet, of the Improvements for a base lease term

of no less than 10 years and shall cause Holland Partner Group to relocate its Corporate Headquarters to such leased premises upon completion of construction.

Section 5.5 Survival of Lessee's Representations and Warranties.

Lessee's liability with respect to the representations and warranties of Lessee set forth in this Agreement shall survive the Closing.

**ARTICLE 6.
DEFAULT AND REMEDIES**

Section 6.1 General Applicability.

The provisions of this Article shall govern the Parties' remedies for breach or failure of this Agreement.

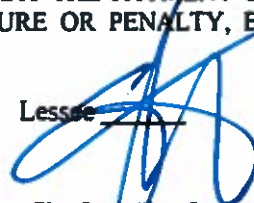
Section 6.2 Default by Lessee.

If Lessee shall default in the performance of any of its obligations to be performed on or before the Closing Date and such default shall continue for seven (7) Business Days after written notice to Lessee, City, as its sole and exclusive remedy, may terminate this Agreement and receive the Deposit as liquidated damages for the breach of this Agreement, it being agreed between the parties hereto that the actual damages to City in the event of such breach are impractical to ascertain and the amount of the Deposit is a reasonable estimate thereof. THEREFORE, BY PLACING THEIR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THE DEPOSIT HAS BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' REASONABLE ESTIMATE OF CITY'S DAMAGES AND AS CITY'S EXCLUSIVE REMEDY AGAINST LESSEE, AT LAW OR IN EQUITY, IN THE EVENT OF A DEFAULT TO CONSUMMATE THE GROUND LEASE CONTEMPLATED BY THIS AGREEMENT ON THE PART OF LESSEE. THE PARTIES ACKNOWLEDGE THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO CITY.

INITIALS: City



Lessee



 OREGON LAW
APPROVED BY
THE COURT

Nothing contained in this Section 6.2 shall limit or prevent City from (i) enforcing any indemnity obligation of Lessee under this Agreement or preclude City from obtaining a damage award in connection therewith, or (ii) enforcing Lessee's other obligations and liabilities which survive a termination of this Agreement other than entering into the Ground Lease.

Section 6.3 Default by City. If City defaults in its obligation to close this Agreement (and such default shall continue for seven (7) Business Days after written notice to City), Lessee shall be entitled, as its sole and exclusive remedy shall elect either: (i) to terminate this Agreement, in which event (A) the Deposit shall be promptly returned to Lessee and (B) all other rights and obligations of City and Lessee hereunder (except those set forth herein which expressly survive a termination of this Agreement) shall terminate immediately; or (ii) to waive such matter or condition and proceed to Closing with no change to the agreed upon ground lease terms in the LOI. Notwithstanding the preceding sentence, if, at the Closing, City fails

to comply in any material respect with any of its obligations contained in Section 3.4 (the "Closing Obligations"), and if all conditions precedent to City's obligations hereunder have been waived or satisfied, Lessee shall have, in lieu of Lessee's remedies contained in the preceding sentence, the option to waive all other actions, rights, or claims for damages for the failure to perform such Closing Obligations (other than costs and expenses incurred in enforcing this Agreement and its right to enforce the indemnities and other provisions of this Agreement which expressly survive a termination of this Agreement or Closing), and to bring an equitable action to specifically enforce the Closing Obligations; provided, Lessee's suit for specific performance shall be filed against City in a court having jurisdiction in the county and state in which the Property is located, on or before forty-five (45) days following the date the Closing Date should have occurred, failing which, Lessee shall be barred from enforcing this Agreement by specific performance and shall be deemed to have elected to terminate this Agreement as provided herein. If Lessee files a suit to enforce the Closing Obligations by specific performance, Lessee shall accept the Property from City subject only to the Permitted Exceptions. Other than as expressly provided herein, Lessee hereby waives any right to any damages resulting from City's failure to perform its Closing Obligations or in the event of City's default hereunder. The foregoing waiver is a material inducement to Seller in entering into this Agreement and shall survive the termination or expiration of this Agreement.

ARTICLE 7. GENERAL PROVISIONS

Section 7.1 Notices, Demands and Communications.

Formal notices, demands, and communications between the City and Lessee shall be sufficiently given if and shall not be deemed given unless dispatched by registered or certified mail/return receipt, or delivered personally, to the principal offices of the City and Lessee as follows:

City:

City of Vancouver
415 West 6th Street
Vancouver, WA 98660
Attn:

With a Copy to:

City of Vancouver
415 West 6th Street
Vancouver, WA 98660
Attn: City Attorney

Houlihan Law PC
303 E. 16th Street, Suite 201
Vancouver, WA
John@houlihan-law.com
jt@houlihan-law.com

Lessee:
Holland Acquisition Co., LLC
c/o Holland Partner Group

1111 Main Street, Suite 700
Vancouver, WA 98660
Attn: Principal Staff Officer / Notices
notices@hollandpartnergroup.com

With a Copy to:
The Oregon Law Group
1675 SW Marlow Avenue, Suite 404
Portland, OR 97225
Attn: Joel Kaplan
notices@oregonlawgroup.com

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time to time designate in writing. No party shall evade or refuse delivery of any notice.

Section 7.2 Non-Liability of City Officials, Employees and Agents.

No member, official, employee or agent of the City shall be personally liable to Lessee, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to Lessee or successor or on any obligation under the terms of this Agreement.

Section 7.3 Force Majeure Delay.

In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of god; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; litigation (including suits filed by third parties concerning or arising out of this Agreement); inability to secure necessary labor, materials or tools; acts or failure to act of any public or governmental agency or entity (other than the acts or failure to act of the City); or any other causes (other than Lessee's inability to obtain financing for the Improvements) beyond the reasonable and foreseeable control or without the fault of the party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the party claiming such extension is sent to the other within ten (10) days from the date the party seeking the extension first discovered the cause. Times of performance under this Agreement may also be extended in writing by the City and Lessee. In no event shall the cumulative delays exceed one hundred eighty (180) days, unless otherwise agreed to by the Parties in writing.

Section 7.4 Title of Parts and Sections.

Any titles of the articles, sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any part of its provision.

Section 7.5 General Indemnification.

Each Party (the "Indemnifying Party") agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to the other Party) the other Party (the "Indemnified Party") and its respective governing council members, managers and employees, from all suits, actions, claims, causes of action, administrative proceedings, arbitrations, enforcement actions, costs, demands, judgments and liens arising out of Indemnifying Party's performance or non-performance under this Agreement, or any other

agreement executed pursuant to this Agreement, or arising out of acts or omissions of any of Indemnifying Party's contractors, subcontractors, or persons claiming under any of the aforesaid, except as directly caused by the Indemnified Party's willful misconduct or gross negligence. The provisions of this Section shall survive termination of this Agreement.

Section 7.6 Applicable Law.

This Agreement shall, in all respects, be governed, interpreted and enforced under and pursuant to the laws of the State of Washington.

Section 7.7 Severability.

If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 7.8 Venue.

In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, the venue for such action shall be the Superior Court of Clark County, Washington.

Section 7.9 Binding Upon Successors.

(a) This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the Parties hereto. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired an interest in compliance with the terms of this Agreement, or under law.

(b) The covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to the Property. However, on the termination of this Agreement, such covenants and restrictions shall expire except to the extent of the specific terms and conditions of any recorded documents. Each and every contract, ground lease, or other instrument hereafter executed covering or conveying the Property shall be held conclusively to have been executed, delivered, and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed, or other instrument, unless the City expressly releases the Property from the requirements of this Agreement.

Section 7.10 Parties Not Co-Venturers.

Nothing in this Agreement is intended to or does establish the Parties as partners, joint-venturers, co-venturers, or principal and agent with one another.

Section 7.11 No Third-Party Beneficiaries.

No person or entity other than the City, Lessee, and their permitted successors and assigns shall have any right of action under this Agreement.

Section 7.12 Time is of the Essence.

In all matters under this Agreement, the Parties agree that time is of the essence.

Section 7.13 Action by the City.

Except as may be otherwise specifically provided in this Agreement, whenever any approval, notice, direction, finding, consent, request, waiver, or other action by the City is required or permitted under this Agreement, such action may be given, made, or taken by the City Attorney or by any person who shall have been designated in writing to Lessee by the City Manager, without further approval by the City Council. Any such action shall be in writing.

Section 7.14 Discretion Retained by City.

The City's execution of this Agreement does not constitute approval by the City and in no way limits the discretion of the City as part of the permit and approval process under applicable City Ordinances in connection with design, permitting and construction of the Improvements.

Section 7.15 Complete Understanding of the Parties.

This Agreement may be executed in counterparts and multiple originals. This Agreement and the attached exhibits constitute the entire understanding and agreement of the Parties with respect to the matters set forth in this Agreement.

Section 7.16 Amendments.

The Parties can amend this Agreement only by means of a writing executed by all Parties.

Section 7.17 Implementation Agreements.

The Parties acknowledge that the provisions of this Agreement require a close degree of cooperation and that new information and future events may demonstrate that changes are appropriate with respect to the details of performance of the Parties under this Agreement. The Parties desire, therefore, to retain a certain degree of flexibility with respect to the details of performance for those items covered in general terms under this Agreement. If and when, from time to time, the Parties find that refinements or adjustments are desirable, such refinements or adjustments shall be accomplished through operating memoranda or implementation agreements mutually approved in writing and signed by the Parties which, after execution shall be attached to this Agreement as addenda and become a part hereof. Operating memoranda or implementation agreements may be executed on the City's behalf by the City Attorney or any person who shall have been designated in writing to Lessee by the City Manager. In the event a particular subject requires notice or hearing, such notice or hearing shall be appropriately given. Notwithstanding the foregoing, nothing in this Section shall be deemed to require the City to consider any request by Lessee for a waiver of any particular obligation as set forth herein.

Section 7.18 Assignment.

Lessee shall be permitted to assign this Agreement, the Deposit and the rights of Lessee in connection therewith, once to a "Lessee's Affiliate" without the prior written consent of City, provided that Lessee delivers written notice no later than 10 days prior to the effective date of such assignment which shall provide reasonable evidence that the assignee is a "Lessee Affiliate" as defined herein. "Lessee's

Affiliate” means (a) any entity that directly or indirectly controls, is controlled by or is under common control with Lessee or (b) any entity at least a majority of whose economic interest is owned by Lessee. The term “control” means the power to direct the management of such entity through voting rights, ownership or contractual obligations. Except for the first assignment to a Lessee’s Affiliate, Lessee shall not assign its rights under this Agreement without the prior written consent of City which may be granted, denied or conditioned in the City’s sole and absolute discretion. No assignments shall relieve the assigning party from its obligations under this Agreement.

Section 7.19 Attorney Fees.

If any action or proceeding is commenced by either party to enforce their rights under this Agreement or to collect damages as a result of the breach of any of the provisions of this Agreement, the substantially prevailing party in such action or proceeding, including any appellate proceedings, shall be entitled to recover all reasonable costs and expenses, including, without limitation, reasonable attorneys’ fees and court costs, in addition to other relief awarded by the court.

Section 7.20 Construction.

The Parties acknowledge that they have each reviewed and revised this Agreement with their respective counsel and that the normal rule of construction that provides for ambiguities to be construed against the drafter shall not be applied when interpreting this Agreement.

Section 7.21 Multiple Originals; Counterparts.

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

Approved as to form:

E. Bronson Potter, City Attorney


LESSOR:

THE CITY OF VANCOUVER, a Washington municipal corporation

By: 
Name: ERIC HOLMES
Title: City Manager

LESSEE:

HOLLAND ACQUISITION CO., LLC,

By: **Holland Partner Group Management, Inc.**
its Manager

By: 
Clyde Holland
Chairman and CEO


OREGON LAW
Approved for Signature
By: 

ACCEPTANCE BY ESCROW AGENT:

Fidelity National Title hereby acknowledges that it has received a fully executed original or original executed counterparts of the foregoing Purchase and Sale Agreement and Joint Escrow Instructions and agrees to act as Escrow Agent thereunder and to be bound by and strictly perform the terms thereof as such terms apply to Escrow Agent.

Dated: _____, 2019

Fidelity National Title

By: _____
Name: _____
Title: _____

EXHIBIT A
LEGAL DESCRIPTION OF THE LAND

Lots 1, 2, 3, 4, 5, 6, 7, and 8, Block 10 West Vancouver according to the plat thereof recorded in Volume B of Plats, Page 40, records of Clark County Washington.

4821-9970-0136.v3

**EXHIBIT B
SCHEDULE OF PERFORMANCE**

This Schedule of Performance summarizes the proposed schedule for various milestones under the Ground Lease. The description of items in this Schedule of Performance is meant to be descriptive only, and shall not be deemed to modify in any way the provisions of the Disposition and Development Agreement to which such items relate. Except for the commencement of construction and completion of construction, the Completion dates noted below are goals not deadlines, and so long as Lessee uses commercially reasonable diligence and efforts to complete the milestones set for the below and the Improvements, the failure to complete a milestone by the corresponding Date of Completion shall not constitute a failure of a condition or a default under the Agreement.

Lessee shall consult with Agency staff informally as necessary concerning such submission in order to assure that such submission will be complete and in a proper form.

Item	Milestone	Target Submission Date (if applicable)	Target Date of Completion
1.	Submission of Code Amendment to VMC 20.630.020		
2.	Pre-Application Meeting		30 days from Effective Date
3.	Site Approvals	November 14, 2019	60 days from submission
4.	City Council to hold public hearing on Code Amendment		November 18, 2019
5.	Delivery of conceptual design plans	November 14, 2019	
6.	Shoring & Excavation Permit	February 5, 2020	March 18, 2020
7.	Commence Construction		May 31, 2020
8.	Podium Building Permit	March 31, 2020	June 9, 2020
9.	Office Core & Shell Permit	June 10, 2020	September 2, 2020
10.	Multi Family Building Permit	June 10, 2020	September 2, 2020
11.	Tenant Improvement Permit	February 4, 2021	April 29, 2021
12.	Completion of Construction		30 months after issuance of Shoring and Excavation Permit

EXHIBIT C
DESIGN RENDERINGS

4821-9970-0136 v5

EXHIBIT D
LETTER OF INTENT

4821-9970-0136.v5



September 18, 2019

Via Email to: eric.holmes@cityofvancouver.us

Eric Holmes
City Manager
City of Vancouver
415 West 6th Street
P.O. Box 1995
Vancouver, WA 98668

Re: Letter of Intent for Ground Lease of Block 10

Dear Eric,

We are pleased to present this offer to ground lease the Block 10 parcel downtown Vancouver (the "Property"). We are submitting this offer on a confidential basis, and request that you honor its confidentiality. The purpose of this letter is to set forth a basis upon which the parties, together with their respective attorneys, may proceed to draft and negotiate toward the execution of a definitive and binding Disposition and Development Agreement (the "DDA"). During negotiation of the DDA, Holland requests the opportunity to present a business case on (1) how to retain and enhance Vancouver's current competitive advantages over other employment centers and (2) how to use A Stronger Vancouver revenues and programs to enhance the business environment, livability and attractiveness of downtown Vancouver. It is understood that either party may terminate negotiations of the DDA at any time and for any reason prior to its execution.

Holland Partner Group is a fully integrated real estate development company with five operating divisions, development, construction, investments, redevelopment and property management. Holland operates in five markets, SW Washington and Portland, Seattle, Denver, Northern California and Southern California. Our Partners' experience with development and redevelopment of multi-family and mixed-use assets represents approximately 50,000 units totaling over \$10 billion in value. In all markets in which we participate, we have chosen to focus on primarily urban sites proximate to employment centers and public transportation.

1111 MAIN STREET, SUITE 700, VANCOUVER WA WWW.HOLLANDPARTNERGROUP.COM
4834-9845-3897.v28

For more information on Holland Partner Group and our projects, please visit our website at <http://www.hollandpartnergroup.com/>.

This Letter of Intent includes the general terms and conditions upon which Holland Acquisition Co., LLC (“Holland”) desires to finalize a DDA with the City of Vancouver (“City”) for the ground lease of Block 10. Except for the items set forth in Section B below, this letter does not constitute a binding agreement or contract, and neither Holland nor City will be bound to lease Block 10 unless both Holland and City execute a binding DDA.

A. Non-Binding Terms. The following sets forth the anticipated but non-binding terms and conditions under which the City would ground lease Block 10 to Holland:

1. Block 10: Block 10 is bounded by Columbia Street to the west, W. 9th Street to the north, Washington Street to the east and W 8th Street to the south in Vancouver, Washington. The parties acknowledge that Block 10 may be subject to a short plat process to facilitate a ground lease transaction. Holland will reimburse the City for permitting fees and reasonable third-party costs incurred in the short plat process.
2. DDA: Promptly following the execution of this letter of intent, the parties will negotiate in good faith toward the execution of a definitive DDA. The initial negotiations will include a confirmation by the City that Holland is designated as the exclusive party with whom the City is negotiating a sale or lease of Block 10 and that all prior negotiations and commitments have expired. The DDA shall include the terms and conditions customarily set forth in an “Agreement to Ground Lease” including contingency periods for the condition of the property, title, project feasibility, permitting and financing. The DDA shall also provide that if parties have not already done so then they shall negotiate the definitive terms of a ground lease within 30 days of execution of the DDA. The parties acknowledge and agree to negotiate in good faith with respect to the structure of the ground lease to facilitate development of the project and potential segregation of leasehold improvement ownership between the three main components of the project as outlined below.

The target date for approval by the Council of this letter of intent is September 9, 2019. The target date for execution of the DDA (which will include the form of ground lease) is October 21, 2019. Any City fees payable for the DDA application and processing will be paid by Holland.
3. Deposit: On execution of the DDA, Holland will fund an earnest money deposit of \$250,000 to be held by the City. In the event the transaction fails to close

due to Holland's default, the deposit will be retained by the City as liquidated damages. The deposit shall be converted to a security deposit under the ground lease which will be refunded 60 days after Holland demonstrates that it has expended at least \$5 million in onsite construction hard costs.

4. Development:

Holland anticipates developing a mixed-use project with a 4-story office building and a 5-story residential building with a minimum of 100 units constructed over a common 2-story podium with structured parking and retail spaces. The residential project shall include 20% of the units at no more than 100% of Area Median Income to satisfy an 8-year Multi-Family Tax Abatement. A preliminary massing study is attached as Exhibit A. Buildings must be approved through the City's downtown design review process for consistency with adopted design guidelines. Ground floor retail, in select areas indicated in Exhibit A, will be required on 8th Street, Columbia, and Washington frontages. Holland will be obligated at its cost and expense to construct full frontage improvements (replacement of sidewalks, curbs, lights, trees, etc.); underground all overhead utilities including cables extending off-site at SE corner of Block 10; and secure LEED, Earth Advantage or similar certification of the building(s). Holland understands that the Riverview Bank ATM and associated improvements on 9th Street operate subject to a revocable permit. The DDA will provide for the timing of the City's revocation of the permit in relation to Closing.

Holland intends and would commit in the DDA to move its corporate headquarters to the new building. The DDA and ground lease will require construction and completion of the project in its entirety on a basis to be described in a construction schedule to be incorporated into the DDA. Construction will be required to commence within 90 days of Ground Lease execution, subject to the City processing required building permits in a timely manner.

The project will include at least 110 parking stalls. Any additional required parking will be satisfied through a shared parking license at the Vancouvercenter parking garage.

The ground lease will provide for construction completion and performance guaranty by Holland Partner Group Investments, LLC, the intent of the parties being to provide security for the completion of project construction and performance of the ground lease from a financially viable party and no less than the guaranty provided to any construction lender.

5. Ground Lease /
Option to
Acquire Lessor
Fee Interest /
Ground Lessee:

The initial term of the ground lease will be 60 years with a single extension term of 39 years. The ground lease will provide an option, in favor of Holland, to purchase the Property at (1) at the expiration of the 60th year of the ground lease, (2) conditioned on due and timely exercise of the extension option, at the expiration of the 80th year of the ground lease; or (3) conditioned on due and timely exercise of the extension option, at expiration of extension term. The purchase price of the Property shall be equal to the fair market value of the Property at that time appraised to its highest and best use, based on then existing zoning and as if unimproved. The determination of fair market value shall not take into account the then existing improvements or the ground lease.

The ground lessee shall be an LLC or other legal entity majority owned or controlled by Holland. The DDA and ground lease shall provide reasonable restrictions on the sale or assignment of the DDA or leasehold interests with the parties' intent being that Holland shall remain the main developer/proponent of the project during the DDA, and ground lease through at least substantial completion of construction. The assignment provisions are not intended to restrict assignments as may be commercially necessary to secure equity or debt for the project so long as Holland remains in control subject to commercially reasonable approvals/consents as may be required in the lessee operating agreement or loan documents.

The ground lease shall not be subject to cross-collateralization or cross-default agreements with other Holland projects.

The ground lease will anticipate and include provisions permitting conversion of the project into up to three commercial condominiums units, one for the office building, one for the residential building and possibly a third for the parking and retail uses. The conversion into condominiums would occur following completion of construction. Following conversion, Holland would have the right to replace the ground lease with up to three separate ground leases, each with respect to one of the condominium units. Holland would be named as the tenant under each separate ground lease until the condominium unit is transferred in accordance with applicable provisions of the separate ground lease. The ground rent would be apportioned among the separate ground leases based upon the relative appraised values of each condominium unit subject to the City's reasonable consent, not to be unreasonably withheld.

6. Ground Rent:

- The ground lease shall be an absolute triple net lease with all costs and expenses associated with the Property to be borne by the ground

lessee. The City will not subordinate its fee interest or leasehold interest to any lessee financing, however any financing of the City's fee interest will be subordinated to the leasehold interest. The ground lease will provide for appropriate recognition of the leasehold estate sufficient to enable the tenant to obtain market financing. The ground rent will be structured as follows: \$2,500 per month commencing upon execution of the ground lease thru the earlier of substantial completion of the project or 36 months after execution of the ground lease;

- \$66,500 per year / \$5,550 per month per month beginning 37 months after execution of the ground lease thru 48 months after execution of the ground lease;
- \$133,200 per year / \$11,100 per month beginning at 49 months after commencement of the ground lease thru start of the 11th lease year. This is calculated based on a 4% cap rate applied to \$3,330,000, the agreed value of the Property. Subject to the 11th year increase and the re-valuation provisions below, the rent will increase every year thereafter, beginning in the 5th lease year and continuing through the expiration of the lease, by the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) (the "CPI"), subject to an annual ceiling of 3%;
- In the 11th lease year, the rent shall increase to \$166,500 per year / \$13,875 per month based on a 5% cap rate applied to \$3,330,000, the agreed value of the Property;
- In lease years 30 and 45 and, if the extension is timely and duly exercised, in lease years 60 and 80, the rent shall be the greater of: (a) the prior year's rent as increased by the CPI; or (b) 5% multiplied by the fair market value of the Property. In no event shall the rent determined by the appraisal adjustment be increased by more than 15% over the then existing rent as increased by the CPI adjustment. The fair market value of the property shall be determined by mutual agreement of the parties and if they cannot agree then by appraisal. The fair market value shall be defined as the value of the property as if unimproved and assuming the then-existing use of the property.
- In the event lessee elects at any time during the ground lease or extension to redevelop the Property or expand the project (e.g.

additional floors or infill development) then the rent shall be recalculated and such new rent will commence as of the date of substantial completion of the redevelopment. The rent shall be the greater of: (a) the prior year's rent as increased by the CPI or as determined by the appraisal process noted above if redevelopment revaluation occurs in years 30, 45, 60 or 80; or (b) 5% multiplied by the fair market value of the Property. The fair market value of the property shall be determined by mutual agreement of the parties and if they cannot agree then by appraisal. The fair market value shall be defined as the value of the property as if unimproved assuming the then-current use applicable to the redevelopment. The new rent will be subject to the subsequent annual CPI adjustment and mark to market rent recalculations if applicable.

7. **Mutual Right of First Offer:** The ground lease will provide for mutual rights of first offer in the event the lessor or lessee desire to sell their respective interests. The rights of first offer will be structured to facilitate lessor and lessee leasehold financing.
8. **Closing:** The target date for closing into the ground lease is no later than year-end. The City acknowledges that the Property is in an Economic Opportunity Zone and Holland must close into the ground lease by year-end in order to qualify for full EOZ tax benefits, which are a material inducement to Holland. Both Holland and the City will use commercial reasonable efforts to commence construction by December 31, 2019.
9. **Housing:** Holland intends to include a housing component in the residential component to assist the City in meeting the area's housing needs. Through development of the DDA, we will explore several topics:
 - The City would commit to support Holland's application for a bond allocation
 - The City staff would recommend to the City Council that they commit to a property tax exemption for Block 10, the amount of which might vary based on the percentage of units set aside for affordable housing and at what level of AMI rents are set.
10. **Sidewalk Overhangs:** Holland anticipates that the office and residential portions of the project will overhang public sidewalks a maximum of 5 feet on all four façades at a height of not less than 12 feet from the sidewalk. Holland acknowledges that such overhangs will require an amendment to VMC Title 20, Land Use

and Development Code and that the City is not obligated to approve such an amendment. The City will work in good faith to amend VMC Title 20 in accordance with and subject to City and Washington legal requirements. Inability to secure the overhangs will require a redesign of the project. If the City does not amend VMC Title 20 the City will approve a smaller building that is consistent with code requirements subject to the then applicable City administrative fee and agree to an updated construction time schedule to accommodate redesign, etc. The City and Holland will work together to find a mutually acceptable structure during the preparation of the DDA.

