



City of Tukwila Transportation and Infrastructure Committee

- ❖ Zak Idan, Chair
- ❖ Kate Kruller
- ❖ Thomas McLeod

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AGENDA

TUESDAY, NOVEMBER 19, 2019 – 5:30 PM

HAZELNUT CONFERENCE ROOM
(EAST ENTRANCE OF CITY HALL)

| Item | Recommended Action | Page |
|--|--|--------|
| 1. PRESENTATIONS | | |
| 2. BUSINESS AGENDA | | |
| a) King County Metro Transportation Demand Management Agreement 2020 | a) Forward to 12/02/19 Consent Agenda | Pg. 1 |
| b) Resolution Adopting a Title VI Program | b) Forward to 11/25/19 Committee of the Whole | Pg. 35 |
| c) Public Safety Plan – Public Works Shops Phase 1 Amendment No. 2 with SHKS for Design | c) Forward to 11/25/19 Committee of the Whole | Pg. 45 |
| d) 53 rd Ave S Construction Management Amendment No. 7 with KPG | d) Forward to 12/02/19 Consent Agenda | Pg. 73 |
| e) Starfire Sports Resolution for Administrative Variance | e) Forward to 11/25/19 Committee of the Whole | Pg. 81 |
| f) Concurrency Standards and Transportation Impact Fees Ordinance Updating TMC Chapter 9.48 | f) Forward to 11/25/19 Committee of the Whole | Pg. 87 |
| 3. SCATBd/RTC | | |
| 4. MISCELLANEOUS | | |
| 5. ANNOUNCEMENTS | | |
| | Future Agendas: • | |

Next Scheduled Meeting: Tuesday, December 3, 2019 (last meeting of 2019)



INFORMATIONAL MEMORANDUM

TO: **Transportation and Infrastructure Committee**

FROM: **Jack Pace, Department of Community Development Director**

BY: **Alison Turner, Sustainable Transportation Program Manager**
Chris Andree, Sustainable Transportation Outreach Coordinator

CC: **Mayor Ekberg**

DATE: **November 15, 2019**

SUBJECT: **King County Metro Transportation Demand Management Agreement 2020**

ISSUE

The Transportation Demand Management (TDM) Program is asking for approval to accept passthrough funding from King County Metro. The funding source is a TDM Corridor Strategies Supporting Centers federal Congestion Mitigation and Air Quality grant. Funding will be used to continue implementation of Transportation Demand Management (TDM) activities in south King County.

BACKGROUND

The City of Tukwila TDM Program was previously awarded King County passthrough funding in 2016/17 and 2017/19 to enhance TDM services in south King County. TDM Program staff implemented outreach on behalf of King County Metro's Just One Trip campaign to encourage anyone who lives, works, or spends time in the target south King County jurisdictions to consider trying an alternative commute or travel mode.

DISCUSSION

A new funding opportunity has been offered to the City's TDM Program to continue TDM outreach services in south King County through November 30, 2020. Additionally, Metro requested the City adopt a special transit Title VI Program to be eligible as a sub-grantee of King County. TDM services and outreach will be provided at activity centers (e.g. business parks, commercial and residential multi-tenant buildings, educational institutions). A key strategy is to develop partnerships with embedded organizations in the community to facilitate more effective outreach and improve long-term program outcomes.

FINANCIAL IMPACT

There will be no impact to the general fund.

RECOMMENDATION

Council is being asked to approve the King County Metro contract for the Transportation Demand Management Program in the amount of \$75,000 and consider this item on the Consent Agenda at the December 2, 2019, Regular Meeting.

ATTACHMENTS

Attachment A: King County Metro Transportation Demand Management Agreement 2019-2020

**TRANSPORTATION DEMAND MANAGEMENT AGREEMENT
BETWEEN
THE CITY OF TUKWILA
AND
KING COUNTY**

This Transportation Demand Management Agreement is made and entered into by and between the City of Tukwila, a Washington municipal corporation (the “City”) and King County, a home rule charter county of the State of Washington, through the Metro Transit Department (the “County”), either of which entity may be referred to hereinafter individually as “Party” or collectively as the “Parties.”

Whereas, the County is obligating a grant from the Federal Transit Administration (FTA) (Award 1731-2019-04) Congestion Mitigation Air Quality (“CMAQ”) Section 5307 – TDM Corridor Strategies Supporting Centers for multi-modal transportation project planning and demonstration programs, in order to reduce drive-alone vehicle travel and increase high occupancy vehicle use to help reduce energy consumption, air pollution and traffic congestion. The Catalogue of Federal Domestic Assistance number for this grant is 20.507, and the County intends to use these grant funds to reimburse the City for work performed in accordance with the terms and conditions of this Agreement; and

Whereas, such projects and programs include strategies known as transportation demand management (“TDM”) which may encompass incentives, outreach, promotions, website development and maintenance, materials and services that facilitate travel by public transportation, shared rides, bicycling, walking and teleworking; and

Whereas, the City and the County provide such TDM programs to commuters, students and residents directly or through employers, schools and/or property managers; and

Whereas, the City’s Transportation Demand Management program (the “Program”), including activities conducted through the City’s transportation options brand, has been effective in reducing drive-alone trips in Tukwila; and

Whereas, the City and County have continued to adapt and demonstrate these strategies through the Program by adding new market segments and new approaches to Tukwila area residents and workers;

NOW THEREFORE, in consideration of the terms, conditions and covenants contained herein, the Parties agree as follows:

1. PURPOSE OF AGREEMENT

The purpose of this Agreement is to establish a mutually beneficial arrangement between the City and the County that will help both Parties realize their respective TDM objectives. This Agreement also creates a mechanism to allow the County to reimburse the City for costs incurred to perform the tasks and implement the programs described in the Scope of Work (“SOW”), as set forth in Exhibit A, which is attached and incorporated herein. In consideration of the City’s performance of the tasks and responsibilities set forth in the SOW, the County will provide the City up to \$75,000 in grant funds.

2. AGREEMENT TERM AND MODIFICATIONS

This Agreement shall be effective upon signature by both Parties, and shall remain in effect unless otherwise terminated through November 30, 2020. If mutually agreed, the Agreement may be extended by written amendment for up to an additional two (2) years. Exhibits and attachments may be modified at that time as mutually agreed by the Parties. Any extension shall be made in writing in accordance with Section 14 of the Agreement. The County will enter into or extend this Agreement only on the condition that all City accounts with the County are current.

3. CITY’S RESPONSIBILITIES

The City shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of the work required as related to program performance associated with the SOW in Exhibit A. The program tasks, timelines and budget are stated in Exhibit A.

4. COUNTY’S RESPONSIBILITIES

The County will reimburse the City for actual costs incurred to satisfactorily perform the tasks and implement the Program as provided for in the SOW. In no event shall the total reimbursement made by the County to the City for work performed pursuant to this Agreement exceed \$75,000 (the “Reimbursement Cap”).

5. INVOICE AND PAYMENT PROCEDURES

The City shall submit completed invoice(s) to the County detailing expenses, quarterly activities, outcomes and metrics within thirty (30) calendar days following each quarter’s end and by December 15, 2020. The County shall pay the City within fifteen (15) calendar days after the County has received completed invoices.

In no event will the total amount of the initial investment and quarterly payments exceed the Reimbursement Cap specified at Section 4 of this Agreement without the Parties mutually agreeing to amend this Agreement in accordance with Section 14 of the Agreement.

6. FEDERAL REQUIREMENTS

A. This Agreement is subject to a financial assistance agreement between the County and the FTA. The City shall comply with all applicable federal laws, regulations, policies, procedures and directives, including but not limited to the following, which are attached hereto or incorporated herein by this reference:

1. 2 CFR Part 200.300 through 2 CFR Part 345, contained in Subpart D, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The text is available at: <https://www.gpo.gov/fdsys/pkg/CFR-2015-title2-vol1/xml/CFR-2015-title2-vol1.xml#seqnum200.300>
2. 2 CFR Part 200.400 through 2 CFR Part 200.475, contained in Subpart E, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The text is available at: <https://www.gpo.gov/fdsys/pkg/CFR-2015-title2-vol1/xml/CFR-2015-title2-vol1.xml#seqnum400.1>
3. The requirements and obligations imposed on a “Recipient” under the applicable provisions of the FTA Master Agreement. The Master Agreement text is available at: <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-master-agreement-fiscal-year-2018>
4. The requirements of FTA Circular 5010.1E Project Administration and Management. Circular 5010.1E text is available at: <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/award-management-requirements-circular-50101e>
5. If the City contracts with a third party to provide all or a portion of the services described in this Agreement, then the City shall comply with FTA Circular 4220.1F. Circular 4220.1F text is available at: <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance>
6. Applicable FTA Third Party Contract Provisions – Standard Terms and Conditions. The text is attached as Exhibit B.

B. New federal laws, regulations, policies, procedures and directives may be adopted after the date this Agreement is established and may apply to this Agreement. The City agrees to accept and comply with all applicable laws, regulations, policies, procedures and directives as may be amended or promulgated from time to time during the term of this Agreement.

C. The City shall not perform any act, fail to perform any act, or refuse to comply with any requests by the County which would cause the County to be in violation of any federal law or FTA requirement. The City’s failure to so comply with this Section shall constitute a material breach of this Agreement.

D. The County and City acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the County, City, or any other party (whether or not a party to this Agreement or any Agreement awarded pursuant thereto) pertaining to any matter resulting from this Agreement.

E. The City agrees to extend application of the federal requirements to its subrecipients or contractors, and their respective subcontractors, by including this Section and the related exhibits in each contract and subcontract the City awards under this Agreement financed in whole or in part with Federal assistance provided by FTA. It is further agreed that this Section shall not be modified, except to change the names of the parties to reflect the subrecipient or contractor which will be subject to its provisions.

F. The City acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801, et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to the work under this Agreement. Upon execution of this Agreement, the City certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this Agreement or the FTA-assisted project for which this work is being performed. In addition to other penalties that may be applicable, the City further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the City to the extent the Federal Government deems appropriate.

1. The City also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. 5307, the Government reserves the right to impose the penalties of 18 U.S.C. 1001 and 49 U.S.C. 5323(l)(1) on the City, to the extent the Federal Government deems appropriate.
2. The City agrees to include the language in Section F and Section F(1) above in each contract and subcontract it awards under this Agreement financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the contractor or subcontractor who will be subject to the provisions.

G. Certification Regarding Debarment, Suspension and Other Responsibility Matters

This Contract is a covered transaction for purposes of 2 CFR part 1200. As such, the City is required to verify that none of the City, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The City is required to comply with 2 CFR 1200, Subpart C and must include the

requirement to comply with 2 CFR 1200, Subpart C in any lower tier covered transaction it enters into. By signing and submitting this Contract, the City certifies as follows:

The certification in this clause is a material representation of fact relied upon by King County. If it is later determined that the City knowingly rendered an erroneous certification, in addition to remedies available to King County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The City agrees to comply with the requirements of 2 CFR 1200, Subpart C while this offer is valid and throughout the period of any work or service that may arise from this Contract. The City further agrees to include a provision requiring such compliance in its lower tier covered transactions.

H. Because the County is sub-granting \$25,000 or more of pass-through Federal Transit Administration funds, the County must comply with the reporting requirements of The Federal Funding Accountability and Transparency Act (FFATA or Transparency Act - P.L.109-282., as amended by section 6202(a) of P.L. 110-252). The FFATA prescribes specific data to be reported and the County hereby agrees to report sub-award data into the website www.USASpending.gov via www.frs.gov. The City agrees to provide the County with the information required in this paragraph within 30 calendar days from the execution date of this Agreement:

- a. Location of the City (physical address(es), including congressional district(s)); and
- b. Place of performance (physical address(es), including congressional district(s)); and
- c. Unique identifier of the City and its parent (DUNS Number, a unique nine-digit number issued by Dun & Bradstreet (D&B) to a single business entity assigned to each business location in the D&B database having a unique, separate, and distinct operation for the purpose of identifying it); and
- d. Total compensation and names of top five executives IF BOTH of the following apply:
 - i. More than 80% of the City's gross annual revenues are from the federal government, and those revenues are greater than \$25,000,000 annually, and
 - ii. Compensation information is not already available through reporting to the Securities and Exchange Commission.

I. The City agrees to provide the County with its Federal Central Contractor Registration number within 30 calendar days of the execution of this Agreement. If it has not already registered, the City agrees to register with the Federal Central Contractor Registration at <https://www.sam.gov/portal/public/SAM/> (formerly www.CCR.gov) and provide the County with the registration number within 30 calendar days from the execution date of this Agreement. *Exceptions may be made on a case-by-case basis upon approval by the County.*

J. The City agrees to provide the County with a copy of its Title VI implementation plan in accordance with FTA Circular 4702.1B, Chapter III, Section 11. If the City does not have a Title

VI plan, the County and the City agree to work together to sufficiently document the City’s adoption of the County’s Title VI plan, or in the alternative, the City’s implementation of its own Title VI plan.

K. In accordance with FTA Circular 4702.1B, Chapter II, Section 2, and by signing this Agreement, the City certifies that it will comply with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, U.S. Department of Justice “Guidelines for enforcement of Title VI, Civil Rights Act of 1964, 28 CFR §50.3, U.S DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR part 21.

7. DISPUTE RESOLUTION PROCESS

7.1 Designated Dispute Resolution Representatives. The following individuals are the Designated Representatives for the purpose of resolving disputes that arise under this Agreement:

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| <p>For the County Carol Cooper Mobility Innovations Managing Director Metro Transit Department 201 South Jackson Street, M/S KSC-TR-0411 Seattle, WA 98104 (206) 477-5871 carol.cooper @kingcounty.gov</p> | <p>For the City Vicky Carlsen, Finance Director City of Tukwila 6200 Southcenter Blvd. Tukwila, WA 98188 (206) 433-1839 Vicky.Carlsen@TukwilaWA.gov</p> |
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7.2 The County representative and the City representative shall confer to resolve disputes that arise under this Agreement as requested by either Party. The designated representatives shall use their best efforts and exercise good faith to resolve such disputes.

7.3 In the event the Designated Representatives are unable to resolve the dispute, the appropriate City Administrator or her/his designee and the Assistant General Manager of the County’s Metro Transit Division or her/his designee shall confer and exercise good faith to resolve the dispute.

7.4 In the event the City Administrator and the Assistant General Manager of Metro Transit are unable to resolve the dispute, the Parties may, if mutually agreed in writing, submit the matter to non-binding mediation. The Parties shall then seek to mutually agree upon the mediation process, who shall serve as the mediator, and the time frame the Parties are willing to discuss the disputed issue(s).

7.5 If the Parties cannot mutually agree as to the appropriateness of mediation, the mediation process, who shall serve as mediator, or the mediation is not successful, then either Party

may institute a legal action in the King County Superior Court, situated in Seattle, Washington, unless another venue is mutually agreed to in writing.

- 7.6 The Parties agree that they shall have no right to seek relief in a court of law until and unless each of the above procedural steps has been exhausted.

8. TERMINATION

- 8.1 Termination for Convenience. Either Party may terminate this Agreement upon thirty (30) days' written notice to the other Party. In the event of termination of this Agreement, the Parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
- 8.2 Termination for Cause. If either Party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either Party violates any of these terms and conditions, the aggrieved Party will give the other Party written notice of such failure or violation. The responsible Party will be given the opportunity to initiate a correction of the violation or failure within fifteen (15) calendar days. If failure or violation is not corrected within the mutually agreed upon time period, this Agreement may be terminated immediately by written notice of the aggrieved Party to the other.
- 8.3 Termination for Non-Appropriation or Loss of Grant Funding. This Agreement is contingent upon federal grant funding and local legislative appropriations. As such, in addition to termination for default or convenience, the County may terminate this Agreement for non-appropriation or loss of grant funding by giving not less than thirty (30) calendar days' written notice thereof to the City.

9. LEGAL RELATIONS

- 9.1 No Third Party Beneficiaries. It is understood that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other person or entity.
- 9.2 No Partnership or Joint Venture. No joint venture, agent-principal relationship or partnership is formed as a result of this Agreement.
- 9.3 Independent Capacity. The employees or agents of each Party who are engaged in the performance of this Agreement shall continue to be employees or agents of that Party and shall not be considered for any purpose to be employees or agents of the other Party.
- 9.4 Jurisdiction and Venue. The King County Superior Court, situated in Seattle, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.
- 9.5 Mutual Negotiation and Construction. This Agreement and each of the terms and provisions hereof shall be deemed to have been explicitly negotiated between, and

mutually drafted by, both Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

9.6 Assignment. Neither this Agreement, nor any interest herein, may be assigned by either Party without the prior written consent of the other Party.

9.7 Compliance with Applicable Laws. The Parties agree to comply with all applicable federal, state, and local laws, rules, and regulations, including those pertaining to nondiscrimination, and agree to require the same of any subcontractors providing services or performing any work related to the Program using funds provided under this Agreement.

10. FORCE MAJEURE

Either Party to this Agreement shall be excused from performance of its responsibilities and obligations under this Agreement, and shall not be liable for damages due to failure to perform, during the time and to the extent that it is prevented from performing by a cause directly or indirectly beyond its control, including, but not limited to: late delivery or nonperformance by vendors of materials or supplies; any incidence of fire, flood, snow, earthquake, or acts of nature; strikes or labor actions; accidents, riots, insurrection, terrorism, or acts of war; order of any court or civil authority; commandeering material, products, or facilities by the federal, state or local government; or national fuel shortage; when satisfactory evidence of such cause is presented to the other Party to this Agreement, and provided that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing.

11. INDEMNIFICATION

Both Parties shall protect, defend, indemnify and save harmless each other, their officers, employees, and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from either Party's negligent acts or omissions in performing their obligations under this Agreement. The Parties agree that they are fully responsible for the acts and omissions of their own contractors, subcontractors, employees, and agents, acting within the scope of their employment as such, as they are for the acts and omissions of its own employees and agents. The Parties agree that their obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of their employees or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of both Parties immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the Parties only, and only to the extent necessary to provide the Parties, their officers, employees, and agents with a full and complete indemnity of claims made by the Parties employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them. The provisions of this Section 11 shall survive the expiration or earlier termination of this Agreement.

12. WAIVER

A failure by either Party to exercise its rights under this Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the Party and attached to the original Agreement.

13. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

14. CHANGES AND MODIFICATIONS

This Agreement may be changed, modified, or amended only by written agreement executed by authorized representatives of both Parties.

15. REPRESENTATION ON AUTHORITY OF SIGNATORIES

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement.

16. ALL TERMS AND CONDITIONS

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

17. CONTRACT MANAGEMENT

The contact persons for the management of this Agreement (the “Contract Managers”) are identified and their contact information is provided herein and may be updated by either Party for their agency only and shall be submitted in writing or electronic mail to the other Party. Any update to the Contract Managers’ information shall state the effective date of said update.

| Contract Manager | King County Metro | City of Tukwila |
|-------------------------|---|---|
| Contact Name | Debbie Jaksich | Alison Turner |
| Title | Program/Project Manager III Market and Business Development Group | Sustainable Transportation Program Manager |
| Address | 201 S. Jackson St. M/S KSC-TR-0411 Seattle, WA 98104 | 6300 Southcenter Blvd #100 Tukwila, WA 98188 |
| Telephone | 206-477-5836 | 206-433-7142 |
| E-Mail | debbie.jaksich@kingcounty.gov | Alison.Turner@TukwilaWA.gov |

18. RECORDS RETENTION AND AUDIT

- 18.1 During the progress of the work and for a period of not less than six (6) years from the date of final payment by the County, the City shall keep available for inspection and audit by the County and the federal government the records pertaining to the Agreement and accounting therefore. Copies of all records, documents or other data pertaining to performance of the Agreement will be furnished upon request. If any litigation, claim or audit is commenced related to performance of the Agreement, the records along with supporting documentation shall be retained until all litigation, claims and/or audit findings have been resolved even though such litigation, claim or audit continues past the six-year retention period.
- 18.2 All Agreement costs must be documented including copies of invoices and time sheets showing hours worked and rates, or financial system expense reports documenting these items.
- 18.3 The County, the U.S. Department of Transportation, the FTA, the State Auditor, and the Inspector General and any of their duly authorized representatives shall have full access to and right to examine, during normal business hours, all City records with respect to all matters covered by this Agreement. Such representatives shall be permitted to audit, examine and make excerpts or transcripts from such records, and other matters covered by this Agreement.
- 18.4 Unless already published and available at the federally appointed online, accessible audit reporting database the City agrees to submit to the County, a copy of the City's A-133 Single Audit report when requested by the County for sub recipient monitoring purposes.

