



City of Tukwila  
**Finance and Governance  
 Committee**

- ◆ De'Sean Quinn, Chair
- ◆ Kate Kruller
- ◆ Cynthia Delostrinos Johnson

<b>Distribution:</b>	
D. Quinn	Mayor Ekberg
K. Kruller	D. Cline
C. Delostrinos Johnson	R. Bianchi
T. McLeod	C. O'Flaherty
K. Hougardy	A. Youn
M. Abdi	L. Humphrey
T. Sharp	

# AGENDA

**MONDAY, OCTOBER 24, 2022 – 5:30 PM**

**THIS MEETING WILL BE CONDUCTED BOTH ON-SITE AT TUKWILA CITY HALL AND ALSO VIRTUALLY.**

**ON-SITE PRESENCE WILL BE IN THE DUWAMISH CONFERENCE ROOM  
 (2ND FLOOR, 6300 SOUTHCENTER BOULEVARD)**

**THE PHONE NUMBER FOR THE PUBLIC TO PARTICIPATE IN THIS  
 MEETING IS: 1-253-292-9750, Access Code 49933731#**

**Click here to: [Join Microsoft Teams Meeting](#)**

*For Technical Support during the meeting call: 1-206-433-7155.*

Item	Recommended Action	
<b>1. BUSINESS AGENDA</b>		
a. Tax levy legislation: <ol style="list-style-type: none"> <li>1. An ordinance levying the general taxes for the City commencing 1/1/2023.</li> <li>2. An ordinance increasing the regular tax levy commencing 1/1/2023.</li> </ol> <i>Vicky Carlsen, Finance Director</i>	a. Forward to 11/14 C.O.W. for Public Hearing and 11/21 Regular Meeting.	<b>Pg.1</b>
b. A resolution authorizing an interfund loan for a fire engine. <i>Vicky Carlsen, Finance Director</i>	b. Forward to 11/14 C.O.W. and 11/21 Regular Meeting.	<b>Pg.13</b>
c. Budget legislation: <ol style="list-style-type: none"> <li>1. An ordinance adopting the 2023-2024 Biennial Budget.</li> <li>2. A resolution adopting the 2023-2028 Financial Planning Model and CIP (Capital Improvement Program).</li> <li>3. An ordinance amending the 2021-2022 Biennial Budget.</li> </ol> <i>Vicky Carlsen, Finance Director</i>	c. Forward to 11/14 C.O.W. for Public Hearing and 11/21 Regular Meeting.	<b>Pg.17</b>
<i>(continued...)</i>		



The City of Tukwila strives to accommodate individuals with disabilities.

Please contact the City Clerk's Office at **206-433-1800** ([TukwilaCityClerk@TukwilaWA.gov](mailto:TukwilaCityClerk@TukwilaWA.gov)) for assistance.



**Finance and Governance Committee**

**Monday, October 24, 2022**

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Item	Recommended Action	
<p><b>1. BUSINESS AGENDA</b> <i>(cont.)</i></p> <p>d. B&amp;O (Business and Occupation) tax:            1. An update on a B&amp;O tax.            2. An ordinance adopting a B&amp;O tax effective 1/1/2024.  <i>Tony Cullerton, Deputy Finance Director</i></p> <p>e. An ordinance setting City Council compensation for 2023-2026.  <i>Laurel Humphrey, Legislative Analyst</i></p> <p>f. A contract with Ogden Murphy Wallace for City Attorney services for 2023-2024.  <i>David Cline, City Administrator</i></p> <p>g. A contract with Kirshenbaum &amp; Goss for public defense services for 2023-2024.  <i>David Cline, City Administrator</i></p> <p>h. Monthly General Fund update.  <i>Tony Cullerton, Deputy Finance Director</i></p> <p><b>2. MISCELLANEOUS</b></p>	<p>d.</p> <p>1. Forward to 10/24 C.O.W. Meeting.</p> <p>2. Forward to 11/14 C.O.W. for Public Hearing and 11/21 Regular Meeting.</p> <p>e. Forward to 11/14 C.O.W. and 11/21 Regular Meeting.</p> <p>f. Forward to 11/14 C.O.W. and 11/21 Regular Meeting Consent Agenda.</p> <p>g. Forward to 11/14 C.O.W. and 11/21 Regular Meeting Consent Agenda.</p> <p>h. Discussion only.</p>	<p><b>Pg.39</b></p> <p><b>Pg.59</b></p> <p><b>Pg.97</b></p> <p><b>Pg.103</b></p> <p><b>Pg.115</b></p> <p><b>Pg.127</b></p>

**Next Scheduled Meeting:** *November 14, 2022*



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## **INFORMATIONAL MEMORANDUM**

**TO: Finance & Governance Committee**

**FROM: Vicky Carlsen, Finance Director**

**BY: Aaron Williams, Fiscal Manager**

**CC: Mayor Ekberg**

**DATE: October 24, 2021**

**SUBJECT: 2023 Property Tax Levy**

### **ISSUE**

Approval of ordinances adjusting the regular levy from the previous year and adopting the general and excess property tax levies for 2023 by November 30, 2022.

### **BACKGROUND**

A Public Hearing for adoption of the 2023 property tax levy is required by RCW 84.55.120. The Hearing is scheduled for November 14, 2022.

The City was notified on October 17, 2022 that the assessed value for Tukwila for 2023 is projected to be \$8,981,288,883.

The ordinance to set the general tax levy also includes the excess levy related to the Public Safety Plan that voters approved on the November 8, 2016, general election. The City sold \$36.5 million of bonds in 2016 and debt service repayment began in 2017. The remaining voter-approved bonds were sold in October 2019. The excess levy for both bond issues will be assessed for as long as the bonds are outstanding; the final payment for the 2016 issue is scheduled for December 2036 and the final payment for the 2019 issue is scheduled for December 2039. The total excess levy requirement for 2023 debt service is \$4,535,975.

### **DISCUSSION**

#### **Levy Amount**

The assessed value and the allowable levy are subject to change until final levy rate determination. A levy amount of \$17,600,000 will be used for the ordinance. If the final allowable levy is less than the ordinance amount, King County Department of Assessments will adjust the ordinance amount to the final allowable levy amount and no further action by the Council will be required.

Also included in the tax levy ordinance is an excess levy in the amount of \$4,535,975 for debt service related to the unlimited tax obligation bonds that were sold at the end of 2016 and in 2019. All voter-approved bonds have now been issued.

Levy Limit

RCW 27.12.390 allows for a maximum statutory levy rate for cities at \$3.60 per \$1,000 of assessed value, less the actual regular levy made by a library district. RCW 41.16.060 also allows for an additional levy of \$0.225 if a city has a firemen's pension fund. The maximum allowable levy for 2023 is estimated to be \$3.59032. However, due to the 1% limitation, the Levy Limit Worksheet received from King County estimates the City's preliminary levy rate for 2023 at \$1.94813 per \$1,000 of assessed value.

**RECOMMENDATION**

The City Council is being asked to approve the ordinance adopting the General Tax Levy and the ordinance showing the dollar and percent change from the previous year at the November 14, 2022 Committee of the Whole meeting and subsequent November 21, 2022 Regular Meeting. A public hearing has also been scheduled at the November 14, 2022 Committee of the Whole.

**ATTACHMENTS**

Draft Ordinances (2)  
Preliminary Levy Limit Worksheet-2023 Tax Roll

# DRAFT

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, LEVYING THE GENERAL TAXES FOR THE CITY OF TUKWILA IN KING COUNTY FOR THE FISCAL YEAR COMMENCING JANUARY 1, 2023, ON ALL PROPERTY, BOTH REAL AND PERSONAL, IN SAID CITY, THAT IS SUBJECT TO TAXATION FOR THE PURPOSE OF PAYING SUFFICIENT REVENUE TO CARRY ON THE SERVICES OF THE SEVERAL DEPARTMENTS OF SAID CITY FOR THE ENSUING YEAR, WITH AN EXCESS PROPERTY TAX LEVY FOR THE PURPOSE OF PAYING DEBT SERVICE ON THE CITY'S UNLIMITED TAX GENERAL OBLIGATION BONDS ISSUED IN 2016 AND 2019, AS REQUIRED BY LAW; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Tukwila has considered the City's anticipated financial requirements for 2023 and the amounts necessary and available to be raised by ad valorem taxes on real, personal and utility property; and

**WHEREAS**, the following sentence is provided for information only: The maximum Statutory Levy Rate for the City of Tukwila, as allowed by RCW 84.52.043, is \$3.825, which includes \$0.225 for the Firemen's Pension Fund as allowed by RCW 41.16.060; and

**WHEREAS**, the City, pursuant to Ordinance No. 2514, passed on November 21, 2016, authorized the issuance and sale of \$36,500,000 principal amount of the City's Unlimited Tax General Obligation Bonds, 2016 and pursuant to Ordinance No. 2610, passed on July 15, 2019, authorized the issuance and sale of \$40,885,000 principal amount of the City's Unlimited General Obligation Bonds, 2019 (together the "Bonds"); and has determined that to provide the money necessary to pay the debt service requirements on the Bonds in the year 2023, an excess property tax levy in the amount of \$4,535,975 for the Bonds must be levied in year 2022, and collected in year 2023; and

**WHEREAS**, the final assessed valuation calculation has been determined;

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

**Section 1. Regular and Excess Tax Levy.**

A. There shall be and hereby is levied on all real, personal and utility property in the City of Tukwila, in King County, whose estimated assessed valuation is \$8,981,288,883, current taxes for the ensuing year commencing January 1, 2023, in the amounts specified below:

	<u>Rate</u>	<u>Amount</u>
Regular Tax Levy	\$1.95	\$ 17,600,000
Excess Tax Levy	\$0.50	\$ 4,535,975

B. The said taxes herein provided for are levied for the purpose of payment upon the general bonded indebtedness of the City of Tukwila, the General Fund, and for the maintenance of the departments of the municipal government of the City of Tukwila for the fiscal year beginning January 1, 2023. The regular tax levy includes new construction and improvements to property, estimated to be \$74,619, a re-levy of prior year refunds in the estimated amount of \$20,825, and any increase in the value of state-assessed property.

C. The excess levy is levied for the purpose of debt service payments on the unlimited tax obligation bonds sold to finance costs related to the City's Public Safety Plan, as submitted to the qualified electors of the City at a special election held on November 8, 2016.

**Section 2. Collection.** This ordinance shall be certified to the proper County officials, as provided by law, and taxes here levied shall be collected to pay to the Finance Director of the City of Tukwila at the time and in the manner provided by the laws of the State of Washington for the collection of taxes for non-chartered code cities.

**Section 3. Corrections by City Clerk or Code Reviser Authorized.** 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 4. 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 or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

**Section 5. 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 and effect January 1, 2023.



PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at  
a Regular Meeting thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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: \_\_\_\_\_

\_\_\_\_\_  
Office of the City Attorney



# DRAFT

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, INCREASING THE CITY OF TUKWILA REGULAR LEVY FROM THE PREVIOUS YEAR, COMMENCING JANUARY 1, 2023, ON ALL PROPERTY, BOTH REAL AND PERSONAL, IN COMPLIANCE WITH RCW 84.55.120; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Tukwila has properly given notice of a public hearing held on November 14, 2022, pursuant to RCW 84.55.120; and

**WHEREAS**, after such hearing and after duly considering all relevant evidence and testimony presented, the City Council has determined that in order to discharge its expected expenses and obligations the City requires an increase in property tax revenue from the previous year, in addition to the increase resulting from the addition of new construction and improvements to property and any increase in the value of State-assessed property; and

**WHEREAS**, the City Council has determined it is in the City's best interest and necessary to meet its expenses and obligations for the property tax revenue to be increased for 2023, and the final assessed valuation calculation has been determined;

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

**Section 1.** An increase in the regular property tax levy, in addition to any amount resulting from the addition of new construction and improvements to property and any increase in the value of State-assessed property, is hereby authorized for the 2023 levy in the amount of \$158,660, which is a percentage increase of 0.92% from the previous year. This increase is exclusive of additional revenue resulting from new construction, improvements to property, any increase in the value of State-assessed property, any annexations that have occurred and refunds made.

**Section 2. Corrections by City Clerk or Code Reviser Authorized.** 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 3. 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 or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

**Section 4. 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 and effect January 1, 2023.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Christy O'Flaherty, CMC, 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: \_\_\_\_\_

\_\_\_\_\_  
Office of the City Attorney

# PRELIMINARY

## LEVY LIMIT WORKSHEET – 2023 Tax Roll

TAXING DISTRICT: City of Tukwila

The following determination of your regular levy limit for 2023 property taxes is provided by the King County Assessor pursuant to RCW 84.55.100.

Annexed to Library District

(Note 1)

Estimated Library rate: 0.23468

Using Limit Factor For District	Calculation of Limit Factor Levy	Using Implicit Price Deflator
17,228,992	Levy basis for calculation: (2022 Limit Factor) (Note 2)	17,228,992
<b>1.0100</b>	x Limit Factor	<b>1.0646</b>
17,401,282	= Levy	18,341,468
34,561,877	Local new construction	34,561,877
0	+ Increase in utility value (Note 3)	0
34,561,877	= Total new construction	34,561,877
2.15900	x Last year's regular levy rate	2.15900
74,619	= New construction levy	74,619
<b>17,475,901</b>	Total Limit Factor Levy	<b>18,416,087</b>
<b>Annexation Levy</b>		
0	Omitted assessment levy (Note 4)	0
17,475,901	Total Limit Factor Levy + new lid lifts	18,416,087
8,981,288,883	÷ Regular levy assessed value less annexations	8,981,288,883
1.94581	= Annexation rate (cannot exceed statutory maximum rate)	2.05049
0	x Annexation assessed value	0
<b>0</b>	= <b>Annexation Levy</b>	<b>0</b>
<b>Lid lifts, Refunds and Total</b>		
0	+ First year lid lifts	0
17,475,901	+ Limit Factor Levy	18,416,087
<b>17,475,901</b>	= Total RCW 84.55 levy	<b>18,416,087</b>
20,825	+ Relevy for prior year refunds (Note 5)	20,825
17,496,726	= Total RCW 84.55 levy + refunds	18,436,912
	Levy Correction: Year of Error (+or-)	
<b>17,496,726</b>	<b>ALLOWABLE LEVY (Note 6)</b>	<b>18,436,912</b>
<b>Increase Information (Note 7)</b>		
1.94813	Levy rate based on allowable levy	2.05281
17,242,622	Last year's ACTUAL regular levy	17,242,622
158,660	Dollar increase over last year other than N/C – Annex	1,098,846
0.92%	Percent increase over last year other than N/C – Annex	6.37%
<b>Calculation of statutory levy</b>		
	Regular levy assessed value (Note 8)	8,981,288,883
	x Maximum statutory rate	3.59032
	= <b>Maximum statutory levy</b>	<b>32,245,701</b>
	+Omitted assessments levy	0
	=Maximum statutory levy	<b>32,245,701</b>
	Limit factor needed for statutory levy	Not usable

ALL YEARS SHOWN ON THIS FORM ARE THE YEARS IN WHICH THE TAX IS PAYABLE.