If VMC Title 20 is amended to allow such over-hang use of the public right of way, the amendment will include provisions for annual fees to occupy the public right of way. Project overhangs described above will be subject to an applicable annual fee for the floor area located in the air space overhanging the right of way. The fee is estimated for the year 2020 at \$1.40/sf of floor area and will increase annually by the percentage increase in the CPI subject to a 3% cap. For example, if a total of 10,000 sq.ft. of floor area on multiple floors was located over the right of way, then initial annual fee would be \$14,000.00. The permit fees will be in addition to the Ground Lease rent and NNN expenses.

11. **Parking Structure:** As you are aware, Holland acquired from Vandevco the option to purchase the parking garage at Vancouvercenter. In conjunction with the DDA, the parties will negotiate a three-year extension of the current Option expiration. The parties will discuss whether to enter into a separate operating agreement whereby Holland would operate the garage during the option period extension. The extension will be conditioned upon Holland closing on the ground lease.
12. **SDCs:** The City will, during negotiation of the DDA, provide “not to exceed” estimates on all System Development Charges applicable to the project.

B. **Binding Provisions.** The following terms of this letter are binding on Holland and City:

1. **Existing Materials:** City shall provide Holland, within five (5) business days of City’s execution of this letter, any and all documents, reports, studies, tests, engineering drawings, surveys or other pertinent materials which City has in its possession (or access to) which relate to Block 10.

2. Marketing of Property: City agrees that provided Holland is diligently pursuing an DDA with City, and during the term of the DDA, City will not (a) promote the sale or ground lease of Block 10 to, or solicit offers to purchase or ground lease Block 10 from, other parties, and (b) discuss or negotiate with other parties regarding any unsolicited offers received from third parties.

3. Confidentiality: Neither Holland nor City will disclose any of the forgoing without mutual approval except to their respective employees, counsel, professional advisors and current or prospective financial partners, City Council or as required by law. The parties acknowledge that this LOI and subsequent documents including without limitation the DDA and ground lease are subject to the Washington Public Records Act.

Letter of Intent - Block 10

September 16, 2019

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If these terms are agreeable, please sign this letter and return it to us via e-mail.

Eric, please call me if you have any questions. We look forward to working with you.

Sincerely,

Holland Acquisition Co., LLC,

By: Holland Partner Group Management, Inc.
its Manager

By:

Clyde Holland
Chairman and CEO

Approved and Accepted:

City of Vancouver

By:

Name: Eric Holmes

Title: City Manager

Date: September 16, 2019

cc: Tom Parsons
Greg Daniels
Craig Parker
Brenner Daniels
Mark Bates
Joel Kaplan

EXHIBIT E
FORM COMPLETION AND PERFORMANCE GUARANTY

4821-9970-0136 v5

PAYMENT GUARANTY

THIS PAYMENT GUARANTY (the "Guaranty") is dated as of October __, 2019, and made and given by HOLLAND PARTNER GROUP INVESTMENTS, LLC, a Washington limited liability company (the "Guarantor"), for the benefit of the CITY OF VANCOUVER, a Washington municipal corporation (the "City").

RECITALS:

A. The City and the Holland Acquisition Co., LLC, a Washington limited liability company (the "Company") have entered into that certain Land Disposition and Development Agreement (the "DDA") as of even date herewith, wherein, among other things, the Company will ground lease from the City and the City will ground lease to Company the real estate commonly referred to as Block 10 bounded by Washington, Columbia, West 8th and West 9th Streets in the City of Vancouver, Washington, and legally described in the DDA (the "Property").

B. Guarantor is an affiliate of the Company.

C. As an inducement for City to enter into the DDA with Company, Guarantor has agreed to execute and deliver this Guaranty to City.

AGREEMENT:

NOW, THEREFORE, for and in consideration of the recitals, which are incorporated herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Guarantor hereby agrees as follows:

1. Capitalized terms used herein shall have the same meanings as set forth in the DDA unless specifically defined herein.

2. Guarantor does hereby guarantee to City the full and prompt payment of any and all indemnification obligations pursuant to Sections 2.2(a)(ii), 3.9 and 7.5 of the DDA (the "Payment Obligations"), including, without limitation, all reasonable attorneys' fees and costs incurred by City or caused by the enforcement of this Guaranty. The Payment Obligations do not include non-indemnity related defaults under the DDA, which are intended to be collateralized by the Deposit.

3. The "Guaranty Period" shall be the period commencing as of the date hereof and ending on the date in which the Company and the City execute the Ground Lease.

4. This Guaranty is an absolute and unconditional guarantee of the Payment Obligations. It shall be enforceable against Guarantor and Guarantor's successors and assigns, during the Guaranty Period only, without the necessity of any suit or proceedings on City's part of any kind or nature whatsoever against Company, its successors or assigns, upon fifteen (15) days written notice of nonpayment, nonperformance or nonobservance. Notice shall be mailed to Guarantor c/o Holland Partner Group, 1111 Main Street, Suite 700, Vancouver, Washington 98660, or at any subsequent address that Guarantor shall have provided City in

writing. Guarantor hereby expressly agrees that the validity of this Guaranty and the Payment Obligations of Guarantor hereunder shall in no way be terminated, affected or impaired by reason of assertion or the failure to assert by City against Company, or Company's successors and assigns, of any of the rights or remedies reserved to City pursuant to the provisions of the DDA.

This is a guaranty of payment and not of collection. All sums payable to City under this Guaranty shall be payable without reduction for any offset, claims, counterclaims or defenses. All obligations of Guarantor hereunder shall be absolute and unconditional under any and all circumstances and shall not be discharged except by Guarantor's payment of the Guaranteed Obligations as herein provided. The liability of Guarantor under this Guaranty shall be direct and immediate and not conditional or contingent upon the pursuit of any remedies against Company or any other person, nor against any other property or monies now or hereafter securing the Payment Obligations whether held by City or by any person or entity on City's behalf or for City's account (the "Collateral"). Guarantor waives any right to require that an action be brought against Company or any other person or to require that resort be had to any Collateral. In the event, on account of the Bankruptcy Reform Act of 1978, as amended, or any other debtor relief law (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, Company shall be relieved of or fail to perform any of the Guaranteed Obligations, Guarantor shall nevertheless be fully liable therefor. In the event of a default under the DDA which is not cured within any applicable grace or cure period, the City shall have the right to enforce any or all of its rights, powers and remedies thereunder or hereunder, in any order and all rights, powers and remedies available to City in such event shall be nonexclusive and cumulative of all other rights, powers and remedies provided thereunder or hereunder or by law or in equity. If the Guaranteed Obligations are partially paid or discharged by reason of the exercise of any of the remedies available to City, this Guaranty shall nevertheless remain in full force and effect and Guarantor shall remain liable for all remaining Guaranteed Obligations, even though any rights which Guarantor may have against Company may be destroyed or diminished by the exercise of any such remedy. If the Guaranteed Obligations are otherwise partially paid or discharged for any reason, with or without the consent or cooperation of City, this Guaranty shall nevertheless remain in full force and effect and Guarantor shall remain liable for all remaining Guaranteed Obligations. Guarantor shall be liable, jointly and severally, with Company for all or any part of the Guaranteed Obligations.

5. To the extent permitted by law, Guarantor hereby waives and agrees not to assert or take advantage of (as a defense or otherwise):

- i. Any right to require City to proceed against Company or any other person, including, without limitation, any other guarantor or to proceed against or exhaust any Collateral held by City at any time or to pursue any other remedy in City's power or under any other agreement before proceeding against Guarantor hereunder;
- ii. The defense of the statute of limitations in any action hereunder;
- iii. Any defense that may arise by reason of the incapacity, lack of authority, death or

disability of any other person or persons or the failure of City to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person or persons;

- iv. Demand, presentment for payment, notice of nonpayment, protest, notice of protest and all other notices of any kind, or the lack of any thereof, including, without limitation, notice of the existence, creation or incurring of any new or additional indebtedness or obligation or of any action or non-action on the part of Company, City, any endorser or creditor of Company or of Guarantor or on the part of any other person whomsoever under this or any other instrument in connection with any obligation held by City;
- v. Any defense based upon an election of remedies by City;
- vi. Any right or claim or right to cause a marshalling of the assets of Guarantor;
- vii. Any principle or provision of law, statutory or otherwise, which is or might be in conflict with the terms and provisions of this Guaranty;
- viii. Any duty on the part of City to disclose to Guarantor any facts City may now or hereafter know about Company or the Collateral, regardless of whether City has reason to believe that any such facts materially increase the risk beyond that which Guarantor intends to assume or has reason to believe that such facts are unknown to Guarantor or has a reasonable opportunity to communicate such facts to Guarantor, it being understood and agreed that Guarantor is fully responsible for being and keeping informed of the financial condition of Company, of the condition of the Collateral and of any and all circumstances bearing on the risk that liability may be incurred by Guarantor hereunder;
- ix. Any lack of notice of disposition or of manner of disposition of any Collateral;
- x. Failure to properly record any document or any other lack of due diligence by City in creating or perfecting a security interest in or collection, protection or realization upon any Collateral or in obtaining reimbursement or performance from any person or entity now or hereafter liable for the Loan Documents or any obligation secured thereby;
- xi. The inaccuracy of any representation or other provision contained in any DDA or Ground Lease document;
- xii. Any invalidity, irregularity or unenforceability, in whole or in part, of any one or more of the DDA documents;
- xiii. An assertion or claim that the automatic stay provided by 11 U.S.C. §362 (arising upon the voluntary or involuntary bankruptcy proceeding of Company) or any other stay provided under any other debtor relief law (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, shall operate or be interpreted to stay,

interdict, condition, reduce or inhibit the ability of City to enforce any of its rights, whether now or hereafter required, which City may have against Guarantor or the Collateral;

- xiv. Any modifications of the DDA or any obligation of Company relating to the DDA by operation of law or by action of any court, whether pursuant to the Bankruptcy Reform Act of 1978, as amended, or any other debtor relief law (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect or otherwise;
- xv. The release of Company or of any other person or entity including, without limitation, any other guarantor from performance or observance of any of the agreements, covenants, terms or conditions contained in the DDA by operation of law, City's voluntary act or otherwise;
- xvi. The taking of any other action by City including, without limitation, giving any notice of default or any other notice to, or making any demand on, Company or any other guarantor of all or any part of the Guaranteed Obligations or any other party; and
- xvii. Any other circumstance which might otherwise constitute a defense available to, or discharge of, Company or any other guarantor of all or any part of the Guaranteed Obligations.

6. **Representations and Warranties.** Guarantor hereby represents and warrants the following to City:

- i. This Guaranty directly and substantially benefits Guarantor. By executing this Guaranty, Guarantor acknowledges and knowingly accepts the full range of risks encompassed within a contract of guaranty;
- ii. Guarantor is familiar with, and has independently reviewed, the books and records regarding the financial condition of Company and is familiar with the value of any and all Collateral intended to be security for the payment of all or any part of the Guaranteed Obligations; provided, however, Guarantor is not relying on such financial condition or Collateral as an inducement to enter into this Guaranty and is not relying in any manner on any representation or statement of City;
- iii. Guarantor has adequate means to obtain from Company on a continuing basis information concerning the financial condition of Company and Guarantor is not relying on City to furnish, and shall have no right to require City to obtain or disclose, any information with respect to the Guaranteed Obligations, the financial condition or character of Company or the ability of Company to pay the Guaranteed Obligations, the existence of any Collateral or security for the Guaranteed Obligations, the existence or nonexistence of any other guaranties of all or any part of the Guaranteed Obligations, any actions or non-action on part of City, Company or any other person or entity or any other matter, fact or

occurrence whatsoever;

- iv. Guarantor has the power and authority to execute, deliver and perform this Guaranty and any other agreements executed by the Guarantor contemporaneously herewith and the execution, delivery and performance of this Guaranty and any other agreements executed by Guarantor contemporaneously herewith do not and will not violate (i) any agreement or instrument to which Guarantor is a party; (ii) any law, rule, regulation or order of any governmental authority to which Guarantor is subject; or (iii) its articles or certificate of incorporation, bylaws, or operating agreement if Guarantor is a corporation or limited liability company, or its partnership agreement, if Guarantor is a partnership, or its trust agreement, if Guarantor is a trust;
- v. Neither City nor any other party has made any representation, warranty or statement to Guarantor in order to induce Guarantor to execute this Guaranty;
- vi. The financial statements and other financial information regarding Guarantor heretofore delivered to City are true and correct in all respects and fairly present the financial position of Guarantor as of the date thereof and no material adverse change has occurred in the financial condition of Guarantor reflected in the financial statements and other financial information regarding Guarantor heretofore delivered to City since the date of the last statement thereof;
- vii. As of the date hereof, and after giving effect to this Guaranty and the obligations evidenced hereby, (i) Guarantor is and will be solvent; (ii) the fair saleable value of Guarantor's assets exceeds and will continue to exceed Guarantor's liabilities (both fixed and contingent); (iii) Guarantor is and will continue to be able to pay Guarantor's debts as they mature; and (iv) if Guarantor is not an individual, Guarantor has and will continue to have sufficient capital to carry on Guarantor's business; and
- viii. Guarantor has timely and accurately filed all federal, state, local tax or information returns and Guarantor is not delinquent in the payment of any income, property or other federal, state or local tax or assessment.
- ix. Guarantor hereby agrees to indemnify and hold City free and harmless from and against all loss, cost, liability, damage and expense, including reasonable attorneys' fees and costs, which City may sustain by reason of the inaccuracy or breach of any of the foregoing representations and warranties as of the date such representations and warranties are made.

7. During the Guaranty Period, this Guaranty shall be a continuing guarantee, and the liability of Guarantor hereunder shall in no way be affected, modified or diminished by reason of any assignment of the DDA, or by reason of any dealings of transactions or matters or things occurring between City and Company, its successors and assigns, whether or not notice thereof is given to Guarantor; provided, however, that Guarantor shall have no further Payment Obligations after the expiration of the Guaranty Period.

8. Guarantor further represents and warrants to City, as an inducement for City to enter into the DDA with Company, that Guarantor has a financial interest in Company and that Guarantor has received adequate value for the grant of this Guaranty.

9. All of City's rights and remedies under the DDA and under this Guaranty are intended to be distinct, separate and cumulative and no such right and remedy therein or herein mentioned is intended to be in exclusion of or in waiver of any of the others.

10. In the event suit or action is instituted to interpret or enforce the provisions of this Guaranty during the Guaranty Period, including, but not limited to obtaining injunctive relief, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees and costs at trial, in arbitration, on any appeal, and on any petition for review, in addition to all other sums provided by law.

11. Any action or proceeding brought by either party against the other for any matter arising out of or in any way relating to this Guaranty, the Property or the DDA, shall be heard, at City's option, in the court having jurisdiction located closest to the Property.

DATED AND EFFECTIVE as of the date first above written.

GUARANTOR:

Holland Partner Group Investments, LLC,
a Washington limited liability company

By: **Holland Partner Group Management, Inc.,**
a Delaware corporation,
its Manager

By: _____
Name: _____
Title: _____

EXHIBIT F
GUARANTY OF COMPLETION AND PERFORMANCE

By: **Holland Partner Group Investments, LLC,** **"Guarantor"**
a Washington limited liability company

In favor of: **City of Vancouver** **"Landlord"**

Dated: _____, 2020

Background

- A. Reference is made to the Ground Lease of even date hereof between Landlord, as landlord thereunder, and _____, a Delaware limited liability company, as Tenant thereunder (as the same may be amended, the "Ground Lease"). Capitalized terms used in this Guaranty, but not expressly defined herein or by reference to another document or source, shall have the same meanings as are respectively ascribed to those terms in the Ground Lease.
- B. Tenant is governed by an Operating Agreement dated as of _____ among Tenant's members (the "JV Agreement").
- C. Tenant has entered or will enter into that certain Construction Contract with Holland Construction, Inc., a Washington corporation ("Contractor") relating to construction of certain new improvements (the "New Improvements") (as the same may be amended, the "Construction Contract").
- D. In order to finance construction of the New Improvements, Tenant has entered into a Construction Loan Agreement of even date herewith between Tenant and _____ (the "Lender") Landlord (as the same may be amended, the "Loan Agreement").
- E. Guarantor has an indirect ownership interest in Tenant.
- F. As a material inducement for Landlord to enter into the Ground Lease, Guarantor has agreed to execute and deliver this Guaranty.

Agreement

1. Guaranty. Guarantor hereby absolutely guarantees to Landlord: (a) completion of construction of the New Improvements within the time and in the manner required by the Ground Lease and Construction Contract ("Completion") on or before 30 months after issuance of Shoring and Excavation Permit (the "Completion Date"), but subject to delay for Force Majeure Events (as such terms are defined in the Ground Lease); (b) the full and timely payment of all costs, expenses, charges and fees necessary for the fulfillment of the requirements of such Completion, including, without limitation, all cost overruns, and all fees for permits and licenses, utility expenses, amounts payable under the Construction Contract and all subcontracts relating to the

New Improvements, and amounts payable to all contractors, engineers, architects, subcontractors and material suppliers engaged in connection with any of the foregoing; (c) the fulfillment of all obligations under any and all extensions, modifications, rearrangements, and restatements of any of the obligations, liabilities, and duties described in (a) or (b) above; and (d) without duplication of any of the amounts set forth in clauses (a) through (c) above or Section 10 below, the payment of all costs, losses, liabilities and expenses resulting from the failure of Guarantor to comply with the terms of this Guaranty (all of the payments, obligations, duties, and agreements described in this Section 1 are referred to as the "Guaranteed Obligations").

2. Enforcement of Guaranty.

(a) Except as otherwise expressly contemplated in this Guaranty, within five (5) business days after occurrence and during the continuance of an Event of Default by Lessee under the Ground Lease (as defined in the Ground Lease), Guarantor shall, at its sole cost and expense, pay or perform any such Guaranteed Obligations then due, including, without limitation, assuming construction of the New Improvements and diligently pursuing such construction to complete the New Improvements within the time and manner required in the Ground Lease and Construction Contract. Guarantor shall pay all costs and expenses in connection with such construction and shall indemnify and hold Landlord harmless from any and all losses, costs, liabilities, or expenses incurred in connection with such Completion of the New Improvements.

In the event Lender fails to make advances contemplated under the Loan Agreement and/or Tenant's members fail to make equity contributions contemplated under the JV Agreement, through no fault of Guarantor or any affiliate of Guarantor, and Tenant ceases work on the Improvements (each, a "Debt and Equity Default"), Guarantor shall have two hundred seventy (270) days after the Debt and Equity Default to obtain replacement debt financing or equity investment (as applicable) on commercially reasonable terms, and to recommence work on the Improvements (each, a "Debt and Equity Cure"). Guarantor shall use all due diligence and commercially reasonable efforts to affect the Debt and Equity Cure. Guarantor shall provide Landlord monthly status reports of its efforts to affect the Debt and Equity Cure.

If Guarantor fails to affect a Debt and Equity Cure within two hundred seventy (270) days after the Debt and Equity Default (the "Initial Cure Period"), then Guarantor shall provide written notice of such failure to Landlord. Guarantor shall continue to use all due diligence and commercially reasonable efforts to continue to affect a Debt and Equity Cure, and Tenant, Guarantor, and Landlord shall have monthly briefings in which Tenant and Guarantor shall present detailed written evidence of their efforts to affect a Debt and Equity Cure, until Guarantor affects a Debt and Equity Cure (the "Extended Cure Period"). The Extended Cure Period shall expire the earlier of forty-five (45) days after a Debt and Equity Cure could have been affected and was not affected ("Cure Period Expiration") or Guarantor's receipt of written notice from the Landlord terminating the Extended Cure Period due to Landlord's commercially reasonable insecurity that a Debt and Equity Cure will not be affected ("Cure Period Termination"). Any provision of this Guaranty to the contrary notwithstanding, Guarantor's obligations under Sections 1 and 2 (b) of this Guaranty shall not commence until after the Cure Period Expiration. Furthermore, the Ground Lease shall provide as follows:

(1) So long as Tenant pays rent as and when due and otherwise performs its obligations under the Ground Lease, other than the timely completion of construction of the Improvements, the Landlord shall forebear exercising its remedies, including without limitation termination of the Ground Lease, until after the Cure Period Expiration; and

(2) Contemporaneously with a Cure Period Termination, Guarantor's obligations under Section I shall terminate, and Landlord may elect either: (1) to terminate the Ground Lease and take title to the Premises and Improvements, or (2) require Guarantor to purchase the Premises for the amount of Three Million Three Hundred Thousand Dollars (\$3,300,000); provided that Guarantor may designate an affiliate to complete the purchase .

(b) If Guarantor fails upon Landlord's request as and when required under this Guaranty to commence and thereafter diligently and continuously pursue Completion (but subject to Sections Error! Reference source not found. and Error! Reference source not found. above and a Debt and Equity Default), or if Guarantor fails to achieve Completion on or before the Completion Date , except in the case of a Debt and Equity Default, then Landlord shall have the right ("Landlord's Completion Right") (but not the obligation) in its sole and absolute discretion to complete the New Improvements itself or to cause a third party to complete the construction of the New Improvements. Guarantor shall pay to Landlord, immediately upon written demand, an amount equal to the difference between the actual costs incurred by Landlord in so completing the New Improvements and that are directly related to the construction of the New Improvements, including, without limitation, all licensing fees, permitting fees, amounts payable under any general construction contract and all subcontracts, and amounts payable to any architect, engineer or other consultant engaged in connection with the construction of the New Improvements (the "Actual Costs").

If any construction lien arising from or in connection with the construction of the New Improvements encumbers the Property, then Guarantor agrees, at its sole cost and expense, to immediately cause the removal of such construction liens. Such obligation shall be separate and apart from Tenant's obligation to post the Letter of Credit (as defined in the Lease), it being understood that the proceeds of such Letter of Credit are intended by Tenant and Guarantor to be used for purposes other than to pay for the removal any such construction liens.

3. Waivers. Guarantor waives any right to require that (i) any action be brought against Tenant or any other Person, (ii) Landlord enforce its rights against any other guarantor of the Guaranteed Obligations, (iii) Landlord have Tenant joined with Guarantor or any other guarantor of all or part of the Guaranteed Obligations, or (iv) Landlord pursue any other remedy in Landlord's powers whatsoever. Landlord shall not be required to mitigate damages or take any action to reduce, collect or enforce the Guaranteed Obligations. Guarantor waives any defense arising by reason of any disability, lack of corporate, limited liability company, and/or partnership authority or power, or other defense of Tenant, or of any other guarantor of the Guaranteed Obligations, and shall remain liable hereon regardless of whether Tenant or any other guarantor be found not liable thereon for any reason. Should Landlord seek to enforce the obligations of Guarantor by action in any court, Guarantor waives any necessity, substantive or procedural, that a judgment previously be rendered against Tenant or any other Person or that Tenant or any other

Person be joined in such cause or that a separate action be brought against Tenant or any other Person.

GUARANTOR HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVES:

(i) presentment, demand, protest, notice or acceptance, notice of dishonor, notice of nonperformance, notice of acceleration, notice of intent to accelerate and any other notice with respect to any of the Guaranteed Obligations and this Guaranty, and promptness in commencing suit against any party thereto or liable thereon, and/or in giving any notice to or making any claim or demand hereunder upon Guarantor, (ii) any right to require Landlord to (A) proceed against Tenant or any other guarantor, (B) proceed against or exhaust any security held by Landlord, or (C) pursue any remedy in Landlord's power whatsoever; (iii) any defense arising by reason of any incapacity, lack of authority, death or disability or other defense of Tenant or any other party or by reason of the cessation from any cause whatsoever of the liability of Tenant or any other party; (iii) all rights and defenses arising out of an election of remedies by Landlord; (iv) any defense based upon any lack of diligence by Landlord in the collection of the Guaranteed Obligations; (v) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; and (vi) any defense based upon any duty on the part of Landlord to disclose to Guarantor any facts Landlord may now or hereafter know about Tenant, regardless of whether Landlord has reason to believe that any such facts materially increase the risk beyond that which Guarantor intends to assume or has reason to believe that such facts are unknown to Guarantor or has a reasonable opportunity to communicate such facts to Guarantor. This is an unconditional and irrevocable waiver of any rights and defenses Guarantor may have.

4. No Termination, Modification, or Impairment. Guarantor hereby consents and agrees to each of the following, and agrees that the Guaranteed Obligations shall not be released, diminished, impaired, reduced or adversely affected by any of the following, and waives any rights (including without limitation rights to notice) that Guarantor might otherwise have as a result of or in connection with any of the following, in each case to the fullest extent permitted by law:

(a) any amendment of the Ground Lease, the Construction Contract, the Loan Agreement or the JV Agreement;

(b) the insolvency, bankruptcy, arrangement, adjustment, composition, liquidation, disability, dissolution, death, or lack of power of Tenant;

(c) the failure of Landlord or any other Person to exercise diligence or reasonable care in the preservation, protection, enforcement, sale or other handling or treatment of all or any part of such Collateral, property or security; or

(d) any payment by Tenant to Landlord is held to constitute a preference under the bankruptcy laws, or for any reason Landlord is required to refund such payment or pay such amount to Tenant or someone else.