19. EXECUTION OF AGREEMENT

This Agreement may be executed in multiple counterparts, any one of which shall be regarded for all purposes as an original.

IN WITNESS THEREOF the Parties hereto have executed this Agreement by duly authorized representatives on the dates shown below their respective signatures.

KING COUNTY

CITY OF TUKWILA

By: _____
Chris O’Claire
Assistant General Manager
Metro Transit Department

By: _____
Allan Ekberg, Mayor
City of Tukwila

Date: _____

Date: _____

Approved as to form

Approved as to form

Grants Office

City Attorney

ATTACHMENT A

2020 City of Tukwila Scope of Work January 1, 2020 – December 31, 2020

TDM Corridor Strategies Supporting Centers

The purpose of the TDM Corridor Strategies Supporting Centers grant is to provide Transportation Demand Management (TDM) services along the I-405, I-5, SR-99 and SR-167 corridors and surrounding arterials to reduce congestion and increase mobility. The program will promote the use of sustainable transportation alternatives to driving alone through outreach, marketing, incentives, education, assistance, and information.

The City will provide TDM services for travelers with an origin or destination in the cities of Tukwila, Renton, Kent, and SeaTac through an extension of their Regional Mobility Grant (RMG) program and the City's TDM program.

The City and the County will mutually agree on messaging that will be included on program materials for marketing and outreach purposes.

These services will be provided for the time period beginning with the execution of the agreement and ending November 30, 2020.

Scope of Services

The City of Tukwila TDM Program will target residents, employees and employers for whom sustainable transportation alternatives are a viable option. As described below, the program will:

- Educate residents, employees and students on sustainable transportation alternatives to driving alone;
- Provide rewards and incentives related to sustainable transportation options;
- Work to improve people's perceptions of these options;
- Inform residents, employees and students of Redmond-Kent-Auburn Area Mobility Plan news and engagement opportunities, such as RapidRide I line outreach, and work to increase ORCA card usage;
- Explore options for amenities such as bike lockers, bike racks, bike repair stations, wayfinding signage, etc.;
- Communicate the goals of keeping traffic moving and other topics related to road construction and transit service changes; and
- Educate employers on available commute benefit strategies and programs.

An evaluation of the program will be provided to the County by December 15, 2020, outlining what has been accomplished in the program and including trip reduction data during the period following the execution of the agreement through the end of December 2020. The final invoice for this scope of work shall be submitted to the County no later than December 15, 2020.

Program Description

Issue/Problem

Employees and residents not affected by the CTR law may receive limited or no transportation benefits/support. Smaller employers often have difficulty allocating funding for employee transportation assistance and are unaware of commute benefits they could provide such as ORCA passes or pre-tax transportation benefits.

Goals:

- Increase the use of and access to transit and other sustainable modes of transportation in south King County (increase NDAT and decrease VMT);
- Reduce congestion along major regional corridors, including I-405, I-5, SR-99 and SR-167; and
- Efficiently deliver TDM services by targeting employees, residents and students at large activity centers (for example, presenting at employer meetings or administering a centralized transportation rewards program).

Potential Trip Markets

- Employment sites with clusters of non-CTR affected employers
- Multi-family residences (affordable and market rate housing)
- Technical colleges and high schools
- Industry-specific employers such as hotels

Potential activity centers and networks include:

- Sea-Tac Airport (partner with Port of Seattle, Airport Jobs, City of SeaTac)
- Westfield Southcenter Mall (partner with mall management and employers)
- Tukwila Village (partner with Independent Living, King County Library System and employers)
- Seattle Southside Chamber and Discover Burien
- Renton Landing and Black River Business Park
- Renton Technical College, Highline College and Foster High School
- Multifamily housing sites throughout Tukwila, SeaTac, Renton and Kent (partner with property managers, King County Housing Authority, Hopelink, and other non-profits)

Strategies

This program will market sustainable transportation through a direct, individualized approach supporting and encouraging residents and employees to change their travel behavior.

Methodology will include individualized marketing; social marketing; and engaging community and residential groups, individuals, businesses and other targeted groups of corridor users. Marketing will focus on sustainable transportation options such as transit, vanpool, carpool, biking and walking.

Strategies may include, but are not limited to:

- Administration of transportation behavior survey
- Education and training on transportation options
- Distribution of ORCA incentives to encourage transit use
- Help individuals who qualify get reduced fare ORCA cards by partnering with ORCA To-Go, ORCA LIFT (Public Health – Seattle & King County), and ORCA Youth
- Administration of a sustainable transportation rewards program
- Distribution of safety/visibility gear for active transportation
- Attendance at community or employer resource fairs and meetings
- Biking and walking amenities to promote active transportation
- Leverage South King County Transportation Options network on RideshareOnline.com to promote sustainable transportation options
- Webpage with program information hosted on TukwilaWA.gov website

Anticipated Schedule and Deliverables

| Deliverable | Target Dates |
|--|---------------------------|
| Develop outreach materials (webpage, surveys, flyers, reward slips) | January 1, 2020 |
| Launch rewards program | January 1, 2020 |
| Enroll participants in rewards program | through June 30, 2020 |
| Midpoint analysis of rewards program survey data to calculate VT and VMT reduced | June 30, 2020 |
| Administration of rewards program | through November 30, 2020 |
| Personalized trip planning assistance and employer/property manager consultations | through November 30, 2020 |
| Outreach to community groups, individuals, employers, property managers, and other targeted groups of corridor users to promote use of non-drive alone travel | through November 30, 2020 |
| Hold transportation trainings at interested employment centers, housing sites and worksites | through November 30, 2020 |
| Submit progress reports, metrics, and invoices that include labor hours and receipts for reimbursable expenses, at least quarterly. Final invoice must be submitted no later than December 15, 2020 for reimbursement. | through December 15, 2020 |

Anticipated Budget Not To Exceed \$75,000 through November 30, 2020

| Project Element | Budget |
|--|---------------|
| Labor | \$40,000 |
| Incentives/ORCA Cards/Bicycle & Pedestrian Amenities | \$27,000 |
| Marketing Materials | \$8,000 |
| Total Project Cost | \$75,000 |

ATTACHMENT B

FEDERAL TRANSIT ADMINISTRATION (FTA) THIRD PARTY CONTRACT REQUIREMENTS

This Contract shall be partially funded by the Federal Transit Administration (FTA). The following provisions include, in part, certain standard terms and conditions required by the U.S. Department of Transportation. All Contractual provisions required by the U.S. Department of Transportation, as set forth in FTA Circular 4220.1F, as revised, dated March 18, 2013, as are the requirements of the Master Agreement between King County (“the County”) and the U.S. Department of Transportation, including all “flow down” provisions to third party Contractors and Subcontractors are hereby incorporated by reference. Unless stated otherwise, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor agrees not to perform any act, fail to perform any act, or refuse to comply with any County requests that would cause the County to be in violation of the FTA terms and conditions.

1-1 Disadvantaged Business Enterprise (DBE) Participation

- A. Nondiscrimination 49 CFR part 26. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of United States Department of Transportation assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as the County deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).

- B. DBE Program. The DBE requirements of 49 CFR Part 26 apply to this Contract. King County has determined that no DBE goal will be established for this Contract. However, the County requires that the Contractor report any actual DBE participation on this Contract to enable the County to accurately monitor DBE program compliance.

- C. Efforts to Increase DBE Participation. Even though this Contract has no DBE goal, the County still encourages Contractors to pursue opportunities for DBE participation. To that end, Contractors are encouraged to:
 - 1. Advertise opportunities for subcontractors and suppliers (“subcontractors”) in a manner reasonably designed to provide DBEs capable of performing the work with timely notice of such opportunities. All advertisements should include a provision encouraging participation by DBE firms and may be done through general advertisements (e.g., newspapers, journals, etc.) or by soliciting proposals directly from DBEs.

2. Effectively use the services of available minority/women community organizations, Contractors' groups, local, state, and Federal minority/women business assistance offices; Disadvantaged Business Enterprise and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs and other small businesses.
 3. Establish delivery schedules, where requirements of the contract allow and encourage participation by DBEs and other small businesses.
 4. Achieve DBE attainment through joint ventures.
 5. Solicit through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) DBE and other small businesses that have the capability to perform the Work of the Contract.
 6. Select portions of the Work to be performed by Subcontractors to increase the likelihood that DBE and other small businesses' goals will be achieved.
 7. Provide interested Subcontractors with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 8. Negotiate in good faith with interested DBEs and other small businesses.
 9. Avoid rejecting DBEs and other small businesses as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the Contractor's efforts to obtain DBE and other small business participation.
 10. Make efforts to assist interested DBEs and other small businesses in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
 11. Make efforts to assist interested DBEs and other small businesses in obtaining necessary equipment, supplies, materials, or related assistance or services.
- D. DBE Listing. A current list of DBE firms accepted as certified by the Washington State Office of Minority and Women's Business Enterprises (OMWBE) is available from that office at (360) 753-9693. For purposes of this Contract, a DBE firm must be certified by OMWBE as of the date of contract award.

- E. Procedure Applicable when DBEs Are Utilized. Concurrent with the use of any DBE subcontractor or supplier the Contractor shall provide notice of such use in writing to the King County Office of Business Development and Contract Compliance (BDCC). Upon receipt of said notice, BDCC shall provide the Contractor with the applicable procedures for counting DBE participation. Assistance with this Section is available from BDCC at (206) 263-9717. Notice referenced herein should be delivered to the following address:

King County Department of Finance
Office of Business Relations and Economic Development
401 Fifth Avenue, Suite 350
MS CNK-ES-0350
Seattle, WA 98104
Phone: (206) 263-9717
Fax: (206) 205-0840

- F. The Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the County. In addition, the contractor may not hold retainage from its subcontractors, but may require the purchase of a retainage bond by the subcontractor.
- G. The Contractor must promptly notify the County whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the County.

1-2 Federal Changes

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the County and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

1-3 No Federal Government Obligations to Third Parties

The Contractor acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Contractor or any other party (whether or not a party to this Contract) pertaining to any matter resulting from this Contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

1-4 Civil Rights

The following requirements shall apply to the this Contract and all third-party contracts:

(A) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, U.S. Department of Justice “Guidelines for enforcement of Title VI, Civil Rights Act of 1964, 28 CFR §50.3, U.S DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR part 21, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any person on the basis of race, color, religion, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(B) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(1) Race, Color, Religion, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, section 503 of the Rehabilitation Act of 1973, as amended 29 U.S.C. §793 and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, age, or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(2) Sex - In accordance with Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. Sections 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR Part 25, and FTA Circular 4220.1F Chapter IV, Section 2(a)(5)(b), the Contractor agrees to refrain from discrimination against present and prospective employees on the basis of their sex. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) Age - In accordance with The "Age Discrimination Act of 1974, as amended, 42 U.S.C. Sections 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance, 45 CFR Part 90, and section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(4) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 *et seq.*, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.'

(C) Information and Reports - The Contractor shall provide all information and reports required by the regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County or the Federal Transit Administration (FTA) to be pertinent to ascertain compliance with such regulations, orders and instructions. The Contractor shall maintain all required records for at least three (3) years after the County makes final payment and all other pending matters are closed. Where any information is required and it is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the County or the Federal Transit Administration, as appropriate, and shall set forth efforts made to obtain the information.

(D) Sanctions for Noncompliance - In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the County shall impose such contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to:

1. Withholding of payments to the Contractor under the Contract until the Contractor complies, and/or,
2. Cancellation, termination or suspension of the Contract, in whole or in part.

(E) Incorporation of Provisions - The Contractor shall include the provisions of paragraphs A through E of this section in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the County or the FTA may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that, in the event the Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the County to enter into such litigation to protect the interests of the County, and in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

1-5 Cargo Preference - Use of U.S. Flag Vessels

The contractor agrees:

- a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
 - b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.)
 - c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.
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1-6 Fly America Requirements

The Contractor agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

1-7 Audit and Inspection of Records

Access to Records - The following access to records requirements apply to this Contract:

A. Where the FTA Recipient or a subgrantee of a FTA Recipient (“Purchaser”) is the County, the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions in accordance with 2 C.F.R. 200.336. Contractor also agrees to provide the County and the FTA Administrator or his authorized representatives including any PMO Contractor, pursuant to 49 C.F.R. 633.17, access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

B. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient, the Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000 (49 CFR Part 633.5).

C. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 2 C.F.R. 200.336, the Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of

their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

D. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

E. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

F. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

G. FTA does not require the inclusion of these requirements in subcontracts.

1-8 FTA Protest Procedures

Bidders are hereby notified that if this Contract is funded in whole or in part by the Federal Department of Transportation, the Federal Transit Administration (FTA) may entertain a protest that alleges that the County failed to have or follow written protest procedures. Bidders must file a protest with the FTA not later than 5 working days after the County renders a final decision or 5 working days after the Bidder knows or has reason to know that the County has failed to render a final decision. The protesting party must notify the County if it has filed a protest with the FTA. After 5 days, the County will confirm with FTA that FTA has not received a protest. Protests to the FTA must be filed in accordance with FTA Circular 4220.1F (as periodically updated).

The County will not award a contract for 5 working days following its decision on a Bid protest or while a protest to the FTA is pending unless the County determines that: (1) the items to be procured are urgently required; (2) delivery of performance will be unduly delayed by failure to make the award promptly; or (3) failure to make prompt award will otherwise cause undue harm to the County or the Federal Government.

1-9 Privacy

Should the Contractor, or any of its subcontractors, or their employees administer any system of records on behalf of the Federal Government, the Privacy Act of 1974, 5 USC § 552a, imposes information restrictions on the party administering the system of records.

For purposes of the Privacy Act, when the Agreement involves the operation of a system of records on individuals to accomplish a government function, the recipient and any contractors, third party contractors, subcontractors and their employees involved therein are considered to be government employees with respect to the government function. The requirements of the Act, including the civil and criminal penalties for violations of the Act, apply to those individuals involved. Failure to comply with the terms of the Act or this provision of this contract will make this contract subject to termination.

The Contractor agrees to include this clause in all subcontracts awarded under this Contract, which involve the design, development, operation, or maintenance of any system of records on individuals subject to the Act.

1-10 Certification Regarding Debarment, Suspension and Other Responsibility Matters

Pursuant to Executive Order 12549 and 12689, "Debarment and Suspension," 31 USC § 6101 note and federal regulations in 2 CFR Part 180.300 and 2 CFR Part 1200, entities and individuals who are debarred or suspended by the federal government are excluded from obtaining federal assistance funds under this contract. To assure that such entities and individuals are not involved as participants on this FTA-financed contract, if the contract exceeds \$25,000, each Bidder shall complete and submit, as part of its Bid, the certification contained in Attachment A for itself, its principals and its subcontractor(s) for any subcontract in excess of \$25,000. The inability of a Bidder to provide a certification in Attachment A will not necessarily result in denial of consideration for contract award. A Bidder that is unable to provide a certification must submit a complete explanation attached to the certification form. Failure to submit a certification or explanation shall disqualify the Bidder from participation under this Bid. The County, in conjunction with FTA, will consider the certification or explanation in determining contract award. No contract will be awarded to a potential third-party contractor submitting a conditioned debarment or suspension certification, unless approved by the FTA.

The certification is a material representation of fact upon which reliance is placed in determination of award of contract. If at any time the Bidder or Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances, it shall immediately provide written notice to the County. If it is later determined that the Bidder knowingly rendered an erroneous certification, or failed to notify the County immediately of circumstances that made the original certification no longer valid, the County may disqualify the Bidder. If it is later determined that the Contractor knowingly rendered an erroneous certification, or failed to notify the County immediately of

circumstances which made the original certification no longer valid, the County may terminate the contract, in addition to other remedies available including FTA suspension and/or debarment.

1-11 Subcontractors' Certification Regarding Debarment, Suspension or Ineligibility

By submitting a Bid for this Contract, the Bidder agrees that should it be awarded the Contract, it shall not knowingly enter into any subcontract exceeding \$25,000 with an entity or person who is debarred, suspended, or who has been declared ineligible from obtaining federal assistance funds; and shall require each subcontractor to complete the certification provided in Attachment B.

Each subcontract, regardless of tier, shall contain a provision that the subcontractor shall not knowingly enter into any lower tier subcontract with a person or entity who is debarred, suspended or declared ineligible from obtaining federal assistance funds, and a provision requiring each lower-tiered subcontractor to provide the certification set forth in Attachment B.

The Contractor shall require each subcontractor, regardless of tier, to immediately provide written notice to the Contractor if at any time the subcontractor learns that its, or a lower-tier certification was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor may rely upon the certifications of the subcontractors unless it knows that a certification is erroneous. The Contractor's knowledge and information regarding any subcontractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business.

1-12 Anti-Kickback

The County and contractors are required to comply with the Anti-Kickback Act of 1986, 41 USC 8701 *et seq.* Under state and federal law, it is a violation for County employees, bidders, contractors or subcontractors to accept or offer any money or benefit as a reward for favorable treatment in connection with the award of a contract or the purchase of goods or services.

"Kickback" as defined by Federal Acquisition Regulation (FAR) 52.203-7, and 41 USC § 8701(2), means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind that is provided directly or indirectly to any prime Contractor, prime Contractor employee, subcontractor or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

1-13 False or Fraudulent Statements or Claims

(A) The Contractor acknowledges that the provisions of the Program Fraud Civil

Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(B) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(C) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

1-14 Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the State Energy Conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 USC §§ 6321 *et seq.*

The Contractor agrees to include this clause in all subcontracts awarded under this Contract.

1-15 Environmental Requirements

The Contractor agrees to comply with all applicable standards, orders or requirements as follows:

A. Environmental Protection

The Contractor agrees to comply with the applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 USC §§ 4321, *et seq.*, consistent with Executive Order No. 11514, as amended, "Protection and Enhancement of

Environmental Quality,” 42 USC § 4321 note. FTA statutory requirements on environmental matters at 49 USC § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 42 USC § 4321 *et seq.* and 40 CFR Part 1500 *et seq.*; and joint FHWA/FTA regulations, “Environmental Impact and Related Procedures,” 23 CFR Part 771 and 49 CFR Part 622.

B. Air Quality

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§ 7401, *et seq.* The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to FTA and the appropriate U.S. Environmental Protection Agency (EPA) Regional Office.

The Contractor agrees to include this clause in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

C. Clean Water

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §§ 1251 *et seq.* The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (EPA) Regional Office.

The Contractor agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 USC §§ 300h *et seq.* The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

D. Use of Public Lands

The Contractor agrees that no publicly owned land from a park, recreation area, or wildlife or waterfowl refuge of national, state, or local significance as determined by the federal, state or local officials having jurisdiction thereof, or any land from a historic site of national, state, or local significance may be used for the Project unless the FTA makes the specific findings required by 49 USC § 303.