Please read carefully the notes on the reverse side.



Notes:

- 1) Rates for fire districts and the library district are estimated at the time this worksheet is produced. Fire district and library district rates affect the maximum allowable rate for cities annexed to them. These rates *will* change, mainly in response to the actual levy requests from the fire and library districts. Hence, affected cities may have a higher or lower allowable levy rate than is shown here when final levy rates are calculated.
- 2) This figure shows the maximum *allowable levy*, which may differ from any actual prior levy if a district has levied less than its maximum in prior years. The maximum allowable levy excludes any allowable refund levy if the maximum was based on a limit factor. The maximum allowable levy excludes omitted assessments if the maximum was determined by your district's statutory rate limit. If your district passed a limit factor ordinance in the year indicated, that limit factor would help determine the highest allowable levy. However, if the statutory rate limit was more restrictive than your stated limit factor, the statutory rate limit is controlling.
- 3) Any increase in value in state-assessed property is considered to be new construction value for purposes of calculating the respective limits. State-assessed property is property belonging to inter-county utility and transportation companies (telephone, railroad, airline companies and the like).
- 4) An omitted assessment is property value that should have been included on a prior year's roll but will be included on the tax roll for which this worksheet has been prepared. Omitted are assessed and taxed at the rate in effect for the year omitted (RCW 84.40.080-085). Omitted assessments tax is deducted from the levy maximum before calculating the levy rate for current assessments and added back in as a current year's receivable.
- 5) Administrative refunds under RCW 84.69.020 were removed from the levy lid by the 1981 legislature.
- 6) A district is entitled to the lesser of the maximum levies determined by application of the limit under RCW 84.55 and the statutory rate limit. Levies may be subject to further proration if aggregate rate limits set in Article VII of the state constitution and in RCW 84.52.043 are exceeded.
- 7) This section is provided for your information, and to assist in preparing any Increase Ordinance that may be required by RCW 84.55.120. The increase information compares the allowable levy for the next tax year with your ACTUAL levy being collected this year. The actual levy excludes any refund levy and expired temporary lid lifts, if applicable. New construction, annexation and refund levies, as well as temporary lid lifts in their initial year, are subtracted from this year's *allowable* levy before the comparison is made.
- 8) ***Assessed valuations shown are subject to change from error corrections and appeal board decisions recorded between the date of this worksheet and final levy rate determination.***







## **INFORMATIONAL MEMORANDUM**

**TO:** Finance & Governance Committee

**FROM:** Vicky Carlsen, Finance Director

**CC:** Mayor Ekberg

**DATE:** October 18, 2022

**SUBJECT:** Interfund loan from the Sewer Fund to purchase a fire engine not to exceed \$1,100,000

### **ISSUE**

Authorize an interfund loan from the Sewer Fund to purchase a new fire engine as part of the Interlocal Agreement with the Puget Sound Regional Fire Authority (PSRFA).

### **BACKGROUND**

The City's Public Safety Plan provided for the purchases of fire apparatus and equipment. For apparatus, a new engine was planned in 2024 and was to be funded through the State of Washington's LOCAL program. This would be either a 10- or 20-year repayment schedule with interest being paid to the State.

Per the agreement that City Council approved at the October 3, 2022, Regular Meeting, the engine will be ordered by the Puget Sound Regional Fire Authority and reimbursed by the City.

### **DISCUSSION**

The City's Sewer Fund currently has a healthy fund balance available from which to transfer funds of up to \$1,100,000 to purchase a fire engine as part of the interlocal agreement with PSRFA. Fund will be repaid by 2026 with interest. This loan will not impede the ability to move forward with planned capital projects in this fund nor will utility rates increase because of this loan.

Repayment of the loan would occur in 2026, after a positive vote for annexation of the fire department in to the PSRFA. Interest will accrue at the rate in effect with the Local Government Investment Pool (LGIP) as of the effective date of the interfund loan. Interest will be calculated on an annual basis. Repayment will occur as one lump sum in 2026 that will include principal and all accrued interest.

Payment for the engine is expected to occur no later than January 15, 2023 but will most likely occur in the latter part of 2022. The interfund loan and purchase of the engine will be included in the year-end budget amendments.

### **RECOMMENDATION**

Council is being asked to approve the resolution and consider this at the November 14, 2022, Committee of the whole and subsequent November 21, 2022, Regular Meeting.

### **ATTACHMENTS**

Draft Resolution



# DRAFT

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AUTHORIZING THE TRANSFER OF FUNDS FOR THE PURPOSE OF MAKING A LOAN FROM THE SEWER FUND TO THE GENERAL FUND; ESTABLISHING AN INTEREST RATE AND REPAYMENT SCHEDULE FOR SAID INTERFUND LOAN.**

**WHEREAS**, the City's Public Safety Plan originally planned for the purchase of Fire Department Apparatus (new engine) in 2024 that was to be funded through the State of Washington's LOCAL Program for a 10-year to 20-year repayment term; and

**WHEREAS**, at the October 3, 2022 Regular Council Meeting, the City Council authorized the Mayor to sign an Interlocal Agreement with the Puget Sound Regional Fire Authority for Fire/Emergency Medical Services; and

**WHEREAS**, at the October 3, 2022 Regular Council Meeting, the City Council also approved the expenditure of up to \$1,100,000 utilizing an interfund loan for Fire Department Apparatus (new engine); and

**WHEREAS**, utilizing an interfund loan will provide the City with greater control over the repayment terms; and

**WHEREAS**, the City's Sewer Fund presently has sufficient funds from which to transfer funds in an amount not to exceed \$1,100,000 for the purpose of making a loan to the General Fund to cover the authorized expenditure, in accordance with the requirements set forth herein;

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

**Section 1. Interfund Loan Authorized.** An interfund loan in the principal amount not to exceed \$1,100,000.00 is hereby authorized from the Sewer Fund (Fund 402) to the General Fund (Fund 000). The effective date of said interfund loan shall be no later than January 16, 2023.

**Section 2. Interest.** Interest on the interfund loan authorized per Section 1 shall accrue at the rate in effect with the Local Government Investment Pool (LGIP) as of the effective date of the interfund loan. The interest rate shall be calculated on an annual basis.

**Section 3. Repayment Schedule.** The interfund loan authorized per Section 1 shall be repaid in full to the Sewer Fund (Fund 402), together with accrued interest consistent with Section 2, as sufficient revenues become available to the General Fund (Fund 000), but in no event later than December 31, 2026. Nothing in this resolution shall be construed as authorizing a permanent diversion of the funds transferred through said interfund loan.

**Section 4. Implementation.** The Finance Director is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation, including, without limitation, taking such action as may be necessary to amend the budgets for the affected years to reflect the interfund loan described in this resolution, and including bringing forth budget amendments or reconciliations to Council, if Council approval in addition to this resolution is determined to be necessary under State law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON,  
at a Regular Meeting thereof this \_\_\_\_ day of \_\_\_\_\_, 2022

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Christy O'Flaherty, MMC, City Clerk

\_\_\_\_\_  
Thomas McLeod, Council President

APPROVED AS TO FORM BY:

Filed with the City Clerk: \_\_\_\_\_  
Passed by the City Council: \_\_\_\_\_  
Resolution Number: \_\_\_\_\_

\_\_\_\_\_  
Office of the City Attorney



## **INFORMATIONAL MEMORANDUM**

**TO: Finance & Governance Committee**

**FROM: Vicky Carlsen, Finance Director**

**CC: Mayor Ekberg**

**DATE: October 18, 2022**

**SUBJECT: 2023 – 2024 Biennial Budget Ordinance  
2023 – 2028 Financial Planning Model and Capital Improvement Program**

### **ISSUE**

Adopt the 2023 – 2024 biennial budget and the 2023 – 2028 Capital Improvement Program (CIP) by the end of December.

### **BACKGROUND**

The proposed biennial budget for 2023 – 2024 and draft 2023 – 2028 CIP were presented to Council on October 3, 2022. Departments within the general fund and all other funds have been reviewed in Council Committees and at the Council Committee of the Whole. Additionally, Council held budget workshops on October 11 and October 13, 2022, to discuss both the budget and CIP. Additional workshops will be scheduled before final adoption.

### **DISCUSSION**

At this time the proposed 2023 – 2024 biennial budget as well as the 2023 – 2028 CIP is being presented to the Finance & Governance Committee for review and discussion. The public hearing, another opportunity for community input, is scheduled for Tuesday, November 14, 2022.

The ordinance and resolution are in draft form and will be updated prior to final adoption if any changes are made to either the proposed biennial budget or the CIP.

### **RECOMMENDATION**

The Finance & Governance Committee is being asked to review the 2023 – 2024 biennial budget ordinance and the 2023 – 2028 Financial Planning Model and Capital Improvement Plan resolution and forward to the Committee of the Whole for the legally required Public Hearing on November 14, 2022. Final action on the budget legislation could occur at the November 21 Regular Meeting, or any Regular or Special meeting through the end of the year per the Council's preference.

### **ATTACHMENTS**

Draft Budget Ordinance  
Reconciliation of 2023 – 2024 Budget Summary to Ordinance  
Draft CIP Resolution



# DRAFT

## **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON; ADOPTING THE BIENNIAL BUDGET OF THE CITY OF TUKWILA FOR THE 2023-2024 BIENNIUM; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the preliminary budget of the City of Tukwila for the 2023-2024 biennium was submitted to the City Council in a timely manner for their review; and

**WHEREAS**, a Public Hearing on the proposed budget was advertised and held on November 14, 2022; and

**WHEREAS**, as budget oversight is one of its key legislative responsibilities, the City Council conducted a thorough process to deliberate the proposed 2023-2024 Biennial Budget;

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

**Section 1.** The City Council hereby adopts the document entitled “City of Tukwila 2023-2024 Biennial Budget,” incorporated by this reference as if fully set forth herein, in accordance with RCW 35A.34.120.

**Section 2.** Cost of living adjustments (COLAs) for non-represented employees shall be implemented per the City Council’s Compensation Policy.

**Section 3.** A market and compression study for non-represented employees, as included in the 2023-2024 Biennial Budget, is expected to be completed by the end of 2023 and upon completion of the study, compensation will be adjusted per the market study with an effective date of January 1, 2020. Adjustments will be for non-represented employees on staff when the market study is completed.

**Section 4.** The totals of the estimated revenues and appropriations for each separate fund and the aggregate totals are as follows:

Fund	Total Expenditures	Total Revenues
000 General	\$ 166,485,032	\$ 166,485,032
105 Contingency	7,082,148	7,082,148
101 Hotel/Motel	3,530,201	3,530,201
103 City Street	9,326,503	9,326,503
104 Arterial Street	30,749,479	30,749,479
109 Drug Seizure Fund	666,515	666,515
2XX LTGO Debt Service Funds	11,815,404	11,815,404
213 Unlimited Tax G.O. Bonds	9,615,168	9,615,168
206 LID Guaranty	764,958	764,958
233 2013 LID	1,615,678	1,615,678
301 Land Acquisition, Recreation & Park Dev.	4,692,436	4,692,436
302 Facility Replacement	2,533,800	2,533,800
303 General Government Improvements	2,345,128	2,345,128
304 Fire Improvements	600,000	600,000
305 Public Safety Plan	2,738,557	2,738,557
306 City Facilities	6,256,324	6,256,324
401 Water	22,155,562	22,155,562
402 Sewer	34,034,242	34,034,242
411 Foster Golf Course	6,094,043	6,094,043
412 Surface Water	28,393,244	28,393,244
501 Equipment Rental	7,945,539	7,945,539
502 Insurance Fund	13,172,855	13,172,855
503 Insurance - LEOFF 1 Fund	959,737	959,737
611 Firemen's Pension	1,694,370	1,694,370
Total All Funds Combined	<u>\$ 375,266,924</u>	<u>\$ 375,266,924</u>

**Section 5.** A complete copy of the final budget for 2023-2024, as adopted, together with a copy of this adopting ordinance, shall be kept on file electronically by the City Clerk and accessible from the City's website in accordance with Washington State records retention schedule requirements and City policy, and shall be made available to the public upon request. A complete copy of the final budget for 2023-2024, as adopted, together with a copy of this adopting ordinance, shall be transmitted by the City Clerk to the Division of Municipal Corporations of the Office of the State Auditor and to the Association of Washington Cities.

**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 or constitutionality of the remaining portions 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 \_\_\_\_\_, 2022.