5. Representations and Warranties. Guarantor represents and warrants that: (a) Guarantor has the power and authority to execute, deliver and perform its obligations under this Guaranty, (b) the execution, delivery and performance by Guarantor of this Guaranty do not violate

or conflict with any applicable laws, and do not violate or conflict with, breach, or constitute a default under, or require consent under any agreement or document binding or covering Guarantor or any of its property and (c) this Guaranty constitutes a legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms.

6. **Release.** Upon Completion, Guarantor will be released from its obligations under this Guaranty and, at Guarantor's request, Landlord shall confirm in writing to Guarantor that all obligations of Guarantor under this Guaranty have been fulfilled, and that this Guaranty is of no further force or effect.

7. **Litigation Costs.** In the event Landlord brings an action to enforce this Guaranty, or in the event of a bankruptcy or insolvency proceeding involving Guarantor, Guarantor will reimburse Landlord for all expenses incurred by Landlord, including, but not limited to, attorneys' fees and costs (for in-house and outside counsel).

8. **Successors and Assigns.** This Guaranty shall be binding upon Guarantor, its administrators, successors and assigns, and shall inure to the benefit of and may be enforced by Landlord and its successors and assigns.

9. **Events of Default.** Guarantor shall be in default under this Guaranty upon the occurrence of any or all of the following events, circumstances or conditions (each of which shall be referred to herein as an "**Event of Default**"):

(a) Default in the timely payment or performance of any or all of the obligations imposed under, or any or all of the covenants, warranties and liabilities contained or referred to in, this Guaranty; or

(b) Any warranty, representation or statement made or furnished to Landlord by or on behalf of Guarantor (i) in connection with, or under the terms of, this Guaranty, or (ii) to induce Landlord to enter into the Ground Lease, proves to have been false in any material respect when made or furnished; or

(c) Insolvency, business failure, appointment of a receiver of any part of the property of, assignments for the benefit of creditors by, or the commencement of any proceeding under any state or federal bankruptcy or insolvency laws by or against, any Guarantor and, in the case of an involuntary proceeding under any federal or state bankruptcy law, if such proceeding shall not be dismissed within ninety (90) days after commencement thereof. Notwithstanding the foregoing, the events in this clause (c) shall not constitute an Event of Default if a replacement guarantor acceptable to Landlord in its reasonable discretion (meeting the Minimum Financial Requirement and having a direct or indirect ownership interest in Tenant) shall provide a replacement Limited Guaranty in substantially the form executed at Closing and a replacement Guaranty of Completion and Performance in substantially the form hereof; or

(d) Upon the entry of any monetary judgment or the assessment and/or filing of any tax lien against any Guarantor, or upon the issuance of any writ of garnishment or attachment against any property of, debts due to, or rights of any Guarantor, if such event would materially adversely affect Guarantor's ability to perform hereunder, unless in any such event such judgment, assessment, lien, garnishment or attachment is discharged or bonded within sixty (60) days.

10. Remedies: Continuance of Event of Default

(a) Guarantor acknowledges that upon the occurrence of an Event of Default, Landlord shall have the right to enforce the Guaranteed Obligations by pursuing any and all rights and remedies available to Landlord against Guarantor, whether such rights and remedies are available at law or in equity.

(b) Notwithstanding anything to the contrary contained in this Guaranty, if an Event of Default has occurred (i) it shall be deemed to continue unless and until Landlord in its sole and absolute discretion in writing has waived the Event of Default, and (ii) unless Landlord in its sole and absolute discretion has agreed in writing to permit Guarantor to do so, neither Guarantor nor any other Person shall have any right to cure such Event of Default. If Landlord waives an Event of Default in writing or accepts in writing a cure by Guarantor of an Event of Default, following such written waiver or cure, such Event of Default shall cease to exist and shall no longer continue.

11. Notices. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the addresses set forth on page one. Any such notices shall be either (a) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one business day after deposit with such courier, (b) sent by email, in which case notice shall be deemed delivered upon transmission, or (c) sent by personal delivery, in which case notice shall be deemed delivered upon receipt. Any notice sent by facsimile or personal delivery and delivered after 5:00 p.m. local time where the Property is located shall be deemed received on the next business day. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice. Notices given by counsel to Landlord shall be deemed given by Tenant, notices given by counsel to Tenant or Guarantor shall be deemed given by Landlord, and notices given to a party's counsel shall be deemed given to the party.

If to Guarantor:

Holland Partner Group Investments, LLC
c/o Holland Partner Group
1111 Main Street, Suite 700
Vancouver, WA 98660
Attn: Clyde Holland
E-mail: clcyde@hollandpartnergroup.com

and a copy to:

c/o Holland Partner Group
1211 Daniels Street, #61708
Vancouver, WA 98660
Attention: Principal Staff Officer / Notices
Email: notices@hollandpartnergroup.com

With a copy to:

Oregon Law Group, P.C.

1675 SW Marlow Avenue, Suite 404
Portland, OR 97225
Attn: Elia Popovich
E-mail: notices@oregonlawgroup.com

If to Landlord:

City of Vancouver
415 West 6th Street
Vancouver, WA 98660
Attn: _____

With a Copy to:

City of Vancouver
415 West 6th Street
Vancouver, WA 98660
Attn: City Attorney

With a copy to:

Houlihan Law PC
303 E. 16th Street, Suite 201
Vancouver, WA
John@houlihan-law.com
jt@houlihan-law.com

12. Governing Law. This Guaranty shall be governed by and construed in accordance with the laws of the State of Washington, without regard to the conflict of law rules of the State of Washington or any other jurisdiction. Guarantor hereby agrees that all actions or proceedings arising directly, indirectly or otherwise in connection with, out of or related to or from this Guaranty, or for recognition or enforcement of any judgment arising from same, shall be litigated, in Landlord's sole discretion and at Landlord's sole election, only in courts having a situs within or whose jurisdiction includes Clark County, Washington. Accordingly, Guarantor hereby irrevocably and unconditionally waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of any such action or proceeding in any court selected by Landlord. Guarantor also hereby irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection which Guarantor may now or hereafter have to the venue of any suit, action or proceeding in any court selected by Landlord. Guarantor agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

13. Amendments. No amendment or waiver of any provisions of this Guaranty nor consent to any departure by Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by Landlord, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on Guarantor shall in any case entitle it to any other or further notice or demand in similar or other circumstances.

14. No Oral Agreements. This Guaranty represents the final agreement between the parties in connection with the subject matter hereof and may not be contradicted by evidence of

prior, contemporaneous, or subsequent oral agreements by the parties. There are no unwritten oral agreements with the parties.

15. Financial Representations, Warranties and Covenants. Guarantor hereby represents, warrants and covenants that:

(a) All financial statements and data that have been given to Landlord by Guarantor and Tenant with respect to Guarantor (A) are complete and correct in all material respects as of the date given; (B) accurately present in all material respects the financial condition of Guarantor on each date as of which the same have been furnished; and (C) have been prepared in accordance with the method of presentation provided by Guarantor's Statement of Net Worth and Liquidity document previously provided to Landlord.

(b) There has been no adverse change in the financial condition of Guarantor since (A) the date of the most recent financial statements given to Landlord with respect to Guarantor, or (B) the date of the financial statements given to Landlord immediately prior to the date hereof, other than changes in the ordinary course of business, none of which changes has been materially adverse, individually or in the aggregate.

(c) For so long as this Guaranty remain outstanding, (i) Guarantor, collectively, shall maintain a net worth of not less than Fifteen Million and 00/100 Dollars (\$15,000,000) and (ii) maintain liquidity (unencumbered cash) of not less than Five Million and 00/100 Dollars (\$5,000,000) ((i) and (ii) are collectively called, the "Minimum Financial Requirement"). An Appropriate Officer of Guarantor shall certify compliance with such Minimum Financial Requirement on a quarterly and annual basis.

16. Time. Time is of the essence of this Guaranty and all of its provisions.

17. Entire Agreement. This Guaranty is intended as a final expression of this agreement of guarantee and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between Guarantor and Landlord, no usage of the trade, and no parol or extrinsic evidence of any nature, shall be used or be relevant to supplement, explain, contradict or modify the terms and/or provisions of this Guaranty.

18. Severability. If any term, provision, covenant or condition hereof or any application thereof should be held by a court of competent jurisdiction to be invalid, void or unenforceable, such invalidity, voidness or unenforceability shall not impair, diminish, void, invalidate or affect in any way any other terms, provisions, covenants and conditions hereof or any applications thereof, all of which shall continue in full force and effect.

19. Headings. Section headings in this Guaranty are included for convenience of reference only and do not constitute a part of this Guaranty for any other purpose.

20. Counterparts. This Guaranty may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of such counterparts taken together shall constitute but one and the same instrument.

21. GUARANTOR ACKNOWLEDGEMENT AND WAIVER OF RIGHT TO TRIAL BY JURY. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, GUARANTOR HEREBY WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, OR RELATED TO, THE SUBJECT MATTER OF THIS GUARANTY.

Signature Appears on Following Page

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Guaranty as of the date first above written.

GUARANTOR:

HOLLAND PARTNER GROUP INVESTMENTS, LLC,
a Washington limited liability company

By: Holland Partner Group Management, Inc.,
a Delaware corporation,
its Manager

By: 
Clyde P. Holland, Jr., CEO


Witness

HP Development Agreement



City Council Public Hearing
December 16, 2019

Chad Eiken, CED Director
Bob Brackin, HP Inc.
Tim Schauer, MacKay & Sposito

Presentation Outline

- Overview of HP Inc. in Vancouver
- HP and the Selection Process
- Section 30 Subarea Background
- Project Location, and Concept and Phasing Plans
- Development Agreement – Key Elements
- HP to City Value Proposition
- Next Steps

Overview of HP in Vancouver

- HP Inc.'s vision is to create technology that makes life better for everyone, everywhere — every person, every organization, and every community around the globe.
- HP has been located in Vancouver for 38 years.
- HP anticipates its Vancouver footprint to grow over time through a combination of new jobs created and/or work moving to the selected site
- Currently leasing space at Columbia Center at Columbia Tech Center on SE 164th Avenue, Vancouver
- Employs a 700-person highly skilled, well-compensated workforce



HP Inc.'s Commitment to Community

- Community service is deeply ingrained at HP and employees are encouraged to apply for the Time-off Community Support Grant.
- In Vancouver alone, an average of 1,500 volunteer hours per year are completed within the local community.
- HP funds annual HP Imagine Grants to support programs that align with education and technology related learning experiences for underrepresented and underserved communities.
- HP mentors and trains the next generation of innovators through its annual intern program including the HP LIFE program, a learning initiative for entrepreneurs; WSU Vancouver Capstone project; iUrbanTeenPitch project; Camas Girls in STEM; and other programs.



Humane Society
FOR SOUTHWEST WASHINGTON



Habitat for Humanity®



CLARK COUNTY
FOOD BANK



FVRLibraries
FORT VANCOUVER REGIONAL LIBRARIES



HP and the Selection Process

- HP explored various locations to provide flexibility for future development options, including Vancouver
- Fall of 2018: City was contacted by JLL, a national site selector firm about a business recruitment/ retention opportunity (Request for Proposals)
- RFP described the project as: building investment for highly skilled advanced R&D employment base
- Two Vancouver sites identified as potential locations

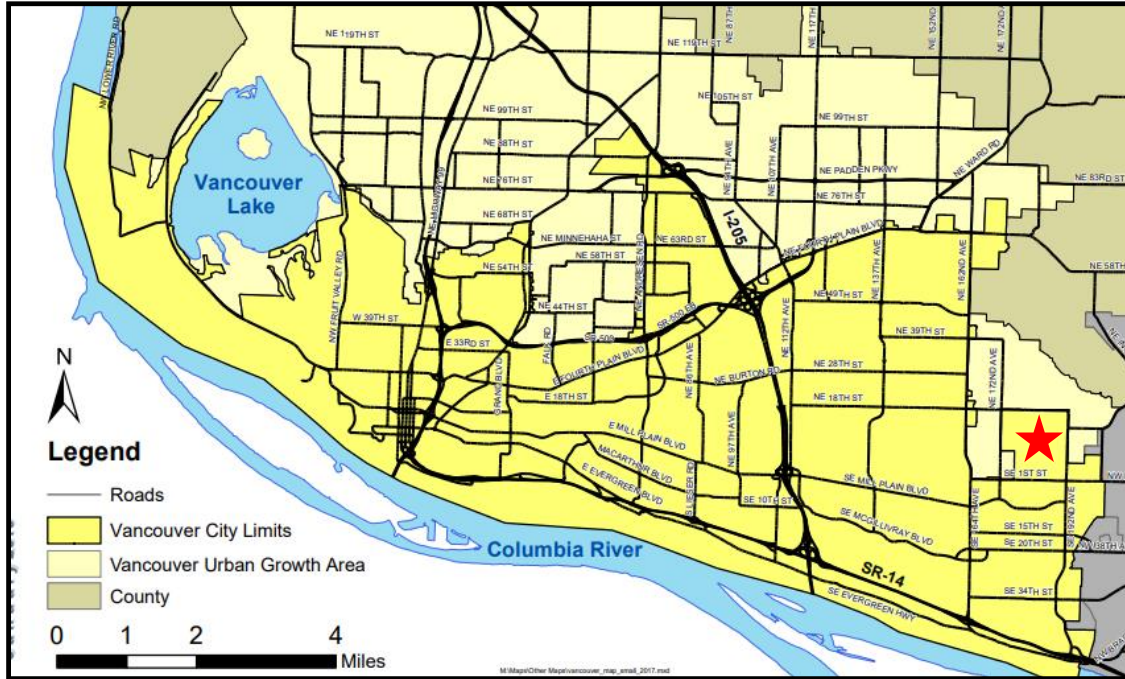


Development Agreement Negotiated

- City was contacted by JLL, site selector, in July of 2019; Section 30 site had been selected, and that HP was interested in discussing a formal agreement outlining City commitments
- Since September, City staff have met frequently with HP real estate team to negotiate terms and incentives of a development agreement, using City's response to RFP to guide its content
- In early November, draft D.A. finalized for Council's review



Future HP Location: Section 30

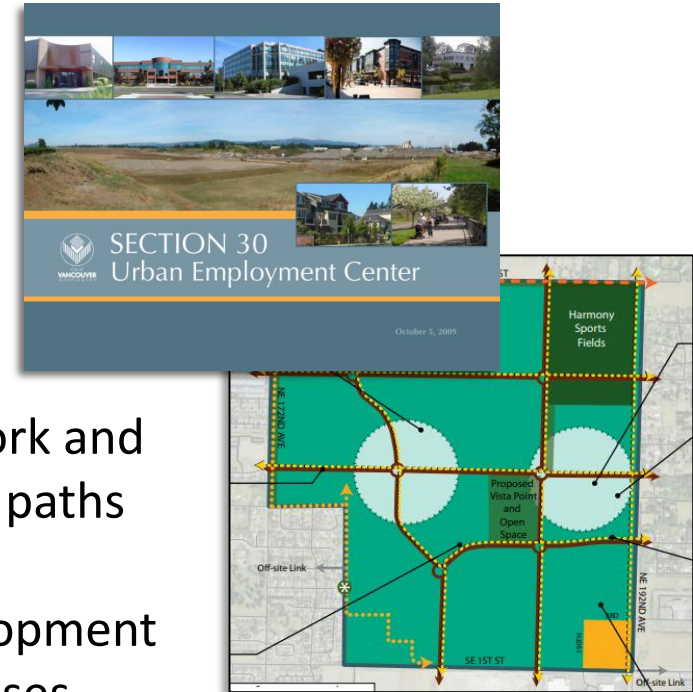


Section 30

- Annexed by City in 2008
- 553 acres, consists mostly of former gravel quarries, public lands (parks, gun range)
- Zoned ECX, Employment Center Mixed Use
- Subarea Plan Adopted

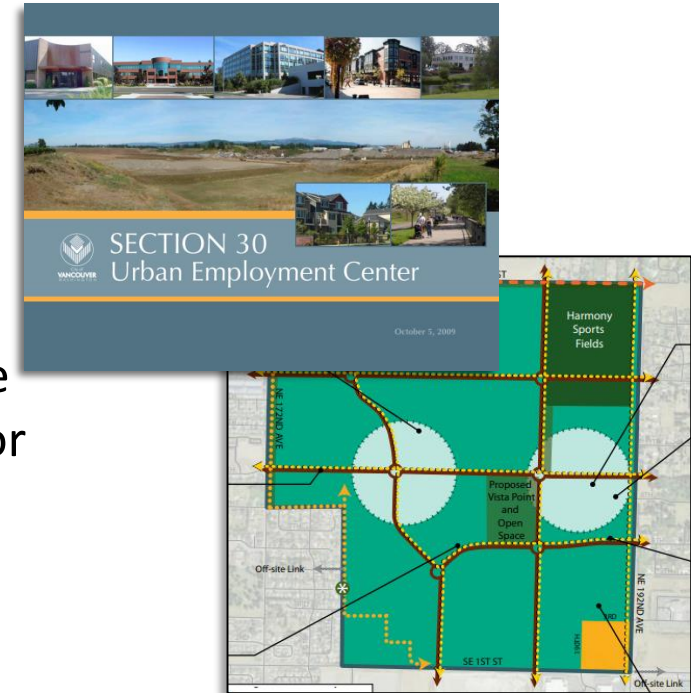
Section 30 Subarea Plan

- Subarea Plan adopted in 2009
- Envisions 20-30 year build-out for urban-scale employment uses (office, clean industrial and tech/flex) with supporting residential, commercial uses in one or two “centers”
- Plan calls for a well-connected street network and identifies public utilities needed and public paths for walking/cycling throughout
- Approximately 440 acres that have redevelopment potential for employment and supporting uses



Section 30 Subarea Plan (cont.)

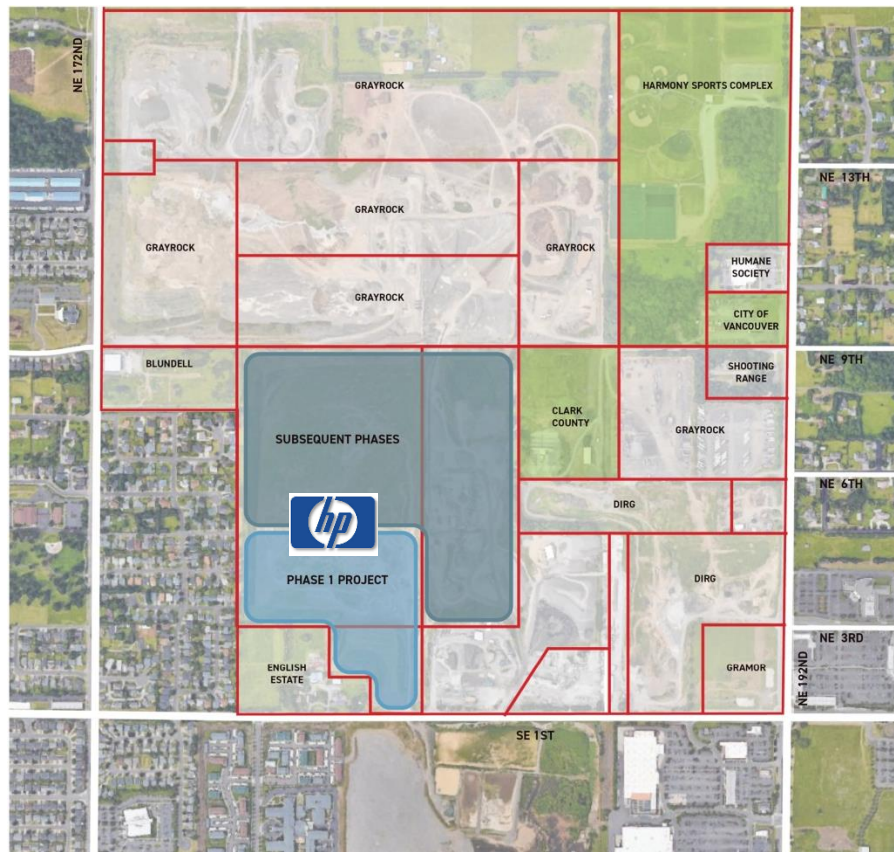
- Existing topographic conditions, ongoing mining operations, lack of infrastructure and parcelization under different ownerships have created barriers to development
- Site identified as being an important source for employment land in the CREDC Lands for Jobs Study (2016)
- Section 30 also identified by City as a high priority area for public infrastructure investment to create jobs in the Stronger Vancouver initiative



Section 30 Existing (looking from southwest to northeast)



Conceptual Phasing Plan



Proposed Project Scope

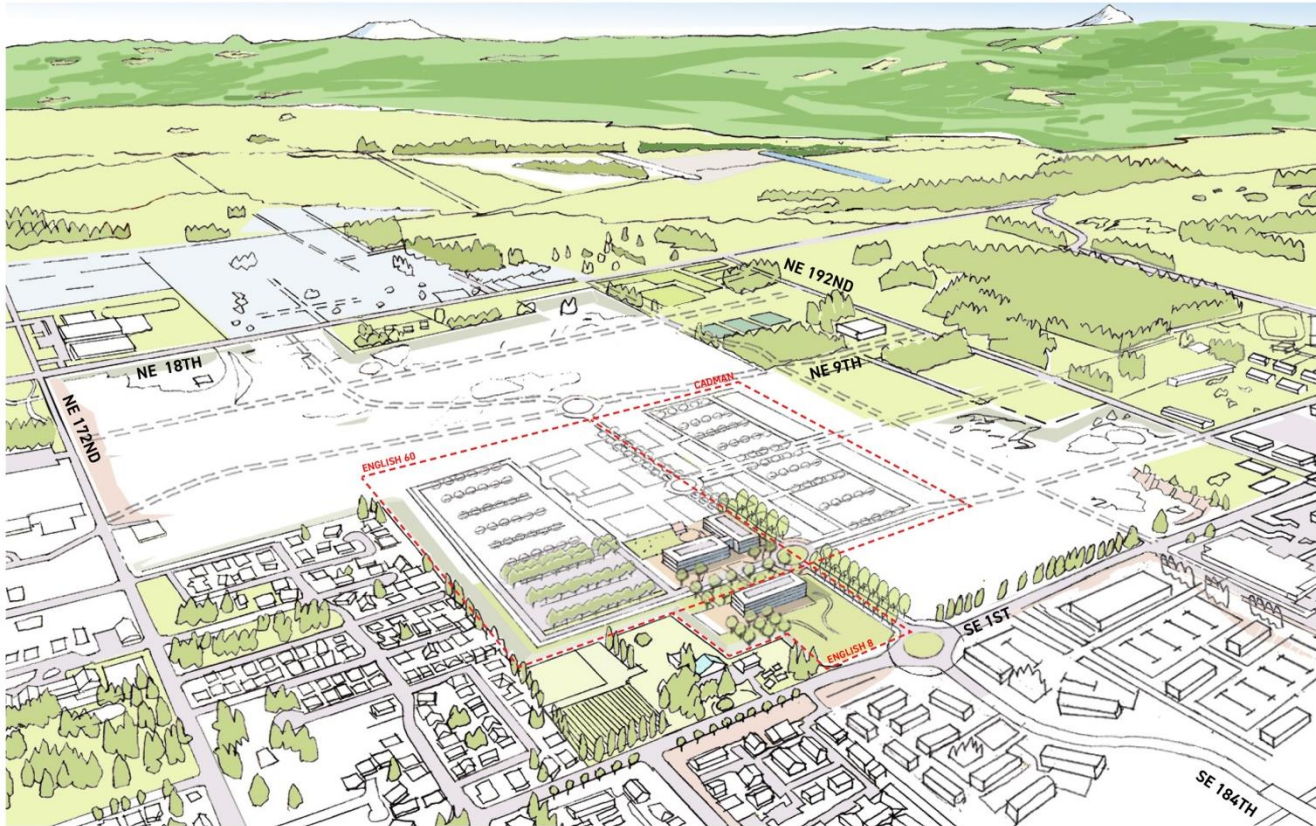
- Phase 1 to consist of at least two buildings totaling 330,000 square feet for office, research and development, etc. with related on-site parking and improvements
- Full build-out: up to 1,500,000 square feet in multiple buildings for office, research and development, industrial services, and manufacturing and production on 68-98 acres over 15 years
- Significant public and private infrastructure will be required for Phase 1 and beyond, including:
 - Completion of widening and alignment work on SE First Street (in process)
 - Extension of NE 184th Ave. by up to ¼ mile with an adjacent 12' public trail
 - Construction of a new sewer pump station
 - Extension of public water and sewer mains to the site
 - Substantial fill and grading of the property and future rights-of-way
 - Construction of public and private storm water facilities

Conceptual Phase 1 Plan



Infrastructure locations are preliminary.
Final locations will be determined
through the site plan review of Phase 1.

Conceptual Project Layout



Infrastructure locations are preliminary. Final locations will be determined through the master planning process. Red lines boundaries signify property covered by the Development Agreement.