E. Historic Preservation

The Contractor agrees to assist the Federal Government in complying with section 106 of the National Historic Preservation Act, as amended, 16 USC § 470f, Executive Order No. 11593, “Protection and Enhancement of the Cultural Environment,” 16 USC § 470 note, and the Archaeological and Historic Preservation Act of 1974, as amended, 16 USC §§ 469a-1 *et seq.* involving historic and archaeological preservation as follows:

1. The Contractor agrees to consult with the State Historic Preservation Officer about investigations to identify properties and resources listed in or eligible for inclusion in the National Register of Historic Places that may be affected by the Project, in accordance with Advisory Council on Historic Preservation regulations, “Protection of Historic and Cultural Properties,” 36 CFR Part 800, and notifying FTA of those properties so affected.
2. The Contractor agrees to comply with all federal requirements to avoid or mitigate adverse effects on those historic properties.

F. Mitigation of Adverse Environmental Effects

The Contractor agrees that if the Project should cause adverse environmental effects, the Contractor will take all reasonable steps to minimize those effects in accordance with 49 USC § 5324(b), and all other applicable federal laws and regulations, specifically, the procedures of 23 CFR Part 771 and 49 CFR Part 622.

1-16 Preference for Recycled Products

Recovered Materials - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

1-17 Termination Provisions Required

All contracts and subcontracts in excess of \$10,000 shall contain contractual provisions or conditions that allow for termination for cause and convenience by the County including the manner by which it will be effected and the basis for settlement.

(Required by FTA Circular 4220.1F, Page IV-13).

1-18 Incorporation of FTA Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by the U.S. Department of Transportation, as set forth in FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor agrees not to perform any act, fail to perform any act, or refuse to comply with any County requests that would cause the County to be in violation of the FTA terms and conditions.

1-19 Sensitive Security Information

The Contractor shall protect, and take measures to ensure that its subcontractors at each tier, protect “sensitive security information” made available during the administration of a third party contract or subcontract to ensure compliance with 49 U.S.C. 40119 (b) and implementing DOT regulations, “Protection of Sensitive Security Information,” 49 CFR Part 15, and with 49 U.S.C. § 114 (r) and implementing Department of Homeland Security Regulations, “Protection of Sensitive Security Information,” 49 CFR Part 1520.

1-20 Substance Abuse

Contractor and its subcontractors agrees to comply with U.S. OMB Guidance, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 2 CFR Part 182, and U.S. DOT regulations, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 49 CFR Part 32, that implement the Drug-Free Workplace Act of 1988, 41 USC §§ 701 *et seq.*, including any amendments to these U.S. DOT regulations when they are promulgated, and "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, that implement 49 USC § 5331.

1-21 Seatbelt Use

Contractor shall adopt and promote on-the-job seatbelt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles in compliance with Federal Executive Order No. 13043, “Increasing Seatbelt Use in the United States,” April 16, 1997, 23 U.S.C. § 402 note. This provision shall be included in each third party subcontract involving this project.

1-22 Texting While Driving and Distracted Driving

Contractor shall promote policies and initiatives for its employees and other personnel that adopt and promote safety policies to decrease crashes by distracted drivers, including policies to ban text messaging while driving consistent with Executive Order No. 13513, “Federal Leadership on Reducing Text Messaging While Driving,” October 1, 2009, 23 U.S.C. § 402 note, and DOT Order 3902.10, “Text Messaging While Driving,” December 30, 2009. This provision shall be included in each third party subcontract involving this project.

1-23 Use of \$1 Coins

The Contractor and the County agree to comply with Section 104 of the Presidential \$1 Coin Act of 2005, 31 U.S.C. Section 5312(p), FTA assisted property that requires the use of coins or currency in public transportation service or supporting service must be fully capable of accepting and dispensing \$1 coins

ATTACHMENT C

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION
AND OTHER RESPONSIBILITY MATTERS -
PRIMARY COVERED TRANSACTIONS**

Federal Transit Administration (FTA)

The prospective Primary Participant (potential contractor for a major third-party contract), _____ certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. Have not within a three (3) year period preceding this Bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in Paragraph 2 of this certification; and
4. Have not within a three (3) year period preceding this Bid had one or more public transactions (federal, state or local) terminated for cause or default.

[If the primary participant (applicant for an FTA grant, or cooperative agreement or potential third-party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.]

THE PRIMARY PARTICIPANT (POTENTIAL CONTRACTOR FOR A MAJOR THIRD-PARTY CONTRACT) CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 USC SECTIONS 3801, *ET SEQ.*, ARE APPLICABLE THERETO.

Name of Firm: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Date: _____

ATTACHMENT D

CONTRACT NO: _____

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION –
LOWER-TIER COVERED TRANSACTIONS**

(This Attachment may be completed and submitted to the Buyer after award of Contract.)

The Lower-Tier Participant (potential sub-grantee or sub-recipient under a Federal Transit Administration (FTA) project, potential third-party contractor, or potential subcontractor under a major third-party contract), _____ certifies, by submission of this Bid, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

The Lower-Tier Participant will not knowingly enter into any lower-tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

The prospective Lower-Tier Participant agrees by submitting this proposal that it will include this requirement in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.

If the Lower-Tier Participant (potential sub-grantee or sub-recipient under an FTA project, potential third-party contractor, or potential subcontractor under a major third party contract) is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this Bid.

THE LOWER-TIER PARTICIPANT (POTENTIAL SUB-GRANTEE OR SUB-AGREEMENT UNDER AN FTA PROJECT, POTENTIAL THIRD-PARTY CONTRACTOR, OR POTENTIAL SUBCONTRACTOR UNDER A MAJOR THIRD-PARTY CONTRACT) CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTAND THAT THE PROVISIONS OF 31 USC §§ 3801, *ET SEQ.*, ARE APPLICABLE THERETO.

Name of Firm: _____

Authorized Signature: _____

Printed Name: _____


Title: _____

Date: _____



INFORMATIONAL MEMORANDUM

TO: Transportation and Infrastructure Committee

FROM: Jack Pace, Department of Community Development Director 

BY: Alison Turner, Sustainable Transportation Program Manager
Tony Cullerton, Finance Deputy Director
Niesha Fort-Brooks, Community Engagement Manager

CC: Mayor Ekberg

DATE: November 15, 2019

SUBJECT: Resolution Adopting a Title VI Program

ISSUE

Approve a Resolution to formally establish a Title VI Program.

BACKGROUND

Title VI of the Civil Rights Act of 1964 is a federal statute that provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any programs or activity receiving federal financial assistance. While some Title VI Program elements are currently being implemented in the City, a Title VI Program has not been formally adopted citywide. For example, Public Works produces an annual report to the Washington State Department of Transportation to remain eligible for federal funding on capital projects.

DISCUSSION

Staff from the Department of Community Development, Public Works, Finance, and Communications have been meeting to understand what the City needs in place to comply with federal Title VI requirements. Transportation Demand Management (TDM) Program funding is potentially available via King County Metro through a TDM Corridor Strategies Supporting Centers federal Congestion Mitigation and Air Quality grant. Metro has requested the City adopt this special transit Title VI Program as a sub-grantee to King County. This Title VI Program includes a notice to the public, posted at City Hall and on the website, that the City complies with the requirements of Title VI and related statutes and regulations. It also includes a complaint process and form. The TDM team is asking Council to adopt this resolution to be eligible to accept the passthrough funding from Metro. Staff will further develop an organization-wide Title VI Program that meets all federal requirements in 2020.

FINANCIAL IMPACT

There will be no impact to the general fund.

RECOMMENDATION

Council is being asked to approve the Resolution to formally establish a Title VI Program and consider this item at the November 25, 2019, Committee of the Whole meeting and subsequent December 2, 2019, Regular Meeting.

ATTACHMENTS

Attachment A: Resolution
Attachment B: 2019 City of Tukwila Title VI Program

DRAFT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AUTHORIZING ADOPTION OF A TITLE VI PROGRAM AND THE REPORTING REQUIREMENTS AS REQUIRED BY THE FEDERAL TRANSIT ADMINISTRATION.

WHEREAS, Title VI of the Civil Rights Act of 1964 is a federal statute that provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance; and

WHEREAS, all programs receiving financial assistance from the Federal Transit Administration (FTA) are subject to Title VI and the U.S. Department of Transportation's implementing regulation at 49 CFR part 21; and

WHEREAS, the City of Tukwila is a recipient of financial assistance from the FTA through its financial agreements with King County; and

WHEREAS, the FTA requires that all recipients of financial assistance from the FTA document their compliance by adopting a Title VI program; and

WHEREAS, King County has requested that the City of Tukwila, as a sub-grantee, comply with this requirement;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. The City of Tukwila Title VI Program, attached hereto as Exhibit A, is adopted.

Section 2. This resolution shall be effective immediately upon passage.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at
a Regular Meeting thereof this _____ day of _____, 2019.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Kathy Hougardy, Council President

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Resolution Number: _____

Rachel B. Turpin, City Attorney

Attachment: Exhibit A—2019 City of Tukwila Title VI Program

2019 City of Tukwila Title VI Program

Introduction

The City of Tukwila (“City”) is a Federal Transit Administration sub-grantee to King County. King County Metro contracts with the City to fund commuter incentives, employer programs, and other transportation demand management efforts. The City does not directly provide any transit service.

To meet certain Title VI program requirements, the City has its own procedures such as a complaint process and public participation. The City will rely upon the analysis and overall program efforts conducted by King County Metro to meet requirements, e.g. Limited English Proficiency.

Since the City does not operate any transit service, this plan only addresses the General Reporting Requirements.

General Reporting Requirements

A. Title VI Notice to the Public

The City of Tukwila notifies the public that it complies with the requirements of Title VI and related statutes and regulations. Notices are posted in City Hall and on the program website. The wording of the notice follows:

The City of Tukwila hereby gives public notice that it is the policy of the City to assure full compliance with Title VI of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987, Executive Order (E.O.) 12898, and related statutes and regulations in all programs and activities. Title VI requires that no person in the United States of America shall, on the ground of race, color, national origin, or sex be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the City receives federal financial assistance.

Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has a right to file a formal complaint with the City of Tukwila. Any such complaint must be in writing and filed with the office of the City Clerk within 180 days following the date of the alleged discriminatory occurrence.

B. Title VI Complaint Procedures and Form

A Title VI complaint form and instructions for filling out a Title VI complaint can be obtained from the City Clerk’s Office. A copy of the complaint form is in Appendix A along with the instructions for completing the form.

C. Title VI Investigations, Complaints, and Lawsuits

The City of Tukwila has had no Title VI complaints related to transit during the past three years.

D. Public Participation Plan

The City of Tukwila fully encourages public involvement and participation in decision-making processes. As part of the King County Department of Transportation work plan for public transit projects, the City adopts the public participation plan of King County Metro Title VI Program Report and will coordinate with King County Metro in public participation efforts related to transit projects being managed by the City of Tukwila.

E. Language Assistance Plan

The City relies upon the limited English proficiency analysis conducted by King County. Additional limited English proficiency compliance research conducted by the City of Tukwila indicates that the most prevalent non-English languages spoken in Tukwila are Spanish, Vietnamese and Somali.

The City contracts with Language Line Solutions to provide interpretations free of charge for customers/residents in need of services. Language Line translates more than 240 languages 24 hours a day, 7 days a week.

F. Monitoring Sub-recipients

The City has no sub-recipients. It will cooperate with King County Metro in providing information and attending meetings as required by King County Metro in its monitoring procedures of our efforts.

G. Review of Facilities Constructed

The City did not build any storage facilities, maintenance facilities or operations centers and did not modify any facilities that require a Title VI analysis.

H. Documentation of Governing Body Review and Approval of the Title VI Program.

On December 2, 2019, the City Council adopted this Title VI program. The documentation of approval is found in Appendix B.

**TITLE COMPLAINT PROCESS AND FORM
COMPLAINT OF TITLE VI DISCRIMINATION AGAINST THE CITY OF TUKWILA, WASHINGTON**

Who can file a Title VI complaint?

- A person who believes he or she has experienced discrimination based on race, color, national origin or sex as provided by Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987.
- Someone may file on behalf of classes of individuals.

How do I file a complaint?

- Fill out this form completely to help us process your complaint. Submit the completed form to the City Clerk's Office within 180 calendar days of the alleged discriminatory act.

What happens when I file a complaint?

- The City will send you a written receipt of your complaint and will forward a copy of your completed complaint form to the City department named as Respondent. The City will designate a person to facilitate and coordinate responses to your Title VI complaint, and this person will contact you.

The duties of this individual include but are not limited to:

- technical assistance to the department on requirements and regulations
- coordination of meetings between the parties, if needed
- monitoring completion of any future activities included in a complaint response
- other services as requested or deemed appropriate

Following an investigation of the complaint, the City will send you a letter of resolution.

What if I don't agree with the department's letter of resolution?

A complainant who does not agree with the letter of resolution may submit a written request for a different resolution to the City within 30 days of the date the complainant receives the City's response.

Do I need an attorney to file or handle complaint?

No. However, you may wish to seek legal advice regarding your rights under the law.

Return this form to:

City of Tukwila
City Clerk's Office
P.O. Box 97010
Tukwila WA 98073-9710
Telephone: 425-556-2190
Email: CityClerk@Tukwila.gov

COMPLAINT OF TITLE VI DISCRIMINATION AGAINST THE CITY OF TUKWILA, WASHINGTON

Complainant Contact Information

Name

Street address/City/State/Zip code

Work phone #/Home phone #/Mobile phone #

Email address

Additional mailing address

If you are an inmate at a county correctional facility, include your BA number here

Aggrieved party contact information (if different from complainant):

Name

Street address/City/State/Zip code

Work phone #/Home phone #/Mobile phone #

Email address

Name of respondent – City of Tukwila, Washington

Department or agency (if known)

Address/location (if known)

Date of Incident

Statement of Complaint – Include all facts upon which the complaint is based. Attach additional sheets if needed.

I believe the above actions were taken because of my:

Race National Origin Religion
 Color Sex Other _____

Name, position, and department of City employees you have contacted regarding the incident(s).

Witnesses or other involved – provide name, address, telephone number(s) and e-mail (if available). Attach additional sheets if needed.

If you have filed a grievance, complaint or lawsuit regarding this matter anywhere else, give name and address of each place where you have filed. Attach additional sheets if needed.

In the complainant's view, what would be the best way to resolve the grievance?

I affirm that the foregoing information is true to the best of my knowledge and belief. I understand that all the information becomes a matter of public record after the filing of this complaint.

Complainant

Date

Aggrieved Party

Date

Appendix B

City Approval of Title VI Program



INFORMATIONAL MEMORANDUM

TO: Transportation and Infrastructure Committee
FROM: Henry Hash Public Works Director
BY: Hari Ponnekanti, Deputy PW Director
CC: Mayor Ekberg
DATE: November 15, 2019
SUBJECT: Public Safety Plan – Public Works Shops
Project No. 91630601, Contract No. 18-197
Amendment No. 2 with SHKS for Phase 1 Design

ISSUE

Approve Amendment No. 2 to Contract No. 18-197 with SHKS Architects to design the Fleet and Facilities tenant improvements as part of the Public Works Shops Phase 1.

BACKGROUND

The City purchased the Heiser property at 11210 and 11234 Tukwila International Blvd in 2018 and took possession in July 2019 for the new Public Works Shops. City Council approved a Master Planning and Programming contract with SHKS Architects for \$299,997 in September 2018. Amendment No. 1 to this contract was for \$16,500 to complete demolition specifications.

ANALYSIS

SHKS has completed the Master Planning effort and Phase 1 includes relocating the George Long and Longacres operations to the new Fleet and Facilities Building (Heiser). Divisions being relocated include facilities and fleet operations, the Police vehicle impound yard, and the Longacres spoils site. Amendment No. 2 with SHKS Architects will design the necessary improvements to the Fleet and Facilities Building to include seismic retrofit, interior and exterior improvements, upgrades to the HVAC, mechanical, electrical, and storm drainage systems.

FINANCIAL IMPACT

Table with 4 columns: Expenditures, Balance Owing, Budget, and Total Expenditures. Rows include Land Purchases, SOJ Contract, SHKS Contract 18-197, SHKS Amendment No. 2, SHKS 10% Contingency, Misc. Charges Survey, Attorney, Bond Debt Service Charges, Lydig Demolition, and Total.

RECOMMENDATION

Council is being asked to approve Amendment No. 2 to Contract No. 18-197 with SHKS Architects for \$518,880.00 with \$51,888.00 in contingency for a total of \$570,768.00 for design services for the Public Works Shops Phase 1 and to consider this item at the November 25, 2019 Committee of Whole meeting and subsequent December 2, 2019 Regular Council meeting.

CONTRACT FOR SERVICES

Amendment No. 2

Between the City of Tukwila and SHKS Architects

That portion of Contract No. 18-197 between the City of Tukwila and SHKS Architects is hereby amended as follows:

Section 1 Project Designation: The City is retaining SHKS Architects to provide Design through Close-Out services in connection with the project titled Tukwila Public Works Facility project ("Project"). When the City initially engaged SHKS Architects through Contract No. 18-197 to provide Master Planning and Programming services, several sections of the incorporated AIA B104-2017 Document included the note, "To apply only to design services, if added by amendment." Because this Amendment No. 2 adds design services to the Project, those sections are now meant to apply to SHKS Architects services on the Project. Instead of identifying each of the individual sections of the AIA B104-2017 Document that now apply to SHKS Architect's services, this Amendment No. 2 includes a restated AIA B104-2017 that includes those sections. This restated version of the AIA B104-2017 Document is attached as Attachment A and incorporated by reference.

Section 2 Scope of Services: SHKS Architects shall provide Schematic Design, Design Development, Construction Documents, Bidding, Construction Administration, and Project Closeout services related to the Project, as further described in Attachment A and its exhibit, and including the provision of all labor, materials, equipment, and supplies.

Section 3 Payment: The City shall pay SHKS Architects for completed work and for services rendered under this Agreement as follows:

The total fee for additional services related to Amendment No. 2 are **\$570,768.00**. Payment for the work provided by SHKS Architects shall be paid as provided on Attachment A, provided that the total amount of payment to SHKS Architects shall not exceed **\$887,265.00** (including estimated expenses) without express written modification of the Agreement signed by the City.

All other provisions of the contract shall remain in full force and effect.

Dated this _____ day of _____, 20_____.

CITY OF TUKWILA

CONTRACTOR

Allan Ekberg, Mayor

Printed Name:_____

ATTEST/AUTHENTICATED

APPROVED AS TO FORM

Christy O'Flaherty, MMC, City Clerk

Office of the City Attorney

AGREEMENT made as of the « » day of « » in the year ~~«2018»~~ «2019»
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

City of Tukwila
6200 Southcenter Boulevard
Tukwila WA 98188

and the Architect:
(Name, legal status, address and other information)

SHKS Architects, P.S., Inc.
1050 N 38th Street
Seattle WA 98103
Ph: (206) 675-9151

for the following Project:
(Name, location and detailed description)

Public Works Facility
[First Amendment \(Phase 2: Design Through Close-out\)](#)

The Owner and Architect agree as follows.