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: \_\_\_\_\_

\_\_\_\_\_  
Office of the City Attorney



Reconciliation of 2023-2024 Budget Summary to Ordinance

<b>REVENUES</b>	<b>2023 Beginning Fund Balance</b>	<b>2023 Revenues</b>	<b>2024 Revenues</b>	<b>Total Revenues</b>
000 General	\$ 19,085,142	\$ 71,839,634	\$ 75,560,256	\$ 166,485,032
101 Hotel/Motel	2,048,201	726,000	756,000	3,530,201
103 City Street	847,903	5,352,800	3,125,800	9,326,503
104 Arterial Street	6,570,879	4,873,800	19,304,800	30,749,479
105 Contingency	7,042,148	20,000	20,000	7,082,148
109 Drug Seizure Fund	435,515	115,500	115,500	666,515
200 LTGO Bonds	-	392,475	389,375	781,850
208 LTGO Bonds - 2017 (Public Safety Plan)	-	1,532,700	1,534,450	3,067,150
209 LTGO Bonds - 2017 (Residential Street)	-	558,400	557,750	1,116,150
210 Limited Tax G.O. Refunding Bonds, 2003	-	-	-	-
211 Limited Tax G.O. Refunding Bonds, 2008	-	-	-	-
212 Limited Tax G.O. Bonds, 2009A	-	376,876	376,914	753,790
214 Limited Tax G.O. Bonds, 2010A	-	-	-	-
216 Limited Tax G.O. Refunding Bonds, Valley Comm	-	-	-	-
217 2011 Refunding Bonds	-	-	-	-
218 2014 MPD	-	-	-	-
219 LTGO - PSP/PW Shops	-	1,691,050	1,689,550	3,380,600
220 2020 Bonds - refunding	-	513,029	516,579	1,029,608
221 2021 Bonds - refunding / PW Shops	-	1,114,540	571,716	1,686,256
2XX LTGO Debt Service Funds	-	6,179,070	5,636,334	11,815,404
213 UTGO Bonds	314,818	4,487,175	4,813,175	9,615,168
206 LID Guaranty	758,958	3,000	3,000	764,958
233 2013 LID	586,678	525,000	504,000	1,615,678
301 Land Acquisition, Recreation & Park Dev.	3,751,186	487,250	454,000	4,692,436
302 Facility Replacement	1,183,800	1,350,000	-	2,533,800
303 General Government Improvements	444,128	1,901,000	-	2,345,128
304 Fire Improvements	-	300,000	300,000	600,000
305 Public Safety Plan	538,557	1,100,000	1,100,000	2,738,557
306 City Facilities	2,274,324	2,141,000	1,841,000	6,256,324
401 Water	4,690,562	7,728,000	9,737,000	22,155,562
402 Sewer	11,742,027	10,882,300	11,409,915	34,034,242
411 Foster Golf Course	1,505,043	2,294,500	2,294,500	6,094,043
412 Surface Water	5,944,369	11,367,500	11,081,375	28,393,244
501 Equipment Rental	4,322,760	2,237,991	1,384,788	7,945,539
502 Insurance Fund	764,171	6,204,342	6,204,342	13,172,855
503 Insurance - LEOFF 1 Fund	258,737	350,500	350,500	959,737
611 Firemen's Pension	1,543,370	75,500	75,500	1,694,370
<b>Total</b>	<b>\$ 76,653,277</b>	<b>\$ 142,541,862</b>	<b>\$ 156,071,785</b>	<b>\$ 375,266,924</b>

<b>EXPENDITURES</b>	<b>2023 Expenditures</b>	<b>2024 Expenditures</b>	<b>2024 Ending Fund Balance</b>	<b>Total Expenditures</b>
000 General	\$ 75,756,268	\$ 77,992,440	\$ 12,736,324	\$ 166,485,032
101 Hotel/Motel	938,890	944,668	1,646,643	3,530,201
103 City Street	5,912,000	3,145,000	269,503	9,326,503
104 Arterial Street	6,149,662	19,209,451	5,390,366	30,749,479
105 Contingency	-	-	7,082,148	7,082,148
109 Drug Seizure Fund	266,008	279,297	121,211	666,515
200 LTGO Bonds	392,475	389,375	-	781,850
208 LTGO Bonds - 2017 (Public Safety Plan)	1,532,700	1,534,450	-	3,067,150
209 LTGO Bonds - 2017 (Residential Street)	558,400	557,750	-	1,116,150
210 Limited Tax G.O. Refunding Bonds, 2003	-	-	-	-
211 Limited Tax G.O. Refunding Bonds, 2008	-	-	-	-
212 Limited Tax G.O. Bonds, 2009A	376,876	376,914	-	753,790
214 Limited Tax G.O. Bonds, 2010A	-	-	-	-
216 Limited Tax G.O. Refunding Bonds, Valley Comm	-	-	-	-
217 2011 Refunding Bonds	-	-	-	-
218 2014 MPD	-	-	-	-
219 LTGO - PSP/PW Shops	1,691,050	1,689,550	-	3,380,600
220 2020 Bonds - refunding	513,029	516,579	-	1,029,608
221 2021 Bonds - refunding / PW Shops	1,114,540	571,716	-	1,686,256
2XX LTGO Debt Service Funds	6,179,070	5,636,334	-	11,815,404
213 UTGO Bonds	4,485,975	4,811,975	317,218	9,615,168
206 LID Guaranty	-	-	764,958	764,958
233 2013 LID	525,000	504,000	586,678	1,615,678
301 Land Acquisition, Recreation & Park Dev.	931,250	1,179,000	2,582,186	4,692,436
302 Facility Replacement	300,000	200,000	2,033,800	2,533,800
303 General Government Improvements	2,345,128	-	-	2,345,128
304 Fire Improvements	300,000	300,000	-	600,000
305 Public Safety Plan	1,319,019	1,317,849	101,689	2,738,557
306 City Facilities	2,700,000	3,000,000	556,324	6,256,324
401 Water	9,191,362	9,852,599	3,111,601	22,155,562
402 Sewer	12,549,000	13,570,855	7,914,388	34,034,242
411 Foster Golf Course	2,312,871	2,441,024	1,340,148	6,094,043
412 Surface Water	12,409,424	11,792,110	4,191,711	28,393,244
501 Equipment Rental	3,210,844	3,076,219	1,658,476	7,945,539
502 Insurance Fund	6,060,861	6,506,054	605,940	13,172,855
503 Insurance - LEOFF 1 Fund	444,438	460,558	54,741	959,737
611 Firemen's Pension	62,000	62,000	1,570,370	1,694,370
<b>Total</b>	<b>\$ 154,349,069</b>	<b>\$ 166,281,432</b>	<b>\$ 54,636,423</b>	<b>\$ 375,266,924</b>

# DRAFT

## A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, ADOPTING THE 2023-2028 FINANCIAL PLANNING MODEL AND THE CAPITAL IMPROVEMENT PROGRAM FOR GENERAL GOVERNMENT AND THE CITY'S ENTERPRISE FUNDS.

**WHEREAS**, when used in conjunction with the biennial City budget, the Capital Improvement Program (CIP) and the Financial Planning Model for the period of 2023-2028 are resource documents to help plan directions the City will consider for the future; and

**WHEREAS**, the Financial Planning Model and Capital Improvement Program are not permanent fixed plans, but are guidelines or tools to help reflect future goals and future resources at the time budgets are being planned; and

**WHEREAS**, the commitment of funds and resources can only be made through the budget process;

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

**Section 1.** The City Council hereby adopts the 2023-2028 Financial Planning Model and accompanying Capital Improvement Program, incorporated by this reference as if fully set forth herein.

**Section 2.** A copy of the 2023-2028 Financial Planning Model and accompanying Capital Improvement Program shall be kept on file electronically by the City Clerk and accessible from the City's website in accordance with Washington State records retention schedule requirements and City policy, and shall be made available to the public upon request.

**Section 3.** The assumptions, revenues and expenditures will be reviewed and updated biennially, or as necessary, by the City Council.

**Section 4.** The detail of Capital Improvement Program projects will be reflected in the published Financial Planning Model and Capital Improvement Program 2023-2028.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Christy O'Flaherty, MMC, City Clerk

\_\_\_\_\_  
Thomas McLeod, Council President

APPROVED AS TO FORM BY:

Filed with the City Clerk: \_\_\_\_\_  
Passed by the City Council: \_\_\_\_\_  
Resolution Number: \_\_\_\_\_

\_\_\_\_\_  
Office of the City Attorney



## **INFORMATIONAL MEMORANDUM**

**TO: Finance & Governance Committee**

**FROM: Vicky Carlsen, Finance Director**

**BY: Aaron Williams, Fiscal Manager**

**CC: Mayor Ekberg**

**DATE: October 24, 2022**

**SUBJECT: 2022 Biennial Budget Amendment Ordinance**

### **ISSUE**

Approve the administrative 2022 biennial budget amendments.

### **BACKGROUND**

While amending the budget is only required when a fund, in total, is in danger of exceeding budget, it is a best practice to adjust the budget to identify significant changes in financial plans, policy decisions, and provide transparency for key decisions.

Several of the proposed budget amendments have been reviewed and consensus given by Council Committee and/or Council process as noted below in the discussion. The proposed budget amendments make the following types of modification to the current biennium:

- Housekeeping amendments such as adjusting budgeted beginning fund balance to actual beginning fund balance,
- Increasing certain general fund revenue streams,
- Reflect revenue-backed projects/expenditures,
- Formalize budget amendments previously approved via Council consensus

All budget amendments are detailed below with explanations provided for each amendment as well as the effect on ending fund balance. Budget amendments are summarized by fund in the tables attached to this memo.

### **DISCUSSION**

#### **General Fund**

##### **Adjust Beginning Fund Balance**

A beginning fund balance increase of \$3,525,024 to adjust the budgeted beginning fund balance to reflect the actual beginning fund balance. Fiscal year 2021 ended the year with a fund balance of \$16.9 million, which exceeds the fund balance policy by approximately \$5.3 million. This increase in beginning fund balance is one leg of the three-legged stool to balance the 2023-2024 budget.

It should be noted that after all amendments, the general fund is expected to meet, and exceed, reserve policy in 2022.

**Amendments by Department**

The footnotes following the chart provide additional details about each proposed amendment.

Dept.	Footnc	Description of Proposed Amendment	2022	
			Revenue	Expenditure
Recreation-Parks	1a	Partners in Employment contract (part of SEEK)	64,000	64,000
Recreation	1b	Summer Experience & Enrichment (SEEK) grant	30,000	30,000
Recreation	1c	You Got Next Tukwila Basketball Festival (held at TCC 9/17/22)	20,000	20,000
Recreation	1d	Kaleidoscope Play & Learn (KPL) Program	10,000	10,000
		<b>Recreation Total</b>	<b>\$ 124,000</b>	<b>\$ 124,000</b>
Community Development	2	TDM Program, new Sustainable Transportation Communication Specialist	70,000	70,000
		<b>Community Development Total</b>	<b>\$ 70,000</b>	<b>\$ 70,000</b>
Fire	3	Increase to Contract-Karen Reed Fire Advisory Task Force		40,000
Fire	4	Dispatching-ValleyComm contract costs		80,000
Fire	5	Salaries/Benefits (Includes leave payouts and overtime)		355,000
		<b>Fire Department Total</b>	<b>\$ -</b>	<b>\$ 475,000</b>
Dept. 20 - Transfers Out	6	Transfer out to 105, 10% PY constr sales tax		166,463
Dept. 20 - Transfers Out	7	Interfund Loan from 402 and subsequent transfer out to 305 for engine purchase	1,100,000	1,100,000
		<b>Dept. 20 Transfers Total</b>	<b>\$ 1,100,000</b>	<b>\$ 1,266,463</b>
General Revenue	8	Increase to Retail Sales Tax revenue budget	500,000	
General Revenue	8	Increase to utility tax revenue budget	500,000	
General Revenue	8	Increase to Gambling tax revenue budget	1,000,000	
		<b>Total General Revenue Amendments</b>	<b>\$ 2,000,000</b>	<b>\$ -</b>

<b>Total General Fund</b>	<b>3,294,000</b>	<b>1,935,463</b>
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- 1) Add revenue and expenditure budgets for Parks & Recreation grants awarded to the City.
  - a. Partners in Employment, part of the SEEK program, provided youth with education opportunities to learn about ecosystem restoration. Program enrolled 91 youth over the summer. *(authorized 6/6/22 Special meeting)*
  - b. SEEK grant, remaining activity incurred as part of the summer recreation experiences for the SEEK grant. A total of 131 participants took part. *(authorized 2/28/22 Special meeting)*
  - c. You Got Next Tukwila Basketball Festival held at TCC on 9/17 in partnership with the Seattle Sports Commission, also includes some rental fees paid for TCC usage. Total attendance was approximately 450 with 250 of those being youth, event was provided to the public for free. *(from 9/17/22 Community Services & Safety Committee)*
  - d. Funding for Kaleidoscope Play & Learn Program. KPL provides children and their caregivers with culturally and developmentally appropriate play activities as well as peer to peer activities for caregivers to learn what they can do at home to support their child's growth. *(grant contract amended with additional funds)*
- 2) Add revenue and expenditure budgets for the addition of a new FTE to the TDM Program, grant funded. The new grant-funded Sustainable Transportation Communications Specialist will coordinate TDM communications and media to reach residents, commuters, and employers in Tukwila and South King County. *(authorized 6/6/22 regular meeting)*
- 3) Budget expenditures for the Fire advisory task force, Consultant Karen Reed's contract was extended to allow her to continue leading the TFD annexation conversation. *(approved 5/2/22 regular meeting)*
- 4) Add expenditure budget for additional Valley Communications contract costs, 2022 budget was based on a low estimate; assessment increased 15% over prior year.
- 5) Adjustment to increase Fire salaries and benefits, which includes leave payouts and additional overtime. In anticipation of upcoming retirements, the department has been hiring several new employees. A portion of the amendment covers leave payouts for these retirements, as well as covering addition costs incurred to maintain minimum staffing levels. Leave payouts also include compensation time as specified in the Interlocal Agreement.
- 6) Annual transfer to Contingency Fund from General fund of 10% of prior year construction related sales taxes, per reserve policy. Based on 2021 construction sales taxes of \$1,664,634.



- 7) Interfund loan from Sewer Fund (402) to the General Fund (000) and transfer to PSP Fund (305) for purchase of Fire Engine for PSRFA contract. *(Interlocal Agreement with PSRFA approved 10/3)*
- 8) Adjustments to reflect additional revenues anticipated above budget for Sales Tax, Gambling Tax and Utility Taxes. The City continues to see improvements in some revenue streams; however some revenues are still lagging behind pre-pandemic levels.

**Other Funds**

Included in the proposed budget amendments are amendments in other funds. In addition to the amendments listed below, beginning fund balances are being adjusted to reflect actual balance available in the fund. The footnotes following the chart provide additional details about each proposed amendment.