Conceptual Rendering of Phase 1 entrance at the intersection of 1st Street and 184th Avenue



Development Agreement - Key Elements

- Description of Project
- City to allow Phase 1 to be reviewed using a Type II administrative process; subsequent phases subject to full Master Plan process
- City to consider code amendment to apply business license surcharge fee incentive to businesses that relocate significant jobs
- City to consider code amendment to reduce transportation impact fees based on relocated jobs that meet wage thresholds

Phase 1 Project Description:

- Up to 330,000 s.f. of office, R&D, light industrial contemplated in multiple 2-3 story bldgs.
- Extension of NE 184th Ave. from 1st Street to serve Phase 1 (approx. ¼ mile)
- Surface parking lot contemplated behind the buildings
- Public water and sewer extensions to serve project
- Grading and fill to level site
- Public 12' multi-use path along SE 184th Ave.

Development Agreement – Key Elements (cont.)

- City to lock in current building permit valuation ‘cap’ of \$10 million for calculation of building permit fees for all phases
- City to provide for reservation of sanitary sewer capacity for project in a sewer pump station constructed as part of subsequent phases
- City to reserve Developer’s right to connect to any public storm water system that may be constructed in Section 30
- Vest the project (and future properties added) by HP to current development standards as allowed by law
- City to reserve transportation capacity for future phases up to 5,565 daily trips

Development Agreement – Key Elements (cont.)

- City to commit to funding up to \$3.5 million in public infrastructure as part of Phase 1, to be determined by HP; likely, this will be used toward roads and/or other needed infrastructure
- City to commit to funding up to an additional \$6.5 million in public infrastructure as part of Subsequent Phases; likely to be applied toward construction of a public sewer pump station, public streets further north, and/or other infrastructure
- City will utilize its streamlined permit review process for land use, engineering and building review at no additional charge
- Term of agreement = 15 years, with one option to extend by 5 years through a Type I process

Future Council Action Needed

In addition to approval of the Development Agreement, several of the proposed incentives to be applied to the project would require further Council action, as follows:

1. Amendment to the Business License Surcharge Ordinance (VMC 5.04) to provide a 5-year waiver of the per employee annual fee to business that *relocates at least 700 employees* that meet certain salary thresholds
2. Amendment to the TIF Business Development Incentive (VMC 20.915) to reduce traffic impact fees by 50%, up to \$200,000 for any business that *relocates 700 or more employees* that meet certain salary thresholds

HP Inc. to City Value Proposition

HP Inc.	City of Vancouver
Over 700 full time badged employees, with over 300 additional full time contract employees; retains significant employee base locally	\$3.5M toward construction of public infrastructure
Capital construction investment anticipated in Phase 1 of a minimum of \$50 – 80 million, with potential for hundreds of millions over 15-20 years	\$27K-\$135K per year in waived business license fees (\$1.25M) over the next 20 years
High average wage and benefits (>125% of area median income)	Traffic Impact Fee credits for private construction of arterial streets (e.g. 184 th Ave.) and/or TIF reductions of up to \$200K if job thresholds are met (one-time)
Estimated one-time sales tax revenue on construction in years 1-5 ~\$1M (phase 1), an additional ~\$3M (Subsequent Phases)	Water and Sewer System Development Charges may be deferred for several years per separate approval
Estimated on-going annual City revenue increase: between \$111K/year in year 1 to \$1.6M in year 2039	Additional \$6.5M commitment for future public streets/trail infrastructure in Subsequent Phases

20 Year NPV at 5% (to City) = \$10.5 million (conservatively) from HP Inc.

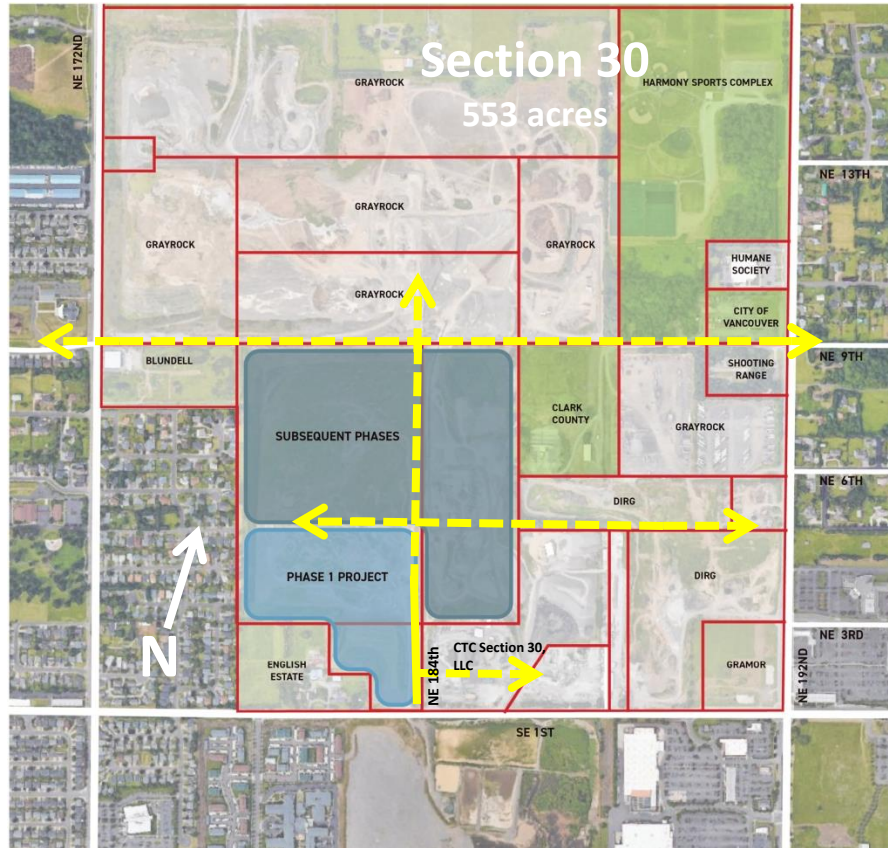
Anticipated Project Timing

A Catalyst for Development in Section 30

- Master planning 2020-2021
- Anticipate Phase 1 programming and design 2022
- Anticipate Phase 1 construction 2023-2025
- Anticipate Phase 1 occupancy late 2025 to early 2026



Catalytic Potential of HP in Section 30



Infrastructure locations are preliminary and yellow lines are used here for illustrative purposes. Final locations will be determined through the master planning process.

Next Steps

December 16, 2019 Public hearing on Draft D.A.

Jan. – Feb., 2020 Council workshop and hearing on amendments to VMC 5.04 and 20.915 to apply business incentives to major relocations under certain conditions

Questions

VANCOUVER
CITY HALL



Chad Eiken, Director
Community and Economic Development
chad.eiken@cityofvancouver.us

Bob Brackin, HP Inc.

Tim Schauer, MacKay & Sposito



Staff Report 199-19

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 12/16/2019

SUBJECT HP Development Agreement

Key Points

- Request is for approval of a 15-year Development Agreement (DA) between the City and HP Inc., a major local employer, to facilitate construction of a new 330,000 square foot office and research and development facility in at least two buildings and future growth on up to 68-98 acres in Section 30, an area identified for employment uses.
- Through the DA, HP Inc. would commit to constructing new buildings and certain public and private infrastructure to accommodate approximately 1,100 permanent and contract employees currently located in the Columbia Tech Center, with construction anticipated in 2023-2025.
- Through the DA, the City would commit to: vest the project, including future phases, to existing development standards; process the first phase (two buildings with associated improvements) under a Type 2 site plan review process; consider an amendment to VMC 5.04 to apply a business license surcharge fee reduction waiver to businesses under certain conditions; consider an amendment to VMC 20.915 to reduce transportation impact fees for existing businesses under certain conditions; lock in an existing building permit valuation 'cap' of \$10 million for purposes of calculating building permit fees; reserve transportation, sewer, and storm sewer capacity in public facilities; commit to funding up to \$3.5 million in public infrastructure as part of Phase 1; and commit to funding up to an additional \$6.5 million in public infrastructure as part of subsequent phases.
- In addition to retaining a major employer within Vancouver and stimulating substantial new private investment, the DA will help to facilitate the establishment of the first significant employment-based use in Section 30, and the public streets, water and sewer infrastructure needed to support the first phase will enable other large parcels in Section 30 to develop for employment uses.

Strategic Plan Alignment

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

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

Present Situation

In the fall of 2018, the City was contacted by a national site selector firm under a Request for Proposals (RFP) regarding a retention/recruitment project. The project was described as a facility for more than 1,000 highly skilled advanced research and development employees. Two local sites in Vancouver were suggested as possible locations, and City staff assumed that other cities were in the running as possible alternative locations. The City, as is typical of such RFPs, submitted a formal response with a list of possible incentives that might be considered in order to make Vancouver as enticing a site as possible for the opportunity.

Soon after the City submitted its response to the site selector, staff was informed that Vancouver was being strongly considered. In early fall of 2019, the City was informed that Section 30 had been selected, and that the company wanted to formalize the City's proposal from the RFP response in the form of a development agreement (DA). For the past four months, staff has been discussing elements of a possible development agreement with the HP, Inc. real estate team in order to facilitate the phased development of 68 to 98 acres in the southwest corner of Section 30.

HP Inc.(HP) has had a major presence in east Vancouver for the past 40 years and currently employs approximately 700 permanent and 400 contract employees. HP is currently leasing space at Columbia Tech Center.

The property is anticipated to be developed in phases over 15-20 years. Phase 1 will consist of at least two multi-story buildings totaling 330,000 square feet for office, research and development and manufacturing uses, with related on-site parking and landscape improvements, an extension of NE 184th Avenue with an adjacent multi-use path north from SE 1st Street by approximately 1/4 mile, on-site storm water facilities and extension of water and sewer utilities. Construction would be anticipated to occur between 2023 and 2025 for the first phase. Future phases could potentially result in a total of 1,500,000 square feet of new office and R&D related uses, as well as further extensions of street and utility infrastructure into Section 30.

The proposed project is significant as the first major employer to develop in Section 30, which is approximately 553 acres in size and designated for a future employment center through the Section 30 Subarea Plan, adopted by City Council in 2009. Section 30, located between SE 1st Street and NE 18th Street and west of NE 192nd Avenue, consists of a number of former gravel mines (at least one that is currently active), as well as recreational uses, a winery, and The Humane Society. The subarea plan envisions a 20-30 year build-out for urban scale employment uses (office, clean industrial and tech/flex) with residential and supporting commercial uses in one or two centers. The plan also calls for a well-connected street network and identifies public utilities needed and public paths for walking and cycling throughout. Approximately 440 acres have redevelopment potential for employment and supporting uses, but due to a number of constraints, have to-date remained undeveloped.

The proposed DA includes a description of the project and anticipated construction timelines. In order to facilitate HP's move, the development agreement will formalize the following commitments negotiated between City staff and HP, as follows:

- City will allow Phase 1 to be reviewed using a Type 2 administrative site plan process because of its relatively small impact on adjacent properties in terms of future street connections, provision of utilities, and site grades; however, future phases must be processed under a Type 4 master plan process.
- City will consider a code amendment to VMC 5.04 to apply a business license surcharge reduction incentive to businesses that relocate significant jobs within city boundaries, subject to certain minimum wage and capital investment criteria. Such an amendment will be subject to a separate ordinance and public hearing before City Council.
- City will consider a code amendment to VMC 20.915 Impact Fees to apply a transportation impact fee reduction incentive to businesses that relocate at least 700 jobs within city boundaries, subject to certain minimum wage criteria. Such an amendment will be subject to a separate ordinance and public hearing before City Council.
- City will 'lock in' a current building permit valuation cap of \$10 million for purposes of calculating building permit fees for all phases. This valuation cap, which is available to all qualifying projects, results in fees being based on construction that is valued at \$10 million.
- A new sewer pump station will be needed in order to serve Section 30 beyond HP's first phase of development. City will provide for reservation of sanitary sewer capacity for the project, including future phases.
- City will vest the project to current development standards as allowed by law; development review fees and impact fees will not be vested.
- City will reserve transportation capacity for future phases up to 5,565 daily trips.
- City will commit to funding up to \$3.5 million in public infrastructure costs as part of Phase 1, to be determined by HP; likely this will be used toward public roads, or other public infrastructure.
- City will commit to funding up to an additional \$6.5 million in public infrastructure as part of subsequent phases; likely to be applied toward construction of a public sewer pump station, public streets further north, or other infrastructure.
- City will utilize its streamlined permit review process for land use, engineering and building review at no additional charge.
- Term of the agreement will be 15 years, with one option to extend by 5 years through a Type I review process.

Advantage(s)

1. City retains a major employer with high wage jobs and facilitates new development in Section 30 where the company will have significant room for future growth.
2. Public and private investments in street and utility infrastructure as part of Phase 1 will catalyze the development of other parcels in Section 30 for office and clean industrial uses, making it easier to recruit new economic development prospects.
3. Predictability provided by the long term development agreement will allow HP to carefully

plan for future phases.

4. HP's move to Section 30 will make nearly 300,000 square feet of existing space in CTC available for other companies.

Disadvantage(s)

Some of the incentives involve a financial cost to the City such as funding new public infrastructure (up to a maximum amount) or by reducing certain fees; however, these costs will be more than offset by the expected revenue from the retention of a major high-wage employer and stimulation of construction of a multi-million dollar facility and infrastructure that will support the development of additional parcels for employment-based uses.

Budget Impact

Several incentives will have budgetary impacts, including: up to \$3.5 million toward construction of public infrastructure (Phase 1); up to \$6.5 million toward construction of public infrastructure (future phases); \$27,000-\$135,000 per year in waived business license surcharge fees; transportation impact fee reductions of up to \$200,000 per phase if certain job thresholds are met. Total financial incentives over the 15-20 year life of the project would be approximately \$11.45 million. However, such budget expenses are anticipated to be offset by future construction and property taxes from HP as well as other developments.

Prior Council Review

[December 9, 2019 Council Workshop](#)

Action Requested

On Monday, December 16, 2019, subject to public hearing, adopt a resolution approving the Development Agreement between HP and City of Vancouver.

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

ATTACHMENTS:

- ▣ Resolution
- ▣ HP Section 30 D.A.
- ▣ HP DA Powerpoint

12/16/2019

RESOLUTION NO. M- [Resolution Number]

A RESOLUTION relating to the approval of a development agreement pursuant to RCW Chapter 36.70B; establishing various development regulations under which the HP Inc. Section 30 development shall be vested; authorizing the City Manager to execute a development agreement; and providing for an effective date.

WHEREAS, pursuant to RCW 36.70B.170, a city may enter into a development agreement for real property within its jurisdiction; and

WHEREAS, in 2009, by adoption of Ordinance M-3930, the Vancouver City Council enacted Ch. 20.690 VMC, the Section 30 Employment Center Plan District (“Subarea Plan”); and

WHEREAS, the Subarea Plan was intended to promote and guide private development while providing clear objectives for those proposing to develop in the Section 30 Subarea, maintaining and enhancing property values, promoting economic provision of public services, and ensuring that each development or project fits with its neighbors and within the subarea (VMC 20.690.010); and

WHEREAS, the City was approached by HP Inc., a major local employer with approximately 700 permanent local employees and 400 contract employees, which expressed interest in acquiring land within Section 30 and entering a development agreement that would govern development of a new 330,000 gross square foot office and research and development facility in at least two buildings and potential future growth on up to 98 acres within the Section 30 Subarea; and

RESOLUTION - 1

WHEREAS, the proposed construction and development activity desired by HP Inc. is consistent with the overall vision of an employment center as contemplated within Ch. 20.690 VMC; and

WHEREAS, it is in the mutual interest of the City and HP Inc. to enter into an agreement respecting the development of the property to ensure that the objectives set forth within VMC 20.690.010 are met; and

WHEREAS, a public hearing was duly noticed and held by the City Council on Monday, December, 16, 2019, regarding the approval of the attached development agreement;

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY OF VANCOUVER:

Section 1. The forgoing recitals and accompanying Staff Report (SR ____ -19) are hereby adopted as the legislative findings of the City Council.

Section 2. Effective immediately, the City Council, in accordance with RCW 36.70B.200, hereby authorizes the City Manager to execute on behalf of the City, a development agreement in the form attached hereto as Exhibit "A".

DATED this _____, of _____, 2019.

Anne McEnery-Ogle, Mayor

Attest:

Approved as to form:

Natasha Ramras, City Clerk

Jonathan Young, City Attorney

AFTER RECORDING RETURN TO:

Jennifer Bragar
Tomas Salyer Martin
121 SW Morrison Street, Suite 1850
Portland, OR 97204

DOCUMENT TITLE: Development Agreement

GRANTOR: HP Inc., a Delaware corporation

GRANTEE: City of Vancouver, a Washington municipal corporation

ABBREV. LEGAL DESCRIPTION: #26 SEC 30 T2NR3EWM 20A; #11 SEC 30 T2N R3EWM 32.88A; #17 & #23 SEC 30 T2N R3EWM 8.50A; #64 SEC 30 T2N R3EWM 1.50A; #27 SEC 30 T2N R3EWM 10A; #13 SEC 30 T2N R3EWM 20A; #57 SEC 30 T2N R3EWM 4.40A; #56 SEC 30 T2N R3EWM 15.60A; #55, #58 SEC 30 T2N R3EWM 10A

ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBERS:

176386-000	176424-000	176417-000	
176374-000	176387-000	176416-000	
176380-000	176376-000	176418-000	

**DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF VANCOUVER AND HP INC. RELATING TO THE
DEVELOPMENT COMMONLY KNOWN AS PROJECT GREENFIELD**

This DEVELOPMENT AGREEMENT (“Agreement”) is entered into this 16th day of December, 2019, by and between the City of Vancouver (“City”) a municipal corporation under the laws of the State of Washington and HP Inc., a Delaware corporation (“Developer” or “HP”) (collectively the “Parties”), pursuant to RCW 36.70B.170-.210 and chapter 20.250 of the Vancouver Municipal Code (“VMC”).

RECITALS

WHEREAS, the City is a first-class city incorporated under the laws of the State of Washington and has the authority to enact laws and enter into agreements to promote the health, safety and welfare of its citizens including the authority to regulate land use and development of property;

WHEREAS, HP is a Delaware corporation that has had a presence in the City for 38 years, and contributes and will continue to contribute to the greater Vancouver community;

WHEREAS, HP embraces the opportunity and responsibility to positively impact the communities where its employees live, work, and do business. Community service is a value so deeply ingrained at HP that employees are offered paid volunteer hours and are encouraged to apply for the Time-off Community Support Grant, which sponsors employees to volunteer full-time for a week. In addition to time, HP offers donation matching for employees, grants for non-profit organizations, and sponsorships in their communities. In Vancouver alone, an average of 1,500 volunteer hours per year are completed within the local community through HP’s Community Outreach team in support of a range of nonprofits including, but not limited to, Oregon and Clark County Food Bank, Columbia Springs, Humane Society of Southwest Washington, Fort Vancouver Regional Library, Avamere and Kamlu Resort, Vancouver Watershed Alliance, Firstenburg, Lifeline Connections, Washington Trails Association, Evergreen Habitat for Humanity, Sharehouse, Camp Hope, and Global Watershed Shoreline;

WHEREAS, HP’s local Site Council funds approximately Twenty Thousand Dollars (\$20,000.00) annually for HP's Community Outreach team to organize and complete these projects, along with sponsorships and donations. Each fall, HP Vancouver employees vote for local 501(c)3 organizations to receive the HP Imagine Grant, supporting programs that align with the Foundation’s mission by focusing on education and technology related learning experiences for underrepresented and/or underserved communities. In 2019, three local charities were each awarded Nine Thousand Dollars (\$9,000.00) through this grant. In addition, HP provides holiday giving trees, and is a PRIDE Rainbow;

WHEREAS, HP mentors and trains the next generation of innovators through its annual intern program; HP LIFE program, a learning initiative for entrepreneurs; WSU Vancouver Capstone project; iUrbanTeenPitch project; Camas Girls in STEM; and other programs;

WHEREAS, Developer's community involvement and commitment will continue well into the future as a result of this Agreement;

WHEREAS, Developer has a purchase and sale agreement for real property consisting of approximately 68 acres located within property commonly referred to as Section 30 in the City of Vancouver which property is described with particularity in Exhibit 1 ("Property");

WHEREAS, the Developer has an option to purchase real property consisting of approximately 30 acres located within property commonly referred to as Section 30 in the City of Vancouver which property is described with particularity in Exhibit 2 ("Additional Property");

WHEREAS, the Property and Additional Property is collectively referred to as "HP Property."

WHEREAS, the Developer intends to conduct reclamation activity for existing mining operations approved by the Washington State Department of Natural Resources and develop the HP Property to accommodate a national, multi-building development of up to 1,500,000 gross square feet of building space, with office, research and development, industrial services, manufacturing and production, light industrial uses, as well as the potential for occupant-supported small scale retail, restaurant, accessory uses, and related parking and associated onsite improvements across the HP Property (the "Project");

WHEREAS, buildout of the Project is expected to occur in multiple phases over the next fifteen years;

WHEREAS, Phase 1 of the Project will involve development of one or more structures that will together comprise up to 330,000 gross square feet of office, research and development, and light industrial uses, as well as the potential for occupant-supported small scale retail, restaurant, accessory space, and related parking and associated onsite improvements ("Phase 1");

WHEREAS, Developer may purchase additional property in the future within Section 30 and the Developer anticipates, with the City's consent, annexing such additional property into this Agreement ("Annexed Property");

WHEREAS, Section 30 consists of approximately 553 acres of land historically and primarily used for aggregate extraction and processing, where 140 acres of Section 30 property is publicly-owned property held by Clark County, City of Vancouver, and the Bonneville Power Association;

WHEREAS, in 2009 the City adopted the Section 30 Urban Employment Center plan (the “Subarea Plan”) that establishes planning goals and policies for timely and predictable redevelopment of Section 30 following cessation of aggregate activities;

WHEREAS, the Developer’s Project is the first project to implement the Section 30 Subarea Plan and requires a significant public and private investment to fund common infrastructure including, but not limited to, streets, sidewalks, power, gas, communications, stormwater, and water and sewer utilities that will benefit the Project, future development in Section 30, and the general public by fulfilling the goals of the Subarea Plan;

WHEREAS, the Subarea Plan anticipated that development would occur parcel by parcel, as compared to Developer’s catalyzing Project of up to 98 acres;

WHEREAS, the City has determined that this Agreement will facilitate orderly buildout of the planned improvements, will further promote growth management and planning objectives of the City for Section 30, and will improve the economic vitality of the City;

WHEREAS, the City has determined that flexibility is found within the Subarea Plan policies, Section 30 Design Guidelines, and implementing code under chapter 20.690 Vancouver VMC to enable this unique Project to successfully and efficiently master plan for development to occur, and that this flexibility provides the City the opportunity to consider the flexible application of such policies, guidelines, and standards during the land use review process for the Project consistent with this Agreement;

WHEREAS, the Parties intend that they shall take further actions and execute further documents necessary or appropriate to implement the intent of this Agreement;

WHEREAS, the Washington State Legislature enacted RCW 36.70B.170-.210 to strengthen the land use planning process and reduce the costs of development by authorizing the City to enter into a private agreement with a landowner regarding the development of its real property located within the City’s jurisdiction; and

WHEREAS, pursuant to RCW 36.70B.200 and VMC 20.250.050, this Agreement was subject to public notice on or about December 9, 2019, a City Council workshop was held on December 9, 2019, and a hearing was held before the City of Vancouver Council on December 16, 2019. The City authorized execution of this Agreement by Resolution No. _____ adopted on December 16, 2019.

NOW THEREFORE, in consideration of the promises, covenants, and provisions set forth in this Agreement, the receipt and adequacy of which consideration is acknowledged, the Parties agree as follows:

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AGREEMENT

Section 1. Incorporation of Recitals and Exhibits

The recitals set forth above and the exhibits attached hereto are by this reference incorporated into the Agreement as though set out in full.

Section 2. Purpose

The purpose of this Development Agreement is to:

- (a) Provide for the mix of uses allowed by this document for development of the Project;
- (b) Provide a process to review Phase 1 and Developer's Master Plan for Subsequent Phases;
- (c) Provide the building permit review fees to apply to the Project;
- (d) Provide a framework for how business license surcharge fees will apply to the Project;
- (e) Reserve transportation capacity for HP's future development of the Project governed by this Development Agreement;
- (f) Provide for the availability and use of transportation impact fee reductions for Developer's future development of the Property governed by this Agreement;
- (g) Provide a process for Developer to reserve sanitary sewer and associated infrastructure capacity for the Project;
- (h) Reserve Developer's right to connect to any Section 30 public stormwater system for the Project subject to Section 4(d)(iii) below; and
- (i) Vest the Project to Development Standards as provided in Section 10 below to the HP Property, and any later Annexed Property that is added to this Agreement.

Section 3. Effective Date and Term

(a) Effective Date

The effective date shall be the date of the adoption of a resolution by the City of Vancouver Council approving this Agreement.

(b) Term

The term of this agreement shall be fifteen (15) years from the effective date. Developer shall have one (1) five (5) year option to extend this Agreement, subject to approval by the City

in its sole discretion through a Type I review process. Subsequent extension requests may be approved by the City as an amendment to this Agreement.

(c) Modification

This Agreement may be modified, extended or terminated only upon the written agreement of Developer and the City.