TABLE OF ARTICLES

| | |
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| 0 | GENERAL TERMS |
| 1 | INITIAL INFORMATION |
| 2 | ARCHITECT'S RESPONSIBILITIES |
| 3 | SCOPE OF ARCHITECT'S BASIC SERVICES |
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| 13 | SCOPE OF THE AGREEMENT |

ARTICLE 0 GENERAL TERMS

§ 0.1 Project Designation. The Architect is retained by the Owner to perform Phase ~~1~~² of the Project, which includes ~~Project Design through Close-Out. This Agreement is incorporated into the First Amendment, which was contemplated in the Phase 1 Agreement for~~ master planning and programming services, ~~a building condition~~ ~~conditions~~ assessment, and determining the ~~Maximum Allowable Construction Cost (MACC) for the Project (defined in RCW 39.10.210(11)).~~ ~~Certain terms in this Agreement apply only to design services, which may be added to the Architect's Scope of Services by Owner through a mutually negotiated amendment. By executing this Agreement, however, the parties understand that the Owner is not obligated to add the design services to Architect's Scope of Services~~ ~~Project MACC.~~

§ 0.2 Scope of Services. The Architect agrees to perform the services described in this Agreement, including the Architect's Fee Proposal dated ~~September 24~~^{November 6, 2018} ~~2019~~, attached to this Agreement as ~~Exhibit A, and any other exhibits that may be added by an amendment executed by the parties.~~ The services include the provision of all labor, materials, equipment and supplies and include coordination with, and incorporating the needs of, other entities and public agencies as directed by Owner.

§ 0.3 Duration of Agreement; Time for Performance. This Agreement shall be in full force and effect for a period commencing upon execution and ending at the completion of required scope of services, unless sooner terminated under the provisions hereinafter specified. Work under this Agreement shall commence upon written notice by the Owner to the Architect to proceed. The Architect shall perform all services and provide all work product required pursuant to this Agreement no later than ~~March 15~~^{May 11, 2019} ~~2021~~, unless an extension of such time is granted in writing by the Owner.

§ 0.4 Payment. The Architect shall be paid by the Owner for completed work and for services rendered under this Agreement as follows:

- A. Payment for the work provided by the Architect shall be made as provided in this Agreement, provided that the total amount of payment to the Architect shall not exceed ~~Two Hundred Ninety Seven Thousand Nine Hundred Twenty Nine Dollars (\$297,929.00)~~ Five Hundred Seventy Thousand Seven Hundred Sixty-Eight Dollars (\$570,768) without express written modification of the Agreement signed by the Owner.
- B. The Architect may submit vouchers to the Owner once per month during the progress of the work for partial payment for that portion of the project completed to date. Such vouchers will be checked by the Owner and, upon approval thereof, payment shall be made to the Architect in the amount approved.
- C. Final payment of any balance due the Architect of the total contract price earned will be made promptly upon its ascertainment and verification by the Owner after the completion of the work under this Agreement and its acceptance by the Owner.
- D. Payment as provided in this section shall be full compensation for work performed, services rendered, and for all materials, supplies, equipment and incidentals necessary to complete the work.
- E. The Architect's records and accounts pertaining to this Agreement are to be kept available for inspection by representatives of the Owner and the state of Washington for a period of three (3) years after final payments. Copies shall be made available upon request.

§ 0.5 Compliance with Laws. The Architect shall, in performing the services contemplated by this Agreement, faithfully observe and comply with all federal, state, and local laws, ordinances and regulations, applicable to the services rendered under this Agreement.

§ 0.6 Indemnification. The Architect shall indemnify and hold the Owner, its officers, officials, employees and volunteers harmless from any and all injuries, damages, losses or expenses including reasonable attorney fees and litigation costs to the extent recoverable under applicable law, to the extent caused by the negligent acts, errors or omissions of the Architect in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Owner.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Architect and the Owner, its officers, officials, employees, and volunteers, the Architect's liability hereunder shall be only to the extent of the Architect's negligence. IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE ARCHITECT'S WAIVER OF EMPLOYER IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES. The provisions of this section shall survive the expiration or termination of this Agreement.

§ 0.7 Independent Contractor. The Architect and Owner agree that the Architect is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither the Architect nor any employee of the Architect shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The Owner shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance program, otherwise assuming the duties of an employer with respect to the Architect, or any employee of the Architect.

§ 0.8 Inconsistent Provisions. In the event provisions of this Article 0 are expressly inconsistent with any other provision or exhibit of this Agreement, the provisions of this Article 0 shall prevail and take precedence.

ARTICLE 1 INITIAL INFORMATION ~~To apply only to design services, if added by amendment.~~

§ 1.1 This Agreement is based on the Initial Information set forth below:

(State below details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)

Initial Information for the Project is set forth in the attached Exhibit ~~—[to be negotiated]Δ~~, which is incorporated by reference. Initial information is to include construction budget, anticipated design and construction milestones, Owner representatives, and Architect's consultants.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services set forth in this Agreement consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.2 The Architect shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Architect, its agents, representatives, or employees.

- A. **Minimum Amounts and Scope of Insurance.** Architect shall obtain insurance of the types and with the limits described below:
- .1 Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident. Automobile Liability insurance shall cover all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
 - .2 Commercial General Liability insurance with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. Owner shall be named as an insured under the Architect's Commercial General Liability insurance policy with respect to the work performed for the Owner.
 - .3 Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
 - .4 Professional Liability with limited of no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit. Professional Liability insurance shall be appropriate to the architectural profession.
- B. **Other Insurance Provision.** The Architect's Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance with respect to the Owner. Any insurance,

self-insurance, or insurance pool coverage maintained by the Owner shall be excess of the Architect's insurance and shall not be contributed or combined with it.

- C. **Acceptability.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
- D. **Verification of Coverage.** Architect shall furnish the Owner with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Architect before commencement of the work. Certificates of coverage and endorsements as required by this section shall be delivered to the Owner within fifteen (15) days of execution of this Agreement.
- E. **Notice of Cancellation.** The Architect shall provide the Owner with written notice of any policy cancellation, within two business days of their receipt of such notice.
- F. **Failure to Maintain Insurance.** Failure on the part of the Architect to maintain the insurance as required shall constitute a material breach of contract, upon which the Owner may, after giving five business days' notice to the Architect to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Owner on demand, or at the sole discretion of the Owner, offset against funds due the Architect from the Owner.

§ 2.3 **Certificates of Insurance.** The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in Section 2.2.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES—~~To apply only to design services, if added by amendment.~~

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's approvals. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.2 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall review the cost consultant's estimate of the Cost of the Work prepared in accordance with Section 6.3 prior to submitting the estimate to Owner.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall review the updated estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval prior to submitting the estimate to the Owner.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall review and provide written comment to the construction cost estimate produced by the Architect's estimating consultant or GCCM, including scope of work missing from the estimate. The Architect shall provide written concurrence that the estimate reflects the construction documents produced by the Architect. The Architect shall have seven (7) days to review and provide comments to the estimate from the date the estimate is received. This scope also applies to intermediate construction document submittals.

§ 3.4.5 The Architect shall submit the Construction Documents, along with a written statement that the Owner's design development comments have been incorporated into this submittal, to the Owner, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;

- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in the construction agreement between the Owner and Contractor ("Construction Agreement"). Construction administration services in excess of those contemplated below and in the Construction Agreement will be performed as Additional Services.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences with the award of the Construction Agreement and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2 to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect will consult with the Owner concerning the advisability of rejecting Work that is observed to be out of conformity with the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents..

§ 3.6.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site observations or inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, reject, or take other appropriate action, upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or any construction means, methods, techniques, sequences or procedures. The Architect's review of or approval of a specific item shall not indicate review or approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check the general conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

~~§ 4.0 Additional Services for Phase I of the Project are identified in Exhibit A. The Architect may provide these Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner, or the Owner shall notify the Architect, as appropriate. The Architect shall not provide the Additional Services until the Architect receives the Owner's written authorization. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.0 shall entitle the Architect to compensation pursuant to Section 11.3.~~

Sections 4.1 through 4.2.4 will apply to Design Services, if added by amendment:

§ 4.1 Supplemental Services are not included in Basic Services but may be required for the Project. The Architect shall provide the Supplemental Services indicated below, and the Owner shall compensate the Architect as provided in Section 11.2. Supplemental Services may include programming, site evaluation and planning, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.2, value analysis, interior architectural design, tenant related services, preparation of record drawings, commissioning, sustainable project services, and any other services not otherwise included in this Agreement. *(Identify below the Supplemental Services that the Architect is required to provide and insert a description of each Supplemental Service, if not further described in an exhibit attached to this document.)*

The ~~table of responsibility for and description of~~ Supplemental Services are set forth in the attached Exhibit ~~—[to be negotiated], which is incorporated by reference—~~A as “Optional Additional Services.”

§ 4.2 The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner. The Architect shall not provide the Additional Services until the Architect receives the Owner’s written authorization. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3.

§ 4.2.1 The Architect shall provide services necessitated by a change in the Initial Information, changes in previous instructions or approvals given by the Owner, or a material change in the Project including size; quality; complexity; the Owner’s schedule or budget for Cost of the Work; or procurement or delivery method as an Additional Service.

§ 4.2.2 The Architect has included in Basic Services ~~«to be negotiated» (« ») visits to the site by the Architect during construction. The Architect shall conduct site visits in excess of that amount as an Additional Servicesite visits appropriate to the stage of construction to become familiar with and keep Owner informed about progress and quality. Unless designated otherwise in Exhibit A, site visits shall not be Additional Services.~~

§ 4.2.3 The Architect shall, as an Additional Service, provide services made necessary by a Contractor’s proposed change in the Work. The Architect shall prepare revisions to the Architect’s Instruments of Service necessitated by Change Orders and Construction Change Directives as an Additional Service. Design services for Owner-requested changes are to be billed against the “Design Service Contingency” designated in Exhibit A.

~~§ 4.2.4 If the services covered by this Agreement have not been completed within «to be negotiated» (« ») months of the date of this Agreement, through no fault of the Architect, extension of the Architect’s services beyond that time shall be compensated as Additional Services.~~

ARTICLE 5 OWNER’S RESPONSIBILITIES —To apply only to design services, if added by amendment.

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner’s objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

§ 5.2 The Owner shall establish the Owner’s budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner’s other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner’s budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner’s budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project’s scope and quality.

§ 5.3 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 5.4 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.5 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests; tests for air and water pollution; and tests for hazardous materials.

§ 5.6 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.7 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents.

§ 5.9 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.10 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK ~~To apply only to design services, if added by amendment.~~

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner, and all other items included in the definition of MACC in RCW 39.10.210(11)). . The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Any evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work provided by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 The Architect will provide the services of a professional estimating consultant as an Additional Service. In preparing estimates of the Cost of Work, the Architect's consultant shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's consultant's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, construction procurement activities have not commenced within 90 days after the Architect submits the Construction Documents to the Owner the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's current budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 Upon the making of final payment to the Architect, the Owner shall receive ownership of the property rights, including copyrights, of all documents, drawings, specifications, electronic data and information ("Documents") prepared, provided or procured by the Architect or by consultants retained by the Architect for this Project. If requested to do so by the Owner, the Architect shall assign its copyrights to Owner and execute all other documents necessary to give effect to this section. The transfer of such ownership to the Owner shall not prevent the Architect or its consultants from using or replicating an individual standard feature and functionally-required element shown in the Documents or to retain electronic data or other reproducible copies of the Documents or the right to reuse information contained in them in their normal course of business and the Architect shall have a non-exclusive license to so use the documents. The Architect and its consultants shall be deemed the authors of such Documents, and shall be given appropriate credit in the public display of such Documents. The transfer of ownership of the Documents to the Owner provided for herein shall not be deemed to be a sale of goods by the Architect, and the Architect makes no warranties, express or implied, of merchantability or fitness for a particular purpose as provided for by RCW 62A.2 et seq.

§ 7.2 If this Agreement is terminated, the Owner shall receive ownership of the property rights of the Documents upon payment of all sums due, at which time, the Owner shall have the right to use, to reproduce and to make derivative works from the Documents to complete the Project. If this Agreement is terminated for default, the Owner is entitled ownership rights upon such notice of termination to the Architect. Architect agrees to assign all copyrights to Owner as necessary to effectuate this Article.

§ 7.3 The Owner may use, reproduce or make derivative works from the Documents for subsequent renovation and remodeling of the Project, but shall not use, reproduce or make derivative works from the Documents for other projects. The Owner's use of the Documents without the Architect's involvement or on other projects is at the Owner's sole risk.

§ 7.3.1 ~~This section is only to apply only to design services, if added by amendment:~~ In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, following termination of this Agreement when the Architect is not in default, or following completion of the Architect's performance under this Agreement, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses, but only to the extent damages could have been reduced or avoided had the author of the Instruments of Service been retained with respect to the use. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from

the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 The Architect shall obtain from its consultants, property rights and rights of use that correspond to the rights given by the Architect to the Owner in this Agreement.

§ 7.5 The provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other, for damages, except such rights as they may have to the proceeds of such insurance as set forth in the Construction Agreement. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.6.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to direct negotiations per Section 12.1 then mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 If direct negotiations fail to resolve any dispute between the parties, the Owner and Architect shall endeavor to resolve claims, disputes, and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.3 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 [Intentionally omitted.]

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.5.1 In the event of the death of a member, partner or officer of the Architect, or any of its supervisory personnel assigned to the project, the surviving members of the Architect hereby agree to complete the work under the terms of this Agreement, if requested to do so by the Owner. This section shall not be a bar to renegotiations of this Agreement between surviving members of the Architect and the Owner, but only if the Owner so chooses.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, Reimbursable Expenses incurred, and all costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

None

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

None

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be subject to, and the Architect shall at all times comply with, all applicable federal, state and local laws, regulations, and rules, including the provisions of the City of Tukwila Municipal Code and ordinances of the City of Tukwila. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly laid in King County, Washington. Venue for any action arising from or related to this Agreement shall be exclusively in King County Superior Court.

§ 10.2 Terms in this Agreement shall have the same meaning as those in the Construction Agreement, or if not defined in the Construction Agreement, then in the AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner’s rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect’s promotional and professional materials. However, the Architect’s materials shall not include information the Owner has identified in writing as confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner’s promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties’ intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect’s Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum
(Insert amount)



- .2 Percentage Basis
(Insert percentage value)

« » (« ») % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 Other
(Describe the method of compensation)

On an hourly basis, according to the hourly rates stated in Exhibit A, up to and not to exceed a maximum amount of ~~Two Hundred Ninety Seven Thousand Nine Hundred Twenty Nine Dollars (\$297,929.00)~~. Four Hundred Sixty-Two Thousand Eight Hundred Eighty Dollars (\$462,880).

§ 11.2 For Supplemental Services identified in Section 4.1, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

~~There are no Supplemental Services for Phase 1~~ On an hourly basis, according to the hourly rates stated in Exhibit A, up to and not to exceed a maximum amount as agreed to by the parties prior to the Architect providing such services.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

~~Additional Services and their corresponding costs are~~ On an hourly basis, according to the hourly rates stated in Exhibit A, up to and not to exceed a maximum amount of Fifty-Six Thousand Dollars (\$56,000).

The Design Service Contingency referenced in Section 4.2.3 above is Fifty-One Thousand Eight Hundred Eighty-Eight (\$570,888).

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus « » percent (« »%), or as follows:

~~The amounts stated as the costs for Additional Services in Exhibit A include Architect mark-up. If not included in Sections 11.2 or 11.3, the parties shall agree upon compensation for Supplemental and Additional Services of the Architect's consultants prior to Architect retaining those consultants for the Project.~~

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows: *[per state schedule]* ~~—may be used for design services, if added by amendment:~~

| | | | | |
|------------------------------|-------------|-----------|-------|----|
| Schematic Design Phase | fifteen | percent (| 15 | %) |
| Design Development Phase | twenty-five | percent (| « »25 | %) |
| Construction Documents Phase | thirty-four | percent (| 34 | %) |
| Design Phase | four | percent (| 4 | %) |
| Construction Phase | twenty-two | percent (| 22 | %) |
| Post Occupancy Phase | two | percent (| 2 | %) |
| Total Basic Compensation | one hundred | percent (| 100 | %) |

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. (If applicable, attach an exhibit of hourly billing rates or insert them below.)

Hourly rates are stated in Exhibit A.

| Employee or Category | Rate |
|----------------------|------|
|----------------------|------|

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally maintained by the Architect and the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ~~« ten »~~ percent (~~« 10 »~~ %) of the expenses incurred. The estimated reimbursable expenses for Phase ~~1-2~~ are ~~Nine-Three Thousand Four-Five Hundred Sixty-Eight (\$9,468.00)~~ Dollars (\$3,500) and are included in the not-to-exceed amount identified in Section 11.1.

§ 11.9 Payments to the Architect

§ 11.9.1 Initial Payment

An initial payment of ~~« zero »~~ (\$ ~~« 0 »~~) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.9.2 Progress Payments

§ 11.9.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts ~~unpaid~~ **forty-five (45) days** after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

10% per annum

§ 11.9.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.9.2.3 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

§ 12.1 **Direct Negotiations.** As a condition precedent to mediation and litigation, the Owner or the Architect shall attempt to resolve all disputes via direct negotiations. Either the Owner or the Architect may make a request for direct negotiations. Direct negotiation representatives of the parties shall be the Owner's Designated Representative, as defined in Section 1.1.8 and the Architect's Designated Representative, as defined in Section 1.1.10. Direct negotiations shall take place at the Project worksite or at a location as agreed to by Owner's and Architect's Designated Representatives. Each party shall document results of the direct negotiations, and these documents shall be exchanged between the parties.

§ 12.2 **Covenant Against Contingent Fees.** The Architect warrants that he has not employed or retained any company or person, other than a bonafide employee working solely for the Architect, to solicit or secure this contract, and that he has not paid or agreed to pay any company or person, other than a bonafide employee working solely for the Architect, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the Owner shall have the right to annul this contract without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

§ 12.3 **Discrimination Prohibited.** The Architect, with regard to the work performed by it under this Agreement, will not discriminate on the grounds of race, religion, creed, color, national origin, age, veteran status, sex, sexual orientation, gender identity, marital status, political affiliation or the presence of any disability in the selection and retention of employees or procurement of materials or supplies.

§ 12.4 **Assignment.** The Architect shall not sublet or assign any of the services covered by this Agreement without the express written consent of the Owner.

§ 12.5 **Non-Waiver.** Waiver by the Owner of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provision.

§ 12.6 **Severability and Survival.** If any term, condition or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Agreement, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Agreement, shall survive termination of this Agreement.

§ 12.7 **Notices.** Notices to the Owner shall be sent to the following address:

City Clerk
City of Tukwila
6200 Southcenter Boulevard
Tukwila, WA 98188

Notices to Architect shall be sent to the following address:

SHKS Architects, P.S., Inc.
1050 N 38th Street
Seattle WA 98103
Attn: Adam Hutschreider, Principal

§ 12.8 Entire Agreement; Modification. This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the Owner and the Architect and supersedes all prior negotiations, representations, or agreements written or oral. No amendment or modification of this Agreement shall be of any force or effect unless it is in writing and signed by the parties.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B104™–2017, Standard Abbreviated Form of Agreement Between Owner and Architect
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203–2013 incorporated into this agreement.)

<< >>

- .3 Exhibits:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.)