Fund	Footnote	Description of Proposed Amendment	2022	
			Revenue	Expenditure
Contingency - Fund 105	6	Transfer Gen Fd - 10% Prior year constr sales tax revenues	166,463	
		<b>Total Contingency Fund Amendments</b>	<b>\$ 166,463</b>	<b>\$ -</b>
Drug Seizure - Fund 109	9	Mental Health Co-Responder (carryforward from 2021)		85,000
Drug Seizure - Fund 109	10	SPIDR Tech for public perception survey's		20,000
Drug Seizure - Fund 109	11	Purchase of armored truck for SWAT		100,000
		<b>Total Drug Seizure Fund Amendments</b>	<b>\$ -</b>	<b>\$ 205,000</b>
Gen Gov Improvements - Fund 303	12	City Hall siding repair additional budget		100,000
		<b>Total General Government Improvements Amendments</b>	<b>\$ -</b>	<b>\$ 100,000</b>
Public Safety Plan - Fund 305	7	Transfer In from General Fund and Engine purchase for RFA per contract	1,100,000	1,100,000
Public Safety Plan - Fund 305	7	Fire Equipment additional for RFA per contract		200,000
		<b>Total Public Safety Plan Amendments</b>	<b>\$ 1,100,000</b>	<b>\$ 1,300,000</b>
City Facilities (PW Shops) - Fund 306	13	PWS Phase 1 Additional project costs, funding from land sale/utilities	1,000,000	1,000,000
City Facilities (PW Shops) - Fund 306	14	phase 2-land sales	2,000,000	
City Facilities (PW Shops) - Fund 306	14	Authorize PWS expenditures (carried forward budget)		1,500,000
		<b>Total City Facilities (PW Shops) Amendments</b>	<b>\$ 3,000,000</b>	<b>\$ 2,500,000</b>
Golf Course - Fund 411	15	Golf operational adjustments	300,000	200,000
		<b>Total Golf Course Amendments</b>	<b>\$ 300,000</b>	<b>\$ 200,000</b>
Water - Fund 401	13	PWS Phase 1 - \$500k utility fund transfer to 306 (@ 34% alloc)		170,000
		<b>Total Water Amendments</b>	<b>\$ -</b>	<b>\$ 170,000</b>
Sewer - Fund 402	7	Interfund Loan to General Fund for RFA engine purchase		1,100,000
Sewer - Fund 402	13	PWS Phase 1 - \$500k utility fund transfer to 306 (@ 19% alloc)		95,000
		<b>Total Sewer Amendments</b>	<b>\$ -</b>	<b>\$ 1,195,000</b>
Surface Water - Fund 412	13	PWS Phase 1 - \$500k utility fund transfer to 306 (@ 47% alloc)		235,000
		<b>Total Surface Water Amendments</b>	<b>\$ -</b>	<b>\$ 235,000</b>
Equipment Rental & Replacement (501)	16	Carryforward of 2021 budget for Vactor truck (delayed in 2021)		600,000
Equipment Rental & Replacement (501)	17	Increase to fuel budget due to high gas prices		122,000
Equipment Rental & Replacement (501)	18	Repair costs for damaged aerial		97,000
		<b>Total Equipment Rental &amp; Replacement Amendments</b>	<b>\$ -</b>	<b>\$ 819,000</b>

- 6) Transfer to Contingency Fund from General fund of 10% of prior year construction related sales taxes. Based on 2021 construction sales taxes of \$1,664,634.
- 7) Interfund loan from Sewer Fund (402) to the General Fund (000) and transfer to PSP Fund (305) for purchase of Fire Engine for PSRFA contract. Additionally, for PSP fund 305: Add budget for additional Fire equipment purchases for PSRFA contract. *(Interlocal Agreement with PSRFA approved 10/3)*
- 9) Drug Seizure fund 109: carryforward of 2021 budget for Mental Health Co-responder. The Department budgeted this pilot program for 2021 but the program actually began incurring expenses in 2022.
- 10) Drug Seizure fund 109: The Department partnered with SPIDR Tech to send out questionnaires, surveys, and updates to 911-callers to gauge public perception of police services and to improve communication with victims of crimes. *(discussion at 4/25 CSS Committee)*

- 11) Drug Seizure fund 109: The Department purchased a covert armored personnel transport vehicle that will improve the safety of victims, perpetrators, and responding officers in high-risk scenarios. *(authorized 9/19/22 regular meeting)*
- 12) City Facilities fund 303: increase expenditures budget by \$100,000 for City Hall siding repairs. *(contract authorized 10/3/22 regular meeting)*
- 13) PW Shop phase 1, additional \$1 million in project costs with funding from the upcoming land sale of the George Long Shop (\$500k) and from utility funds (\$500k). These adjustments maintain the 50/50 split between the government and utility funds. Final true-up allocation will be determined once project is completed. *(Consensus from 4/11/22 Committee of the Whole)*
- 14) PW Shop phase 2, budget for land sales revenue from the George Long Shop. In addition, increasing the expenditure budget based on projected year end expenditures. The addition of land sale revenue will be balanced with utility fund contributions in the 2023 proposed budget to maintain the 50/50 balance between government and utility funds. *(Consensus from 5/9/22 Committee of the Whole)*
- 15) Foster Golf Course fund 411: Golf operational adjustments, increase for greens fees and adding budget for some unexpected repair projects at the course.
- 16) Adjust fleet fund purchases to reflect carry over from 2021 for the purchase of the Vactor truck, delivery of truck occurred in early 2022.
- 17) Increase for city fuel budgets due to abnormally high gas prices.
- 18) Additional budget for fleet repairs expenses related to repair costs due to damaged Aerial Truck

**Adjusting Beginning Fund Balances**

In addition to the budget amendments proposed for other funds, beginning fund balances in various funds are also being adjusted to true up to actual beginning fund balances. The chart below details the adjustments to beginning fund balances included with these budget amendments.

Fund		Beginning Fund Balance		
		Adopted Budget	Proposed Amendments	Proposed Revised Budget
<b>General Fund:</b>	General Fund	13,392,295	3,525,024	16,917,319
	Contingency	6,468,169	285,896	6,754,065
<b>Special Revenue Funds:</b>	Lodging Tax	1,016,608	725,758	1,742,366
	Drug Seizure	166,034	401,239	567,273
<b>Debt Service Funds:</b>	LTGO Debt Service Funds (2XX)	36,541	(36,541)	-
	UTGO Debt Service Fund	11,984	301,309	313,293
	LID/Guaranty	1,298,797	41,474	1,340,271
<b>Capital Projects Funds:</b>	Residential Streets	724,912	(17,106)	707,806
	Bridges and Arterial Streets	2,516,741	1,165,446	3,682,187
	Land Acquisition, Rec. and Park Dev.	1,541,330	1,354,515	2,895,845
	Urban Renewal	1,452,144	1,010,117	2,462,261
	General Government	573,148	104,885	678,033
	Fire Impact Fees	500	(500)	-
	Public Safety Plan	6,976,196	(6,898,524)	77,672
	City Facilities (PW Shops)	3,138,454	361,590	3,500,044
<b>Enterprise Funds:</b>	Water	4,386,963	2,600,671	6,987,634
	Sewer	11,022,180	2,136,095	13,158,275
	Golf	1,056,224	(12,075)	1,044,149
	Surface Water	4,634,122	1,269,695	5,903,817
<b>Internal Service Funds:</b>	Equipment Rental and Replacement	3,600,733	1,134,552	4,735,285
	Employee Healthcare Plan	70,012	527,780	597,792
	LEOFF 1 Retiree Healthcare Plan	165,675	98,583	264,258
<b>Fiduciary Fund:</b>	Firemen's Pension	1,522,456	8,767	1,531,223
		<b>\$ 65,772,218</b>	<b>\$ 10,088,650</b>	<b>\$ 75,860,868</b>

**RECOMMENDATION**

The Council is asked to approve the Budget Amendment ordinance and consider this item at the November 14, 2022, Committee of the Whole, and November 21, 2022, Regular Council Meeting.

**ATTACHMENTS**

- Draft Ordinance
- Proposed Budget Changes – Summary by Fund
- Reconciliation of 2021-2022 Budget Summary to Ordinance



# DRAFT

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AMENDING ORDINANCE NO. 2641, WHICH ADOPTED THE CITY OF TUKWILA'S BIENNIAL BUDGET FOR THE 2021-2022 BIENNIUM, TO ADOPT AN AMENDED YEAR-END BUDGET; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, on December 7, 2020, the City Council of the City of Tukwila adopted Ordinance No. 2641, which adopted the 2021-2022 Biennial Budget of the City of Tukwila; and

**WHEREAS**, the City has determined a need to amend the 2021-2022 Biennial Budget before fiscal year-end; and

**WHEREAS**, on November 14, 2022, following required public notification, the City Council conducted a public hearing on the proposed 2022 Year-End Budget Amendment to the 2021-2022 Biennial Budget;

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

**Section 1. Ordinance Amended.** Tukwila Ordinance No. 2641 is hereby amended with the City Council's adoption of the document entitled "City of Tukwila 2021-2022 Year-End Budget Amendment," attached hereto and incorporated by this reference as if fully set forth herein, in accordance with RCW 35A.34.200.

**Section 2. Estimated Revenues and Appropriations.** The totals of the estimated revenues and appropriations for each separate fund and the aggregate totals are as follows:

FUND	EXPENDITURES	REVENUES
000 General	\$158,906,119	\$158,906,119
105 Contingency	\$6,940,529	\$6,940,529
101 Lodging Tax	\$3,300,147	\$3,300,147
103 Residential Streets	\$5,032,806	\$5,032,806
104 Bridges and Arterial Streets	\$18,143,488	\$18,143,488
109 Drug Seizure	\$863,773	\$863,773
2XX LTGO Debt Service	\$16,960,329	\$16,960,329
206 LID Guaranty	\$8,716,437	\$8,716,437
213 UTGO Bonds	\$316,293	\$316,293
233 2013 LID	\$1,831,397	\$1,831,397
301 Land Acquisition, Recreation & Park Dev.	\$6,032,635	\$6,032,635
302 Urban Renewal	\$5,147,261	\$5,147,261
303 General Government Improvements	\$918,533	\$918,533
304 Fire Impact Fees	\$600,500	\$600,500
305 Public Safety Plan	\$10,245,489	\$10,245,489
306 City Facilities	\$12,962,452	\$12,962,452
401 Water	\$22,710,878	\$22,710,878
402 Sewer	\$35,818,071	\$35,818,071
411 Foster Golf Course	\$5,198,164	\$5,198,164
412 Surface Water	\$25,544,931	\$25,544,931
501 Equipment Rental and Replacement	\$10,660,984	\$10,660,984
502 Employee Healthcare Plan	\$17,459,368	\$17,459,368
503 LEOFF 1 Retiree Healthcare Plan	\$1,187,178	\$1,187,178
611 Firemen's Pension	\$1,666,223	\$1,666,223
<b>Total</b>	<b>\$377,163,987</b>	<b>\$377,163,987</b>

**Section 3. Copies on File.** A complete copy of the amended budget for 2021-2022, as adopted, together with a copy of this amending ordinance, shall be kept on file electronically by the City Clerk and accessible from the City's website in accordance with Washington State records retention schedule requirements and City policy, and shall be made available to the public upon request. A copy of the amended budget for 2021-2022, as adopted, together with a copy of this amending ordinance, shall be transmitted by the City Clerk to the Division of Municipal Corporations of the Office of the State Auditor and to the Association of Washington Cities.

**Section 4. Corrections by City Clerk or Code Reviser Authorized.** 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 5. 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 or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

**Section 6. 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 and effect 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 \_\_\_\_\_, 2022.