Section 4. Proposed Development

(a) Maximum Allowable Development and Uses

The HP Property is zoned Employment Center Mixed Use (ECX). The ECX zoning code in effect as of the date of this Agreement, and the current chapter 20.690 VMC allow the Project. This Agreement governs development of the Project on the HP Property and timing of such development shall be based on need and market conditions determined in Developer's sole discretion. Any proposal to develop the HP Property that is not consistent with the Project, including development of more than a cumulative total of 1,500,000 gross square feet of building space, shall be subject to then-applicable provisions of the VMC. The HP Property shall not be developed with any of the following uses:

Group Living
Community Recreation
Park & Ride Facilities: Structure
Vehicle Fuel Sales
Rail Lines/Utility Corridors
Uses listed under RCW 36.70B.170(3)(e)

(b) Phases

i. Phase 1

Phase 1 shall occur on the southeastern portion of the Property in the general area depicted on Exhibit 3 ("Phase 1 Property").

ii. Subsequent Phases

The remaining allowable development may be spread out over one or more phases across the HP Property depicted on Exhibit 3 ("Subsequent Phases").

(c) Annexed Property

The terms of this Agreement shall apply to Annexed Property, if the Agreement is amended to add such Annexed Property during the term of this Agreement in the City's sole and absolute discretion. Any Annexed Property shall be incorporated into the definition of HP Property.

(d) Standards

Pursuant to RCW 36.70B.170(3), the Parties identify the following non-exclusive list of standards applicable to the Project on the HP Property (collectively “Development Standards”).

i. Permitted Uses, Zoning, and Standards

The permitted land uses and development regulations for development, and other standards applied to the Project on the HP Property include those in chapters 20.440 (Industrial Districts), 20.690 (Section 30 Employment Center Plan District), 20.925 (Landscaping), 20.960 (Signage), and 20.945 (Parking and Loading) VMC in effect on the date of the adoption of this Agreement. The City has considered the applicability of these standards to the Project on the HP Property, as set forth in Exhibit 4, and will apply the standards consistent with Exhibit 4 to the Project.

ii. Planning Goals and Objectives

The planning goals adopted by the City in the Subarea Plan shall be the policy guidance and the foundation for all future development of the Project on HP Property. The City has considered the conceptual Project layout, inclusive of building shape and massing, and road alignments in Exhibit 5. Based on this conceptual visualization of the Project, the City has analyzed the Subarea Plan to determine the applicability of the plan policies to the Project on HP Property, as set forth in Exhibit 6, and will apply the policies consistent with Exhibit 6 for Phase 1 and the Master Plan to Developer’s Project as long as they do not materially deviate from the conceptual layout in Exhibit 5.

iii. Surface and Groundwater

All future development of the Project on HP Property shall be subject to the City of Vancouver Stormwater Management standards, chapter 14.25 VMC. The Parties agree that the expectation for the development of HP Property and subsequent development across Section 30 shall require each property owner to manage stormwater quality on its own property prior to releasing stormwater to a public stormwater collection facility. The City acknowledges that native gravels provide the best stormwater infiltration, and that as a result of the mined condition few areas within Section 30 retain native gravel. The City will prioritize retention of areas with native gravel for stormwater infiltration for all development in Section 30, especially within areas near the Subarea Plan’s conceptual location for 9th Street. The City may establish a local improvement district or similar mechanism to finance a Section 30 public stormwater facility. In the event the City constructs a public stormwater facility or accepts the dedication of a public stormwater facility, the City shall allow the Developer to connect to the system subject to satisfaction of all applicable code provisions and payment of any connection fee or charges, including, but not limited to, local improvement district fees.

iv. Water Service

Water service for the Project shall be designed and constructed in accordance with the City of Vancouver Water Design and Construction Requirements. Water service shall be

provided by the City. The Developer shall provide potable water infrastructure on HP Property to serve the Project at its cost, and the costs of provision of public infrastructure are governed by Sections 4(e) and 7 of this Agreement.

v. Sewer Service

Sanitary sewer service for the Project shall be designed and constructed in accordance with the City of Vancouver General Requirements and Details for the Design and Construction of Public Sanitary Sewers. Sewer service shall be provided by the City. The Developer shall provide sanitary sewer infrastructure on the HP Property to service the Project at its cost, and other provision of public infrastructure is governed by Section 8 of this Agreement. The Subarea Plan anticipates that a sanitary sewer pump station and associated infrastructure will be installed to serve Area 2 of Section 30, where the HP Property is located and Developer shall construct the sanitary sewer pump station (“Area 2 Pump Station”), pursuant to Section 8(c) of this Agreement. By this Agreement Developer reserves 143,000 gallons per day of capacity in the Area 2 Pump Station and associated public infrastructure, equal to the anticipated sanitary sewer demand for the 1,500,000 gross square feet of development associated with the Project; provided, however, that the reserved capacity shall not be available unless (i) the Area 2 Pump Station is constructed; (ii) Developer provides the City with a minimum twenty-four (24) months advance written notice of its need to utilize the capacity, which shall be accomplished by Developer’s request for a pre-planning meeting for the master planning process for the Project; and (iii) Developer has paid all applicable fees and charges required by the City to use the reserved capacity that Developer shall pay in proportionate share as the Subsequent Phases are developed and sewer capacity is used by the Project.

vi. Road Standards

Roads and rights of way for the Project shall be designed and constructed in accordance with chapter 20.690 VMC, the Subarea Plan and Section 30 Design Guidelines, and consistent with Exhibits 4 and 6, and Section 8(b) of this Agreement.

vii. Other Development Standards

Development of the Project shall comply with all other applicable Development Standards including, but not limited to, chapters 11.70 (Transportation Concurrency), 14.08 (Connections to Public Sewers), 20.770 (Tree, Vegetation, and Soil Conservation), 20.909 (Escrow and Assurances), 20.910 (Exceptions and Interpretations), 20.912 (Fences and Walls), 20.915 (Impact Fees), 20.935 (Off-Site Impacts), 20.970 Solid Waste Disposal and Recycling), and 20.985 (Visual Clearance) VMC, in effect on the date of the adoption of this Agreement.

(e) Infrastructure Financing Tools

Developer may apply for use of chapter 11.10 VMC (Local Finance Tools), VMC 14.04.235, and VMC 14.04.285 effective on the date of Developer's application for development to obtain reimbursement for certain expenditures that qualify under these provisions.

(f) Other Property Development Agreements

A portion of the Phase 1 Property is subject to the following development agreement:

English Development Agreement, Recorded Document No. 4413045

The Additional Property is subject to the following development agreement:

Pacific Rock Development Agreement, Recorded Document No. 4096886, as modified and restated in Recorded Document No. 4443223

A portion of the Additional Property is subject to the following development agreement:

Glacier NW Development Agreement, Recorded Document No. 3925154

The HP Property is subject to the following development agreement:

One Pacific Corporation Development Agreement ("One Pacific Agreement"), Recorded Document No. 3925154

(collectively "Pre-Existing Development Agreements"). The Pre-Existing Development Agreements shall remain in full force and effect unless and until land use applications for the Project are submitted and approved, with the exception of the One Pacific Agreement that shall remain in full force and effect. Upon issuance of a permit to Developer for the Project, this Agreement shall supersede and replace the Pre-Existing Development Agreements applicable to the portion of the HP Property covered by such Project permit; provided, however, that the One Pacific Agreement shall remain in full force and effect until the City receives the full balance owing under the Westridge SDC in place at the time of this Agreement (which as of November 1, 2019 had a balance owing of \$693,200.81 to the City) by Developer or other responsible parties.

(g) Reservation of Transportation Capacity

In anticipation of Developer's Project, a traffic study, attached as Exhibit 7, was completed for Developer to determine the average daily trips, and p.m. peak hour trips generated by HP's Project of up to 700,000 gross square feet of development consistent with land use designation 714 in the International Traffic Engineer ("ITE") *Trip Generation Manual, 10th Edition* (2019). Developer submitted this traffic study to the City in association with this Agreement. The traffic study estimated that future development as contemplated herein will create 723 p.m. peak hour trips. For the purpose of vesting trips under this Agreement, 723 p.m. peak hour trips will be used as the vested amount of p.m. peak hour trips during the period of this Agreement and any extensions.

The City hereby reserves for Developer for use throughout the Project of up to 700,000 gross square feet of buildings occupied by uses consistent with land use designation 714 in the

ITE *Trip Generation Manual*, 10th Edition (2019) for the term of this Agreement, the following transportation capacity consistent with the number of trips calculated in the traffic study for purposes of transportation concurrency, chapter 11.70 VMC: 5,565 daily trips. The City shall make complete transportation concurrency findings related to the Project at the time of development review for individual buildings, phases, and Master Plan approvals up to 700,000 gross square feet of buildings.

Any development exceeding 700,000 gross square feet of buildings on the HP Property, or not consistent with land use designation 714 in the ITE *Trip Generation Manual*, 10th Edition (2019) will not be governed by this traffic report, will require an updated traffic report, and a new concurrency determination.

In the event that the City of Vancouver proposes an alternative traffic capacity vesting mechanism acceptable to both Parties, the Parties may mutually agree to modify certain provisions of this Section 4(g).

Section 5. Reserved Capacities

Section 4 of this Agreement reserves capacity for sanitary sewer, and vehicular trips (collectively “Reserved Capacities”). As contemplated under Section 12 of this Agreement, Developer may come into ownership of the full 98 acres, or some portion, thereof. In the event that Developer does not purchase all of the HP Property, the reserved capacities shall be reserved only for land owned by Developer and covered by this Agreement. For purposes of this section, the definition of “owned by Developer” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise, and the terms “controlling” and “controlled” have the meanings correlative to the foregoing. As used herein, “Affiliate” shall mean any person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with Developer. For purposes of this Section 5, owned by Developer shall include (i) any transfer to a subsidiary, Affiliate of Developer, parent company, any company that owns 50% or more of the voting stock of Developer, (ii) any collateral security transfers in connection with any debt or equity financing or transfers pursuant to a foreclosure or a deed in lieu thereof; (iii) transfers to any Affiliate of Developer; (iv) transfers in connection with a sale of all or substantially all of Developer’s assets or its stock; (v) transfers in connection with a lease back of the HP Property or all improvements thereon by Developer; (vi) the sale or transfer of shares of Developer, including, without limitation, transfers of shares that would change Developer from a publicly traded company to a privately held one; (vii) transfer made in connection with a portfolio sale of two (2) or more buildings; or (viii) transfers to any “spin off” from, or business unit of Developer. The transfers described in (i) through (viii) are herein together called “Permitted Transfers”. Permitted Transfers will carry forward any Reserved Capacities in this Agreement. Any other transfer of HP Property, except a Permitted Transfer, will not be entitled to a transfer of any Reserved Capacities. Developer shall have sole discretion to distribute Reserved Capacities across HP Property and any Annexed Property that may be added to this Agreement in the future.

Section 6. Traffic Impact Fees

(a) Project Designation for Calculating Traffic Impact Fees (“TIF”)

TIF for the Project shall be assessed using land use code designation 714 in the *ITE Trip Generation Manual, 10th Edition* (2019); provided, however, that any development of the HP Property that does not meet the intent of ITE land use code designation 714 shall be assessed TIF based on the appropriate ITE designation as determined by the City in its sole discretion.

(b) TIF Business Development Incentive

The City Council will hold a public hearing to (1) extend the Business Development TIF Incentive in chapter 20.915 VMC; and (2) consider an amendment to chapter 20.915 VMC to reduce Traffic Impact Fees by 50%, up to a maximum of \$200,000, for any business that (1) relocates 700 or more employees with a median salary of equal to 125% of current median individual income, as set by the federal department of Housing and Urban Development for the Portland-Vancouver USA (“TIF Ordinances”). In the event that the City adopts the foregoing Business Development TIF Incentive mechanism that is acceptable to both Parties, the Parties may mutually agree to modify certain provisions of this Section 6(b). Nothing in this Section 6 shall be construed to obligate the City to approve the TIF Ordinances.

(c) TIF Credits

Provided all criteria in chapter 20.915 VMC are satisfied, the Developer shall be entitled to TIF credits pursuant to VMC 20.915.090 for constructing a collector arterial off of SE 1st to serve Phase 1 (e.g. extension of 184th Avenue), and any other east/west collector arterial off of 184th connecting to 172nd Avenue and 192nd Avenue (e.g. construction of 9th Street). To the extent the credit exceeds the Developer’s TIF assessment for Phase 1, Developer may apply any excess credit to Subsequent Phases during the term of this Agreement. Developer is permitted to accumulate TIF credits for any qualifying road projects it constructs throughout the term of this Agreement and any extensions thereof, provided, however that TIF credits will not be available if the City contributes City Reinvestment Funds to cover the full cost of a qualifying road project pursuant to Section 7 of this Agreement. In the event the City issues a partial contribution to Developer for qualifying road projects, Developer shall be entitled to TIF credits for the portion the Developer funded provided the criteria of chapter 20.915 VMC are satisfied. Any TIF credits for the Project accumulated by Developer will not be deducted from the City’s Reinvestment Funds.

(d) Applicability of TIF Incentive

As contemplated under Section 12 of this Agreement, Developer may come into ownership of the full 98 acres, or some portion, thereof. In the event that Developer does not purchase all of the HP Property, this Section 6 shall only apply to Developer’s owned HP Property, subject to Permitted Transfers.

(e) Dedications

Once Developer dedicates real property for public infrastructure, subject to the City's acceptance, the City shall maintain the system located on City property.

Section 7. City Contribution Towards Section 30 Redevelopment Infrastructure

(a) Funding to Coincide with Developer's Phased Development

Developer's Project will be the first project to develop under the Subarea Plan and will require a significant investment in infrastructure. Infrastructure constructed by the Developer for the Project will facilitate development of the rest of Section 30. As set forth in this Section 7 and considering these unique circumstances the City agrees to reinvest up to Ten Million Dollars (\$10,000,000.00) ("City Reinvestment Funds") towards Core Public Improvements defined in Section 7(b) of this Agreement.

i. Phase 1

The contribution of City Reinvestment Funds for Core Public Improvements in Phase 1 shall be limited to Three Million Five Hundred Thousand Dollars (\$3,500,000.00) that may be used as soon as Developer submits a complete building permit application for Phase 1 improvements. Any unused amount of City Reinvestment Funds allocated in Phase 1 may, in Developer's sole discretion, be applied to Core Public Improvements in Subsequent Phases.

ii. Subsequent Phases

The contribution of the City Reinvestment Funds during the Subsequent Phases shall be limited to Six Million Five Hundred Thousand Dollars (\$6,500,000.00) that may be used once Developer submits a complete building permit application for a building that will cause the total square footage of development in the Subsequent Phases to meet or exceed 330,000 gross square feet.

(b) Funds to be Spent on Core Public Improvements

The City Reinvestment Funds shall be used to construct or contribute to Core Public Improvements. To qualify as a core public improvement the infrastructure must provide a public benefit to future redevelopment of Section 30 ("Core Public Improvements"). Examples of Core Public Improvements include, but are not limited to, collector arterials (inclusive of all frontage improvements including sidewalks, roundabouts, landscaping, street lighting, and water mains), public recreational trails, public transportation facilities, public stormwater collection facilities and related infrastructure, public water facilities and related infrastructure, public sanitary sewer facilities and related infrastructure. Notwithstanding whether the Developer decides to utilize the City Reinvestment Funds for particular Core Public Improvements, the City agrees that the following public infrastructure improvements shall, so long as the above criteria are met, be considered Core Public Improvements eligible for reimbursement: the extension of 184th Avenue

from Phase 1 to 9th Street, construction of 9th Street between 172nd Avenue and 184th Avenue, payment of System Development Charge fees (including the One Pacific Agreement related fees), any Developer-dedicated public recreational trail, and construction of Area 2 Pump Station and related infrastructure as contemplated in the Subarea Plan. Without limiting the foregoing, the City shall make Section 30 public infrastructure improvements a top priority in the City's grant writing program and other public funding plans.

(c) Method of Contributing City Reinvestment Funds

Developer may, in its sole discretion, use City Reinvestment Funds to contribute to all or a portion of Developer's costs to construct a Core Public Improvement or to fully fund City construction of a Core Public Improvement. In the event the Core Public Improvement includes land dedicated to the City, the value of the land dedicated for such improvement may, at Developer's option, be included as an actual cost of construction. The land valuation of the dedicated property shall equal the Developer's cost to acquire the property calculated on a square foot basis.

In no event will Developer be permitted to recover City Reinvestment Funds through available cost recovery mechanisms including, but not limited to, those cost recovery mechanisms identified in Section (4)(e) of this Agreement. The City reserves and retains all rights to recover City Reinvestment Funds used for Core Public Improvements and may use any recovered City Reinvestment Funds in its sole and absolute discretion.

i. City Construction of Core Public Improvements

Developer may request that the City construct a Core Public Improvement. Developer shall identify the Core Public Improvement by providing the City with notice that includes build-ready plans for the City's review and approval. The City may, in its sole discretion, agree to construct the Core Public Improvement based on terms and conditions it deems appropriate; provided, however, that the City shall not construct a Core Public Improvement unless there are sufficient City Reinvestment Funds to cover the full cost of construction. The City shall signify its agreement to construct a Core Public Improvement by providing Developer with an estimated cost to construct the Core Public Improvement, an estimated construction schedule, and terms and conditions, if any, within thirty (30) days of receipt of the build-ready plans ("Construction Terms"). Developer shall notify the City in writing within fifteen (15) days of its receipt of the Construction Terms of its election to have the City proceed with construction of the Core Public Improvement. If notice is not provided as set forth in this Section, it shall be presumed that the City will not construct the Core Public Improvement.

Nothing in this Section 7(c)(i) shall be construed to obligate the City to construct a Core Public Improvement for Developer within a certain timeframe or at a pre-determined cost. Developer acknowledges that City construction of a Core Public Improvement requires that it comply with chapter 39.12 RCW and procurement practices in chapter 3.05 VMC. If Developer elects to have the City proceed with construction, the estimated cost shall be immediately

deducted from available City Reinvestment Funds. The City shall provide Developer with its actual cost of construction within thirty (30) days of completion. If actual costs of construction are less than the estimated costs, the difference shall be credited back to the City Reinvestment Fund balance. If actual costs exceed the estimated costs the difference shall be deducted from the City Reinvestment Fund balance, or paid by the Developer if there are insufficient City Reinvestment Funds remaining.

ii. Core Public Improvement Constructed by Developer

Developer may choose to construct a Core Public Improvement and request full or partial contribution for the costs from the City Reinvestment Funds. Developer shall identify the Core Public Improvement and the amount of contribution it seeks in the Type II review application for Phase 1 or in the Master Plan for Subsequent Phases. To be eligible for contribution, the Core Public Improvement must (i) be bid and constructed pursuant to City procurement practices in chapter 3.05 VMC, as amended; (ii) be constructed in full compliance with chapter 39.12 RCW, as amended; (iii) meet all applicable City, State, or Federal standards; (iv) be constructed in a good and workmanlike manner; and (v) dedicated to the City after passing all City inspections. Developer shall provide documentation substantially in the form of Exhibit 8 attached hereto, of the cost to construct the Core Public Improvement for contribution after the inspection occurs. Developer shall also submit documentation that all applicable City procurement procedures and the requirements of chapter 39.12 RCW were followed, including, but not limited to, all forms submitted to the Department of Labor and Industries. The City shall have thirty (30) days to review documentation provided by Developer in relation to a contribution request for a Core Public Improvement and the Parties shall resolve all documentation matters within forty-five (45) days of submittal, unless otherwise mutually agreed. Any contribution for construction activity undertaken by Developer shall be subject to inspection. The City shall schedule a requested contribution inspection within thirty (30) days from Developer's request. The City shall provide the requested contribution to Developer within sixty (60) days of passing inspection or dedication of the Core Public Improvement to the City, whichever occurs sooner.

Developer may, at its sole option, request partial contribution of City Reinvestment Funds for the Core Public Improvement. In such a case, Developer reserves the right to apply to recover the non-City Reinvestment Funds pursuant to available cost recovery mechanisms including, but not limited to, latecomer's agreements under chapters 11.10 and 14.04 VMC. By way of example only, if Developer constructs the Area 2 Pump Station contemplated under Section 4(d)(v) of this Agreement, Developer may seek a partial contribution of City Reinvestment Funds to cover Developer's proportionate share of the cost and fund the remaining cost with its own monies. Developer could then apply for a latecomer agreement to recover the money it contributed to the cost to construct the Area 2 Pump Station.

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Section 8. City Processing and Review of Project Permits

(a) Project Type

i. Phase 1

Pursuant to VMC 20.690.030(D), the City determines that Phase 1 will not have area wide infrastructure or land use implications and shall be processed as a Type II decision provided that Phase 1 satisfies the conditions in Section 8(b) through 8(f) of this Agreement. A description of the Phase 1 Property in Exhibit 9 in relation to surrounding properties provides information to conclude that adequate infrastructure can be achieved in the short term while Developer's master planning for Subsequent Phases occurs.

ii. Subsequent Phases

Subsequent Phases of the Project shall be processed using the master planning process contained in VMC 20.690.050 in effect as of the date of this Agreement. The Phase 1 Property shall be incorporated in any future master plan involving adjacent HP Property. This Section 8(a)(ii), shall survive termination of this Agreement, except that the survival language shall sunset upon (i) approval of Developer's Master Plan for Subsequent Phases (including the Phase 1 Property); or (ii) construction of 184th Avenue between SE 1st Street and SE 9th Street, the construction of SE 9th Street between 172nd Avenue and 184th Avenue, and the Area 2 Pump Station.

(b) Road Infrastructure

Phase 1 shall include design of a full-width, thirty-four (34) foot curb-to-curb collector arterial extending from SE 1st Street in the approximate location of 182nd Avenue and 184th Avenue ("184th") to serve the Phase 1 Property, consistent with the right of way depicted in Exhibit 10 with Developer improving the street sufficient for two-way vehicular traffic, inclusive of a 12 foot recreational trail subject to Section (8)(d) of this Agreement ("184th Extension"). The 12 foot recreational trail satisfies the requirement for the trail identified in Section 8(d) of this Agreement.

Developer acknowledges and agrees that two roundabouts are contemplated at intersections along 184th between SE 1st Street and SE 9th Street and may be located on all or a portion of the HP Property. The location of such roundabouts will be selected during the master planning process for Subsequent Phases. Developer shall dedicate, at no cost to the City but subject to Section 7 of this Agreement, land necessary to construct such roundabouts and any planned collector arterials from said roundabouts. To the extent the 184th Extension is located entirely on the Phase 1 Property, Developer shall allow access to 184th through the Phase 1 Property at no cost. This Section 8(b), shall survive termination of this Agreement, except that the survival language shall sunset upon (i) approval of Developer's Master Plan for Subsequent Phases (including the Phase 1 Property); or (ii) construction of 184th Avenue between SE 1st

Street and SE 9th Street, the construction of SE 9th Street between 172nd Avenue and 184th Avenue, and the Area 2 Pump Station.

(c) Sewer Infrastructure

Phase 1 shall provide all required sanitary sewer infrastructure in the 184th right of way to connect to the Area 2 Pump Station, including gravity lines that will carry sewer flows from Phase 1 to the sanitary sewer pump station and a force main to carry sewer flows from the sanitary sewer pump station to SE 1st Street. Developer may construct the Area 2 Pump Station as contemplated in the Subarea Plan as part of Phase 1, or temporarily connect to a sanitary sewer pump station outside of Section 30 to service Phase 1; provided, however that Developer agrees that the Area 2 Pump Station shall be constructed, consistent with Section 4(d)(v) of this Agreement, within three (3) years of issuance of the first certificate of occupancy for a Phase 1 building. The deadline to construct the Area 2 Pump Station may be extended in the City's sole discretion in the event Developer demonstrates good faith progress towards a Master Plan for Subsequent Phases and eventual construction of the station. Upon completion of the Area 2 Pump Station Developer shall connect Phase 1 to the sanitary sewer pump station at its sole cost and expense.

(d) Dedication of Public Recreational Trail

The Subarea Plan contains a conceptual location for a public recreational trail on the western boundary of the HP Property. The recreational trail location in the Subarea Plan is conceptual and allows for deviation to be determined through the master plan process, however, to meet the goals of the Subarea Plan the recreational trail must be open to the public and must connect north to a location near 9th Street and west towards 172nd Avenue along or near the northern boundary of the HP Property. The City agrees that in the event the trail is located on HP Property and maintained in Developer's ownership it shall be considered a trail used solely for recreational use purposes. Any other purpose specified in any other City document related to any public recreational trail on HP Property is superseded by this Agreement.

To satisfy this Subarea Plan goal, in Phase 1 Developer shall design and construct a 12 foot recreational trail adjacent to 184th. The trail shall be designed to allow for future connectivity along 184th and connection to 9th Street in Subsequent Phases as will be designed during the master plan process. Upon dedication of the recreational trail to the City, the City shall maintain the trail.

(e) Boundary Slopes and Final Elevations

Developer's design of the Phase 1 boundary slopes and final elevations is to be consistent with the description in Exhibit 9.

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(f) State Environmental Policy Act ("SEPA")

i. Existing SEPA Documents

The City adopted a Determination of Nonsignificance ("DNS") in accordance with SEPA requirements when the Subarea Plan was adopted in 2009 through Ordinance No. M-3930 in relation to File Numbers CPZ2009-00010/SEP2009-00025. The DNS explained that future development within Section 30 would require compliance with SEPA.

ii. Project SEPA Compliance

Consistent with Ordinance No. M-3930 and the DNS, all applications for the Project shall comply with the State Environmental Policy Act, chapter 43.21C RCW and chapter 20.790 VMC. The Developer shall implement all mitigation measures imposed during the SEPA process for Phase 1 and Subsequent Phases of the Project.