Exhibit A: SHKS Architects Fee Proposal, dated ~~September 24~~ November 6, 2018 2019

- .4 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)
 - Report from Wagner Architects
 - Phase 1 and 2 Environmental Site Assessments
 - Geotech report
 - Building Condition Assessments
 - As-built documents from building owners
 - Existing Stormwater Pollution Prevention Plan SWPP information
 - Existing building drawings for existing CoT Public Works buildings/property - George Long and Minkler Shops
 - Program Information - Employee counts (Division/Group breakdown, matrix), equipment/fleet (quantity, size), future staff and equipment projections
 - Space needs assessments
 - Sustainability goals/requirements
 - Sound transit easement
 - Century Link easement
 - Shoreline setback memo

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

« »« »

(Printed name and title)

ARCHITECT *(Signature)*

« »« »

(Printed name, title, and license number, if required)

November 06, 2019

Hari Ponnekanti
City of Tukwila Public Works Department
6300 Southcenter Blvd Ste 100
Tukwila, WA 98188

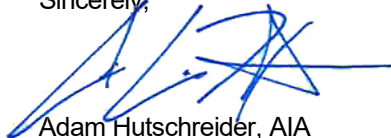
Re: CITY OF TUKWILA PUBLIC WORKS

Dear Hari,

I am writing to request compensation for services including design through project closeout. These services include preparing design, permit and bid documents, and construction contract administration for the City of Tukwila Public Works (TPW) Shops Building (Heiser) renovation.

Please do not hesitate to contact us with any questions you may have.

Sincerely,



Adam Hutschreider, AIA
Principal

cc: Jonathan Hartung, file

Additional Services Fee Proposal

Project Name CITY OF TUKWILA PUBLIC WORKS

Date Submitted November 06, 2019

Revision Number: 3

PROJECT UNDERSTANDING

SHKS Architects basic services include schematic design, design development, construction documents, bidding, construction contract administration, and project close-out services for the Tukwila Public Works Shops Phase 1 (Heiser) renovation as established in City Project No. 91630601, Contract 18-197. Our scope of work includes renovations to the existing building only, to accommodate TPW vehicle maintenance operations and facilities and custodial crews. Renovations include: seismic upgrades to the existing structure, MEP upgrades to meet code requirements and improve occupant health, office tenant improvement, locker rooms and showers, parts storage, shop, and vehicle maintenance bays. The City of Tukwila has elected to perform sitework improvements including: utilities, site structures, landscaping and site grading directly with a Job-Order-Contractor and are therefore excluded from Architectural Basic Services.

Basic services include architectural, structural, mechanical and electrical services. Basic service meetings are limited to four meetings during Schematic Design, five meetings during Design Development and five meetings during Construction Documents. Each meeting is budgeted for four hours including travel time. All meetings are scheduled to occur at TPW offices. Meetings during design and construction documents beyond (14) identified above, are an additional service.

SCOPE OF SERVICES & DELIVERABLES

1. Schematic Design (30% Design)
 - Schematic Drawings
2. Design Development (60% Design)
 - 100% DD Drawings and outline specifications (coordinate owner division 0 and 1)
 - 100% DD Cost Plan
 - Permit submittal including drawings, calculations and revisions
3. Construction Documents
 - 90% Design Drawings
 - 100% Bid Documents (drawings and specifications)
4. Bidding
 - Coordinate issuance of bid documents
 - Respond to bidder questions
 - Clarify bid documents
5. Construction Administration
 - Site visits appropriate to stage of construction to become familiar with and keep Owner informed about progress and quality
 - Arrange and attend construction meetings bi-weekly and record meeting notes, maximum of 20 meetings are included. Meetings beyond 20 will be billed at hourly rates as established in City Project No. 91630601, Contract 18-197

6. Project Closeout

- Review Work for completeness and quality. Record deviations and issue punchlist to Contractor
- Review operations and maintenance manuals
- Assess, determine and issue notice of Final Completion

MAXIMUM ALLOWABLE CONSTRUCTION COST (MACC)

The anticipated maximum allowable construction cost (MACC) for the project is \$4,400,000.

BASIC SERVICE FEE

We have based our fee proposal on the State of Washington A/E Fee Schedule for Public Works Building Projects (Schedule C) with a 3% adjustment for remodel design of an existing building. Based on a percentage of 10.52% of the MACC, the fixed fee for basic services is **\$462,880**.

ADDITIONAL SERVICES

Building Assessment and Survey:

Scope includes Building Assessment and Survey include a reasonable field observation and assessment of the building shell and building systems to assess their adequacy for continued use or need for replacement as part of the project. Includes site visits to document existing conditions, field verification, and one meeting with the consultant team to review findings. Scope assumes maximum of 65 hours for site visits, documentation and coordination. Additional time beyond 60 hours, if required, will be billed per hourly rates established in City Project No. 91630601, Contract 18-197.

Value Engineering (SHKS Architects):

Scope for Value Engineering Services includes participation in a Value Engineering exercise to determine reduced cost alternates to reduce overall construction costs. Includes a maximum of 60 hours of time for SHKS. Additional time beyond 60 hours, if requested, will be billed per hourly rates established in City Project No. 91630601, Contract 18-197.

Record Drawings

Includes providing record as-built drawings at the conclusion of Project Closeout. Includes transcribing all Architect-generated changes during construction, as well as converting the Contractor's as-built drawing set into a complete BIM or CAD generated drawing set.

Envelope Consultant (Wetherholt and Associates)

Scope includes consulting services to review building envelope assembly, make recommendations and coordinate documents. Fees include up to two meetings during design at SHKS offices and four site visits during construction to review assembly installations. Additional meetings and/or site visits, if requested, will be billed per hourly rates established in City Project No. 91630601, Contract 18-197.

Maintenance Facility Design (Whitman, Requardt and Associates, LLP):

This scope includes design and specification consulting and document review of the vehicle maintenance facility. Fees include up to 40 hours of consultant time. Additional meetings, consultation, and/or design review, if requested, will be billed per hourly rates established in City Project No. 91630601, Contract 18-197.

Site Planning and Coordination (SHKS Architects):

Fees for Site Planning Services include consulting services to plan and coordinate site improvements. Construction work to be performed by the City of Tukwila Job Order Contractor. Includes up to 80 hours of consultant time. Additional time beyond 80 hours, if requested, will be billed per hourly rates established in City Project No. 91630601, Contract 18-197.

Reimbursables:

Expenses in addition to compensation for Basic Services include expenses incurred by the Architect directly related to the Project. Expense costs to be reimbursed by the Client may include but are not limited to the following: printing, courier fees, mileage, permit fees, other fees, presentation materials, models, visualizations, and photography. The Architect shall seek prior authorization from the Owner for these expense costs.

For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect plus « Ten » percent («10 » %) of the expenses incurred.

The estimated reimbursable expenses for this project are \$3,500.

The above additional services totaling **\$56,000** are in addition to the Basic Service Fee.

OPTIONAL ADDITIONAL SERVICES

Optional additional services may be added at the Owner’s request and could extend the design schedule. Services will be billed per hourly rates established in City Project No. 91630601, Contract 18-197.

Phased Permitting and/or Bid Packages:

Basic service fees include one permit submittal and one bid package. Phased permitting and or bid packages are not included. If requested, fees will be billed per hourly rates established in City Project No. 91630601, Contract 18-197. Phased permitting and bid packages will extend the project schedule.

Civil Engineering (LPD Engineering):

Civil Engineering Services in support of City of Tukwila sitework improvements are not included. If requested, fees will be billed per hourly rates established in City Project No. 91630601, Contract 18-197.

Landscape Architecture (SiteWorkshop):

Landscape Architecture Services in support of City of Tukwila sitework improvements are not included. If requested, fees will be billed per hourly rates established in City Project No. 91630601, Contract 18-197.

DESIGN SERVICE CONTINGENCY

\$51,888

10% of the overall basic and additional services fee is included as a design service contingency to be used to address design service changes requested by the Owner but not known at this time. Utilization of the contingency will require mutual agreement in writing by SHKS Architects and the Owner, prior to performing services.

SUMMARY OF FEES

| | |
|------------------------------------|------------------|
| Basic Services: | \$462,880 |
| Additional Services: | \$56,000 |
| <u>Design Service Contingency:</u> | <u>\$51,888</u> |
| Total: | \$570,768 |

RATES

Rates are hourly, in accordance with the rates stated in City Project No. 91630601, Contract 18-197.

SCHEDULE

| | |
|------------------------|---------------------------|
| Schematic Design | 12/04/19 through 01/31/20 |
| Design Development | 02/04/20 through 03/31/20 |
| Construction Documents | 04/08/20 through 07/02/20 |
| Bidding | 07/13/20 through 08/31/20 |
| Construction | 08/31/20 through 03/30/21 |
| Project Closeout | 03/31/21 through 05/11/21 |



INFORMATIONAL MEMORANDUM

TO: Transportation and Infrastructure Committee
FROM: Henry Hash, Public Works Director
BY: Peter Lau, Senior Program Manager
CC: Mayor Allan Ekberg
DATE: November 15, 2019
SUBJECT: 53rd Avenue South Project (South 137th Street to South 144th Street)
Project No. 99110301, Contract No. 15-159
Construction Management Amendment No. 7 with KPG, Inc.

ISSUE

Approve Amendment No. 7 for additional construction management to Contract No. 15-159 with KPG, Inc.

BACKGROUND

Contract No. 15-159 with KPG provided design and construction management (CM) services for the 53rd Ave S Project.

DISCUSSION

KPG's Amendment No. 7 will allow the continuation of construction engineering, inspection, and documentation compliance support for the full completion of the 53rd Ave S Project. The construction project is currently anticipated to be completed by early 2020. However, the progress of the utility conversion work will dictate when construction will be physically completed. Currently, Seattle City Light (SCL) accepted the new underground facilities installed by the contractor, is reviewing the facility record drawing provided by the contractor and will schedule their undergrounding crew to start pulling electrical wires once the record drawing are accepted by SCL.

FISCAL IMPACT

The table below shows the project budget and expenditures, with the inclusion of KPG's Amendment No. 7. KPG's fee of \$176,278.00 is reasonable for the scope of work provided to complete this challenging project.

Table with 5 columns: Design/ROW, CM, Construction, Budget. Rows include Design & ROW (up to Am. No. 3), KPG CM Amendment Nos. 4 to 6, KPG CM Amendment No. 7, City CM Staff (estimated total), SCI Construction Contract w/ sales tax, SCI Change Orders No. 1 to 7 w sales tax, Construction Contingency Remaining, Total, and Grand Total.

The current 2019 CIP project budget is sufficient to cover the cost of KPG's Amendment No. 7, and with a construction contingency of \$155,025 to cover all future change orders and other additional costs needed to physically complete the 53rd Ave S Project.

RECOMMENDATION

Council is being asked to approve Amendment No. 7 to Contract No. 15-159 with KPG, Inc. in the amount of \$176,278 for a new contract total of \$1,950,479.69 for the 53rd Ave S Project and to consider this item on the Consent Agenda at the December 2, 2019 Regular Meeting.

CITY OF TUKWILA CAPITAL PROJECT SUMMARY

2019 to 2024

PROJECT: 53rd Ave S (S 137th St - S 144th St)

Project No. 99110301

DESCRIPTION: Design and construct urban residential street improvements that include curb, gutter, sidewalk, undergrounding, and illumination. Street will coordinate with Water \$1.1m, Sewer \$185k, and Surface Water \$920k CIP projects.

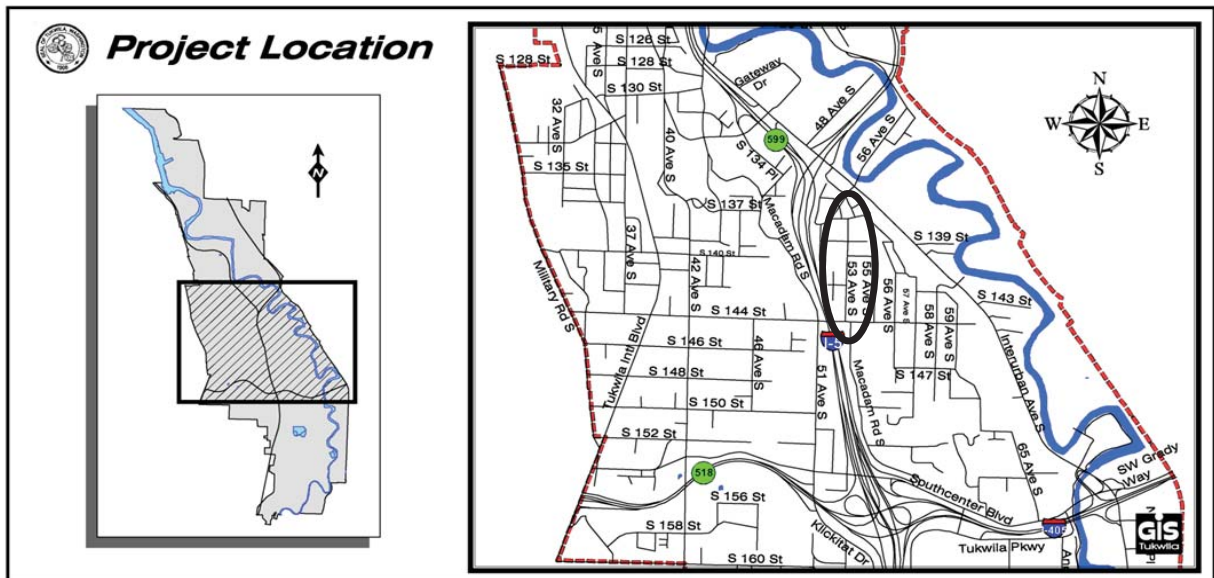
JUSTIFICATION: Provide pedestrian and vehicle safety, drainage, and neighborhood revitalization.

STATUS: Undergrounding is included at this time.

MAINT. IMPACT: Reduce pavement, shoulder, and drainage work.

COMMENT: State TIB grant for \$2.14M for roadway and drainage. See additional pages in Enterprise funds under 53rd Ave S Projects. Seattle City Light is now negotiating a 60/40 underground split and undergrounding costs have been added to project. Bond for \$2 million.

| FINANCIAL (in \$000's) | Through Estimated | | | | | | | | | | |
|---------------------------|-------------------|--------------|--------------|----------|----------|----------|----------|----------|----------|--------------|--|
| | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | BEYOND | TOTAL | |
| EXPENSES | | | | | | | | | | | |
| Design | 607 | 21 | | | | | | | | 628 | |
| Land (R/W) | 157 | 47 | | | | | | | | 204 | |
| Const. Mgmt. | | 435 | 435 | | | | | | | 870 | |
| Construction | | 3,239 | 2,050 | | | | | | | 5,289 | |
| Undergrounding | | 1,379 | 880 | | | | | | | 2,259 | |
| TOTAL EXPENSES | 764 | 5,121 | 3,365 | 0 | 0 | 0 | 0 | 0 | 0 | 9,250 | |
| FUND SOURCES | | | | | | | | | | | |
| Utilities W/S/SWM | 259 | 1,161 | 1,254 | | | | | | | 2,674 | |
| Awarded TIB Grant | 65 | 1,912 | 364 | | | | | | | 2,341 | |
| Seattle City Light | | 729 | 428 | | | | | | | 1,157 | |
| Bond | 2,049 | | | | | | | | | 2,049 | |
| City Oper. Revenue | (1,609) | 1,319 | 1,319 | 0 | 0 | 0 | 0 | 0 | 0 | 1,029 | |
| TOTAL SOURCES | 764 | 5,121 | 3,365 | 0 | 0 | 0 | 0 | 0 | 0 | 9,250 | |





City of Tukwila

6200 Southcenter Boulevard, Tukwila WA 98188

Agreement Number:

CONTRACT FOR SERVICES

Amendment #7

Between the City of Tukwila and KPG Inc.

That portion of Contract No. 15-159 between the City of Tukwila and KPG Inc. is amended as follows:

Article 2, Scope of Services, shall be supplemented with the following:

The Consultant agrees to provide construction services in accordance with the scope of work included as Exhibit A-7.

Article 3 - Duration of Agreement; Time for Performance, shall be modified as follows:

This Agreement shall be in full force and effect for a period commencing upon execution and ending June 30, 2020, unless sooner terminated under the provisions hereinafter specified. Work under this Agreement shall commence upon written notice by the City to the Consultant to proceed. The Consultant shall perform all services and provide all work product required pursuant to this Agreement no later than June 30, 2020 unless an extension of such time is granted in writing by the City.

Article 4, Payment, shall be modified as follows:

Payment for work provided by Consultant shall be made as provided on Exhibit B-7, attached hereto, provided that the total amount of payment to the Consultant for this work not exceed \$176,278.00 without express written modification of the Agreement signed by the City. The new total contract shall not exceed \$1,950,479.69 without express written modification of the Agreement signed by the City.

All other provisions of the contract shall remain in full force and effect.

Dated this _____ day of _____, 20_____.

CITY OF TUKWILA

CONTRACTOR

Allan Ekberg, Mayor

Printed Name: Nelson Davis

ATTEST/AUTHENTICATED

APPROVED AS TO FORM

Christy O'Flaherty, MMC, City Clerk

City Attorney

Supplement 7
Additional Construction Management Services
Scope of Work
October 2019
City of Tukwila
53rd Ave S (S 144th Street to S 137th Street)
Project No. 99110301
TIB Project No.: 8-1-116(012)-1
KPG Project #: 15085

I. BACKGROUND

This work will provide additional construction management services for the construction contract to complete 53rd Avenue S Roadway Improvements (S 144th Street to S 137th Street). These additional services include:

- Construction services for approximately 12 week duration for coordination and inspection of punchlist activities and coordination with Seattle City Light (SCL) to obtain operational acceptance.
- Part time construction services for an estimated 12 week suspension period to allow SCL to perform their underground conversion and wreckout the existing aerial system.
- Perform monthly PSIPE walk through with Contractor through June 2020 (9 total).
- Construction services for 3 weeks to complete required Contract work following the SCL suspension period.

This supplement is provided to continue construction management and inspection services in accordance with the original authorization and as detailed below:

II. INTRODUCTION

The following scope of services and associated costs are based upon the assumptions outlined below.

General Assumptions:

- Services will be performed in accordance with the Contract plans & special provisions, WSDOT Local Agency Guidelines (“LAG”), the WSDOT Construction Manual, and the client engineering standards.
- The franchise utilities will provide field inspection for all work surrounding the construction or relocation of their utility systems not constructed by the Client’s Contractor, if necessary.

III. SCOPE OF WORK

TASK 1 – MANAGEMENT/COORDINATION/ADMINISTRATION

- 1.1 Provide ongoing coordination, management, and progress reporting for the estimated 8 month duration of this agreement.

TASK 2 – DESIGN SUPPORT

No additional funds are requested for this task. We have been able to mitigate the longer contract duration and can continue to provide the services described in the original scope of work within the previously authorized budget.

TASK 3 – PRECONSTRUCTION SERVICES

Work is complete, no additional funds are requested for this task.

TASK 4 – CONSTRUCTION OBSERVATION

Construction Observation services will continue in accordance with the original scope of work. Additional observation time is required to achieve physical completion due to longer contract duration:

- 4.6** The Consultant shall provide the services of one part-time inspector with necessary oversight, engineering, and administrative support for punchlist coordination and final restoration following the SCL suspension period as described in the Background section of this scope of work. The inspection budget is based on 12 weeks prior to suspension at 24 hours/week and 3 weeks after suspension at 32 hours/week. An additional 40 hour of inspection time is included in the project budget in the event field support is requested by the City during the 12 week SCL suspension period.
- 4.7** The Consultant shall perform on site monthly walkthroughs with the Contractor and landscape subcontractor on a monthly basis between October 2019 and completion of the plant establishment period in June 2020. Level of effort is estimated at 6 hours/month resident engineer and 2 hours/month documentation specialist to complete the walk through and document findings.