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: \_\_\_\_\_

\_\_\_\_\_  
Office of the City Attorney

Attachment: City of Tukwila 2021-2022 Year-End Budget Amendment





**Proposed Budget Changes - Summary by Fund**

2022 Fund	Beginning Fund Balance			Revenue			Expenditure			Ending Fund Balance		
	Adopted Budget	Proposed Amendments	Proposed Revised Budget	Adopted Budget	Proposed Amendments	Proposed Revised Budget	Adopted Budget	Proposed Amendments	Proposed Revised Budget	Adopted Budget	Proposed Amendments	Proposed Revised Budget
<b>General Fund Depts.</b>												
Council												
Mayor												
Administrative Services												
Finance												
Recreation & Parks					124,000							
Community Development					70,000							
Municipal Court												
Police												
Fire												
Public Works												
Transfers												
General Revenue					1,100,000							
<b>Total General Fund</b>	13,392,295	3,525,024	16,917,319	73,204,684	3,294,000	76,498,684	74,582,500	1,935,463	76,517,963	12,014,479	4,883,561	16,898,040
<b>Special Revenue Funds:</b>												
Lodging Tax	1,016,608	725,758	1,742,366	456,000	-	456,000	1,016,298	-	1,016,298	456,310	725,758	1,182,068
Drug Seizure	166,034	401,239	567,273	70,500	-	70,500	40,000	205,000	245,000	196,534	196,239	392,773
Contingency	6,468,169	285,896	6,754,065	20,000	166,463	186,463	-	-	-	6,488,169	452,359	6,940,528
<b>Debt Service Funds:</b>												
LT GO Debt Service Funds (2XX)	36,541	(36,541)	-	8,645,004	-	8,645,004	8,643,004	-	8,643,004	38,541	(36,541)	2,000
UTGO Debt Service Fund	11,984	301,309	313,293	4,375,000	-	4,375,000	4,374,975	-	4,374,975	12,009	301,309	313,318
LID/Guaranty	1,298,797	41,474	1,340,271	584,000	-	584,000	628,563	-	628,563	1,254,234	41,474	1,295,708
<b>Capital Projects Funds:</b>												
Residential Streets	724,912	(17,106)	707,806	3,856,000	-	3,856,000	4,010,000	-	4,010,000	570,912	(17,106)	553,806
Bridges and Arterial Streets	2,516,741	1,165,446	3,682,187	10,211,000	-	10,211,000	9,307,099	-	9,307,099	3,420,642	1,165,446	4,586,088
Land Acquisition, Rec. and Park Dev.	1,541,330	1,354,515	2,895,845	482,290	-	482,290	505,000	-	505,000	1,518,620	1,354,515	2,873,135
Urban Renewal	1,452,144	1,010,117	2,462,261	1,860,000	-	1,860,000	3,196,000	-	3,196,000	116,144	1,010,117	1,126,261
General Government	573,148	104,885	678,033	500	-	500	200,000	100,000	300,000	373,648	4,885	378,533
Fire Impact Fees	500	(500)	-	300,500	-	300,500	300,000	-	300,000	1,000	(500)	500
Public Safety Plan	6,976,196	(6,898,524)	77,672	6,100,000	1,100,000	7,200,000	2,390,467	1,300,000	3,690,467	10,685,729	(7,098,524)	3,587,205
City Facilities (PW Shops)	3,138,454	361,590	3,500,044	-	3,000,000	3,000,000	1,425,000	2,500,000	3,925,000	1,713,454	861,590	2,575,044
<b>Enterprise Funds:</b>												
Water	4,386,963	2,600,671	6,987,634	6,947,000	-	6,947,000	9,719,771	170,000	9,889,771	1,614,192	2,430,671	4,044,863
Sewer	11,022,180	2,136,095	13,158,275	10,285,000	-	10,285,000	11,832,949	1,195,000	13,027,949	9,474,231	941,095	10,415,326
Golf	1,056,224	(12,075)	1,044,149	1,850,000	300,000	2,150,000	1,890,579	200,000	2,090,579	1,015,645	87,925	1,103,570
Surface Water	4,634,122	1,269,695	5,903,817	10,509,000	-	10,509,000	11,842,851	235,000	12,077,851	3,300,271	1,034,695	4,334,966
<b>Internal Service Funds:</b>												
Equipment Rental and Replacement	3,600,733	1,134,562	4,735,295	2,365,831	-	2,365,831	2,269,409	819,000	3,088,409	3,697,155	315,552	4,012,707
Employee Healthcare Plan	70,012	527,780	597,792	8,725,122	-	8,725,122	8,710,402	-	8,710,402	84,732	527,780	612,512
LEOFF 1 Retiree Healthcare Plan	165,675	98,583	264,258	436,000	-	436,000	497,040	-	497,040	104,635	98,583	203,218
Firemen's Pension	1,522,456	8,767	1,531,223	70,000	-	70,000	65,000	-	65,000	1,527,456	8,767	1,536,223
<b>TOTAL</b>	<b>\$ 65,772,218</b>	<b>\$ 10,088,650</b>	<b>\$ 75,860,868</b>	<b>\$ 151,353,431</b>	<b>\$ 7,860,463</b>	<b>\$ 159,213,894</b>	<b>\$ 157,446,907</b>	<b>\$ 8,669,463</b>	<b>\$ 166,106,370</b>	<b>\$ 59,678,742</b>	<b>\$ 9,289,650</b>	<b>\$ 68,968,392</b>

City of Tukwila Year-End Budget Amendment  
 Reconciliation of Budget Summary to Ordinance

REVENUES	2021 Beginning Fund Balance	2021 Revenues	2022 Revenues	Total Revenues	Mid-Biennial Amendments	Mid-Biennial Amended Revenues	Beginning Fund Balance Adjustment	2022 Year-End Amendments	Total Revenues
000 General	\$ 11,631,350	\$ 62,749,717	\$ 67,597,982	\$ 141,979,059	\$ 10,108,037	\$ 152,087,096	\$ 3,525,023	\$ 3,294,000	\$ 158,906,119
105 Contingency	7,101,978	20,000	20,000	7,141,978	(653,809)	6,488,169	285,896	166,463	6,940,529
101 Lodging Tax	1,742,844	406,000	456,000	2,604,844	(30,455)	2,574,389	725,758	-	3,300,147
103 Residential Street	114,810	589,000	3,456,000	4,159,810	890,102	5,049,912	(17,105)	-	5,032,806
104 Arterial Street	1,327,257	6,481,000	3,311,000	11,119,257	5,858,785	16,978,042	1,165,446	-	18,143,488
109 Drug Seizure Fund	333,243	60,500	70,500	464,243	(1,709)	462,534	401,240	-	863,773
2XX LTGO Debt Service	381,630	3,602,338	8,645,004	13,408,972	3,587,898	16,996,870	(36,541)	-	16,960,329
213 UTGO Bonds	76,339	4,375,000	4,375,000	8,056,339	(66,380)	7,989,959	726,478	-	8,716,437
206 LID Guaranty	719,137	3,000	3,000	725,137	1,676	726,813	(410,519)	-	316,293
233 2013 LID	692,373	601,000	581,000	1,874,373	(69,801)	1,804,572	26,825	-	1,831,397
301 Land Acquisition, Rec & Park Dev.	2,171,922	1,942,800	475,940	4,590,662	87,458	4,678,120	1,354,515	-	6,032,635
302 Urban Renewal	1,835,169	410,000	1,860,000	4,105,169	31,975	4,137,144	1,010,117	-	5,147,261
303 General Government Imprvmnts	500,021	300,500	500	801,021	12,627	813,648	104,885	-	918,533
304 Fire Impact Fees	9,259	300,500	300,500	610,259	(9,259)	601,000	(600)	-	600,500
305 Public Safety Plan	147,873	6,705,000	6,100,000	12,952,873	3,091,140	16,044,013	(6,898,523)	1,100,000	10,245,489
306 City Facilities	4,249,144	3,450,000	-	7,699,144	1,901,718	9,600,862	361,590	3,000,000	12,962,452
401 Water	6,170,864	6,722,000	6,947,000	19,839,864	270,343	20,110,207	2,600,671	-	22,710,878
402 Sewer	12,762,798	10,032,000	10,285,000	33,079,798	602,178	33,681,976	2,136,095	-	35,818,071
411 Foster Golf Course	873,520	1,818,000	1,850,000	4,541,520	368,719	4,910,239	(12,075)	300,000	5,198,164
501 Surface Water	5,385,674	8,883,000	10,509,000	24,777,674	(502,438)	24,275,236	1,269,695	-	25,544,931
501 Equipment/Rental	2,969,227	2,784,818	2,365,831	8,119,876	1,406,556	9,526,432	1,134,553	-	10,660,984
502 Insurance Fund	642,799	8,118,924	8,725,122	17,486,845	(555,257)	16,931,588	927,780	-	17,459,368
503 Insurance - LEOFF 1 Fund	243,203	316,000	436,000	995,203	93,392	1,088,595	98,584	-	1,187,178
611 Firements Pension	1,516,780	70,000	70,000	1,656,780	676	1,657,456	8,767	-	1,666,223
<b>Total</b>	<b>\$ 63,599,214</b>	<b>\$ 130,751,097</b>	<b>\$ 138,440,389</b>	<b>\$ 332,790,700</b>	<b>\$ 26,424,171</b>	<b>\$ 359,214,871</b>	<b>\$ 10,088,653</b>	<b>\$ 7,860,463</b>	<b>\$ 377,163,987</b>

EXPENDITURES	2021 Expenditures	2022 Expenditures	2022 Ending Fund Balance	Total Expenditures	Mid-Biennial Amendments	Mid-Biennial Amended Expenditures	2022 Year-End Amendments	Net Effect on 2022 Ending Fund Balance	Total Expenditures
000 General	\$ 63,146,050	\$ 66,974,260	\$ 11,858,749	\$ 141,979,059	\$ 10,108,037	\$ 152,087,096	\$ 1,935,463	\$ 4,883,560	\$ 158,906,119
105 Contingency	-	-	7,141,978	7,141,978	(653,809)	6,488,169	-	452,360	6,940,529
101 Lodging Tax	1,101,781	1,013,209	489,854	2,604,844	(30,455)	2,574,389	-	725,758	3,300,147
103 Residential Street	369,000	3,610,000	180,810	4,159,810	890,102	5,049,912	-	(17,105)	5,032,806
104 Arterial Street	6,865,301	3,395,273	858,683	11,119,257	5,858,785	16,978,042	-	1,165,446	18,143,488
109 Drug Seizure Fund	200,000	40,000	224,243	464,243	(1,709)	462,534	205,000	196,240	863,773
2XX LTGO Debt Service	4,740,338	8,643,004	25,630	13,408,972	3,587,898	16,996,870	-	(36,541)	16,960,329
213 UTGO Bonds	3,602,975	4,374,975	78,389	8,056,339	(66,380)	7,989,959	-	726,478	8,716,437
206 LID Guaranty	-	-	725,137	725,137	1,676	726,813	-	(410,519)	316,293
233 2013 LID	648,588	628,563	597,222	1,874,373	(69,801)	1,804,572	-	26,825	1,831,397
301 Land Acquisition, Rec & Park Dev.	2,505,000	505,000	1,580,662	4,590,662	87,458	4,678,120	-	1,354,515	6,032,635
302 Urban Renewal	1,235,000	2,786,000	84,169	4,105,169	31,975	4,137,144	-	1,010,117	5,147,261
303 General Government Imprvmnts	240,000	200,000	361,021	801,021	(9,259)	791,762	100,000	4,885	918,533
304 Fire Improvements	300,000	300,000	10,259	610,259	(9,259)	601,000	-	(500)	600,500
305 Public Safety Plan	2,967,817	2,300,467	7,594,589	12,952,873	3,091,140	16,044,013	1,300,000	(7,098,523)	10,245,489
306 City Facilities	7,662,408	-	36,736	7,699,144	1,901,718	9,600,862	2,500,000	861,580	12,962,452
401 Water	8,555,244	9,689,329	1,595,291	19,839,864	270,343	20,110,207	170,000	2,430,671	22,710,878
411 Foster Golf Course	11,751,296	11,801,825	9,526,677	33,079,798	602,178	33,681,976	1,195,000	941,095	35,818,071
501 Surface Water	1,843,879	1,849,933	852,648	4,541,520	368,719	4,910,239	200,000	87,925	5,198,164
502 Insurance Fund	8,826,614	11,789,938	4,161,122	24,777,674	(502,438)	24,275,236	235,000	1,034,695	25,544,931
501 Equipment/Rental	2,854,868	2,252,165	3,012,843	8,119,876	1,406,556	9,526,432	819,000	315,553	10,660,984
502 Insurance - LEOFF 1 Fund	8,136,454	8,710,402	639,989	17,486,845	(555,257)	16,931,588	-	527,780	17,459,368
611 Firements Pension	486,920	497,040	11,243	995,203	93,392	1,088,595	-	98,584	1,187,178
<b>Total</b>	<b>\$ 138,104,633</b>	<b>\$ 141,511,443</b>	<b>\$ 53,174,724</b>	<b>\$ 332,790,700</b>	<b>\$ 26,424,171</b>	<b>\$ 359,214,871</b>	<b>\$ 8,659,463</b>	<b>\$ 9,289,653</b>	<b>\$ 377,163,987</b>



## INFORMATIONAL MEMORANDUM

TO: **Finance Committee**

FROM: **Vicky Carlsen, Finance Director**

BY: **Tony Cullerton Deputy Finance Director**

CC: **Mayor Ekberg**

DATE: **October 24, 2022**

SUBJECT: **Business & Occupation Tax Information**

### **ISSUE**

This memo provides information pertaining to the proposed Business and Occupation (B&O) tax in Tukwila to take effect January 1, 2024, including information on the tax rates, implementation, and potential revenue.

### **BACKGROUND**

Like many jurisdictions in Washington State, the City of Tukwila has experienced a structural deficit for multiple biennia. This is due to several factors, including the 1% limitation on regular property tax, the sunset of streamlined sales tax mitigation revenue, and ongoing expenses that are growing significantly faster than revenues.

On October 3<sup>rd</sup>, 2022, Mayor Ekberg presented his budget to the City Council. As part of the budget, the Mayor recommended the adoption of a modest B&O Tax as part of a “three-legged stool” approach to a balance budget, which also includes using one-time funds and keeping some open positions vacant over the coming biennium.

The State of Washington Revised Code of Washington (RCW) allows for local jurisdictions to levy a local B&O tax which is paid to the local government. While sales tax is collected by the State, local B&O taxes are administered by the taxing jurisdiction. This means the exemptions, collection, enforcement, and the administrative code are the responsibility of the taxing jurisdiction. Additionally, the implementation of a local B&O tax will require additional effort by both the taxing entity and the business. For example, the City will need to administer the tax, and businesses in Tukwila that are subject to it will need to file an additional tax return.

### **B&O Categories (NAICS Category Codes)**

The following categories are subject to B&O tax, per state law:

- Manufacturing
- Wholesaling
- Retail
- Service & Other Activities

These classifications are assigned a category rate that is assessed to all businesses within that category. Rates may differ among categories but all businesses within the same category must be assessed the same rate.

**DISCUSSION**

Businesses subjected to the local B&O tax are entities that meet all of the following criteria:

- The business falls into one (or more) of the NAICS category codes.
- The business maintains a physical address within the Tukwila city limit.
- Generate annual gross receipts equal to or more than \$20,000.
- Nonexempt businesses

**Exempt Businesses**

Per the State Model Ordinance for B&O taxes, the following eleven business and revenue types are exempt from being assessed a B&O tax.

- (1) Public utilities
- (2) Investments
- (3) Insurance business
- (4) Employees.
- (5) Amounts derived from sale of real estate.
- (6) Mortgage brokers' third-party provider services trust accounts.
- (7) Amounts derived from manufacturing, selling or distributing motor vehicle fuel
- (8) Amounts derived from liquor, and the sale or distribution of liquor
- (9) Casual and isolated sales
- (10) Accommodation sales
- (11) Taxes collected as trust funds

In addition to the State mandated exempt businesses, the City is proposing exemptions for nonprofit organizations exempt from federal income tax under section 501(c)(3) of the Internal Revenue code, businesses operating as a card room, and professional/amateur/semiprofessional sports teams. The City is proposing a threshold of \$750,000, meaning any business that earns \$750,000 or less is exempt from the tax.

**Surrounding Jurisdictions B&O Thresholds and Rates**

The State Model Ordinance for B&O tax requires cities to adopt an exemption threshold allowing businesses that gross revenues less than the adopted threshold to opt out of participation in the B&O tax program. The minimum allowable threshold as stipulated by RCW is \$20,000. The City of Tukwila is proposing a minimum threshold amount of \$750,000. Businesses generating gross revenues equal to or less than the \$750,000 threshold will be exempt from B&O taxes.