(g) City Review Team

The City shall form an experienced, multi-disciplinary review team to review all applications associated with the Project. The review team shall be coordinated by a manager who shall serve as the designated point of contact for the Project.

(h) Streamlined Permitting

The City will utilize its streamlined review process for land use, engineering, and building permit review that provides for consolidated and expeditious approvals and permit review for the Project at no additional charge. The City commits to completing its review of land use, engineering, and building plans, studies and associated application material within ninety (90) calendar days of submittal. Review time may be added by the City if application materials remain incomplete within two review cycles or if more than three civil engineering reviews are required. This timeframe shall not apply to the master plan process necessary for Subsequent Phases of the Project. Instead, the City shall endeavor to make a decision on any Developer proposed Master Plan subject to this Agreement within one hundred twenty (120) calendar days from the date the Master Plan application is deemed complete.

(i) Permit Fees

The City shall cap the valuation of the Project for the sole purposes of calculating building permit review and inspection fees pursuant to VMC 17.08.130(G), Table I as follows:

Phase 1 – Building construction and investment for the first phase of the Project is estimated to have a value of Fifty Million (\$50,000,000.00) to Eighty Million Dollars (\$80,000,000.00). The City shall cap the valuation at Ten Million Dollars (\$10,000,000.00) for purposes of assessing fees under VMC 17.08.130(G).

Subsequent Phases – The City shall cap the valuation at Ten Million Dollars (\$10,000,000.00) for purposes of assessing fees under VMC 17.08.130(G) in Subsequent Phases.

Therefore, the City shall cap the valuation at Ten Million Dollars (\$10,000,000.00) for purposes of assessing fees under VMC 17.08.130(G) for each building permit application for the Project on HP Property and Annexed Property, and that cap will be applied separately to each permit during the term of this Agreement and any extensions thereof.

(j) Applicability of Section 8

As contemplated under Section 12 of this Agreement, Developer may come into ownership of the full 98 acres, or some portion, thereof. In the event that Developer does not purchase all of the HP Property, this Section 8 shall only apply to Developer's owned HP Property, subject to Permitted Transfers.

Section 9. Business License Surcharge Fees

(a) Business License Surcharge Fee

Upon application for building permits to construct Phase 1, business license surcharge fees assessed against Developer under chapter 5.04 VMC (as it may be amended) shall not exceed ninety dollars per full-time employee and shall not be assessed against more than seven hundred ninety-nine (799) full time employees. This Section 9(a) shall expire on December 31, 2024; provided, however, that Developer may, at its option, elect to terminate this provision prior to December 31, 2024. Upon termination of this Section 9(a), Developer shall be subject to then-existing business license surcharge fees.

(b) Anticipated Code Amendment

The City Council will hold a public hearing to consider an amendment to chapter 5.04 VMC regarding Business License Surcharge fees to consider a five-year waiver of the per employee annual business license surcharge fee for companies that relocate employees from outside the City boundary and employees already located within the City boundary under the following circumstances:

- A minimum of 700 employees earning no less than 125% of current median individual income, as set by the federal department of Housing and Urban Development for the Portland-Vancouver USA.
- For companies relocating employees located in the City to other locations within the City, the employees are relocated to an owner-occupied building or group of buildings comprising a minimum of 200,000 square feet in an Employment Center Plan District.

The City will hold a public hearing to consider an amendment to chapter 5.04 VMC regarding Business License Surcharge fees to consider an extension of the waiver of the per employee annual business license surcharge fee for companies eligible for the waiver that expand employment by 20% above the currently employed numbers in the City where 75% of the new employment offer no less than 125% of current median individual income, as set by the federal department of Housing and Urban Development for the Portland-Vancouver USA.

In the event that the City of Vancouver proposes the contemplated code amendment in a form acceptable to both Parties, then the Parties may mutually agree to modify certain provisions of this Section 9. Nothing in this Section 9 shall be construed to obligate the City to adopt a code amendment.

(c) Verification and Employment Decline

During the term of the incentive, the Developer shall provide the City with a sworn statement verifying that the number of employees and salary meets or exceeds the applicable thresholds for the waiver in substantial compliance with the form attached hereto as Exhibit 11. The City, or its designee, may, no more than once per year, request information to verify applicable thresholds have been met. In the event that the code amendment contemplated above is enacted and the parties mutually agree to modify this Agreement, if employment or salary declines below the thresholds specified in the applicable code provision, the Developer shall reimburse the City for the relevant reduction and/or waived business license surcharge fees during the period of noncompliance with the thresholds.

Section 10. Vested Rights

The Development Standards of the VMC, inclusive of all provisions referenced in Section 4(d) of this Agreement that are in effect on the date of this Agreement shall apply to the Project, except as otherwise provided in this Agreement and as follows:

Public Health and Safety

The City reserves the authority to modify one or more of the standards or requirements of development for the HP Property during the term of the Agreement, after notice, a public hearing, and adoption of findings and conclusions, to the extent required to avoid a serious threat to public health or safety, as provided in RCW 36.70B.170.

State and Federal Law

This Agreement does not relieve Developer of any obligations to comply with state or federal laws or regulations of any kind, including, but not limited to, those related to endangered species or stormwater. The Project shall not be vested against the application of development standards imposed by virtue of federal or state preemption of the City's regulatory authority.

State and International Building Codes

The International Building Code and International Fire Code in effect in the State of Washington on the date of filing a complete application for a building permit shall apply to all new development of the HP Property, unless mutually agreed to between the Parties.

Charges and Fees

This Agreement does not vest Developer to plan review fees, system development charges, or impact fees, except as otherwise provided in this Agreement.

Any amendments or additions made during the term of this Agreement to zoning or development regulations, transportation concurrency regulations, SEPA regulations and substantive SEPA policies or other laws, ordinances, comprehensive plan policies or other policies governing land development which may be applicable to the Project shall not apply to or affect the conditions of the Project, except as otherwise provided in this Agreement. Developer may request to be bound by future amendments to the VMC. This vesting provision shall be applicable, without limitation, to all land use applications, permits, uses and development of the Project that occur on the HP Property within the term of this Agreement. This vesting shall continue beyond the term of this Agreement as to any implementing land use application in process or granted by the City during the term of this Agreement, for the normal term of approval of any such application, permit, or approval.

Section 11. Authority

Developer represents and warrants to the City that it has ownership or control of the HP Property as that term is used in RCW 36.70B.170 and that its signatory has the authority to enter into this Agreement and bind the HP Property thereto. The City represents that its signatory has full power and authority to execute and deliver this Agreement on behalf of the City. Each Party will defend, indemnify, and hold harmless the other Party and signatory from any claim that he or she was not fully authorized to execute this Agreement on behalf of the person or entity for who he or she signed.

Section 12. Applicability of the Agreement, Binding on Successors, and Recording

This Agreement shall be effective and binding upon proper execution and delivery by the City and Developer. As contemplated under the recitals, Section 1, and Section 12 of this Agreement, Developer may come into ownership of the full 98 acres, or some portion, thereof. In the event that Developer does not purchase all of the HP Property, this Agreement shall only apply to Developer's owned HP Property, subject to Permitted Transfers. This Agreement shall run with the land and be binding upon and inure to the benefit of the successors, successors in title and assigns of Developer and upon the City as to all of the HP Property (or any portion thereof) that Developer acquires, and will be binding and enforceable against each Party in accordance with the terms herein. This Agreement shall be recorded with the Clark County

Auditor against the HP Property. Developer may sell or otherwise lawfully dispose of all or any portion of the Developer acquired HP Property to another person, corporation, partnership, or other entity who shall be bound by and benefitted by the requirements and terms of this Agreement, except as set forth in Section 5 of this Agreement.

Section 13. Further Discretionary Actions

Nothing in this Agreement shall be construed to limit the authority of the City to process development applications for the HP Property, including one or more building permits, under the processes established by the City; provided, however those processes shall not impose any conditions inconsistent with the provisions of the Agreement.

Section 14. Interpretation; Severability

(a) Interpretation

The Parties intend this Agreement to be interpreted to the full extent authorized by law as an exercise of the City's authority to enter into such agreements, and this Agreement shall be construed to reserve to the City only that police power authority which is prohibited by law from being subject to a mutual agreement with consideration.

(b) Severability

If any provision of this Agreement is determined by a court of law to be unenforceable or invalid, then the remainder of the Agreement shall remain in full force and effect. Further, as to those provisions held by a court of law to be unenforceable, the Parties shall confer and agree to amend the Agreement to implement the mutual intent of the Parties to the maximum extent allowed by law.

Section 15. Waiver

Failure by either Party at any time to require performance by the other Party of any of the provisions hereof shall in no way affect the Parties' right hereunder to enforce the same, nor shall any waiver by the Party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

Section 16. Amendment

This Agreement shall not be amended without the express written approval of the City and Developer (or its successors, successors in title and assigns with respect to the HP Property in which they have an interest). The Vancouver City Council must approve, in its sole discretion, all amendments to this Agreement by ordinance or resolution. The City agrees to present to the City Council any Developer requested amendment within ninety (90) days of such request, unless the Parties mutually agree otherwise.

Section 17. Headings

The headings in this Agreement are inserted for reference only and shall not be construed to expand, limit, or otherwise modify the terms and conditions of this Agreement.

Section 18. Governing Law and Venue

This Agreement shall be construed with, and governed by, the laws of the State of Washington. The Parties agree to venue in the Superior Court for Clark County, State of Washington, to resolve any disputes that may arise under this Agreement.

Section 19. Attorneys' Fees

Should it be necessary for any Party to this Agreement to initiate a legal proceeding against the other Party to adjudicate any issues arising hereunder, the Party that substantially prevails shall be entitled to recover from the other Party such sum as the court or arbitrator may adjudge reasonable attorneys' fees, costs, expenses, and disbursements (including the fees and expenses of expert and fact witnesses) reasonably incurred or made by the substantially prevailing Party in preparation to participate in mediation or arbitration, to bring suit, during suit, on appeal, on petition for review, and in enforcing any judgment or award, from the other Party or Parties.

Section 20. Default

In the event either Party fails to perform the terms and provisions of this Agreement, which failure continues uncured for a period of sixty (60) days following written notice from the other Party (unless the Parties have mutually agreed in writing to extend this period) shall constitute a default under this Agreement. Any notice of default shall specify the nature of the alleged default and, where appropriate, the manner in which the alleged default may be satisfactorily cured. If the nature of the alleged default is such that it cannot be reasonably cured within the sixty (60) day period, then the commencement of actions to cure the alleged default within the sixty (60) day period and diligent prosecution of such actions necessary to complete the cure of the alleged default, shall be deemed to be a cure within the sixty (60) day period. Upon a default that is not cured as provided above, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or terminate this Agreement. If the default is cured, then no default exists, and the noticing Party shall take no further action. In recognition of the possible assignment and sale of portions of the HP Property (see Section 12) any claimed default shall relate as specifically as possible to the portion of the HP Property involved and any remedy against any party shall be limited to the extent possible to the owners of such portion of the HP Property with remedies that do not adversely affect the rights, duties or obligations of any other non-defaulting owner of portions of the Property not in default under this Agreement.

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Section 21. Cooperation

The City and Developer shall take such action (including, but not limited to, the execution, acknowledgement and delivery of documents) as may reasonably be requested by the other party for the implementation or continuing performance of this Agreement. In the event of any administrative, legal, or equitable action or proceeding instituted by any person or party to this Agreement challenging the validity of any provision of this Agreement, or any subsequent action taken consistent with this Agreement, the parties shall cooperate in defending such action or proceeding to settlement or final judgment, including all appeals. The City and Developer shall select its own legal counsel and retain such counsel at its own expense.

Section 22. No Third-Party Beneficiaries

This Agreement is made and entered into for the sole protection and benefit of the Parties hereto and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

Section 23. Notice

All communications, notices, and demands of any kind under this Agreement shall be in writing and delivered by (a) a nationally recognized overnight courier, or (b) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, and as follows:

To the City:	City of Vancouver, City Attorney Attn: Jonathan Young 415 SW 6 th Street Vancouver, WA 98660
To the Developer:	JLL 260 Forbes Avenue, Suite 1300 Pittsburgh, PA 15222 Attn: Lease Administration – HP Inc.
With a copy to:	HP Inc. 1501 Page Mill Road Palo Alto, CA 94304 Attn: Global Functions Legal Jennifer Bragar Tomasi Salyer Martin 121 SW Morrison St, Suite 1850 Portland, OR 97204

Section 24. Construction

This Agreement is the product of negotiation and drafting by both Parties and their legal counsel, and it shall be deemed to have been drafted by no Party individually but as a joint effort of the Parties. The Parties intend this Agreement to be interpreted to the full extent authorized by law. To the extent of any conflict with any City regulations which may otherwise govern the HP Property, the terms and conditions of this Agreement shall prevail.

Section 25. Entire Agreement

This Agreement consists of the Resolution approving the Agreement, the Agreement, Exhibits 1-11. This Agreement constitutes the final and complete expression of the Parties on all subjects relating to the terms herein. This Agreement supersedes and replaces all prior agreements, discussions and representations on all subjects discussed herein, without limitation, except as set forth in Section 4(f). No Party is entering into this Agreement in reliance on any oral or written promises, inducements, representations, understandings, interpretations or agreements other than those contained in this Agreement and the exhibits hereto.

Section 26. Vancouver Municipal Code Provisions and Standards

The City shall maintain a binder with a printed copy of all Development Standards governing development of the Project as set forth in this Agreement, including but, not limited to, the Subarea Plan, the City of Vancouver Stormwater Management Standards, City of Vancouver Water Design and Construction Requirements, and City of Vancouver General Requirements and Details for the Design and Construction of Public Sanitary Sewers, to be signed by each Party.

Dated this _____ day of December, 2019

CITY OF VANCOUVER, a municipal corporation

HP, INC., a Delaware corporation

By: _____
Eric J. Holmes, City Manager

By: _____

Attest

Natasha Ramras, Chief Financial Officer
City of Vancouver

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT 1

LEGAL DESCRIPTION OF PROPERTY

PARCEL I:

THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 2 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN IN CLARK COUNTY, WASHINGTON.

PARCEL II:

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 2 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, CLARK COUNTY, WASHINGTON.

PARCEL III:

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS AND UTILITIES, INCLUDING BUT NOT LIMITED TO THE RIGHT TO CONSTRUCT AND MAINTAIN A PRIVATE ROAD FOR HEAVY HAULING OF AGGREGATE AND EQUIPMENT UNDER, OVER AND ACROSS THE EAST 60 FEET OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 2 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, AS SET FORTH IN THE AMENDED AND RESTATED EASEMENT AGREEMENT RECORDED MARCH 19, 2009 AS RECORDING NO. 4541545.

PARCEL IV:

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 2 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, CITY OF VANCOUVER, CLARK COUNTY, WASHINGTON.

EXCEPT ANY PORTION LYING WITHIN SOUTHEAST FIRST STREET.

ALSO EXCEPT THAT REAL PROPERTY SITUATED IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 2 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, CITY OF VANCOUVER, CLARK COUNTY, WASHINGTON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 30; THENCE NORTH 01°36'19" EAST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 455.55 FEET; THENCE SOUTH 27°07'48" EAST A DISTANCE OF 147.46 FEET; THENCE SOUTH 88°12'07" EAST A DISTANCE OF 177.17 FEET; THENCE SOUTH 43°23'44" EAST A DISTANCE OF 34.77 FEET; THENCE SOUTH 01°45'27" WEST A DISTANCE OF 296.45 FEET TO THE SOUTH LINE OF SAID

SOUTHEAST QUARTER OF SECTION 30; THENCE NORTH 89°22'11" WEST ALONG SAID SOUTH LINE A DISTANCE OF 271.90 FEET TO THE POINT OF BEGINNING.

EXCEPT ANY PORTION LYING WITHIN THE PUBLIC RIGHT-OF-WAY.

CONTAINING 7.719 ACRES, MORE OR LESS.

EXHIBIT 2

LEGAL DESCRIPTION OF ADDITIONAL PROPERTY

REAL PROPERTY SITUATED IN THE CITY OF VANCOUVER, CLARK COUNTY, WASHINGTON, BEING THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN.

TOGETHER WITH:

REAL PROPERTY SITUATED IN THE CITY OF VANCOUVER, CLARK COUNTY, WASHINGTON, BEING DESCRIBED AS THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN.

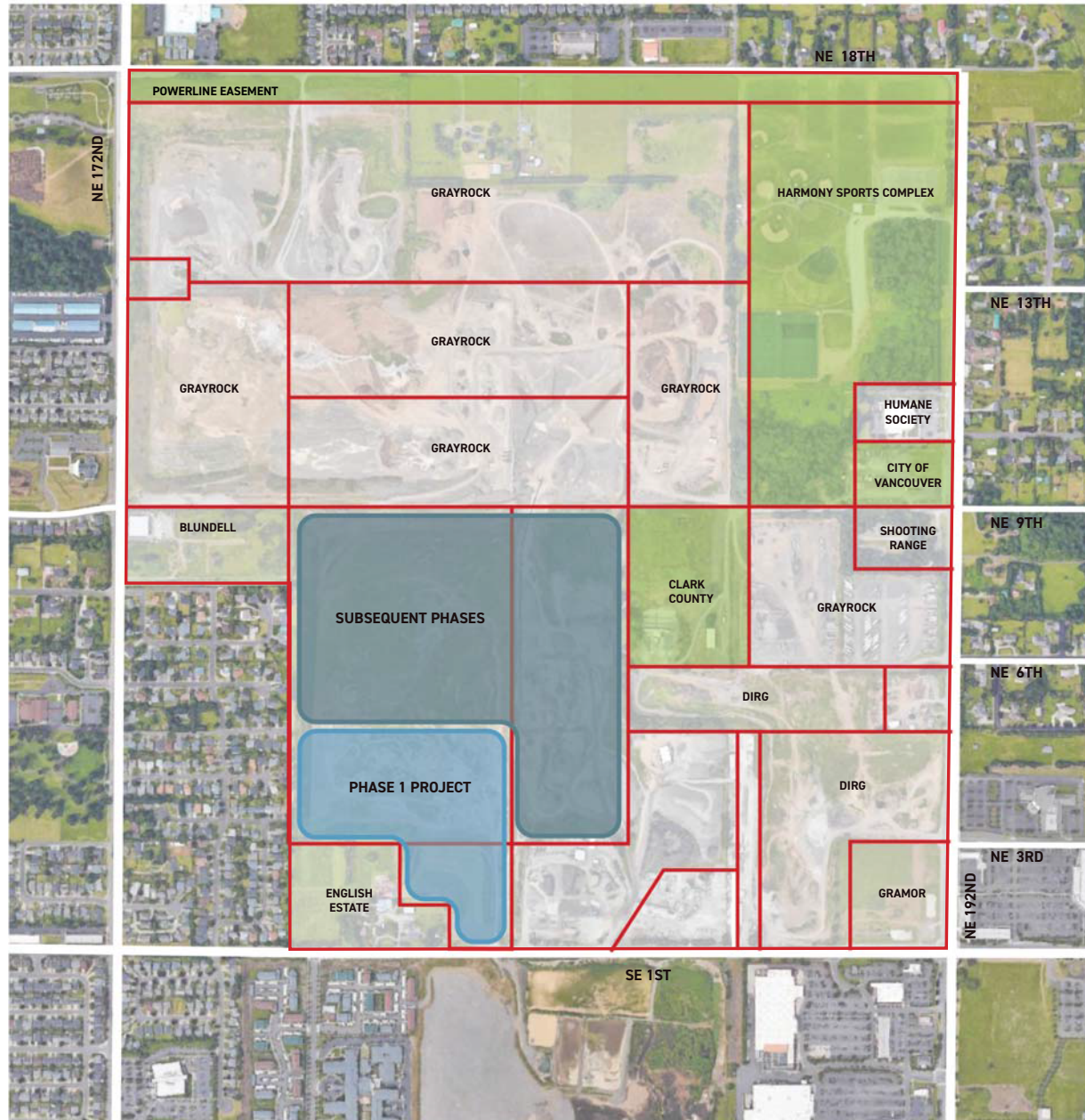
EXCEPTING THEREFROM:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 30; THENCE NORTH $01^{\circ} 37' 33''$ EAST ALONG THE EAST LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 97.35 FEET; THENCE SOUTH $79^{\circ} 30' 36''$ WEST TO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 477.79 FEET; FROM WHICH POINT THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER BEARS SOUTH $88^{\circ} 44' 01''$ EAST A DISTANCE OF 467.16 FEET; THENCE SOUTH $88^{\circ} 44' 01''$ EAST A DISTANCE OF 467.16 FEET TO THE POINT OF BEGINNING.

CONTAINING 29.548 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

EXHIBIT 3



EXHBIT 4

Vancouver Municipal Code:

Applicability to the Multi-Tenant Building aspect of Developer's Project

The City intends to apply the following Vancouver Municipal Code standards to the Project on the HP Property that includes reclamation activity for existing mining operations approved by the Washington State Department of Natural Resources, and accommodates a national, multi-building development of up to 1,500,000 gross square feet of building space, with office, research and development, industrial services, manufacturing and production, light industrial uses, as well as the potential for occupant-supported small scale retail, restaurant, accessory uses, and related parking and associated onsite improvements, and any associated Phase 1 review, Master Plan review, and/or future phase site plan reviews associated with this aspect of Developer's Project. As set forth in the Recitals of the HP Development Agreement, the Subarea Plan was adopted more than 15 years ago when the City anticipated development to occur on a parcel-by-parcel basis instead of a coordinated effort led by Developer's catalyzing Project, involving a significant portion of Section 30's privately owned land. The Subarea Plan anticipates some flexibility in its application and is referred to as a framework that envisioned joint effort for development between the City and property owners and between the Developer and its neighbors. Developer, through this Development Agreement signifies its willingness to join this endeavor to turn the framework into a reality and transform Section 30 into the neighborhood envisioned in the plan. Given this context, the City considers the Developer's proposal as an unique catalyst that deserves the City's attention and direction in advance of land use application review for Phase 1 and master planning for Subsequent Phases to allow achievement of the vision set forth in the Subarea Plan. To the extent that it is determined that code amendments are required to support the below application of the code, the City agrees to pursue such amendments; however, the City shall not be obligated to approve any such code amendment.

Capitalized terms have the same meaning as set forth in the HP Development Agreement unless otherwise specified in this exhibit.

VMC 20.440.030, Table 20.440.030-1:

City application to Developer: All ECX uses listed in VMC Table 20.440.030-1 as permitted, limited, or conditional uses shall be allowed on the HP Property except as set forth in Section (4)(a) of the HP Development Agreement prohibiting specific uses on the HP Property.

VMC 20.690.040(D):

VMC 20.690.040 Development Standards

Development within the Plan District shall be subject to the development standards contained in VMC 20.440.040 and 20.440.050 except as modified herein. Urban Neighborhood Overlay development is subject to the development standards contained in VMC 20.690.070, Section 30 Urban Neighborhood Overlay.

D. Building Setbacks.

1. Any development adjacent to the Principal Arterial streets bordering the Section 30 Plan District shall provide a 20 foot minimum landscaped setback from the back of sidewalk.

2. All other street setbacks shall be a landscaped 10 foot maximum from the back of sidewalk. An exception for up to a 20 foot maximum setback shall be allowed for proposed green street features, publicly accessible plazas, or due to topographic constraints.

3. New Heavy Industrial uses allowed by recorded Development Agreements shall provide a minimum 10 foot landscaped side and rear set back. Landscape shall include shrubs to form a six foot high buffer screen 95% opaque year-round.

4. All landscaped setbacks shall at a minimum meet the Section 30 Landscape Design Guidelines.

City application to Developer: Developer may submit a landscape plan under VMC 20.925.110 that at a minimum meets the OCI standards, unless the foregoing standards under VMC 20.690.040(D)(1)-(4) apply stricter standards for Phase 1.

Subsequent Phases of Developer's Project subject to the HP Development Agreement shall be subject to the Master Plan landscape plan requirement under VMC 20.690.050.

Developer's Phase 1 and the Master Plan will involve a mix of interface with public right of way, private streets, and local streets. VMC 20.690.040(D)(2) provides maximum setbacks for landscaped setbacks on streets, other than collector arterials, of 10 feet from the back of the sidewalk, with an exception allowed up to 20 feet. The City interprets this provision to apply to Developer's Project as a 10 foot minimum landscaped setback from the back of the sidewalk with the option to exceed the minimum to ensure architecturally sound design of landscaped setbacks taking into account factors including, but not limited to, pedestrian interface, vehicular circulation, and building design. Further, back of sidewalk shall also refer to any back of a public recreational trail that may be co-located on public rights of way, private streets, or local streets.

VMC 20.690.040(E):

VMC 20.690.040(E)

Parking spaces provided for individual uses shall be no less than 80 percent of the minimum required indicated in Table 20.945.070-2, and no more than 115 percent to the amount provided in Table 20.945.070-2. The planning official may approve parking beyond the maximum or a parking reduction from the required minimum based on a parking study that justifies the change. Structural parking is permitted subject to the design standards contained in VMC 20.945.060. Structural parking shall count toward the minimum but not the maximum number of parking stalls.