TASK 5 – CONSTRUCTION SERVICES – OFFICE

Construction Office services will continue in accordance with the original scope of work. Additional time is required to achieve physical completion due to longer contract duration:

- 5.28** The Consultant shall provide the services of one part-time resident engineer and one part-time documentation specialist with necessary oversight, engineering, and administrative support throughout the punchlist, SCL suspension period, and final restoration activities as described in the Background section of this scope of work. The budget is based on 16

EXHIBIT A-7

hours/week part-time resident engineer and 16 hours/week part-time documentation specialist during the punchlist and final restoration services (15 weeks) and 8 hours/week resident engineer and 16 hours/week documentation specialist during the SCL suspension period (12 weeks). Budget also includes engineering support to complete record drawings during the SCL suspension period.

TASK 6 – SURVEY & MATERIAL TESTING

Work is complete, no additional funds are requested for this task. Remaining budget will be utilized to offset additional construction observation time required as a result of longer contract duration, number of crews, and working hours than anticipated in original budget assumptions.

TASK 7 - ADDITIONAL SERVICES

Additional services requested by the client, will be performed only when authorized by the client. Authorization to perform additional services will be in writing, specifying the work to be performed, and basis of payment. Items such as Community Outreach (except as completed on a day to day basis by the inspector and resident engineer as described herein), Public Meetings, Ribbon Cutting Ceremony, claims analysis, additional surveying, services during shutdown periods of non-working days, and services for extended working days are examples of possible additional services.

HOURLY AND FEE ESTIMATE

Project: **City of Tukwila** TIB No. **8-1-116(012)-1**
53rd Ave S Tukwila # **99110301**
Supplement No. 7 KPG No. **15085**
Additional Construction Management Services



| Task | Description | Project Manager \$ 225.00 | Project Engineer \$ 140.00 | Resident Engineer \$ 166.00 | Senior Inspector \$ 128.00 | Const Inspector \$ 92.00 | Engineering Technician \$ 95.00 | Doc Control Admin \$ 77.00 | Senior Admin \$ 115.00 | Budget |
|--|---|------------------------------|-------------------------------|--------------------------------|-------------------------------|-----------------------------|------------------------------------|-------------------------------|---------------------------|---------------------------------|
| Task 1 - Management/Coordination/Administration | | | | | | | | | | |
| | Through expiration of amendment | 8 | 0 | 0 | 0 | 0 | 0 | 0 | 16 | \$ 3,640 |
| | Reimbursable expenses - no additional required | | | | | | | | | \$ - |
| | Task Totals | 8 | 0 | 0 | 0 | 0 | 0 | 0 | 16 | \$ 3,640 |
| Task 2 - Design Support during Construction | | | | | | | | | | |
| | No Additional Budget Required | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | \$ - |
| | Reimbursable expenses - no additional required | | | | | | | | | \$ - |
| | Task Total | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | \$ - |
| Task 3 - Preconstruction Services | | | | | | | | | | |
| | No Additional Budget Required | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | \$ - |
| | Reimbursable expenses - no additional required | | | | | | | | | \$ - |
| | Task Total | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | \$ - |
| Task 4 - Construction Observation | | | | | | | | | | |
| 4.6 | Construction observation | 0 | 8 | 16 | 280 | 160 | 0 | 16 | 0 | \$ 55,568 |
| 4.7 | PSIPE monthly walk throughs (9) | 0 | 0 | 54 | 0 | 0 | 0 | 18 | 0 | \$ 10,350 |
| | Reimbursable expenses - no additional required | | | | | | | | | \$ - |
| | Task Total | 0 | 8 | 16 | 280 | 160 | 0 | 16 | 0 | \$ 65,918 |
| Task 5 - Construction Services - Office | | | | | | | | | | |
| 5.28 | Construction office services | 0 | 40 | 340 | 0 | 0 | 60 | 440 | 40 | \$ 106,220 |
| | Reimbursable expenses - mileage and misc expenses | | | | | | | | | \$ 500 |
| | Task Total | 0 | 40 | 340 | 0 | 0 | 60 | 440 | 40 | \$ 106,720 |
| Task 6 - Survey & Material Testing | | | | | | | | | | |
| | No Additional Budget Required | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | \$ - |
| | Reimbursable expenses - no additional required | | | | | | | | | \$ - |
| | Task Total | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | \$ - |
| Total Hours | | 8 | 48 | 356 | 280 | 160 | 60 | 456 | 56 | |
| | | | | | | | | | | Total Budget: \$ 176,278 |



INFORMATIONAL MEMORANDUM

TO: **Transportation and Infrastructure Committee**
FROM: **Henry Hash, Public Works Director** *H.H.*
BY: **Ryan Larson, Senior Program Manager**
CC: **Mayor Ekberg**
DATE: **November 15, 2019**
SUBJECT: **Starfire Sports Athletic Center Improvements**
Resolution approving an Administrative Variance to allow Wet-Floodproofing

ISSUE

Approve a Resolution providing an administrative variance to Tukwila Municipal Code Chapter 16.52 to allow wet-floodproofing of improvements to the Starfire Athletic Center within Fort Dent Park.

BACKGROUND

The City of Tukwila participates in the National Flood Insurance Program. This program requires that the City adopt floodplain management standards and a floodplain construction permit process to ensure that all new developments and redevelopment within flood hazard areas meet federal standards. These standards require that when development is proposed within a flood hazard area, all structures must either be elevated or floodproofed one foot above the base flood elevation. Floodproofing is not allowed for residential construction.

The Federal Emergency Management Agency's (FEMA) standard for floodproofing is a method known as dry-floodproofing. Dry-floodproofing requires that the structure is watertight one foot above the base flood elevation and prevents the inundation of floodwaters into the structure. Wet-floodproofing is allowed for certain situations and is accomplished by letting flood water inundate the structure. The structure is constructed of materials that will not be damaged by floodwaters to an elevation one foot above the base flood elevation. All materials subject to damage must be located above this elevation. Since wet-floodproofing is not the standard established by FEMA or included in our City TMC, a variance must be issued by Resolution to allow the use of this method for floodproofing a structure.

Resolution No. 1526 granted the original variance that allowed the construction of the Starfire Athletic Center to be within a flood hazard area using wet-floodproofing techniques. This new proposed Resolution will allow an administrative variance for improvements to the Athletic Center that will enclose areas below the stadium currently used for storage and provide more secure storage and covered flex areas for practice.

DISCUSSION

City staff have reviewed FEMA guidelines, the City's TMC, and sought guidance from the State Department of Ecology who administers flood control issues for FEMA and determined that wet-floodproofing is permitted under limited situations. These situations include:

- The applicant desires to wet-floodproof
- Notification to the applicant that a variance will not alter the actuarial rating of a structure for flood insurance purposes
- That a lesser degree of floodproofing will not subvert the goals of floodplain management

- That the structure must be protected to the maximum extent possible using an appropriate alternative flood protection technique
- Providing dry-floodproofing would cause an exceptional hardship
- A variance is obtained to permit this method

The Starfire Athletic Center is a large soccer complex containing two soccer fields and elevated restrooms, offices, and a concession area. The soccer fields were constructed approximately 4-feet below the base flood elevations. Storage areas were also constructed below the base flood elevation and a chain-link fence material was used for security of stored items and to allow the automatic entry and exit of floodwaters. The new improvements include replacing the chain-link fencing with concrete blocks containing windows and doors. Some of the enclosed areas will continue to be used for storage and the remainder will be covered with artificial turf and used as indoor practice areas. All materials used will be flood resistant and all enclosed areas will be fitted with flood vents that automatically allow the entry and exit of floodwaters.

RECOMMENDATION

Council is being asked to approve this Resolution that allows an administrative variance be granted to the City's TMC Chapter 16.52 for wet-floodproofing to the Starfire Athletic Center and consider this item at the November 25, 2019 Committee of the Whole meeting and subsequent December 2, 2019 Regular Meeting.

ATTACHMENTS:

- Draft Wet Floodproofing Resolution
- Starfire Sports Variance Request Letter
- Original Resolution No. 1526

DRAFT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, ALLOWING FOR THE ADMINISTRATIVE VARIANCE TO TUKWILA MUNICIPAL CODE CHAPTER 16.52 AND ALLOWING FOR THE WET-FLOODPROOFING OF IMPROVEMENTS TO THE STARFIRE ATHLETIC CENTER.

WHEREAS, the City of Tukwila has entered into an agreement with Starfire Sports to develop and operate park athletic, recreation and associated facilities at the Fort Dent Park; and

WHEREAS, portions of Fort Dent Park are within the Green River floodplain; and

WHEREAS, the City of Tukwila participates in the National Flood Insurance Program and this program requires the City to adopt floodplain management standards and a floodplain construction permit process; and

WHEREAS, the Indoor Athletic Center was permitted and constructed under Resolution No. 1526 that allowed the use of wet-floodproofing techniques; and

WHEREAS, Starfire Sports has requested another variance that would allow for modifications to the existing Athletic Center and allow wet-floodproofing of indoor practice and storage areas; and

WHEREAS, the City of Tukwila follows the U.S. Army Corps of Engineers Flood-Proofing Regulations, the Federal Emergency Management Agency (FEMA) Floodproofing Standards, and the Federal Insurance Administration (FIA) Regulations, which allow the City to grant wet-floodproofing variances to those standards and requirements if certain criteria are met as found in 44 CFR 60.6(a) of FIA Regulations; and

WHEREAS, wet-floodproofing will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and

WHEREAS, it has been determined that a variance is the minimum necessary, considering the flood hazard, to afford relief; and

WHEREAS, Starfire Sports has shown good and sufficient cause for a variance; and

WHEREAS, the federal standard (dry-floodproofing) would cause an exceptional financial hardship to Starfire Sports; and

WHEREAS, the improvements will not be located within a floodway; and

WHEREAS, the criteria set forth in 44 CFR 60.6(a) of FIA Regulations has been met;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. The above Whereas recitals are herein adopted as Findings of Fact.

Section 2. The City of Tukwila Public Works Department is hereby authorized to grant a flood zone permit allowing the use of wet-floodproofing for modifications to the existing Starfire Athletic Center. Wet-floodproofing shall be an administrative variance to Tukwila Municipal Code Chapter 16.52 due to the compelling public policy reasons stated herein.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2019.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Kathy Hougardy, Council President

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____
Passed by the City Council: _____
Resolution Number: _____

Rachel B. Turpin, City Attorney



10-28-19
Copy to: Hari FYI / Comments
Ryan

RECEIVED

TUKWILA
PUBLIC WORKS

October 25, 2019

Henry Hash
Public Works Director
City of Tukwila- Public Works
6300 Southcenter Blvd.
Tukwila, WA 98188

Dear Mr. Hash,

Starfire Sports would like to ask for a flood variance the same we were granted in 2003 to construct the buildings. The variance is to enclose the rest of the ground level. The two main reasons are to secure areas that has multiple breaks ins and secondly and more importantly to create flex spaces for our Academy STEM program.

Starfire is seeking to extend the success of the Starfire Sports Academy soccer programs by offering our student athletes the opportunity to participate in STEM programs. Similar to our soccer programming approach, we want to reduce the barriers of entry by making STEM classes fun, approachable, and accessible to all. Our goal is not to replace the role of schools, but to help prepare our youth to engage and fully embrace STEM learning opportunities at their schools. We will do this by using STEM-based gamification products that will engage our student athletes, cultivate their curiosity, and make them comfortable with the underlying science and technology through project-based learning. From the soccer field to the classroom, we seek to make our student athletes as confident joining a robotics or coding club in high school as they are trying out for the soccer team.

These spaces will allow us to better serve our community while keeping the facility safe for all. With no other space here not in the floodplain it is the only reasonable option. We ask for your and the Tukwila City Council's support to help create these much-needed spaces.

Sincerely

Ben Oliver

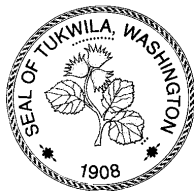
President & CEO
Starfire Sports

Starfire Sports

14800 Starfire Way
Tukwila, WA 98188

Phone: 206.431.3232
Fax: 206.431.6811

www.starfiresports.com
info@starfiresports.com



City of Tukwila

Washington

Resolution No. 1526

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, ALLOWING FOR THE ADMINISTRATIVE VARIANCE TO TUKWILA MUNICIPAL CODE CHAPTER 16.52 AND ALLOWING FOR THE WET-FLOODPROOFING OF THE STARFIRE ATHLETIC CENTER.

WHEREAS, the City of Tukwila has entered into an agreement with Starfire Sports to develop and operate park athletic, recreation and associated facilities at the Fort Dent Park; and

WHEREAS, portions of Fort Dent Park are within the Green River floodplain, and

WHEREAS, the City of Tukwila participates in the National Flood Insurance Program and this program requires the City to adopt floodplain management standards and a floodplain construction permit process, and

WHEREAS, the proposed Indoor Athletic Center does not meet the federal standards for floodplain construction in accordance with Chapter 16 52 of the Tukwila Municipal Code, dry floodproofing methods must be used, and

WHEREAS, Starfire Sports has requested a variance that would allow for wet-floodproofing of the Indoor Athletic Center, an acceptable alternative under limited situations, and

WHEREAS, The City of Tukwila has adopted the U S Army Corps of Engineers *Flood-Proofing Regulations*, the Federal Emergency Management Agency (FEMA) Floodproofing Standards, and the Federal Insurance Administration (FIA) Regulations which allow the City to grant wet-floodproofing variances to those standards and requirements if certain criteria are met as found in FIA Section 1910 6(a) of FIA Regulations, and

WHEREAS, the proposed Starfire construction meets all of the FEMA wet-floodproofing variance criteria, to wit wet-floodproofing will not alter the actuarial rating of the Athletic Center for flood insurance purposes, will not subvert the goals of flood plan management, the Athletic Center will have elevated offices, restrooms, and concession area, and all components subject to flood damage will be at least one foot above the base flood elevation, and the federal standard (dry-floodproofing) would cause an exceptional financial hardship,

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, DO HEREBY RESOLVE AS FOLLOWS

Section 1 The above Whereas recitals are herein adopted as findings of fact

Section 2. The Public Works Department is hereby authorized to grant a flood zone permit allowing for wet-floodproofing of the Starfire Athletic Center Wet-floodproofing shall be an administrative variance to Tukwila Municipal Code 16 52 due to the compelling public policy reasons stated above

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a ~~Regular~~ ^{Special} Meeting thereof this 23rd day of June, 2003

ATTEST/AUTHENTICATED:

Jane E. Cantu
Jane E. Cantu, CMC, City Clerk

Pam Carter
Pam Carter, Council President

APPROVED AS TO FORM BY

[Signature]
Office of the City Attorney

Filed with the City Clerk: 6-19-03
Passed by the City Council: 6-23-03
Resolution Number: 1526



INFORMATIONAL MEMORANDUM

TO: Transportation and Infrastructure Committee
FROM: Henry Hash, Public Works Director *H.H.*
BY: Cyndy Knighton, Senior Program Manager
CC: Mayor Ekberg
DATE: November 15, 2019
SUBJECT: Concurrency Standards and Transportation Impact Fees Ordinance Updating TMC Chapter 9.48

ISSUE

Amend certain sections of the Tukwila Municipal Code (TMC) Chapter 9.48 to update the Transportation Impact Fee Schedule (TIF), use of traffic impact fees and exemptions.

BACKGROUND

In December 2005, the City established traffic concurrency standards and a new impact fee process, adopted via ordinance and codified in TMC Chapter 9.48. Since that time, the TIF has been updated once and various revisions to the Concurrency Standards and Transportation Impact Fees chapter have been made.

ANALYSIS

Updates to the TIF have been made to include updated project costs from the current Capital Improvement Program (CIP) as well as final project costs from past projects which been closed out. Also included in the updated TIF are additions and deletions of projects to reflect the current needs of the City in maintaining roadway capacity and levels of service. A summary of the changes is attached to this memorandum.

In addition to updating the TIF, staff identified a few other sections which needed updating or clarification to reflect current conditions.

TMC Section 9.48.040 has been updated to include a ten-year window for expending or encumbering impact fees from date of receipt. This change reflects the current state law, which was originally a six-year window. Additionally, the last sentence of the section is proposed for reinstatement. Allowing for trip generation credit for existing buildings/uses was originally granted so long as the building had been in use and not vacant for 12 months or less. In 2010, the City struck this sentence as a temporary way to mitigate the impacts on the development community associated with the Great Recession. With the strong economic and development climate, staff does not recommend giving trip credit for vacancies of more than 12 months.

TMC Section 9.48.125 revises the language on how the TIF is adopted to reflect actual practice and match Section 9.48.100. The current language in 9.48.125 states Public Works Fee Schedule establishes the TIF, which is established by Ordinance. The TIF is established via ordinance and codified in TMC Chapter 9.48.

Currently TMC Section 9.48.125 exempts accessory residential structures from paying impact fees. This is proposed to be removed with the advent of more and more Accessory Dwelling Units (ADU) being constructed, often as an accessory structure. ADUs are subject to paying impact fees and are charged at the multi-family rate for the zone that they are built in. Other types of accessory

structures such as a garage do not increase trip generation and are therefore already exempt from being charged an impact fee.

FINANCIAL IMPACT

The updated TIF will generally increase the amount of traffic impact fee monies being collected. The impact fees are placed in a dedicated account for use only on the projects identified within the fee calculations.

RECOMMENDATION

Council is being asked to approve the Ordinance amending TMC Chapter 9.48 and consider this item at the November 25, 2019 Committee of the Whole and subsequent December 2, 2019 Regular Meeting.

ATTACHMENTS

- Draft Ordinance with new 2020 Transportation Impact Fee Schedule
- Impact Fee Changes Summary
- Comparison of 2018 Impact Fees in Western Washington
- 2007 Transportation Impact Fee Schedule

DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AMENDING ORDINANCE NOS. 2521 §2, 2305 §2 AND 2111 §1 (PART), AS CODIFIED IN VARIOUS SECTIONS OF TUKWILA MUNICIPAL CODE CHAPTER 9.48, "CONCURRENCY STANDARDS AND TRANSPORTATION IMPACT FEES," TO UPDATE FEES AND FEE CALCULATION LANGUAGE; REPEALING ORDINANCE NO. 2156; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Tukwila's concurrency standards and transportation impact fees are codified at Chapter 9.48 of the Tukwila Municipal Code; and

WHEREAS, the City of Tukwila desires to update its impact fees to reflect current costs; and

WHEREAS, the City Council desires to amend certain sections relating to calculation and use of impact fees, and exemptions;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Figure 9-1 Amended. Ordinance No. 2111 §1 (part), as codified at Tukwila Municipal Code (TMC) Section 9.48.030, "Imposition of Transportation Impact Fees," is hereby amended by updating the Traffic Impact Fee Schedule, as codified as Figure 9-1, and attached to the ordinance as "Exhibit A."

Section 2. TMC Section 9.48.040 Amended. Ordinance Nos. 2305 §2 and 2111 §1 (part), as codified at TMC Section 9.48.040, are hereby amended to read as follows:

9.48.040 Calculation of Impact Fees

A. The method of calculating the transportation impact fees in this chapter incorporate, among other things, the following:

1. The cost of public streets and roads necessitated by new development;

2. An adjustment to the costs of the public streets and roadways for past or future mitigation payments made by previous development to pay for a particular system improvement that was prorated to the particular street improvement;

3. The availability of other means of funding public street and roadway improvements; and

4. The methods by which public street and roadway improvements were financed.

B. Fees for development shall be calculated based on their net new "p.m. peak hour" trip generation rates as determined by the Public Works Director, or designee, applying the ITE Trip Generation Manual. If the proposed development activity concerns an existing use, the fee shall be based on net new trips generated by the redevelopment. If an existing building has not been used for its intended purpose or has been vacant for twelve months or more preceding application, no credit for existing trips shall be given.