Category	Tukwila (Proposed)	Renton	Kent	Des Moines	Auburn	Burien
Manufacturing	0.00085	0.00085	0.00100	0.00200	0.00100	0.00100
Retail	0.00050	0.00050	0.00100	0.00200	0.00050	0.00100
Services & Other	0.00085	0.00085	0.00200	0.00200	0.00100	0.00100
Wholesale	0.00085	0.00085	0.00200	0.00200	0.00180	0.00100
<b>Threshold</b>	<b>\$750,000</b>	<b>\$500,000</b>	<b>\$250,000</b>	<b>\$50,000</b>	<b>\$500,000</b>	<b>\$200,000</b>

**Proposed Revenue**

Proposed B&O applies only to businesses with gross income over \$750,000 and includes higher exemptions than State law. Revenues are estimate until B&O implemented, forecast above assumes 100% collection and likely captures 501(c)3. Actual revenues expected to be \$3M.

Row Labels	Sum of Gross Income	Count	Rate	\$ Amount
Manufacturing	346,896,394	38	0.00085	294,862
Retail	1,689,165,125	208	0.00050	844,583
Service & Other Activities	2,155,345,125	355	0.00085	1,832,043
Wholesale	913,639,413	75	0.00085	776,594
<b>Grand Total</b>	<b>5,105,046,057</b>	<b>676</b>		<b>3,748,081</b>

**MODEST B&O TAX proposal**

- Highest gross revenue threshold of surrounding cities (\$750,000)
- Lowest rates of surrounding cities
- Proposed Exemptions:
  - 501(c)(3) organizations
  - Professional/Amateur/Semiprofessional sports teams
  - Cardrooms
- Effective January 1, 2024, giving businesses over a year to budget for the new tax.
- Forecasted revenues to be approximately \$3M per year.

**Benefits of a B&O Tax**

- Critical foundation of the “third legged stool” to balance this year’s bridge budget, which also includes holding vacancies open and using one-time funds.
- Without a B&O more cuts will be necessary throughout the organization.
- B&O tax revenues are unrestricted and may be used for any lawful governmental purpose.
- Reoccurring revenue that diversifies the City’s revenue sources.
- Only business with annual gross revenues above \$750k will be subject to B&O Tax. 501(c)3, cardrooms and amateur/semi-professional/professional sports teams exempt regardless of gross revenues.
- Several major surrounding cities have already implemented a B&O tax; other cities currently deliberating implementation as a part of the 2023/2024 budget process.
- The City establishes the Category Rates, exemptions and gross revenue threshold amount, thus maintaining significant influence over the impacts of the tax.
- A new revenue source diversifies our revenue sources and will assist with maintaining our current strong bond rating.

**Required next steps**

- Adoption of the State’s Model Administrative and B&O Tax Ordinance.
- Approve two new FTE positions in Finance (one in early 2023 to develop the program, one additional in late 2024 to help administer).
- Ongoing outreach with local businesses.

**Conclusion**

The implementation of a local B&O tax provides the City with an additional revenue source that will assist with current ongoing operations and programing, and provide a new continuous revenue stream for an additional, enhanced level of providing of services. The strategic identification of a \$750,000 gross revenue threshold will ensure that sole proprietors and small businesses are exempt. Without the addition of a new revenue source the City will have to reduce at least \$3M in services, resulting in reduction of staff, as well as programs and services important to the Tukwila community.

**RECOMMENDATION**

Discussion Only

**ATTACHMENTS**

- PowerPoint Presentation
- Deviations from Model Ordinance
- Local B&O Tax Rates 2022
- Exempt Business Exemption



# CITY OF TUKWILA

Business & Occupation Tax Discussion

# WHAT IS A BUSINESS & OCCUPATION TAX

- A B&O tax is a gross receipts tax. It is measured on the gross income of the business.
- Washington, unlike many other states, does not have an income tax.
- Sales tax is collected by the State, local B&O taxes are administered and collected by the taxing jurisdiction.
- Exemptions, collection, enforcement, and the administrative code are the responsibility of the taxing jurisdiction.



# BUSINESSES SUBJECT TO B&O TAX PER STATE LAW

## Categories

- Manufacturing
- Wholesaling
- Retail
- Service & Other Activities

## Criteria

- Physical Tukwila address
- Annual gross receipts threshold greater than \$20k
- Nonexempt businesses

*While these are state requirements, jurisdictions can do more than what the State requires. We are proposing a higher threshold and additional exemptions.*

## BUSINESSES AND REVENUES EXEMPT FROM B&O TAX PER STATE LAW

- Public utilities
  - Amounts derived from manufacturing, selling or distributing motor vehicle fuel
- Insurance businesses
- Investments
  - Amounts derived from liquor, and the sale or distribution of liquor
- Employees
  - Casual and isolated sales
- Amounts derived from sale of real estate
  - Accommodation sales
- Mortgage brokers' third-party provider services trust accounts
  - Taxes collected as trust funds

*While these are state requirements, jurisdictions can do more than what the State requires. We are proposing additional exemptions.*

# SURROUNDING JURISDICTIONS B&O CATEGORY RATES & THRESHOLDS

Category	Tukwila (Proposed)	Renton	Kent	Des Moines	Auburn	Burien
Manufacturing	0.00085	0.00085	0.00100	0.00200	0.00100	0.00100
Retail	0.00050	0.00050	0.00100	0.00200	0.00050	0.00100
Services & Other	0.00085	0.00085	0.00200	0.00200	0.00100	0.00100
Wholesale	0.00085	0.00085	0.00200	0.00200	0.00180	0.00100
<b>Threshold</b>	<b>\$750,000</b>	<b>\$500,000</b>	<b>\$250,000</b>	<b>\$50,000</b>	<b>\$500,000</b>	<b>\$200,000</b>

\* Renton Retail rate increase to 0.0007, effective 1/1/23

## MAYOR'S PROPOSED B&O: FORECASTED REVENUE

Proposed B&O applies only to businesses with gross income over \$750,000 and includes higher exemptions than State law.

Row Labels	Sum of Gross Income	Count	Rate	\$ Amount
Manufacturing	346,896,394	38	0.00085	294,862
Retail	1,689,165,125	208	0.0005	844,583
Service & Other Activities	2,155,345,125	355	0.00085	1,832,043
Wholesale	913,639,413	75	0.00085	776,594
<b>Grand Total</b>	<b>5,105,046,057</b>	<b>676</b>		<b>3,748,081</b>

Revenues are estimate until B&O implemented, forecast above assumes 100% collection and likely capture 501(c)3. Actual revenues expected to be \$3M.

# MODEST B&O TAX PROPOSAL

- Highest gross revenue threshold of surrounding cities (\$750,000)
- Lowest rates of surrounding cities
- Proposed Exemptions:
  - 501(c)(3) organizations
  - Professional/Amateur/Semiprofessional sports teams
  - Cardrooms
- Effective January 1, 2024, giving businesses over a year to budget for the new tax.
- Forecasted revenues to be approximately \$3M per year.

## BENEFITS OF A B&O TAX

- Critical foundation of the “third legged stool” to balance this year’s bridge budget, which also includes holding vacancies open and using one-time funds.
- Without a B&O more cuts will be necessary throughout the organization.
- B&O tax revenues are unrestricted and may be used for any lawful governmental purpose.
- Reoccurring revenue that diversifies the City’s revenue sources.

# BENEFITS OF A B&O TAX

- Only business with annual gross revenues above \$750k will be subject to B&O Tax. 501(c)3, cardrooms and amateur/semi professional/professional sports teams exempt regardless of gross revenues.
- Several major surrounding cities have already implemented a B&O tax; other cities currently deliberating implementation as a part of the 2023/2024 budget process.
- The City establishes the Category Rates, exemptions and gross revenue threshold amount, thus maintaining significant influence over the impacts of the tax.
- A new revenue source diversifies our revenue sources and will assist with maintaining our current strong bond rating.

## REQUIRED NEXT STEPS

- Adoption of the State's Model Administrative and B&O Tax Ordinance.
- Approve two new FTE positions in Finance (one in early 2023 to develop the program, one additional in late 2024 to help administer).
- Ongoing outreach with local businesses.



## Comparison of Deviations from Core Model Ordinance Provisions

### City of Tukwila

<b>B&amp;O TAX PROVISION:</b>	<b>Summary of Change from Model B&amp;O Tax Ordinance:</b>
.050 Imposition of the tax – tax or fee levied.	(2) The gross receipts tax imposed in this section shall not apply to any person whose gross proceeds of sales, gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the City during any calendar year is equal to or less than \$750,000, or is equal to or less than \$187,500 during any quarter if on a quarterly reporting basis.
.090 Exemptions.	<ul style="list-style-type: none"> <li>• Nonprofit organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue code (except retail sales)</li> <li>• Businesses operating as a casino</li> <li>• Amateur/Professional/Semi-Professional sports teams</li> </ul>



**Local business & occupation (B&O) tax rates^**  
**Effective January 1, 2022**

City	Phone #	Manufacturing rate	Retail rate	Services rate	Wholesale rate	Threshold	
						Quarterly	Annual
Aberdeen	(360) 533-4100	0.002	0.003 e	0.0037 e	0.003 e	\$5,000	\$20,000
Algona	(253) 833-2897	0.00045	0.00045	0.00045	0.00045	\$10,000	\$40,000
Auburn****	(253) 392-6496	0.001	0.0005	0.0010	0.0018		\$500,000
Bainbridge Island	(206) 780-8668	0.001	0.005	0.001	0.001		\$150,000
Bellevue	(425) 452-6851	0.001496	0.001496	0.001496	0.001496		\$170,000
Bellingham	(360) 778-8010	0.0017	0.0017	0.0044 e	0.0017	\$5,000	\$20,000
Blaine	(360) 332-8311	0.002			0.002		\$250,000
Bremerton	(360) 473-5311	0.0016	0.00125	0.002	0.0016		\$1,000,000
Burien	(206) 241-4647	0.001	0.001	0.001	0.001		\$200,000
Burlington	(360) 755-0531		0.001				\$1,000,000
Cosmopolis	(360) 532-9230	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Darrington	(360) 436-1131	0.00075	0.00075	0.00075	0.00075		\$20,000
Des Moines	(206) 878-4595	0.002	0.002	0.002	0.002		\$50,000
DuPont	(253) 964-8121	0.001	0.001	0.001	0.001	\$5,000	\$20,000
Everett***	(425) 257-8610	0.001	0.001	0.001	0.001	\$5,000	\$20,000
Everson	(360) 966-3411	0.002			0.002		\$1,000,000
Granite Falls**	(360) 691-6441					\$5,000	\$20,000
Hoquiam	(360) 532-5700	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Ilwaco	(360) 642-3145	0.002	0.002	0.002	0.002		\$20,000
Issaquah	(425) 837-3054	0.0012	0.0012	0.0015	0.0012	\$25,000	\$100,000
Kelso	(360) 423-0900	0.001	0.001	0.002	0.001		\$20,000
Kenmore	(425) 398-8900	0.002 *				\$5,000	
Kent	(253) 856-6266	0.001	0.001	0.002	0.002	\$62,500	\$250,000
Lacey	(360) 491-3214		0.001	0.002		\$5,000	\$20,000
Lake Forest Park	(206) 368-5440	0.002	0.002	0.002	0.002	\$5,000	
Long Beach	(360) 642-4421	0.002	0.002	0.002	0.002	\$5,000	
Longview	(360) 442-5040	0.001	0.001	0.002	0.001		\$20,000
Lyman	(360) 826-3033	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Mercer Island	(206) 275-7783	0.001	0.001	0.001	0.001		\$150,000
North Bend	(425) 888-1211	0.002	0.002	0.002	0.002	\$5,000	
Ocean Shores	(360) 289-2488	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Olympia	(360) 753-8327	0.001	0.001	0.002	0.001	\$5,000	\$20,000
Pacific	(253) 929-1100	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Port Townsend	(360) 385-2700	0.002	0.002	0.002	0.002	\$0	\$100,000
Rainier	(360) 446-2265	0.002	0.002	0.002	0.002	\$5,000	
Raymond	(360) 942-3451	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Renton	(425) 430-6400	0.00085	0.0005	0.00085	0.00085		\$500,000
Roy	(253) 843-1113	0.001	0.002	0.002	0.001	\$5,000	\$20,000
Ruston	(253) 759-3544	0.0011	0.00153	0.002	0.00102	\$5,000	\$20,000
Seattle	(206) 684-8484	0.00222 v	0.00222 v	0.00427 v	0.00222 v		\$100,000
Shelton	(360) 426-4491	0.001	0.001	0.001	0.001	\$5,000	\$20,000
Shoreline	(206) 801-2324	0.001	0.001	0.002	0.001	\$125,000	\$500,000
Snoqualmie	(425) 888-1555	0.0015	0.0015	0.0015	0.0015	\$5,000	
South Bend	(360) 875-5571	0.001	0.002	0.002	0.002	\$5,000	
Tacoma	(253) 591-5252	0.0011	0.00153	0.004 e	0.00102		\$250,000
Tenino	(360) 264-2368	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Tumwater	(360) 754-5855	0.001	0.001	0.002	0.001	\$5,000	\$20,000
Westport	(360) 268-0131	0.0025 e	0.005 e	0.005 e	0.0025 e	\$5,000	
Yelm	(360) 458-3244	0.001	0.002	0.002	0.001	\$5,000	

(v) = voter approved increase above statutory limit

(e) = rate higher than statutory limit because rate was effective prior to January 1, 1982 (i.e., grandfathered).

\*Kenmore's B&O tax applies to heavy manufacturing only.

\*\*Granite Falls repealed its B&O tax for all businesses other than extracting.

\*\*\*For manufacturing gross receipts over \$8 billion, the B&O rate drops to 0.00025.

\*\*\*\*Auburn adopted a B&O tax effective January 1, 2022.

**NOTE:** Tax rates may apply to businesses categories other than those above. Thresholds are subject to change. Exemptions, deductions, or other exceptions may apply in certain circumstances. Contact the city finance department for more information.

^ Tax rates are provided for cities with general local B&O taxes as of the date listed. If a city is not listed, they have not reported to AWC that they have a local B&O tax. Contact the city directly for specific information or other business licenses or taxes that may apply.