City application to Developer: The parking space description in Table 20.945.070-2 lists the minimum number of parking spaces associated with a particular use. The City may interpret VMC 20.690.040(E) to suggest that a maximum parking space limit applies to Section 30 development, subject to exceeding the maximum if a parking study is submitted. As stated above and throughout the HP Development Agreement, the Subarea Plan and implementing code did not envision a catalyzing development such as Developer's Project that incorporates a mix of uses on the scale of nearly 100 acres. In order to allow flexible, successful, and efficient development of nearly 100 acres within Section 30, the City will apply the foregoing provision to allow development of the HP Property with parking on the following terms and determines that these parking ratios and the concomitant requirement for a parking study in the course of development is consistent with this code provision because a parking study completed prior to development would have no context in terms of the performance of parking to serve Phase 1 of the Project.

Parking spaces shall be provided for in the following ratios:

Office uses	2.5 to 5 spaces per 1000 square feet
Research and Development uses	1.25 to 3 spaces per 1000 square feet
Light industrial uses	1.25 to 3 spaces per 1000 square feet
Occupant-supported retail, restaurant, and accessory uses	1 space per 250 square feet

Reference to occupant-supported retail, restaurant, and accessory uses is for parking for such uses that are primarily meant to be open to HP employees. Other such uses that are incidental to an office building will meet the parking ratios for Office uses listed above.

Consistent with the Design Guidelines of Section 30 and to ensure that parking is sufficient, readily accessible, and safe, Developer will conduct a parking study after Phase 1, as part of master planning. The parking study could provide different use scenarios for the different buildings and how parking will be brought into compliance

with the code as the Project develops. The overall parking plan could be conceptual with the understanding that it could change as the Project develops. In Subsequent Phases, Developer may modify the foregoing standard subject to review and approval by the City.

VMC 20.690.040(G):

VMC 20.690.040(G)

G. Roadways and Access.

- 1. Collector arterial roadway alignment shall be consistent with the conceptual roadway alignments shown in the Section 30 Employment Center Plan document.*
- 2. Connections to streets that border Section 30 Plan District shall be substantially as shown in the Section 30 Employment Center Plan document.*
- 3. All collector arterial to collector arterial intersections internal to the Plan District (excludes the four surrounding arterials) shall be roundabout intersections. Use of roundabouts for local roadway connections is also encouraged to promote system efficiency and create a unique identity.*
- 4. Traffic calming and context sensitive design shall be incorporated into the design of all internal roadways.*
- 5. The maximum block face length within the Plan District shall be 600 feet generally, and 300 feet in the Urban Neighborhood Overlay areas.*
- 6. All new streets and street improvements shall meet the intent of the Section 30 Design Guidelines.*

City application to Developer: The provisions of VMC 20.690.040(G)(2), (3), (5) and (6) will be applied consistent with the City's interpretation of the Subarea Plan in Exhibit 5 to the HP Development Agreement. In addition, given the scale of the Project area, the City agrees that Developer may seek approval for maximum block face length of "600 feet generally" to allow for some maximum block lengths of up to 700 feet as consistent with the use of "generally" in the code. Developer's Phase 1 does not currently intend to exceed a 600 foot block length. Therefore, any potential block lengths exceeding 600 feet will be reviewed as part of the master plan.

VMC 20.960.070(K):

VMC 20.960.070(K)

K. Industrial complex signs (free-standing signs).

1. Allowable Area: 1.5 square foot per face per lineal foot of industrial complex frontage up to a maximum of 250 square feet per face. Provided that an industrial complex with less than thirty-two (32) lineal feet of frontage shall be allowed a maximum thirty-two (32) square foot sign per face.

2. Number of Signs: 1 per complex frontage.

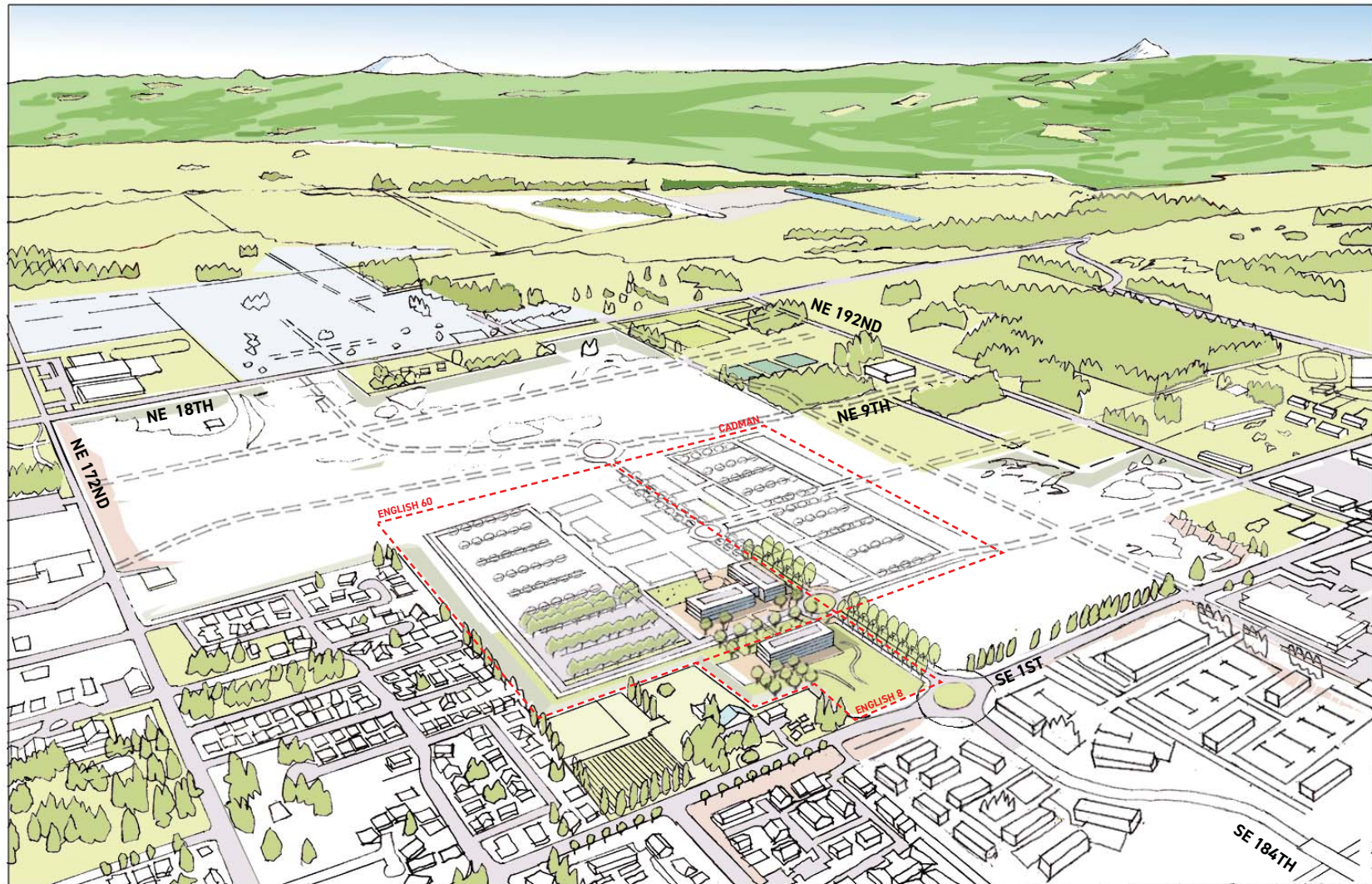
3. Height of Sign: Maximum 25 feet.

City application to Developer: The City's sign code does not address a situation such as a Developer's multi-building type development. As stated above and throughout the HP Development Agreement, the Subarea Plan, and implementing code did not envision a catalyzing development such as Developer's Project that incorporates a mix of uses on this scale. Further, the City's code does not define the term "industrial complex." Therefore, the City concludes that Developer may apply for signs allowed for an industrial complex under this provision for those signs that serve a particular building in a multi-building type environment. Thus, as applied to Phase 1, Developer may seek approval to install an industrial complex sign for each individual building constructed as part of Phase 1 and such sign installation could be consistent with the intent of the sign code and the Subarea Plan.

Consistent with chapter 20.960 VMC, all other signs not visible from a public right-of-way are exempt from review. VMC 20.960.070 does not have a sign type that refers to public recreational trails. The City views all recreational trail signs that may be located on HP Property as part of the master planning may be considered outside the sign types identified under VMC 20.960.070 and may be exempt from any sign maximum.

The City will allow Developer to establish a Project-wide sign program for signs visible from the public right-of-way as part of the master planning process.

EXHIBIT 5



Infrastructure locations are preliminary. Final locations will be determined through the master planning process

Exhibit 5

Page 1 of 1

CONCEPTUAL PROJECT LAYOUT

OCTOBER 23, 2019

ZGF

EXHIBIT 6

SUBAREA PLAN POLICIES

HP Section 30 Urban Employment Center Subarea Plan:

Applicability to the Multi-Tenant Building aspect of Developer's Project

The Subarea Plan (dated October 5, 2009) contains a combination of aspirational and mandatory policies. The City intends to apply the following Subarea Plan policies to the Project on the HP Property that includes reclamation activity for existing mining operations approved by the Washington State Department of Natural Resources and accommodates a national, multi-building development of up to 1,500,000 gross square feet of building space, with office, research and development, industrial services, manufacturing and production, light industrial uses, and reclamation activity for existing mining operations approved by the Washington State Department of Natural Resources, as well as the potential for occupant-supported small scale retail, restaurant, accessory uses, and related parking and associated onsite improvements, and any associated Phase 1 review, Master Plan review, and/or future phase site plan reviews associated with Developer's Project. As set forth in the Recitals of the GF Development Agreement, the Subarea Plan was adopted more than 15 years ago when the City anticipated development to occur on a parcel-by-parcel basis instead of a coordinated effort led by Developer's catalyzing Project, involving a significant portion of Section 30's privately owned land. The Subarea Plan anticipates some flexibility in its application and is referred to as a framework that envisioned joint effort for development between the City and property owners and between a Developer and its neighbors. Developer, through this Development Agreement signifies its willingness to join this endeavor to turn the framework into a reality and transform Section 30 into the neighborhood envisioned in the plan. Given this context, the City considers the Developer's proposal as a catalyst that deserves the City's attention and direction in advance of land use application review for Phase 1 and master planning for Subsequent Phases to allow achievement of the vision set forth in the Subarea Plan. To the extent that it is determined that Subarea Plan amendments are required to support the below application of the plan, the City agrees to pursue such amendments; however, the City shall not be obligated to approve any such code amendment.

Capitalized terms have the same meaning as set forth in the HP Development Agreement unless otherwise specified in this exhibit.

Intersection Spacing (p. 43)

TR-7 – Collector streets within Section 30 shall be spaced about 800 ft. apart with connections as generally depicted on the concept map. These are flexible corridors, so long as spaced to provide adequate collector level street access and sufficient capacity to all portions of Section 30 is provided.

TR-9 – To simultaneously promote continuous, smooth traffic flow, and slower travel speeds that promote safety for cars, trucks, pedestrians, and bikes; to conserve buildable land through

efficient use of public rights-of-way; to promote lower energy use through eliminating traffic lights and minimizing vehicle idling time; the Section 30 internal collector arterial intersections shall be single lane urban roundabouts with 100 to 130 foot inscribed circle diameter to accommodate all vehicle types that will access the site.

Access to Streets by Motorized Vehicles (p. 44)

TR-21 – Direct access to arterial streets, when allowed, should meet minimum intersection spacing requirements.

City application to Developer: The City may apply TR-7, TR-9, and TR-21 to Developer to allow variation from the requirements as long as Developer provides 200 foot minimum separation between intersections of local collector streets as long as the design meets the intent of the policies. If this condition is met, the City may allow the possibility of restricted turn movements (e.g. right-in/right out). The roundabout design requirement under TR-9 is achieved if the design of the roundabout is similar to the design of the roundabout at the intersection of 1st Street/184th Avenue. The City further recognizes that should Developer vary in these ways, the development could comply with the intent of these provisions because these traffic control measures would achieve the goals set forth in the Subarea Plan. The Developer has the option to improve streets in a different configuration based on measured traffic flow subject to City review and approval. In addition, the Developer may seek approval to incorporate same-side ingress/egress for Developer's research and development buildings at the northern most boundaries of the HP Property for truck deliveries and low density (by head count) facility parking. The parties mutually acknowledge that in addition to the planned roundabouts along 184th, additional access to 184th between 1st Street and 9th Street will be necessary to provide adequate access to the Project. Upon review of Exhibit 5 to the HP Development Agreement, the City agrees that Developer may be permitted to include "right-in, right-out only" access to 184th between roundabouts where necessary for the Developer to construct safe and efficient circulation and necessary emergency access to future buildings and parking areas contemplated as part of the anticipated Master Plan for the Project. However, this permission for "right-in, right-out only" access shall not be construed as any exemption to the City's Street and Development standards (chapter 11.80 VMC). Further, the City will review in good faith any standards modification requests (*i.e.* road modification requests) under VMC 11.80.160 that are deemed necessary to achieve sufficient access to 184th to effectively implement the master plan vision for the Project. Parties with responsibility to construct certain streets and roundabouts will be identified during the master plan process. Developer has the option, but not the obligation, to provide that access to arterial streets meet minimum intersection spacing requirements, and such proposals shall be reviewed by the City in the master planning process.

Pedestrian Facilities (p. 43)

TR – 10 All trails and sidewalks shall be consistent with the connectivity and grade policies of the Plan.

TR – 11 To encourage pedestrian connectivity, development standards should describe allowed maximum slopes for trails or sidewalks constructed outside of the street development.

TR – 12 Sidewalks shall be developed consistent with typical street cross sections for collector and local access streets at a minimum. Wider sidewalks and additional landscaping are encouraged.

TR – 13 Mid-block and other safe pedestrian crossings shall be developed to provide very high pedestrian level of service, especially in mixed use urban neighborhoods.

TR – 14 Where possible and desirable, sidewalks and trails should be constructed of pervious surface, and be integrated into the storm water control plan.

Trail Linkages (p. 53)

OS – 14 Remaining side slopes, especially the western perimeter slopes created from past mining activities, should be considered as a combined green open space, stormwater infiltration, and perimeter trail system.

City application to Developer: To the extent that the policies above contain mandatory language, the Development Agreement's Section 8 shall govern how those policies are treated for purposes of the public recreational trail associated with the HP Property. To the extent that Developer's western slopes are required for design and material purposes for Developer's Project, Developer retains sole discretion to make use of its western slopes in the design of Phase 1, the Master Plan, and Subsequent Phases of its Project as set forth in HP's Development Agreement. The City agrees that the cross sections for collector arterials, attached as Exhibit 10 to the HP Development Agreement, are consistent with typical cross sections for collector, private roads, and local access streets. Pedestrian crossings will be proposed during master planning based on the position of various structures and proposed uses, with the intent that crosswalks will be installed at roundabouts, and if necessary to serve connectivity, mid-block pedestrian crossings may be considered.

Parking – Motorized Vehicle (p. 44)

TR – 16 Off street parking should be located behind or to the side of structures in all districts with the exception of "tech flex" development, which may locate parking for customers only between the street and building front.

City application to Developer: The intent of this policy is to prohibit parking in the area between a "building front" and a collector arterial so that parking is hidden from view from the vantage of a collector arterial. Developer's conceptual plan is consistent with this approach.

TR – 17 On street parking may be provided where appropriate and the parking spaces immediately adjoining a property shall be counted towards a development's overall parking requirement.

City application to Developer: On street parking is not planned for Developer's Phase 1. Developer shall continue to have the option to design for on street parking as part of the Master Plan and Subsequent Phases.

TR – 18 Joint use parking facilities are encouraged where peak parking lot use is different between adjoining users.

City interpretation and application to Developer: Developer is permitted, but not required, to provide joint use parking facilities.

TR – 19 Access between off street parking facilities without requiring street access to travel between lots is encouraged.

City application to Developer: Developer is permitted, but not required, to provide direct parking lot links. Developer is required to establish local streets for ingress and egress with parking areas for each building.

Access to Streets by Motorized Vehicles (p. 44)

TR – 22 Joint driveways accessing to two or more properties are encouraged.

City application to Developer: Developer is permitted, but not required, to provide driveways to two or more properties.

TR – 23 Minimize industrial truck traffic on residential areas, identify potential truck routes and identify streets to be posted for no through trucks through the master plan process.

City application to Developer: The City will allow Developer to identify truck routes as part of the Master Plan; and supports truck routes off of 172nd Avenue from 9th Street to 184th Avenue, and 1st Street to 184th Avenue. Today, most of Developer's truck deliveries use City-trucks; although other operations that may be located on the HP Property may require travel truck deliveries.

TR – 24 Within the Urban Neighborhood Center areas, alleys will provide automobile access for residential land uses. Dwelling units should front to all streets including arterial roadways to create an active, interesting, and welcoming environment for pedestrians.

City application to Developer: With no residential use planned at this time as part of the Project on the HP Property, the City concludes this policy is not applicable to this aspect of the Project.

Traffic Calming and Street Character (p. 45)

TR – 25 Street designs shall incorporate a full range of integrated urban traffic calming strategies to achieve safe, context sensitive roadways.

TR – 26 Street designs shall incorporate principles of context sensitive design to support active, attractive and healthy urban environments.

City application to Developer: These policies use mandatory language, but are conceptual in content. The City intends to apply these policies to require Developer to comply when practical and reasonable when considering traffic flow, safety, and design.

Transit Facilities (p. 45)

TR – 27 Vancouver Transportation Services, Vancouver Community Planning, CTRAN and property owners will continue to evaluate the need for a major transit hub to accommodate transit needs within Section 30 and evaluate potentials for transit systems such as bus rapid transit.

TR – 28 Master plans should include transit facilities (e.g. bus turnouts and shelters) where required by the City, and consistent with Section 30 roadway standard plans.

City application to Developer: The Developer is not required to locate a transit facility on land it owns. Developer is required to master plan to accommodate transit stops on or near arterial streets or local streets in its reasonable discretion and in coordination with public transportation providers.

General Utility (pp. 56 and 58)

PU – 1 Coordinated utility planning for the whole of Section 30 is essential to cost-efficient service provisions. Locate easements to consider future utilities' needs and be consistent with existing plans.

PU – 2 Include within sanitary sewer and water construction plans the design and construction of all facilities necessary for development of the site.

PU – 3 Coordinate pipe and pump station sizes to serve no less than the plan's land use build out assumptions.

PU – 4 Consider an efficient relationship between road and infrastructure line design and layout, and minimize utility line locations outside of existing or proposed rights-of-way.

PU – 5 Encourage and provide opportunities within rights-of-way for new energy systems piping or cabling needs.

PU – 6 Agreements between property owners that demonstrate how future public utilities will be extended beyond a proposed project are encouraged to be documented with the city.

City application to Developer: These policies are generally applicable to Developer subject to evaluation with Public Works. Further, during the master planning process the application of these policies will be considered in the context of planned uses, with reasonable growth for potentially higher density uses for those areas that remain unplanned. The City concludes fiber optic cables are part of “cabling needs” under PU-5, and Developer may install such cabling.

Sanitary Sewer (p. 58)

PU – 7 Provide a maximum of two public pump stations located at low points with gravity sewers extending outward to serve higher elevation areas. One main pump station is preferable.

PU – 8 Interim systems should not be allowed.

PU – 10 Design new sewer lines to allow for sequential development.

City application to Developer: Developer and the City understand that one sanitary sewer pump station will be required to serve the Project and the City requires that the sanitary sewer pump station be addressed in the Master Plan for the HP Property. The City may consider Developer's submission of an interim sanitary sewer service solution for Phase 1 to direct link to SE 1st Street/CTC because Phase 1 will not create intensive wastewater needs and the location of the sanitary sewer pump station cannot be determined until the location of 184th Avenue and 9th Street are designed for Subsequent Phases. Developer's Type II review of Phase 1 buildings will require evidence of the interim solution and agreement from the neighboring property owner to allow the direct link. Once the Area 2 Pump Station is constructed, likely near 9th Street, Developer's Phase 1 buildings will disconnect from the interim solution and pump to the new pump station, as specified in HP's Development Agreement and at Developer's sole cost and expense to disconnect from the interim solution.

PU – 9 Development with more intensive industrial wastewater needs shall be responsible for any needed additional improvements including pre-treatment and added or larger sewer mains, and an added or larger pump station with a longer force main to a "to be determined" discharge location.

City application to Developer: Developer represents that, at this time, it does not have industrial wastewater planned as part of Phase 1. The City shall review any proposed industrial wastewater improvements at the time of Master Plan review, or upon Developer's request for review pursuant to VMC 20.690.050(D) in effect on the date of HP's Development Agreement.

Water (p. 58)

PU – 11 Promote sustainability through water conservation and the use of water collection systems and existing wells.

City application to Developer: Developer is permitted, in its sole discretion, but not required, to reuse greywater, use existing wells for non-potable purposes (although no wells are located on the HP Property), rainwater collection, or install green roofs. Developer shall make commercially reasonable efforts to design its Project for sustainable water conservation, thereby achieving this aspirational goal of the Subarea Plan.

PU – 12 Design new internal water line systems to maximize system looping.

PU – 13 Design new internal water lines to allow for sequential development.

City application to Developer: Developer may not be required to use internal water line systems to maximize system looping for Phase 1 if there is no looping to maximize. However, Developer will be required to maximize system looping and design for sequential development as part of the Master Plan.

PU – 14 Coordinate new water lines with existing 12-inch water mains, connecting gaps in the existing system around the boundary of Section 30 where necessary for adequate service. Provide at a minimum 12 inch water mains on the perimeter of Section 30 and at least one 10-inch or larger water main in an east/west direction in the approximate center of the planning area.

City application to Developer: The City shall review Developer's proposed water mains for Phase 1 during the Type II review to determine that new water mains will be installed to meet the need for future expansion of the Project and development of Section 30. All other water main size choices and plans to connect gaps in the existing system around the boundary of Section 30 shall be designed to provide adequate service as part of the master plan process, through collaboration with adjacent landowners within Section 30.

Stormwater (p. 59)

PU – 16 Section 30 stormwater shall be managed within Section 30 plan area.

PU – 17 Require where physically feasible, low impact development stormwater management techniques including, but not limited to, decentralized infiltration facilities, compost filters within landscaped excavated basins, and various forms of vegetation.

PU – 18 When necessary based on physical feasibility, allow stormwater management techniques that combine low impact development and regional facilities.

PU – 19 Restrict individual development stormwater facility design in impacting other properties from surface and ground water runoff, particularly those at lower elevations.

PU – 20 Provide a geotechnical report prior to the design and construction of stormwater facilities including, general soil characterization, infiltration rates, and groundwater elevation.

PU – 21 Promote street right-of-way design to include sufficient width to accommodate stormwater facilities and/or integrated stormwater facilities with trails, shared paths, or greenways.

PU – 22 Provide appropriate stormwater methods that consider separately the industrial use portion and the non-industrial use portion of a site.

PU - 23 An integrated approach to greenway, trail and stormwater plans is encouraged to allow for intermittent flooding during major storm events.

PU – 24 Use of public open space for accommodating the 100-year storm event may be allowed.

City application to Developer: The City intends to apply these standards to Developer, to the extent Developer needs to connect to a public stormwater system, provided that

surface and subsurface natural rock infiltration partially occurs on private property within Section 30 to control water quality. Only after treatment and infiltration on private property shall stormwater feed into public right of way and public stormwater system areas owned and maintained by the City.

Private Streets

The Subarea Plan states that specific roadway alignments are not prescribed in the plan. In addition, chapter 20.690 VMC does not prohibit private streets. Further, the City has reviewed VMC 11.80.040(C)(1)(e) to conclude that the specific Section 30 Subarea Plan governs street design in Section 30 and that the Section 30 Subarea Plan and Design Guidelines do not prohibit private streets to serve the Project. In addition, the City determines that approval of private streets internal to the multi-building proposal in Phase 1 and Subsequent Phases will allow for the potential future dedication to a public street system should the master planning process result in a request from Developer to layout the streets in a public manner. Further VMC 11.080.040(C)(2) allows private streets in industrial developments. To the extent that VMC 11.080.050(B) is inconsistent with either VMC 11.080.040(C)(2), the Subarea Plan or Section 30 Design Guidelines, the City intends to resolve the inconsistency in favor of the specific allowance of private streets under VMC 11.080.040(C)(2) based on the reasons set forth here.

EXHIBIT 7



851 SW 6th AVENUE, SUITE 600
PORTLAND, OR 97204
P 503.228.5230 F 503.273.8169

September 5, 2019

Project #: 23182

Matt Oyen
PacTrust
15350 SW Sequoia Parkway, Suite 300
Portland, OR 97224

RE: Section 30 Property Due-Diligence

Dear Matt,

Per your request, below is an updated summary of transportation considerations to help inform your due-diligence assessment.