Section 3. TMC Section 9.48.090 Amended. Ordinance No. 2111 §1 (part), as codified at TMC Section 9.48.090, **subparagraph G.**, is hereby amended to read as follows:

9.48.090 Use of Impact Fees

G. Transportation impact fees shall be expended or letter encumbered for a permissible use within six-ten years of receipt, unless there exists an extraordinary or compelling reason for fees to be held longer than six-ten years. The Public Works Director may recommend to the Council that the City hold fees beyond six-ten years in cases where extraordinary or compelling reasons exist. Such reasons shall be identified in written findings by the Council.

Section 4. TMC Section 9.48.125 Amended. Ordinance No. 2521 §2, as codified at TMC Section 9.48.125, is hereby amended to read as follows:

A. The impact fees are generated from the formula for calculating the fees as set forth in this chapter. The amount of the impact fees is determined by the information set forth in the Public Works Fee Schedule, depicted on Figure 9-1 herein, adopted by resolution of the City Council and related documents. All development activity located within the City shall be charged a transportation impact fee, provided that the following exemptions shall apply.

B. The following shall be exempt from transportation impact fees:

1. Replacement of a structure with a new structure having the same use, at the same site, and with the same gross floor area, when such replacement is within 12 months of demolition or destruction of the previous structure.

2. Alteration, expansion, or remodeling of an existing dwelling or structure where no new units are created and the use is not changed.

~~3. Construction of an accessory residential structure.~~

43. Miscellaneous improvements including, but not limited to, fences, walls, swimming pools and signs that do not impact the transportation system.

54. Demolition of or moving an existing structure within the City from one site to another.

65. Transportation impact fees for the construction of low-income housing may be reduced at the discretion of the Public Works Director when requested by the property owner in writing prior to permit submittal and subject to the following criteria:

a. Submittal of a fiscal impact analysis of how a reduction in impact fees for the project would contribute to the creation of low-income housing;

b. Fee reduction table.

| Unit Size | Affordability Target ¹ | Fee Reduction |
|--------------------|-----------------------------------|---------------|
| 2 or more bedrooms | 80% ² | 40% |
| 2 or more bedrooms | 60% ² | 60% |
| Any size | 50% ² | 80% |

¹ – Units to be sold or rented to a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30% of the household's monthly income.

² – Percentage of King County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.

c. The developer must record a covenant per RCW 82.02.060 (3) that prohibits using the property for any purpose other than for low-income housing at the original income limits for a period of at least 10 years. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than low-income housing within 10 years, the property owner must pay the City the applicable impact fees in effect at the time of conversion.

76. *Change of Use.* A development permit for a change of use that has less impact than the existing use shall not be assessed a transportation impact fee.

87. A fee payer required to pay for system improvements pursuant to RCW 43.21C.060 shall not be required to pay an impact fee for the same improvements under this ordinance.

Section 5. Repealer. Ordinance No. 2156 is hereby repealed in its entirety.

Section 6. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 7. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of the remaining portion of this ordinance or its application to any other person or situation.

Section 8. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2019.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Allan Ekberg, Mayor

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Published: _____

Effective Date: _____

Ordinance Number: _____

Rachel B. Turpin, City Attorney

Attachment: Figure 9-1 – Traffic Impact Fee Schedule 2020

**Figure 9-1
Traffic Impact Fee Schedule 2020**

| Land Uses | Unit of Measure | Zone 1 | Zone 2 | Zone 3 | Zone 4 |
|---|-----------------|-------------|--------------|-------------|------------|
| Cost per Trip All Other Uses | | \$4,438.73 | \$4,863.14 | \$5,345.42 | \$2,057.66 |
| Residential | | | | | |
| Single Family | dwelling | \$4,600.24 | \$15,329.49 | \$5,497.85 | \$767.86 |
| Multi Family | dwelling | \$2,106.51 | \$7,019.56 | \$2,517.54 | \$351.61 |
| Retirement Community | dwelling | \$859.64 | \$2,864.60 | \$1,027.38 | \$143.49 |
| Nursing Home/Convalescent Center | bed | \$1,022.27 | \$3,406.55 | \$1,221.75 | \$170.64 |
| Assisted Living | dwelling | \$1,208.14 | \$4,025.93 | \$1,443.88 | \$201.66 |
| Residential Suites/Microunit apartments | dwelling | \$1,394.01 | \$4,645.30 | \$1,666.02 | \$232.68 |
| Commercial - Services | | | | | |
| Drive-in Bank | sq ft/GFA | \$61.77 | \$205.83 | \$73.82 | \$10.31 |
| Walk-in Bank | sq ft/GFA | \$45.09 | \$150.26 | \$53.89 | \$7.53 |
| Day Care Center | sq ft/GFA | \$51.67 | \$172.19 | \$61.75 | \$8.62 |
| Library | sq ft/GFA | \$28.44 | \$94.76 | \$33.99 | \$4.75 |
| Post Office | sq ft/GFA | \$39.07 | \$130.18 | \$46.69 | \$6.52 |
| Hotel/Motel | room | \$2,788.02 | \$9,290.60 | \$3,332.03 | \$465.37 |
| Service Station | VFP | \$37,812.08 | \$126,002.19 | \$45,190.14 | \$6,311.50 |
| Service Station/Minimart | VFP | \$28,603.25 | \$95,315.34 | \$34,184.44 | \$4,774.39 |
| Service Station/Minimart/Car Wash | VFP | \$18,582.17 | \$61,921.84 | \$22,208.00 | \$3,101.69 |
| Carwash (Self-Serve) | Stall | \$16,732.78 | \$55,759.07 | \$19,997.75 | \$2,793.00 |
| Movie Theater | screen | \$355.47 | \$1,184.55 | \$424.83 | \$59.33 |
| Health Club | sq ft/GFA | \$16.97 | \$56.56 | \$20.28 | \$2.83 |
| Racquet Club | sq ft/GFA | \$13.31 | \$44.36 | \$15.91 | \$2.22 |
| Public Park | acre | \$511.14 | \$1,703.28 | \$610.87 | \$85.32 |
| Golf Driving Range | tees | \$5,808.38 | \$19,355.41 | \$6,941.74 | \$969.52 |
| Batting Cages | cage | \$10,315.68 | \$34,375.21 | \$12,328.52 | \$1,721.87 |
| Multipurpose Recreational Facility | sq ft/GFA | \$16.64 | \$55.43 | \$19.88 | \$2.78 |
| Trampoline Park | sq ft/GFA | \$6.97 | \$23.23 | \$8.33 | \$1.16 |
| Bowling Alley | sq ft/GFA | \$5.39 | \$17.96 | \$6.44 | \$0.90 |
| Ice Skating Rink | sq ft/GFA | \$6.18 | \$20.59 | \$7.39 | \$1.03 |
| Casino/Video Lottery Estab. With Food | sq ft/GFA | \$62.68 | \$208.88 | \$74.92 | \$10.46 |
| Commercial - Institutional | | | | | |
| Elementary School/Jr. High School | student | \$789.94 | \$2,632.34 | \$944.08 | \$131.85 |
| High School | student | \$650.54 | \$2,167.81 | \$777.47 | \$108.59 |
| University/College | student | \$882.87 | \$2,942.02 | \$1,055.14 | \$147.37 |
| Religious Institutions | sq ft/GFA | \$2.28 | \$7.59 | \$2.72 | \$0.38 |
| Hospital | sq ft/GFA | \$3.61 | \$12.02 | \$4.31 | \$0.60 |
| Commercial - Restaurant | | | | | |
| Quality Restaurant | sq ft/GFA | \$20.30 | \$67.64 | \$24.26 | \$3.39 |
| High Turnover Restaurant | sq ft/GFA | \$25.88 | \$86.23 | \$30.93 | \$4.32 |
| Fast Food Restaurant w/o drive thru | sq ft/GFA | \$65.84 | \$219.41 | \$78.69 | \$10.99 |
| Fast Food Restaurant w/ drive thru | sq ft/GFA | \$75.90 | \$252.94 | \$90.71 | \$12.67 |
| Drinking Place | sq ft/GFA | \$39.62 | \$132.04 | \$47.36 | \$6.61 |
| Coffee/Donut Shot w/ drive thru | sq ft/GFA | \$20.16 | \$67.17 | \$24.09 | \$3.36 |
| Industrial | | | | | |
| Light Industry/High Technology | sq ft/GFA | \$2.93 | \$9.76 | \$3.50 | \$0.49 |
| Industrial Park | sq ft/GFA | \$1.86 | \$6.19 | \$2.22 | \$0.31 |
| Warehousing/Storage | sq ft/GFA | \$0.88 | \$2.94 | \$1.06 | \$0.15 |
| Mini Warehouse | sq ft/GFA | \$0.79 | \$2.63 | \$0.94 | \$0.13 |

GLA= Gross Leasable Area

GFA= Gross Floor Area

VFP= Vehicle Fueling Positions (Maximum number of vehicles that can be fueled simultaneously)

**Figure 9-1
Traffic Impact Fee Schedule 2020**

| Land Uses | Unit of Measure | Zone 1 | Zone 2 | Zone 3 | Zone 4 |
|--------------------------------|-----------------|-------------|-------------|-------------|-------------|
| Cost per Trip All Other Uses | | \$4,438.73 | \$4,863.14 | \$5,345.42 | \$2,057.66 |
| Commercial - Retail | | | | | |
| Shopping Center | | | | | |
| up to 9,999 sq ft | sq ft/GLA | \$27.51 | \$91.67 | \$32.88 | \$4.59 |
| 10,000 sq ft-49,999 sq ft | sq ft/GLA | \$17.26 | \$57.52 | \$20.63 | \$2.88 |
| 50,000 sq ft-99,999 sq ft | sq ft/GLA | \$14.98 | \$49.91 | \$17.90 | \$2.50 |
| 100,000 sq ft-199,999 sq ft | sq ft/GLA | \$13.63 | \$45.43 | \$16.29 | \$2.28 |
| 200,000 sq ft-299,999 sq ft | sq ft/GLA | \$12.93 | \$43.08 | \$15.45 | \$2.16 |
| 300,000 sq ft-399,999 sq ft | sq ft/GLA | \$12.75 | \$42.49 | \$15.24 | \$2.13 |
| over 400,000 sq ft | sq ft/GLA | \$13.21 | \$44.01 | \$15.79 | \$2.20 |
| Miscellaneous Retail Sales | sq ft/GFA | \$13.07 | \$43.55 | \$15.62 | \$2.18 |
| Supermarket | sq ft/GFA | \$27.48 | \$91.57 | \$32.84 | \$4.59 |
| Convenience Market | sq ft/GFA | \$111.82 | \$372.61 | \$133.64 | \$18.66 |
| Nursery/Garden Center | sq ft/GFA | \$22.57 | \$75.22 | \$26.98 | \$3.77 |
| Furniture Store | sq ft/GFA | \$1.14 | \$3.78 | \$1.36 | \$0.19 |
| Car Sales - New/Used | sq ft/GFA | \$11.49 | \$38.28 | \$13.73 | \$1.92 |
| Auto Care Center | sq ft/GLA | \$14.45 | \$48.16 | \$17.27 | \$2.41 |
| Quick Lubrication Vehicle Shop | Service Bay | \$15,775.56 | \$15,775.56 | \$15,775.56 | \$15,775.56 |
| Auto Parts Sales | sq ft/GFA | \$15.97 | \$53.22 | \$19.09 | \$2.67 |
| Pharmacy (with Drive Through) | sq ft/GFA | \$24.39 | \$81.26 | \$29.14 | \$4.07 |
| Pharmacy (no Drive Through) | sq ft/GFA | \$18.59 | \$61.93 | \$22.21 | \$3.10 |
| Free Standing Discount Store | sq ft/GFA | \$18.63 | \$62.08 | \$22.26 | \$3.11 |
| Hardware/Paint Store | sq ft/GFA | \$8.15 | \$27.16 | \$9.74 | \$1.36 |
| Discount Club | sq ft/GFA | \$12.24 | \$40.78 | \$14.62 | \$2.04 |
| Video Rental | sq ft/GFA | \$28.44 | \$94.76 | \$33.99 | \$4.75 |
| Home Improvement Superstore | sq ft/GFA | \$6.28 | \$20.93 | \$7.50 | \$1.05 |
| Tire Store | Service Bay | \$11,442.04 | \$11,442.04 | \$11,442.04 | \$11,442.04 |
| Electronics Superstore | sq ft/GFA | \$13.86 | \$46.17 | \$16.56 | \$2.31 |
| Commercial - Office | | | | | |
| Administrative Office | | | | | |
| up to 9,999 sq ft | sq ft/GFA | \$5.52 | \$18.40 | \$6.60 | \$0.92 |
| 10,000 sq ft-49,999 sq ft | sq ft/GFA | \$5.06 | \$16.86 | \$6.05 | \$0.84 |
| 50,000 sq ft-99,999 sq ft | sq ft/GFA | \$4.85 | \$16.17 | \$5.80 | \$0.81 |
| 100,000 sq ft-199,999 sq ft | sq ft/GFA | \$4.68 | \$15.61 | \$5.60 | \$0.78 |
| 200,000 sq ft-299,999 sq ft | sq ft/GFA | \$4.56 | \$15.19 | \$5.45 | \$0.76 |
| over 300,000 sq ft | sq ft/GFA | \$4.52 | \$15.05 | \$5.40 | \$0.75 |
| Medical Office/Clinic | sq ft/GFA | \$11.43 | \$38.09 | \$13.66 | \$1.91 |

GLA= Gross Leasible Area

GFA= Gross Floor Area

VFP= Vehicle Fueling Positions (Maximum number of vehicles that can be fueled simultaneously)

**Traffic Impact Fee Schedule
Impact Fee Changes Summary**

| Projects on Impact Fee List | 2007 Collectable via TIF | 2020 Collectable via TIF | Total Collected as of 7/31/19 | Remainder to be Collected | Recommendation |
|--|--------------------------------|--------------------------------|-------------------------------------|---------------------------------|-----------------------|
| <u>Zone 1: South/Southcenter</u> | | | | | |
| Southcenter Urban Access/Klickitat | \$3,731,449 | \$2,584,905 | \$2,045,037 | \$539,869 | |
| Andover Park W | \$1,199,781 | \$738,346 | \$426,198 | \$312,148 | |
| Andover Park E/Minkler | \$363,102 | \$95,834 | \$31,932 | \$63,902 | |
| West Valley Highway/S 156th St (now WVH) | \$360,011 | \$0 | \$12,309 | -\$12,309 | Remove project |
| Minkler Boulevard: APW to Southcenter Pkwy | \$328,337 | \$327,250 | \$69,754 | \$257,496 | |
| Andover Park E/Industry Dr. | \$275,803 | \$80,754 | \$12,309 | \$68,444 | |
| Southcenter Parkway/S 168th Signal | \$200,129 | \$199,467 | \$54,006 | \$145,461 | |
| W Valley Highway/Strander NB LT Lanes | \$152,847 | \$152,341 | \$65,065 | \$87,276 | |
| Interurban Bridge | \$631,848 | \$629,756 | \$149,290 | \$480,466 | |
| Minkler Blvd (section completed in 1995) | \$949,198 | \$946,057 | \$201,653 | \$744,404 | |
| West Valley Highway | | \$0 | \$0 | | Remove project |
| Subtotal | \$8,192,505 | \$5,754,711 | \$3,067,554 | \$2,687,157 | |
| <u>Zone 2: East/Interurban</u> | | | | | |
| Macadam Rd/53rd Ave/S 144th St | \$399,743 | \$0 | \$84,310 | -\$84,310 | Remove project |
| Southcenter Blvd/65th Avenue S Signal | | \$900,000 | \$0 | | NEW project |
| Southcenter Blvd/I-405 Off Ramp | | \$45,000 | \$0 | | NEW project |
| Subtotal | \$399,743 | \$945,000 | \$84,310 | | |
| <u>Zone 3: West/TIB</u> | | | | | |
| S 144th Street | \$393,771 | \$463,807 | \$403,407 | \$60,400 | |
| S 133rd St/SR 599 SB Off-ramp | \$22,229 | \$640,000 | \$118,729 | \$521,271 | Increase project cost |
| Macadam Rd/51st Ave/S 144th St NBLT Lane | | \$0 | \$0 | | Remove project |
| S 124th St/42nd Ave S Signal | | \$0 | \$0 | | Remove project |
| S 160th/42nd Ave S Widening EB/WB LT | | \$0 | \$0 | | Remove project |
| E Marginal Way/S 130th St Signalization | | \$0 | \$0 | | Remove project |
| Subtotal | \$416,000 | \$1,103,807 | \$522,136 | \$581,671 | |
| <u>Zone 4: North/MIC</u> | | | | | |
| Tukwila International Boulevard Phase IV | \$214,327 | \$0 | \$403,407 | \$0 | Remove project |
| E Marginal Way (BAR - 112th St) | \$10,983 | \$0 | \$118,729 | -\$108,770 | Remove project |
| E Marginal Way/S 112th Street Signal | | \$15,500 | \$0 | | NEW project |
| BAR/EMW/TIB Intersection Modifications | | \$21,700 | \$0 | | NEW project |
| Tukwila Int'l Blvd/S 116th/SR 599 | | \$0 | \$0 | | Remove project |
| | \$225,310 | \$37,200 | \$522,136 | -\$108,770 | |
| <u>Zone 5: Citywide</u> | | | | | |
| Signal Interconnect 2005 | \$373,000 | \$373,000 | \$0 | \$209,904 | |
| Signal Interconnect 2020 | | \$350,000 | \$0 | \$350,000 | NEW project |
| Subtotal | \$373,000 | \$723,000 | \$0 | \$559,904 | |

**Traffic Impact Fee Schedule
Impact Fee Changes Summary**

| Fees by Zone | 2007 | | 2020 | | Change 2007 to 2020 | |
|--------------|------------|-------------|------------|-------------|---------------------|--------------|
| | Fee | Zone Cost | Fee | Zone Cost | Fee | Zone Cost |
| Zone 1 | \$1,736.80 | \$7,864,168 | \$4,438.73 | \$5,754,711 | \$2,702 | -\$2,109,457 |
| Zone 2 | \$1,357.77 | \$399,743 | \$4,863.14 | \$945,000 | \$3,505 | \$545,257 |
| Zone 3 | \$1,061.20 | \$416,000 | \$5,345.42 | \$1,103,807 | \$4,284 | \$687,807 |
| Zone 4 | \$819.39 | \$225,310 | \$2,057.66 | \$37,200 | \$1,238 | -\$188,110 |

Updated trip generation calculations to current ITE Trip Generation Manual rates.
 Added new land use types to fee schedule.
 Removed adjustment for trip length as no longer supported by current best practices.
 Updated trip growth projections.
 Updated project costs to current 2019 CIP dollars.
 Added proposed new projects based on Concurrency Report recommendations.
 Deleted proposed projects.
 Found minor errors in tracking (does not impact impact fee calculations).
 Left percentage of eligible trips per zone the same as original 2007 data. This will need to be updated with next full model run.
 Calculated zone pass-thru volumes based on percentage above as opposed to model output as was used in 2007 data.