### Exempt Businesses Per State

- (1) Public utilities.** This chapter shall not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of [local utility tax cite].
- (2) Investments** - dividends from subsidiary corporations. This chapter shall not apply to amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses, from investments or the use of money as such, and also amounts derived as dividends by a parent from its subsidiary corporations.
- (3) Insurance business.** This chapter shall not apply to amounts received by any person who is an insurer or their appointed insurance producer upon which a tax based on gross premiums is paid to the state pursuant to RCW 48.14.020, and provided further, that the provisions of this subsection shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.
- (4) Employees.** (a) This chapter shall not apply to any person in respect to the person's employment in the capacity as an employee or servant as distinguished from that of an independent contractor. For the purposes of this subsection, the definition of employee shall include those persons that are defined in the Internal Revenue Code, as hereafter amended. (b) A booth renter is an independent contractor for purposes of this chapter.
- (5) Amounts derived from sale of real estate.** This chapter shall not apply to gross proceeds derived from the sale of real estate. This, however, shall not be construed to allow an exemption of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions. This chapter shall also not apply to amounts received for the rental of real estate if the rental income is derived from a contract to rent for a continuous period of thirty (30) days or longer.
- (6) Mortgage brokers' third-party provider services trust accounts.** This chapter shall not apply to amounts received from trust accounts to mortgage brokers for the payment of third-party costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules adopted by the director of financial institutions.
- (7) Amounts derived from manufacturing, selling or distributing motor vehicle fuel.** This chapter shall not apply to the manufacturing, selling, or distributing motor vehicle fuel, as the term "motor vehicle fuel" is defined in RCW 82.36.01082.38.020 and exempt under RCW 82.36.44082.38.280, provided that any fuel not subjected to the state fuel excise tax, or any other applicable deduction or exemption, will be taxable under this chapter. (Mandatory)
- (8) Amounts derived from liquor, and the sale or distribution of liquor.** This chapter shall not apply to liquor as defined in RCW 66.04.010 and exempt in RCW 66.08.120. (Mandatory)
- (9) Casual and isolated sales.** This chapter shall not apply to the gross proceeds derived from casual or isolated sales.

**(10) Accommodation sales.** This chapter shall not apply to sales for resale by persons regularly engaged in the business of making retail sales of the type of property so sold to other persons similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to the vendor in the acquisition of the article and (2) the sale is made as an accommodation to the buyer to enable the buyer to fill a bona fide existing order of a customer or is made within fourteen days to reimburse in kind a previous accommodation sale by the buyer to the seller.

**(11) Taxes collected as trust funds.** This chapter shall not apply to amounts collected by the taxpayer from third parties to satisfy third party obligations to pay taxes such as the retail sales tax, use tax, and admission tax.

## DRAFT

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON; ESTABLISHING A NEW CHAPTER 3.26 OF THE TUKWILA MUNICIPAL CODE (TMC) ENTITLED, “BUSINESS AND OCCUPATION TAX”; ESTABLISHING TMC CHAPTER 3.27 ENTITLED “BUSINESS AND OCCUPATION TAX ADMINISTRATIVE PROVISIONS”; PROVIDING FOR A REFERENDUM PROCESS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, in 2022, during the creation of the City’s 2023-2024 Biennial Budget, the City’s long-range forecast identified a structural deficit on the General Fund financial condition resulting from several factors, including the 1% limitation on regular property tax, the sunset of streamlined sales tax mitigation revenue, and the pressure for increased services that outpace the increase in property and sales tax; and

**WHEREAS**, pursuant to RCW 35A.82.020, the City of Tukwila is authorized to impose a business and occupation tax on business activities within the City; and

**WHEREAS**, RCW 35.102.040 requires the City utilize the mandatory provisions of the model ordinances developed by Washington cities when imposing a business and occupation tax and adopting administrative provisions related to the imposition and collection of such a tax, but also allow for flexibility to customize the ordinances based on local goals and policies; and

**WHEREAS**, the model ordinance provides mandatory and standard exemptions for potential inclusion but also gives the City the ability to create certain exemptions from business and occupation tax including an annual gross receipts exemption threshold for small businesses to meet the City’s own objectives, exemptions to set economic policy, and exemptions to maintain local control; and

**WHEREAS**, the City Council has determined that imposition of a business and occupation tax as provided herein and providing for uniform administration of the City’s tax codes will be in the best interest of the public health, safety, and welfare;

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

**Section 1. Chapter 3.26 of the Tukwila Municipal Code Established.** A chapter of the Tukwila Municipal Code entitled "Business and Occupation Tax," to be codified as Tukwila Municipal Code (TMC) Chapter 3.26, is hereby established to read as follows:

**CHAPTER 3.26  
BUSINESS AND OCCUPATION TAX**

Sections:

- 3.26.010 Purpose
- 3.26.020 Exercise of Revenue License Power
- 3.26.030 Administrative Provisions
- 3.26.040 Definitions
- 3.26.050 Imposition of the Tax – Tax or Fee Levied
- 3.26.070 Multiple Activities Credit When Activities Take Place in One or More Cities with Eligible Gross Receipt Taxes
- 3.26.075 Deductions to Prevent Multiple Taxation of Manufacturing Activities and Prior to January 1, 2008, Transactions Involving More Than One City with An Eligible Gross Receipts Tax
- 3.26.076 Assignment of Gross Income Derived from Intangibles
- 3.26.077 Allocation and Apportionment of Income when Activities Take Place in More than One Jurisdiction
- 3.26.078 Allocation and Apportionment of Printing and Publishing Income when Activities Take Place in More than One Jurisdiction
- 3.26.090 Exemptions
- 3.26.100 Deductions
- 3.26.120 Tax Part of Overhead
- 3.26.130 Severability Clause

**Section 2. Regulations Established.** A new TMC Section 3.26.010 is hereby established to read as follows:

**3.26.010 Purpose**

The purpose of this Chapter is to implement Washington Constitution Article XI, Section 12, RCW 35A.11.020, and RCW 35A.82.020, which give municipalities the authority to license for revenue. In the absence of a legal or constitutional prohibition, the City has the power to define taxation categories as they see fit in order to respond to the unique concerns and responsibilities of local government.

**Section 3. Regulations Established.** A new TMC Section 3.26.020 is hereby established to read as follows:



### 3.26.020 Exercise of Revenue License Power

The provisions of this Chapter shall be deemed an exercise of the power of the City to license for revenue. The provisions of this Chapter are subject to periodic statutory or administrative rule changes or judicial interpretations of the ordinances or rules. The responsibility rests with the licensee or taxpayer to reconfirm tax computation procedures and remain in compliance with the City code.

**Section 4. Regulations Established.** A new TMC Section 3.26.030 is hereby established to read as follows:

### 3.26.030 Administrative Provisions

The administrative provisions contained herein and as codified in TMC Chapter 3.27 shall be fully applicable to the provisions of this Chapter, except as expressly stated to the contrary herein.

**Section 5. Regulations Established.** A new TMC Section 3.26.040 is hereby established to read as follows:

### 3.26.040 Definitions

In construing the provisions of this chapter, the following definitions shall be applied. Words in the singular number shall include the plural, and the plural shall include the singular.

A. **“Business”** includes all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly.

B. **“Business and occupation tax”** or **“gross receipts tax”** means a tax imposed on or measured by the value of products, the gross income of the business, or the gross proceeds of sales, as the case may be, and that is the legal liability of the business.

C. **“Commercial or industrial use”** means the following uses of products, including by-products, by the extractor or manufacturer thereof:

1. Any use as a consumer; and
2. The manufacturing of articles, substances or commodities.

D. **“Director”** means the Finance Director of the City or any officer, agent or employee of the City designated to act on the Director’s behalf.

E. **“Delivery”** means the transfer of possession of tangible personal property between the seller and the buyer or the buyer's representative. Delivery to an employee of a buyer is considered delivery to the buyer. Transfer of possession of tangible personal property occurs when the buyer or the buyer's representative first takes physical control of the property or exercises dominion and control over the property. Dominion and control means the buyer has the ability to put the property to the buyer's own purposes. It means the buyer or the buyer's representative has made the final decision to accept or reject the property, and the seller has no further right to possession of the property and the buyer has no right

to return the property to the seller, other than under a warranty contract. A buyer does not exercise dominion and control over tangible personal property merely by arranging for shipment of the property from the seller to itself. A buyer's representative is a person, other than an employee of the buyer, who is authorized in writing by the buyer to receive tangible personal property and take dominion and control by making the final decision to accept or reject the property. Neither a shipping company nor a seller can serve as a buyer's representative. It is immaterial where the contract of sale is negotiated or where the buyer obtains title to the property. Delivery terms and other provisions of the Uniform Commercial Code (Title 62A RCW) do not determine when or where delivery of tangible personal property occurs for purposes of taxation.

F. **“Digital automated service,” “digital code,” and “digital goods”** have the same meaning as in RCW 82.04.192 as now in effect or as may be subsequently amended or recodified.

G. **“Digital products”** means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050(2)(g) and (6)(b) as now in effect or as may be subsequently amended or recodified.

H. **“Eligible gross receipts tax”** means a tax which:

1. Is imposed on the act or privilege of engaging in business activities within TMC Section 3.26.050; and
2. Is measured by the gross volume of business, in terms of gross receipts and is not an income tax or value added tax; and
3. Is not, pursuant to law or custom, separately stated from the sales price; and
4. Is not a sales or use tax, business license fee, franchise fee, royalty or severance tax measured by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right or a privilege; and
5. Is a tax imposed by a local jurisdiction, whether within or without the State of Washington, and not by a Country, State, Province, or any other non-local jurisdiction above the County level.

I. **“Engaging in business”** means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

1. This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimis business activities in the City without having to register and obtain a business license or pay City business and occupation taxes. The activities listed in this section are illustrative only and are not intended to narrow the definition of “engaging in business” in TMC Section 3.26.040.I. If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

2. Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker

or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.

a. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.

b. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.

c. Soliciting sales.

d. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

e. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.

f. Installing, constructing, or supervising installation or construction of, real or tangible personal property.

g. Soliciting, negotiating, or approving franchise, license, or other similar agreements.

h. Collecting current or delinquent accounts.

i. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.

j. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

k. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.

l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.

m. Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.

n. Investigating, resolving, or otherwise assisting in resolving customer complaints.

o. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.

p. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.

3. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license and pay tax.

- a. Meeting with suppliers of goods and services as a customer.
- b. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
- c. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.
- d. Renting tangible or intangible property as a customer when the property is not used in the City.
- e. Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.
- f. Conducting advertising through the mail.
- g. Soliciting sales by phone from a location outside the City.

4. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in TMC Section 3.26.040.1.3.

5. The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the tax under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

J. **"Extracting"** is the activity engaged in by an extractor and is reportable under the extracting classification.

K. **"Extractor"** means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use, mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product; or fells, cuts or takes timber, Christmas trees, other than plantation Christmas trees, or other natural products; or takes fish, shellfish, or other sea or inland water foods or products. "Extractor" does not include persons performing under contract the necessary labor or mechanical services for others; or persons meeting the definition of farmer.

L. **"Extractor for Hire"** means a person who performs under contract necessary labor or mechanical services for an extractor.

M. **“Gross income of the business”** means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

N. **“Gross proceeds of sales”** means the value proceeding or accruing from the sale of tangible personal property, digital goods, digital codes, digital automated services or for other services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

O. **“Manufacturing”** means the activity conducted by a manufacturer and is reported under the manufacturing classification.

P. **“Manufacturer,” “to manufacture.”**

1. “Manufacturer” means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from the person’s own materials or ingredients any products. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, materials or ingredients equal to less than 20% of the total value of all materials or ingredients that become a part of the finished product, the owner of the equipment or facilities will be deemed to be a processor for hire, and not a manufacturer.

2. “To manufacture” means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials or ingredients so that as a result thereof a new, different or useful product is produced for sale or commercial or industrial use, and shall include:

- a. The production of special made or custom made articles;
- b. The production of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician;
- c. Crushing and/or blending of rock, sand, stone, gravel, or ore; and
- d. The producing of articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving such materials, articles, and substances of trade or commerce new forms, qualities, properties or combinations including, but not limited to, such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and the preparing and freezing of fresh fruits and vegetables.

3. “To manufacture” shall not include the production of digital goods or the production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media, including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

Q. **“Person”** means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the State of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise in the United States or any instrumentality thereof.

R. **“Retailing”** means the activity of engaging in making sales at retail and is reported under the retailing classification.

S. **“Retail Service”** shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

1. Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquet ball, handball, squash, tennis, batting cages, day trips for sightseeing purposes, and others, when provided to consumers. “Amusement and recreation services” also include the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The term “amusement and recreation services” does not include instructional lessons to learn a particular activity such as tennis lessons, swimming lessons, or archery lessons.

2. Abstract, title insurance, and escrow services;

3. Credit bureau services;

4. Automobile parking and storage garage services;

5. Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

6. Service charges associated with tickets to professional sporting events; and

7. The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, Turkish bath services, escort services, and dating services.

8. The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

T. **“Sale,” “casual or isolated sale.”**

1. “Sale” means any transfer of the ownership of, title to, or possession of, property for a valuable consideration and includes any activity classified as a “sale at retail,” “retail sale,” or “retail service.” It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not.

2. "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved on a routine or continuous basis.

**U. "Sale at retail," "retail sale"**

1. "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers, other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:

a. Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or

b. Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

c. Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

d. Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

e. Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in TMC Section 3.26.040.U.1.a, b, c, d, or e following such use.

f. Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in TMC Section 3.26.040.U.7 if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

2. "Sale at retail" or "retail sale" also means every sale of tangible personal property to persons engaged in any business activity which is taxable under TMC Section 3.26.050.A.7.

3. "Sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

a. The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of

facilities in respect thereto, but excluding charges made for the use of coin-operated laundry facilities when such facilities are situated in an apartment house, rooming house, or mobile home park for the exclusive use of the tenants thereof, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

b. The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

c. The charge for labor and services rendered in respect to constructing, repairing, or improving any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

d. The sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

e. The sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

f. The sale of and charge made for the furnishing of lodging and all other services, except telephone business and cable service, by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it shall be presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

g. The installing, repairing, altering, or improving of digital goods for consumers;

h. The sale of or charge made for tangible personal property, labor and services to persons taxable under TMC Section 3.26.040.U.3.a, b, c, d, e, f, and g when such sales or charges are for property, labor and services which are used or consumed in



whole or in part by such persons in the performance of any activity defined as a “sale at retail” or “retail sale” even though such property, labor and services may be resold after such use or consumption. Nothing contained in this section shall be construed to modify TMC Section 3.26.040.U.1 and nothing contained in TMC Section 3.26.040.U.1 shall be construed to modify this subsection.