TRIP GENERATION ESTIMATE

Per the *Trip Generation Manual, 10th Edition*¹ development of 700,000 square feet of office space is estimated to generate:

- 5,565 Daily Trips (assuming Corporate Headquarters trip rate or 7,006 Daily Trips using the General Office trip rate)
- 684 weekday AM peak hour trips (588 in, 96 out)
- 723 weekday PM peak hour trips (116 in, 607 out)

TRAFFIC IMPACT FEE ESTIMATE (TIF)

- The development site is located in the Cascade TIF District (\$223 fee/daily trip currently)
- Current TIF estimate based on 700,000 square feet of Corporate Headquarters is \$1,054,846 (by comparison, the general office rate is estimated at \$1,327,987). The final TIF amount is subject to determination by the City at the time of building permit issuance (current rates may increase).

¹ The City of Vancouver adopted use of the *Trip Generation Manual, 10th Edition* for trip estimation in 2019. Weekday AM and PM peak hour trip data for the Corporate Headquarters use cited in the *Trip Generation Manual, 10th Edition* is limited to one study and is therefore not applicable and General Office was assumed. The peak hour trip rate for General Office in the 10th Edition is less than the Corporate Headquarters trip rate in the 9th Edition. Daily trip rates for Corporate Headquarters cited in the *Trip Generation Manual, 10th Edition* are based on 8 studies and appear reasonable for use in estimating daily trips.

- The development site also subject to Mill Plain Boulevard TIF Overlay, estimated at \$47,302 based on 700,000 square feet of Corporate Office Headquarters (by comparison, the General Office rate is estimated at \$59,551). The Overlay fee is also subject to final determination by the City at the time of building permit issuance.

VESTED TRIPS

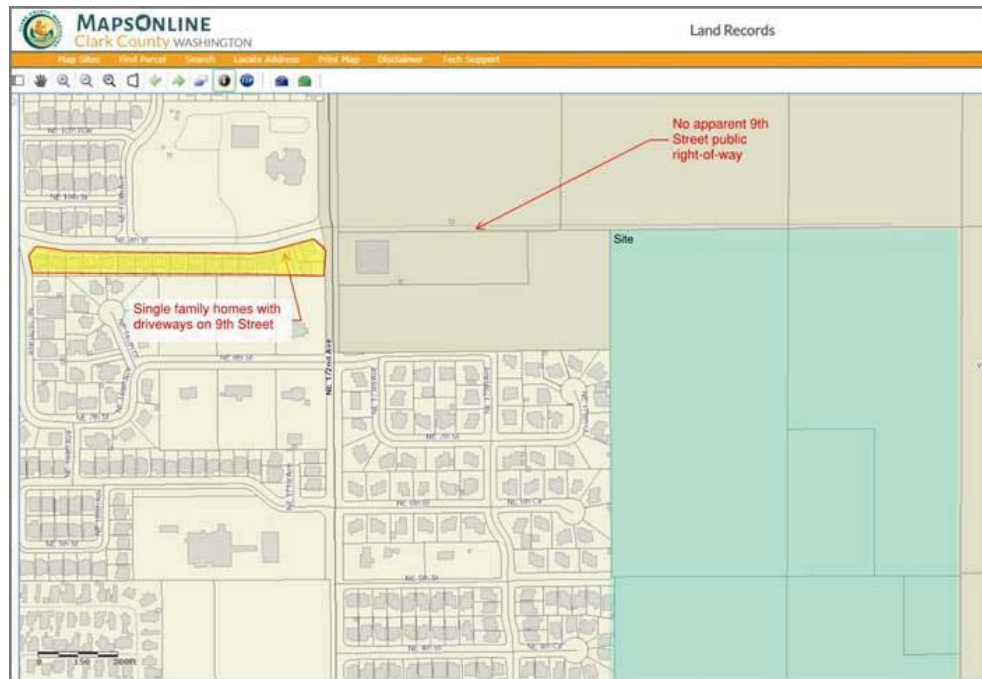
The former mining sites associated with some of the potential redevelopment area should have trip vesting for TIF purposes as well as concurrency review. Some studies of historic traffic volumes may be available from the respective property owners.

TRANSPORTATION NEEDS

The following infrastructure needs and considerations were identified based on review of studies in the area as well as dialogue with City of Vancouver staff. A formal traffic impact study and concurrency review will be required to obtain site development approvals and will provide a more detailed assessment.

- We assume SE 1st Street will be completed between SE 162nd Avenue and SE 192nd Avenue and that SE 184th Avenue will serve the site, linking the site to SE 1st Street at a new roundabout.
- The site could potentially benefit from a connection to SE 9th Street to the north (and half-street frontage improvements presumably would be required)
 - NE 9th Street is planned as a new three-lane urban collector (one lane in each direction plus center left-turn lane) and is a circulation route in the Section 30 Sub Area Plan concept.
 - NE 9th Street construction is an unfunded project in the 2019-2024 Transportation Improvement Program (TIP).
 - It appears there may not currently be a public right-of-way available linking the proposed development site with NE 172nd Avenue along the planned NE 9th Street corridor (see Exhibit 1 below).

Exhibit 1. 9th Street Connectivity Considerations



- As shown in Exhibit 1, the SE 9th Street corridor between SE 172nd Avenue and SE 167th Avenue serves single family homes with direct driveway access (some of which are highlighted above). Potential cut through traffic considerations will likely be an issue for local residents along the roadway.
- Connecting SE 9th Street to the site would likely trigger the need for improvements at:
 - SE 9th Street/SE 172nd Avenue (currently stop-controlled)
 - Potential need for north/south left-turn lanes (appears to require widening north intersection approach to the east)
 - Potential need for separate east-west left-turn lanes
 - Potential need for future roundabout or traffic signal
 - SE 9th Street/SE 162nd Avenue (currently stop-controlled)
 - Potential need to restrict westbound left-turn movement or signalize the intersection
- An alternative site-access option that could be considered (subject to right-of-way availability) would be to construct a new north approach to the existing SE 177th Avenue/SE 1st Street intersection. We anticipate the north approach would have a three-lane section

(one through lane in each direction plus a left-turn lane). This intersection is expected to be signalized in the future.

NEXT STEPS

The information above will be further assessed in the future as part of a formal traffic impact study. Most of the projects above, if required, could be made TIF creditable.

Please let me know if you would like to discuss or if you have questions.

Sincerely,
KITTELSON & ASSOCIATES, INC.



Chris Brehmer, PE
Senior Principal Engineer

CORE PUBLIC IMPROVEMENTS CERTIFICATION

Developer submits and certifies that it has met or exceeded the applicable thresholds as set forth in the agreement and as indicated herein: Cost to construct Core Public Improvements during the time period listed above: \$_____

Vendor	PO Number	Invoice Number	Invoice Date	Scope of Work	Check Number	Date Paid	\$ Amount
EXAMPLE XYZ Co.	1234000	1111111	1.1.2021	Grading	1234	2.1.2021	\$23,685,509.41

Exhibit 8
Page 1 of 1

EXHIBIT 9

DESCRIPTION OF DEVELOPER'S ABILITY TO MEET INFRASTRUCTURE REQUIREMENTS FOR THE PHASE 1 PROPERTY

As set forth in the Recitals of the HP Development Agreement, the Subarea Plan was adopted more than 15 years ago when the City anticipated development to occur on a parcel-by-parcel basis instead of a coordinated effort led by Developer's catalyzing Project, involving a significant portion of Section 30's privately owned land. The Subarea Plan anticipates some flexibility in its application and is referred to as a framework that envisioned joint effort for development between the City and property owners and between the Developer and its neighbors. Developer, through this Development Agreement signifies its willingness to join this endeavor to turn the framework into a reality and transform Section 30 into the neighborhood envisioned in the plan. Given this context, the City considers the Developer's proposal as a unique catalyst that deserves the City's attention and direction in advance of land use application review for Phase 1 and master planning for Subsequent Phases to allow achievement of the vision set forth in the Subarea Plan. To the extent that it is determined that code amendments are required to support the below application of the code, the City agrees to pursue such amendments; however, the City shall not be obligated to approve any such code amendment.

Capitalized terms have the same meaning as set forth in the HP Development Agreement unless otherwise specified in this exhibit.

The HP Property is zoned ECX and anticipates reclamation activity for existing mining operations approved by the Washington State Department of Natural Resources and development consistent with this zoning, including office, research and development, industrial services, manufacturing and production, light industrial uses, as well as the potential for occupant-supported small scale retail, restaurant, accessory uses, and related parking and associated onsite improvements. Phase 1 will be constructed on the southeastern corner of the Developer's Property as shown on Exhibit 3 of the HP Development Agreement – that portion of the HP Property in closest proximity to SE 1st Street, allowing for a continuation of commercial development and use of existing infrastructure. Therefore, the contemplated development is consistent with existing and surrounding land use.

The HP Property is currently a quarry with variable elevations ranging from 215 to 245 feet. Surrounding elevations include the English Family Vineyard property to the west at an elevation of 288 feet, the CTC Section 30, LLC property to the east at an elevation of 284 feet, and property to the north ranging from 225 to 235 feet.

Developer intends to develop the site to prepare for finished grades between 2 and 4% across the Phase 1 Property. Developer intends to fill the southern most portion of the Phase 1 Property to an approximate elevation of 246 feet, and other portions to an approximate elevation of 257 feet. Slopes to the west are intended to be less than 10% grade.

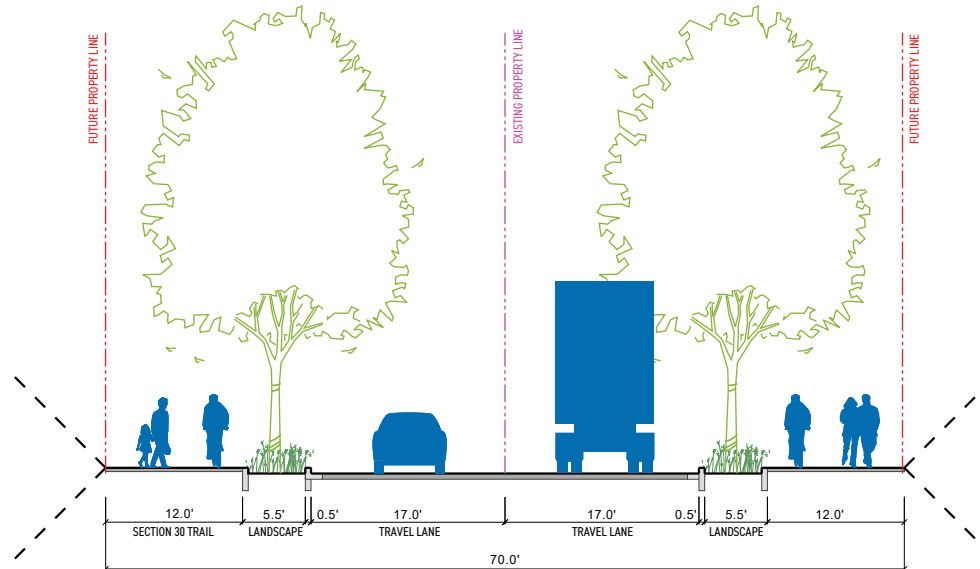
In addition, extension of SE 184th Avenue across SE 1st Street will occur during Phase 1 to provide transportation access to the HP Property. The extension will be approximately 1,000 linear feet and HP will construct this stub road as a Core Public Improvement. The extension will be built at an elevation to service the CTC Section 30, LLC property to the east of the HP Property. The Parties agree that extending SE 184th Avenue approximately 1000 feet north to serve the Phase 1 Property should be coordinated with construction scheduled to occur to improve SE 1st Street.

As Phase 1 is developed, a short-term sewer system is contemplated to allow Developer to connect to lift or pump stations outside of Section 30. The City has verified and will analyze at land use review the proposed design of the short-term sewer infrastructure. Notwithstanding the short-term solution, Developer shall install appropriate sewer infrastructure to allow transition to a permanent solution once the location of the Area 2 Pump Station is determined in the master planning process and installed as part of the extension of SE 184th Avenue to connect to SE 9th Street, consistent with the terms of the HP Development Agreement.

A public recreational trail is conceptually located on or near the HP Property in the Subarea Plan. Section 8 of the HP Development Agreement addresses this public recreational trail.

EXHIBIT 10

OPTION WITH 17' TRAVEL LANE



OPTION WITH CENTER TURN LANE

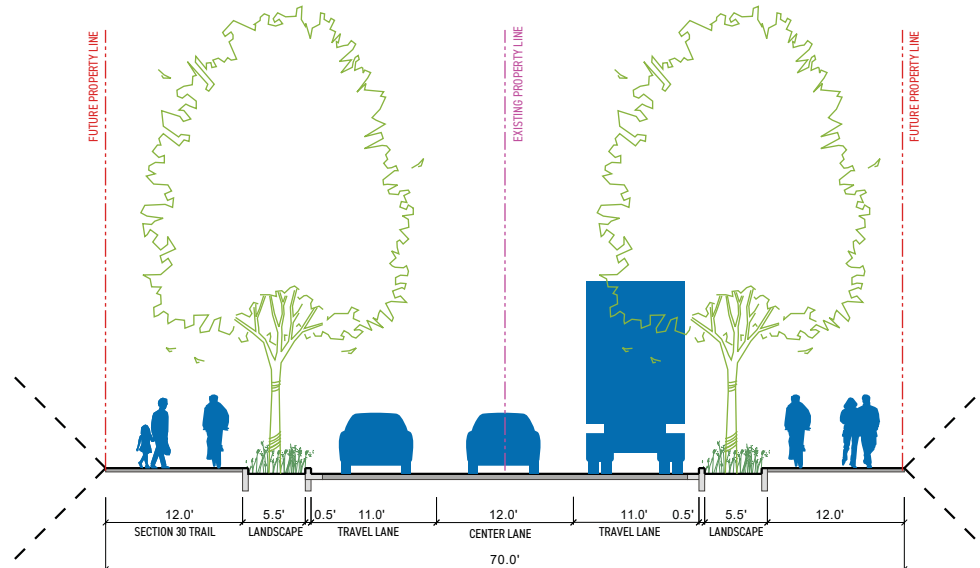


EXHIBIT 11

ANNUAL CERTIFICATION

Annual Certification for 20_____

Developer submits and certifies that it has met or exceeded the applicable thresholds as set forth in the agreement and as indicated herein.

Number of jobs located at site: _____

Average wage of jobs at site: _____

DEVELOPER

By:_____

Date:_____

Printed Name & Title:_____

STATE OF WASHINGTON)

) ss.

County of Clark)

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

GIVEN under my hand and official seal on _____, 20__.

Notary Public for Washington

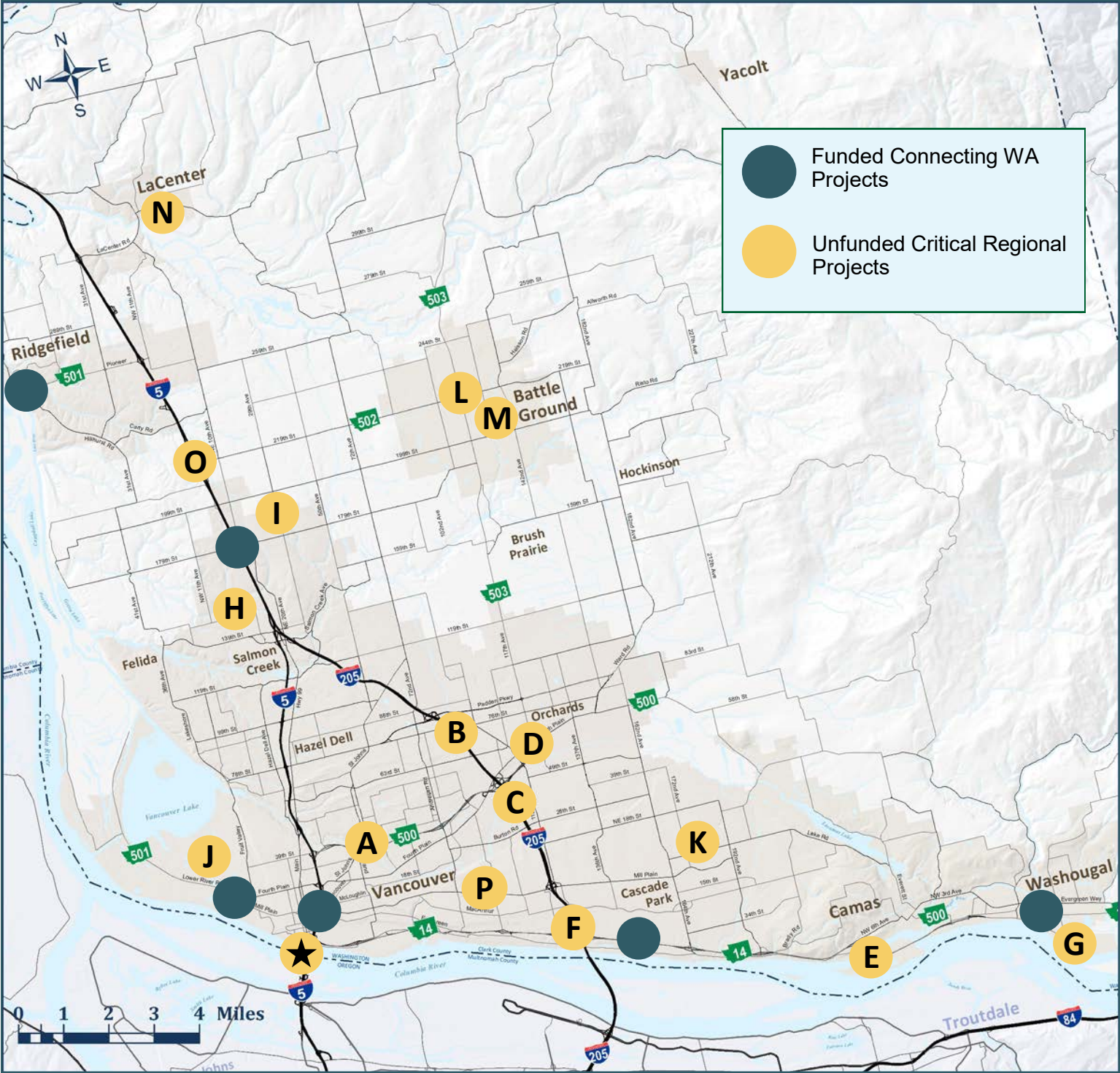
Clark County Transportation Alliance 2020 Policy Statement

[Sponsor agency logos here.]

Clark County Transportation Alliance 2020 Policy Statement

Sponsoring Organizations:

[Sponsor agency names here.]



A CALL TO FURTHER ACTION

Clark County's residents, employers, workers and guests are experiencing serious transportation constraints from rapid growth and urbanization. As growth pressures mount, with forecast increases of 500,000 residents and 350,000 jobs within the bi-state metropolitan region by 2040 (Metro/RTC), continued action to invest and maintain our region's critical transportation infrastructure system is paramount.

As the second-largest metropolitan area in the Pacific Northwest, our top priority is addressing deficiencies in the I-5 bridge and influence area, including replacing its outdated, chronically congested and accident-prone spans. Traffic congestion on the region's key corridor (I-5) persists for an average of 7+ hours daily in the northbound direction (Delta Park to I-5 bridge) and for 4+ hours daily in the southbound direction (Main St to I-5 bridge).

We urge local, state and federal legislators to be our champions in addressing specific needs described in this statement.

I-5 Bridge Replacement and Influence Area Improvements



Action #1
Continue Support for I-5 Bridge Replacement Program Office: continue to develop bi-state legislative consensus, prepare critical permitting pathway, develop funding plan, begin permitting work

Complete Supplemental EIS Process: initiate SEIS, re-evaluate prior scope and EIS, restart permitting work, submit and achieve approvals, develop funding plan, secure funding commitments, develop procurement documents and construction packages (\$50-100M, depending on scope; a portion of which is already committed by WA and OR)

We fully support replacement of the I-5 bridges and related corridor improvements. The I-5 spans are functionally obsolete and over time will require substantial maintenance investments to remain operational. Broad support is demonstrated through SSB 5806 (WA 2017), commitment of funds in the 2019 Washington State transportation budget (ESHB 1160, \$35M), commitment of funds by the Oregon Transportation Commission (\$9M), and the assignment of legislators in both states collaborating to replace the I-5 bridge.

A bi-state approach focused on finding significant, practical solutions through this primary freight, commerce and commuter corridor is imperative, in keeping with the I-5 Corridor Strategic Plan (2002). We endorse efforts by the Oregon legislature to fund projects that address I-5 corridor deficiencies, especially the I-5/I-84 interchange (a.k.a. "The Rose Quarter") in downtown Portland. We also place high priority on long-range transportation corridor planning given steadily rising population and commerce forecasts.

Regionally Critical Projects and Needs

Action #2
Fund Regionally Critical Projects to Address Immediate Needs: secure funding either through single-project awards or as part of the next statewide transportation funding package for regionally critical projects

Fund Critical Area Operations: find additional maintenance, planning and traffic operations funds for critical urban areas (SR-14, SR-500, I-5, I-205) to optimize our existing system

We support acceleration of projects in the Connecting Washington package, such as **economically vital interchange improvements at I-5 and 179th St**. We support project budget adjustments where labor, materials and right-of-way costs have risen substantially.

Funding is requested for additional regional system priorities that serve the growth needs of communities, reduce congestion hotspots, improve safety and provide multi-modal enhancements. Each project has been vetted through the regional planning process.

- Following are critical regional projects (lead agency):
- A) SR-500 Intersections at 42nd Ave and 54th Ave (\$6M):** implement cost effective safety improvements from 2018 practical solutions study; additional investments including overpasses may be warranted (WSDOT)
 - B) I-205/SR-500 to Padden Exwy (\$30M):** add auxiliary lanes to address congestion hotspot (WSDOT)
 - C) I-205 at Mill Plain Blvd to SR-500 (\$25M):** add auxiliary lanes and active traffic management facilities to increase flow and capacity; project study underway (WSDOT)
 - D) SR-500/Fourth Plain/SR-503 (\$15M):** following recent planning study, provide funds for initial intersection improvement to address congestion hot spot (WSDOT)

- E) SR-14 Camas Slough Bridge (\$35M):** develop parallel bridge structure for westbound traffic and added capacity (WSDOT)
- F) SR-14/I-205 Interchange (TBD):** provide funds for congestion relief; project study underway (WSDOT)
- G) SR-14 Phase 2 Access Improvements, Towncenter Connectors and Railroad Grade-Separation (\$70M):** improve A/Addy St connectors in the City's Towncenter, 27th interchange with roadway improvements to 27th and Index St, grade-separated underpass at 32nd St (City of Washougal)
- H) NE 10th Ave from 149th to 154th St/Whipple Creek (\$12.7M):** complete new north-south corridor for I-5 (Clark County)
- I) NE 15th Ave from 179th St to NE 10th Ave/NE 189th St vicinity (\$15M):** add arterial connection to increase capacity in conjunction with 179th/I-5 interchange upgrade (Clark County)
- J) NW 32nd Ave Industrial Corridor (\$10M):** planning, engineering, environmental review for new north-south freight arterial (City of Vancouver)
- K) SE 1st St at 164th to 192nd Ave (\$7M):** arterial widening and multi-modal upgrade; leverages significant private sector investments (City of Vancouver)
- L) SR-502/SR-503 Congestion Relief Project (\$2.2M):** complete community roadway and circulation enhancements to provide improved access and safety (City of Battle Ground)
- M) SE Grace Ave at SE Rasmussen Blvd to E Main St (\$6.6M):** arterial street realignment and new signal for upgraded capacity (City of Battle Ground)
- N) E 4th St Widening/Breezy Creek Culvert (\$5M):** complete street makeover with fish bearing culvert replacement for improved environmental outcomes (City of La Center)
- O) NW 219th St Extension (I-5 to Hillhurst Rd) (\$5M):** add western ramp access at I-5 and arterial street extension to Hillhurst Rd (City of Ridgefield)
- P) Public Transit (\$5M):** co-fund design of C-TRAN's second Bus Rapid Transit (BRT) project along the Mill Plain corridor from downtown Vancouver to 192nd Ave (C-TRAN)



Century-old I-5 bridge only stoplight from Canada to Mexico

Facilitating Transportation Mobility and Economic Growth

We urge legislators to embrace the following priorities where possible:

- Enhance or expand funding programs to improve safety and accessibility for everyone, including increased funding for safe bike and pedestrian pathways, sidewalks and street crossings
- Improve access to regional centers including designated Port and industrial districts, and access in the developing *Discovery Corridor*
- Support continued assessment of transportation infrastructure revenue beyond the traditional federal and state fuel taxes
- Support broadband infrastructure to disperse economic opportunity, foster telecommuting and better compete in the evolving digital economy
- Fund regionally significant improvements for marine access within the Columbia River, and rail access improvements and track upgrades for ports and the county-owned Chelatchie Prairie Railroad
- Support the Port of Vancouver USA's Terminal 1 Waterfront development project for safety, commerce and tourism
- Create a broader array of infrastructure financing methods, including tax increment financing, design-build, public/private partnerships (P3), and continued Public Works Trust Fund, CERB, FMSIB, TIB and FRAP funding
- Actively embrace smart technologies to ease pressures on the transportation grid and improve safety for all users

I-976 Response

With the passage of I-976 and the potential elimination of fees that have been used by several local agencies for basic maintenance and preservation activities, we urge the Legislature to provide: temporary stop-gap funding to state and local agencies affected by this repeal, thereby allowing for a rational reduction in affected program funding; and to convene an evaluation of tools and mechanisms that could be made available to city and county jurisdictions to substitute the loss in funding authority created by this change in law.