2018 Transportation Impact Fee Comparison: 72 Cities + 4 Counties in Western Washington

Data compiled October 2017 from public web sites, telephone calls, and email inquiries by

Chris Comeau, AICP-CTP, Transportation Planner, Bellingham Public Works ccomeau@cob.org or (360) 778-7946

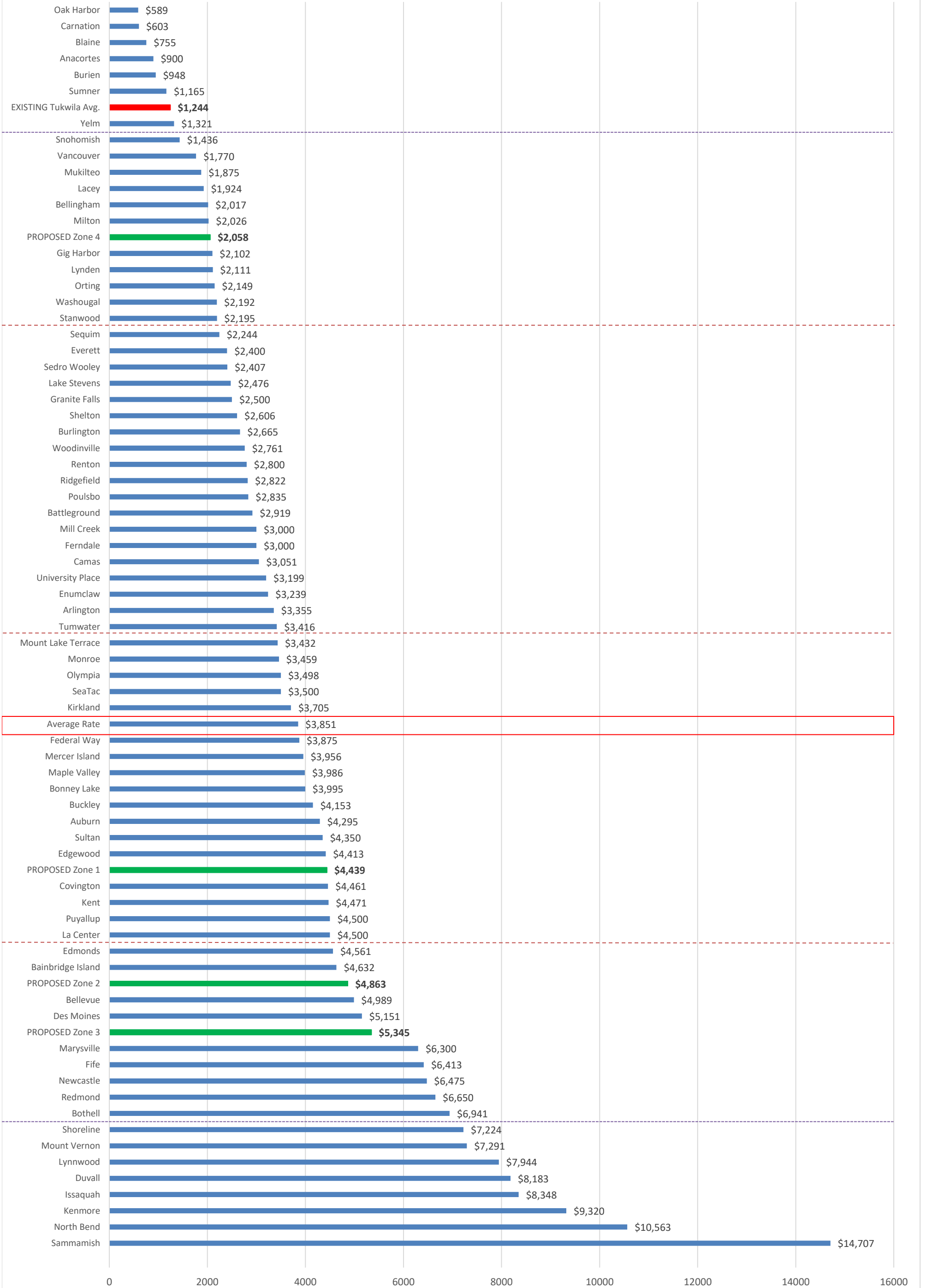
| City | Population | 2018 | | City | Population | 2018 | |
|----------------------------|------------|-----------|---------------|-------------------------------|-------------------|------------------|---------------|
| | | Base Rate | CBD-Incentive | | | Base Rate | CBD-Incentive |
| Anacortes ¹ | 16,780 | \$900 | | Mill Creek | 19,960 | \$3,000 | |
| Arlington | 18,690 | \$3,355 | | Milton | 7,900 | \$2,026 | |
| Auburn ² | 78,960 | \$4,295 | \$3,479 | Monroe | 18,350 | \$3,459 | |
| Bainbridge Island | 23,950 | \$4,632 | | Mount Vernon | 34,360 | \$7,291 | |
| Battleground | 20,370 | \$2,919 | | Mount Lake Terrace | 21,290 | \$3,432 | |
| Bellevue | 140,700 | \$4,989 | | Mukilteo | 21,240 | \$1,875 | |
| Bellingham ³ | 86,720 | \$2,017 | \$1,573 | Newcastle | 11,280 | \$6,475 | |
| Blaine ⁴ | 5,075 | \$755 | | North Bend ¹⁸ | 6,605 | \$10,563 | |
| Bonney Lake | 20,500 | \$3,995 | | Oak Harbor ¹⁹ | 22,840 | \$589 | |
| Bothell | 44,370 | \$6,941 | | Olympia ²⁰ | 52,160 | \$3,498 | \$1,287 |
| Buckley | 4,670 | \$4,153 | | Orting | 7,835 | \$2,149 | |
| Burien ⁵ | 50,680 | \$948 | | Poulsbo | 10,510 | \$2,835 | |
| Burlington | 8,715 | \$2,665 | | Puyallup | 40,500 | \$4,500 | |
| Camas ⁶ | 23,080 | \$3,051 | | Redmond ²¹ | 62,100 | \$6,650 | |
| Carnation | 2,030 | \$603 | | Renton | 102,700 | \$2,800 | |
| Covington | 19,850 | \$4,461 | | Ridgefield | 7,235 | \$2,822 | |
| Des Moines | 30,860 | \$5,151 | | Sammamish ²² | 62,240 | \$14,707 | |
| Duvall | 7,500 | \$8,183 | | SeaTac | 28,850 | \$3,500 | |
| Edgewood | 10,420 | \$4,413 | | Sedro Wooley ²³ | 10,950 | \$2,407 | \$1,341 |
| Edmonds | 41,260 | \$4,561 | | Sequim | 7,280 | \$2,244 | \$2,020 |
| Enumclaw | 11,450 | \$3,239 | | Shelton | 10,120 | \$2,606 | |
| Everett | 109,800 | \$2,400 | | Shoreline | 55,060 | \$7,224 | |
| Federal Way ⁷ | 96,350 | \$3,875 | | Snohomish | 10,010 | \$1,436 | |
| Ferndale ⁸ | 13,470 | \$3,000 | \$2,550 | Stanwood | 6,785 | \$2,195 | |
| Fife ⁹ | 10,100 | \$6,413 | | Sultan | 5,030 | \$4,350 | |
| Gig Harbor | 9,500 | \$2,102 | | Sumner | 9,920 | \$1,165 | |
| Granite Falls | 3,485 | \$2,500 | | Tukwila ²⁴ | 19,660 | \$1,244 | |
| Issaquah ¹⁰ | 36,030 | \$8,348 | | Tumwater | 23,210 | \$3,416 | |
| Kenmore ¹¹ | 22,580 | \$9,320 | | University Place | 31,440 | \$3,199 | |
| Kent ¹² | 127,100 | \$4,471 | \$3,223 | Vancouver ²⁵ | 162,400 | \$1,770 | |
| Kirkland | 86,080 | \$3,705 | | Washougal | 13,807 | \$2,192 | |
| La Center ¹³ | 3,195 | \$4,500 | | Woodinville ²⁶ | 9,200 | \$2,761 | |
| Lacey | 48,700 | \$1,924 | | Yelm | 6,242 | \$1,321 | |
| Lake Stevens ¹⁴ | 31,740 | \$2,476 | | | | | |
| Lynden ¹⁵ | 13,620 | \$2,111 | | County | Population | Base Rate | |
| Lynnwood ¹⁶ | 36,950 | \$7,944 | \$5,107 | Kitsap County | 240,862 | \$515 | |
| Maple Valley ¹⁷ | 24,900 | \$3,986 | | Pierce County | 796,836 | \$1,742 | |
| Marysville | 65,900 | \$6,300 | | Snohomish County | 694,571 | \$2,453 | |
| Mercer Island | 24,210 | \$3,956 | | Thurston County ²⁷ | 256,591 | \$2,334 | |

Note s :

All data above obtained from public web sites, telephone, and email inquiries.

- Anacortes has a very old TIF system, which is being updated, and new TIF rates of \$3,000 anticipated in 2018..
- Auburn adopted rates August 1, 2013.
- In Urban Villages, Bellingham allows automatic 22% to 25% TIF reduction and voluntary TDM performance measures up to 50% TIF reduction.
- The City of Blaine future peak hour vehicle trip rate is currently being evaluated.
- Burien limited improvement project costs to keep rates low. TIF was adopted in 2009.
- Camas uses a 2-zone TIF system; Average = \$3,051.
- Federal Way charges 3% non-refundable admin. fee + base rate + 3-yr WSDOT construction cost index. See fee = City 2014 rate schedule summary
- Ferndale uses 3-zone TIF system. \$3,000 citywide; \$3,750 for 443-acre "Main Street" Planned Action; \$2,550 downtown Ferndale.
- Fife uses a VMT-based TIF system adjusted from ITE ADT rates.
- Issaquah created development incentive in which the first 10,000 SF of commercial TIF paid from other public funding sources (per WA State law).
- Kenmore uses a "Person Trip" based TIF system.
- Kent TIF rates are based on 30% of maximum rate from Rate Study (May 2010) and downtown Kent rate memorandum.
- La Center allows TIF to be deferred to occupancy by requiring lien on property.
- Lake Stevens uses a 3-zone TIF system; average - \$2,476
- Lynden TIF allows up to 50% reduction in industrial areas where there is a significant chance that grants can be obtained.
- Lynnwood has two TIF zones and reduces TIF by 15% (per ITE) in portion of City Center.
- Maple Valley fee per 2013 rate schedule (R-13-909 Jan 28, 2013)
- North Bend is similar to Sammamish in that most development is residential with little to no pass-by, diverted link trips.
- Oak Harbor uses a very old TIF system.
- Olympia TIF allows up to 20% reduction in downtown or accepted TDM performance measures.
- Redmond uses "Person Trips/Mobility Units" for Concurrency and TIF
- Sammamish has highest TIF (\$14,707) in all of Washington due to primarily residential development with little to no pass-by, diverted link trips.
- Sedro-Woolley uses a 15-zone TIF system; Average = \$2,407; TIF reduction in downtown Sedro-Woolley
- Tukwila = 4-zone TIF system: Average = \$1,244
- Vancouver uses 5-zone ADT-based TIF system; Average = \$1,770.
- Woodinville calculates ADT; Average = \$2,761.
- Thurston County uses a 6-zone TIF system; Average = \$2,334

2018 Traffic Impact Fee Comparison Base Rate



Attachment A
Traffic Impact Fee Schedule 2007

| Land Uses | Unit of Measure | Zone 1 | Zone 2 | Zone 3 | Zone 4 |
|-------------------------------------|-----------------|------------|------------|------------|------------|
| Cost per Trip All Other Uses | | \$1,736.80 | \$1,357.77 | \$1,061.20 | \$819.38 |
| Residential | | | | | |
| Single Family | dwelling | \$1,659.35 | \$1,297.22 | \$1,013.88 | \$782.84 |
| Multi Family | dwelling | \$712.09 | \$556.69 | \$435.09 | \$335.95 |
| Retirement Community | dwelling | \$722.89 | \$565.13 | \$441.69 | \$341.04 |
| Nursing Home/Convalescent Center | bed | \$289.15 | \$226.05 | \$176.68 | \$136.42 |
| Assisted Living | dwelling | \$289.15 | \$226.05 | \$176.68 | \$136.42 |
| Commercial - Services | | | | | |
| Drive-in Bank | sq ft/GFA | \$23.14 | \$18.09 | \$14.14 | \$10.92 |
| Walk-in Bank | sq ft/GFA | \$18.67 | \$14.60 | \$11.41 | \$8.81 |
| Day Care Center | sq ft/GFA | \$9.28 | \$7.25 | \$5.67 | \$4.38 |
| Library | sq ft/GFA | \$4.24 | \$3.32 | \$2.59 | \$2.00 |
| Post Office | sq ft/GFA | \$6.46 | \$5.05 | \$3.95 | \$3.05 |
| Hotel/Motel | room | \$1,107.80 | \$866.04 | \$676.87 | \$522.63 |
| Service Station | VFP | \$3,203.13 | \$2,504.10 | \$1,957.14 | \$1,511.17 |
| Service Station/Minimart | VFP | \$3,203.13 | \$2,504.10 | \$1,957.14 | \$1,511.17 |
| Service Station/Minimart/Car Wash | VFP | \$3,203.13 | \$2,504.10 | \$1,957.14 | \$1,511.17 |
| Carwash (Self-Serve) | Stall | \$2,826.58 | \$2,209.72 | \$1,727.06 | \$1,333.51 |
| Movie Theater | screen | \$64.24 | \$50.22 | \$39.25 | \$30.31 |
| Health Club | sq ft/GFA | \$4.42 | \$3.46 | \$2.70 | \$2.09 |
| Racquet Club | sq ft/GFA | \$1.99 | \$1.56 | \$1.22 | \$0.94 |
| Marina | Berth | \$247.38 | \$193.39 | \$151.15 | \$116.71 |
| Commercial - Institutional | | | | | |
| Elementary School/Jr. High School | student | \$195.27 | \$152.66 | \$119.31 | \$92.13 |
| High School | student | \$131.43 | \$102.75 | \$80.31 | \$62.01 |
| University/College | student | \$267.56 | \$209.17 | \$163.48 | \$126.23 |
| Church | sq ft/GFA | \$1.15 | \$0.90 | \$0.70 | \$0.54 |
| Hospital | sq ft/GFA | \$2.22 | \$1.73 | \$1.35 | \$1.05 |
| Commercial - Restaurant | | | | | |
| Restaurant | sq ft/GFA | \$9.56 | \$7.48 | \$5.84 | \$4.51 |
| Fast Food Restaurant w/o drive thru | sq ft/GFA | \$12.27 | \$9.60 | \$7.50 | \$5.79 |
| Fast Food Restaurant w drive/thru | sq ft/GFA | \$16.26 | \$12.71 | \$9.94 | \$7.67 |
| Industrial | | | | | |
| Light Industry/High Technology | sq ft/GFA | \$2.06 | \$1.61 | \$1.26 | \$0.97 |
| Industrial Park | sq ft/GFA | \$2.06 | \$1.61 | \$1.26 | \$0.97 |
| Warehousing/Storage | sq ft/GFA | \$1.15 | \$0.90 | \$0.70 | \$0.54 |
| Mini Warehouse | sq ft/GFA | \$0.50 | \$0.39 | \$0.31 | \$0.24 |

GLA= Gross Leasable Area

GFA= Gross Floor Area

VFP= Vehicle Fueling Positions (Maximum number of vehicles that can be fueled simultaneously)

Attachment A
Traffic Impact Fee Schedule 2007

| Land Uses | Unit of Measure | Zone 1 | Zone 2 | Zone 3 | Zone 4 |
|--------------------------------|-----------------|------------|------------|------------|------------|
| Cost per Trip All Other Uses | | \$1,736.80 | \$1,357.77 | \$1,061.20 | \$819.38 |
| Commercial - Retail | | | | | |
| Shopping Center | | | | | |
| up to 9,999 sq ft | sq ft/GLA | \$4.18 | \$3.27 | \$2.55 | \$1.97 |
| 10,000 sq ft-49,999 sq ft | sq ft/GLA | \$3.51 | \$2.75 | \$2.15 | \$1.66 |
| 50,000 sq ft-99,999 sq ft | sq ft/GLA | \$3.03 | \$2.37 | \$1.85 | \$1.43 |
| 100,000 sq ft-199,999 sq ft | sq ft/GLA | \$2.61 | \$2.04 | \$1.59 | \$1.23 |
| 200,000 sq ft-299,999 sq ft | sq ft/GLA | \$2.38 | \$1.86 | \$1.45 | \$1.12 |
| 300,000 sq ft-399,999 sq ft | sq ft/GLA | \$2.82 | \$2.21 | \$1.72 | \$1.33 |
| over 400,000 sq ft | sq ft/GLA | \$3.17 | \$2.48 | \$1.94 | \$1.49 |
| Miscellaneous Retail Sales | sq ft/GFA | \$3.17 | \$2.48 | \$1.94 | \$1.49 |
| Supermarket | sq ft/GFA | \$7.73 | \$6.04 | \$4.72 | \$3.64 |
| Convenience Market | sq ft/GFA | \$14.39 | \$11.25 | \$8.79 | \$6.79 |
| Nursery/Garden Center | sq ft/GFA | \$2.62 | \$2.05 | \$1.60 | \$1.24 |
| Furniture Store | sq ft/GFA | \$0.22 | \$0.17 | \$0.13 | \$0.10 |
| Car Sales - New/Used | sq ft/GFA | \$4.56 | \$3.57 | \$2.79 | \$2.15 |
| Auto Care Center | sq ft/GLA | \$2.62 | \$2.05 | \$1.60 | \$1.24 |
| Quick Lubrication Vehicle Shop | Service Bay | \$2,899.10 | \$2,266.42 | \$1,771.37 | \$1,367.73 |
| Auto Parts Sales | sq ft/GFA | \$3.34 | \$2.61 | \$2.04 | \$1.58 |
| Pharmacy (with Drive Through) | sq ft/GFA | \$3.44 | \$2.69 | \$2.10 | \$1.62 |
| Pharmacy (no Drive Through) | sq ft/GFA | \$3.36 | \$2.63 | \$2.05 | \$1.58 |
| Free Standing Discount Store | sq ft/GFA | \$3.13 | \$2.44 | \$1.91 | \$1.47 |
| Hardware/Paint Store | sq ft/GFA | \$2.66 | \$2.08 | \$1.62 | \$1.25 |
| Discount Club | sq ft/GFA | \$3.13 | \$2.44 | \$1.91 | \$1.47 |
| Video Rental | sq ft/GFA | \$4.88 | \$3.82 | \$2.98 | \$2.30 |
| Home Improvement Superstore | sq ft/GFA | \$1.33 | \$1.04 | \$0.81 | \$0.63 |
| Tire Store | Service Bay | \$1,938.32 | \$1,515.31 | \$1,184.33 | \$914.45 |
| Electronics Superstore | sq ft/GFA | \$3.11 | \$2.43 | \$1.90 | \$1.46 |
| Commercial - Office | | | | | |
| Administrative Office | | | | | |
| up to 9,999 sq ft | sq ft/GFA | \$8.10 | \$6.33 | \$4.95 | \$3.82 |
| 10,000 sq ft-49,999 sq ft | sq ft/GFA | \$8.10 | \$6.33 | \$4.95 | \$3.82 |
| 50,000 sq ft-99,999 sq ft | sq ft/GFA | \$4.70 | \$3.67 | \$2.87 | \$2.22 |
| 100,000 sq ft-199,999 sq ft | sq ft/GFA | \$3.56 | \$2.78 | \$2.17 | \$1.68 |
| 200,000 sq ft-299,999 sq ft | sq ft/GFA | \$3.10 | \$2.43 | \$1.90 | \$1.46 |
| over 300,000 sq ft | sq ft/GFA | \$2.91 | \$2.27 | \$1.78 | \$1.37 |
| Medical Office/Clinic | sq ft/GFA | \$6.29 | \$4.91 | \$3.84 | \$2.97 |

GLA= Gross Leasible Area

GFA= Gross Floor Area

VFP= Vehicle Fueling Positions (Maximum number of vehicles that can be fueled simultaneously)