4. “Sale at retail” or “retail sale” shall also include the providing of competitive telephone service to consumers.

5. “Sale at retail” or “retail sale”:

a. “Sale at retail” or “retail sale” shall also include the sale of prewritten software other than a sale to a person who presents a resale certificate under RCW 82.04.470, regardless of the method of delivery to the end user. For the purposes of this section, the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser. The term “sale at retail” or “retail sale” does not include the sale of or charge made for:

- i. Custom software; or
- ii. The customization of prewritten software.

b. The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

i. The service described in TMC Section 3.26.040.U.5.b includes the right to access and use prewritten software to perform data processing.

ii. For the purposes of TMC Section 3.26.040.U.5.b(i), “data processing” means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

6. “Sale at retail” or “retail sale” shall also include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state, the State of Washington, or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

7. “Sale at retail” or “retail sale” shall also include the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, “extended warranty” means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal

property, based on the occurrence of specified events. The term “extended warranty” does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement.

8. “Sale at retail” or “retail sale” shall also include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation (government contracting).

9. “Sale at retail” or “retail sale” shall not include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development.

10. “Sale at retail” or “retail sale” shall not include the sale of or charge made for labor and services rendered for environmental remedial action.

11. “Sale at retail” or “retail sale” shall also include the following sales to consumers of digital goods, digital codes, and digital automated services:

a. Sales in which the seller has granted the purchaser the right of permanent use;

b. Sales in which the seller has granted the purchaser a right of use that is less than permanent;

c. Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

d. Sales in which the purchaser is obligated to make continued payment as a condition of the sale. A retail sale of digital goods, digital codes, or digital automated services under TMC Section 3.26.040.U.5.b.2 includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services. For purposes of this subsection, “permanent” means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

12. “Sale at retail” or “retail sale” shall also include the installing, repairing, altering, or improving of digital goods for consumers.

V. **“Sale at wholesale,”** or **“wholesale sale”** means any sale of tangible personal property, digital goods, digital codes, digital automated services, prewritten computer software, or services described in TMC Section 3.26.040.U.5.b.i, which is not a retail sale, and any charge made for labor and services rendered for persons who are not consumers,

in respect to real or personal property and retail services, if such charge is expressly defined as a retail sale or retail service when rendered to or for consumers. Sale at wholesale also includes the sale of telephone business to another telecommunications company as defined in RCW 80.04.010 for the purpose of resale, as contemplated by RCW 35.21.715.

W. **“Taxpayer”** means any “person”, as herein defined, required to have a business license under this chapter or liable for the collection of any tax or fee under this chapter, or who engages in any business or who performs any act for which a tax or fee is imposed by this chapter.

X. **“Value proceeding or accruing”** means the consideration, whether money, credits, rights, or other property expressed in terms of money, a person is entitled to receive or which is actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer.

Y **“Value of products”**

1. The value of products, including by-products, extracted or manufactured, shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or by-products by the seller.

2. Where such products, including by-products, are extracted or manufactured for commercial or industrial use; and where such products, including by-products, are shipped, transported or transferred out of the City, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale; the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products. In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs. The Director may prescribe rules for the purpose of ascertaining such values.

3. Notwithstanding TMC Section 3.26.040.Y.2 above, the value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond to (a) the retail selling price of such new or improved product when first offered for sale; or (b) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

Z **“Wholesaling”** means engaging in the activity of making sales at wholesale, and is reported under the wholesaling classification.

**Section 6. Regulations Established.** A new TMC Section 3.26.050 is hereby established to read as follows:

### **3.26.050 Imposition of the Tax – Tax or Fee Levied**

A. Except as provided in TMC Section 3.26.050.B, there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the City, whether the person's office or place of business be within or without the City. The tax shall be in amounts to be determined by application of rates against gross proceeds of sale, gross income of business, or value of products, including by-products, as the case may be, as follows:

1. Upon every person engaging within the City in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, extracted within the City for sale or for commercial or industrial use, multiplied by the rate of 0.085%. The measure of the tax is the value of the products, including by-products, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

2. Upon every person engaging within the City in business as a manufacturer, as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, manufactured within the City, multiplied by the rate of 0.085%. The measure of the tax is the value of the products, including by-products, so manufactured, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

3. Upon every person engaging within the City in the business of making sales at wholesale, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of 0.085%.

4. Upon every person engaging within the City in the business of making sales at retail, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business, without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of 0.05%.

5. Upon every person engaging within the City in the business of making sales of retail services; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales multiplied by the rate of 0.05%.

6. Upon every person engaging within the City in the business of (i) printing, (ii) both printing and publishing newspapers, magazines, periodicals, books, music, and other printed items, (iii) publishing newspapers, magazines and periodicals, (iv) extracting for hire, and (v) processing for hire; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of 0.085%.

7. Upon every other person engaging within the City in any business activity other than or in addition to those enumerated in the above subsections; as to such persons, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of 0.085%. This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the performance of such business passes to another by accession, merger or other than by outright sale), persons engaged in the business of developing, or producing custom

software or of customizing canned software, producing royalties or commissions, and persons engaged in the business of rendering any type of service which does not constitute a sale at retail, a sale at wholesale, or a retail service.

B. The gross receipts tax imposed in this section shall not apply to any person whose gross proceeds of sales, gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the City during any calendar year is equal to or less than \$750,000, or is equal to or less than \$187,500 during any quarter if on a quarterly reporting basis.

**Section 7. Regulations Established.** A new TMC Section 3.26.070 is hereby established to read as follows:

**3.26.070 Multiple Activities Credit When Activities Take Place in One or More Cities with Eligible Gross Receipt Taxes**

A. Persons who engage in business activities that are within the purview of two or more subsections of TMC Section 3.26.050 shall be taxable under each applicable subsection.

B. Notwithstanding anything to the contrary herein, if imposition of the City's tax would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the City's tax, and still apply the City tax to as much of the taxpayer's activities as may be subject to the City's taxing authority.

C. To take the credit authorized by this section, a taxpayer must be able to document that the amount of tax sought to be credited was paid upon the same gross receipts used in computing the tax against which the credit is applied.

D. **Credit for persons that sell in the City products that they extract or manufacture.** Persons taxable under the retailing or wholesaling classification with respect to selling products in this City shall be allowed a credit against those taxes for any eligible gross receipts taxes paid (a) with respect to the manufacturing of the products sold in the City, and (b) with respect to the extracting of the products, or the ingredients used in the products, sold in the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

E. **Credit for persons that manufacture products in the City using ingredients they extract.** Persons taxable under the manufacturing classification with respect to manufacturing products in this City shall be allowed a credit against those taxes for any eligible gross receipts tax paid with respect to extracting the ingredients of the products manufactured in the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

F. **Credit for persons that sell within the City products that they print, or publish and print.** Persons taxable under the retailing or wholesaling classification with respect to selling products in this City shall be allowed a credit against those taxes for any eligible gross receipts taxes paid with respect to the printing, or the printing and

publishing, of the products sold within the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

**Section 8. Regulations Established.** A new TMC Section 3.26.075 is hereby established to read as follows:

**3.26.075 Deductions to Prevent Multiple Taxation of Manufacturing Activities and Prior to January 1, 2008, Transactions Involving More Than One City with An Eligible Gross Receipts Tax**

**A. Amounts subject to an eligible gross receipts tax in another city that also maintains nexus over the same activity.** For taxes due prior to January 1, 2008, a taxpayer that is subject to an eligible gross receipts tax on the same activity in more than one jurisdiction may be entitled to a deduction as follows:

1. A taxpayer that has paid an eligible gross receipts tax, with respect to a sale of goods or services, to a jurisdiction in which the goods are delivered or the services are provided may deduct an amount equal to the gross receipts used to measure that tax from the measure of the tax owed to the City.

2. Notwithstanding the above, a person that is subject to an eligible gross receipts tax in more than one jurisdiction on the gross income derived from intangibles such as royalties, trademarks, patents, or goodwill shall assign those gross receipts to the jurisdiction where the person is domiciled (its headquarters is located).

3. A taxpayer that has paid an eligible gross receipts tax on the privilege of accepting or executing a contract with another city may deduct an amount equal to the contract price used to measure the tax due to the other city from the measure of the tax owed to the City.

**B. Person manufacturing products within and without.** A person manufacturing products within the City using products manufactured by the same person outside the City may deduct from the measure of the manufacturing tax the value of products manufactured outside the City and included in the measure of an eligible gross receipts tax paid to the other jurisdiction with respect to manufacturing such products.

**Section 9. Regulations Established.** A new TMC Section 3.26.076 is hereby established to read as follows:

**3.26.076 Assignment of Gross Income Derived from Intangibles**

Gross income derived from the sale of intangibles such as royalties, trademarks, patents, or goodwill shall be assigned to the jurisdiction where the person is domiciled (its headquarters is located).

**Section 10. Regulations Established.** A new TMC Section 3.26.077 is hereby established to read as follows:

**3.26.077 Allocation and Apportionment of Income when Activities Take Place in More than One Jurisdiction**

Effective January 1, 2024, gross income, other than persons subject to the provisions of chapter 82.14A RCW, shall be allocated and apportioned as follows:

A. Gross income derived from all activities other than those taxed as service or royalties under TMC Section 3.26.050.A.7. shall be allocated to the location where the activity takes place.

B. In the case of sales of tangible personal property, the activity takes place where delivery to the buyer occurs.

C. In the case of sales of digital products, the activity takes place where delivery to the buyer occurs. The delivery of digital products will be deemed to occur at:

1. The seller's place of business if the purchaser receives the digital product at the seller's place of business;

2. If not received at the seller's place of business, the location where the purchaser or the purchaser's donee, designated as such by the purchaser, receives the digital product, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;

3. If the location where the purchaser or the purchaser's donee receives the digital product is not known, the purchaser's address maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

4. If no address for the purchaser is maintained in the ordinary course of the seller's business, the purchaser's address obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and

5. If no address for the purchaser is obtained during the consummation of the sale, the address where the digital good or digital code is first made available for transmission by the seller or the address from which the digital automated service or service described in RCW 82.04.050 (2)(g) or (6)(b) was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

D. If none of the methods in TMC Section 3.26.077.C for determining where the delivery of digital products occurs are available after a good faith effort by the taxpayer to apply the methods provided in TMC Section 3.26.077.C.1 through TMC Section 3.26.077.C.5, then the City and the taxpayer may mutually agree to employ any other method to effectuate an equitable allocation of income from the sale of digital products. The taxpayer will be responsible for petitioning the City to use an alternative method under TMC Section 3.26.077.D. The City may employ an alternative method for allocating the income from the sale of digital products if the methods provided in TMC Section 3.26.077.C.1 through TMC Section 3.26.077.C.5 are not available and the taxpayer and the City are unable to mutually agree on an alternative method to effectuate an equitable allocation of income from the sale of digital products.

E. For purposes of TMC Section 3.26.077.C.1 through TMC Section 3.26.077.C.5, the following definitions apply:

1. "Digital automated services," "digital codes," and "digital goods" have the same meaning as in RCW 82.04.192;

2. "Digital products" means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050(2)(g) and (6)(c); and

3. "Receive" has the same meaning as in RCW 82.32.730.

F. Gross income derived from activities taxed as services and other activities taxed under TMC Section 3.26.050.A.7 shall be apportioned to the City by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service income factor and the denominator of which is two.

1. The payroll factor is a fraction, the numerator of which is the total amount paid in the City during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period. Compensation is paid in the City if:

a. The individual is primarily assigned within the City;

b. The individual is not primarily assigned to any place of business for the tax period and the employee performs 50% or more of his or her service for the tax period in the City; or

c. The individual is not primarily assigned to any place of business for the tax period, the individual does not perform 50% or more of his or her service in any city and the employee resides in the City.

2. The service income factor is a fraction, the numerator of which is the total service income of the taxpayer in the City during the tax period, and the denominator of which is the total service income of the taxpayer everywhere during the tax period. Service income is in the City if the customer location is in the City.

3. Gross income of the business from engaging in an apportionable activity must be excluded from the denominator of the service income factor if, in respect to such activity, at least some of the activity is performed in the City, and the gross income is attributable under TMC Section 3.26.077.F.2 to a city or unincorporated area of a county within the United States or to a foreign country in which the taxpayer is not taxable. For purposes of TMC Section 3.26.077.F.3, "not taxable" means that the taxpayer is not subject to a business activities tax by that city or county within the United States or by that foreign country, except that a taxpayer is taxable in a city or county within the United States or in a foreign country in which it would be deemed to have a substantial nexus with the city or county within the United States or with the foreign country under the standards in RCW 35.102.050 regardless of whether that city or county within the United States or that foreign country imposes such a tax.

4. If the allocation and apportionment provisions of TMC Section 3.26.077.F do not fairly represent the extent of the taxpayer's business activity in the City, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- a. Separate accounting;
- b. The exclusion of any one or more of the factors;



c. The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the City; or

d. The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

5. The party petitioning for, or the tax administrator requiring, the use of any method to effectuate an equitable allocation and apportionment of the taxpayer's income pursuant to TMC Section 3.26.077.F.4 must prove by a preponderance of the evidence:

a. That the allocation and apportionment provisions of this TMC Section 3.26.077.F do not fairly represent the extent of the taxpayer's business activity in the City; and

b. That the alternative to such provisions is reasonable.

c. The same burden of proof shall apply whether the taxpayer is petitioning for, or the tax administrator is requiring, the use of an alternative, reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income.

6. If the tax administrator requires any method to effectuate an equitable allocation and apportionment of the taxpayer's income, the tax administrator cannot impose any civil or criminal penalty with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the allocation and apportionment provisions of TMC Section 3.26.077.F.

7. A taxpayer that has received written permission from the tax administrator to use a reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income shall not have that permission revoked with respect to transactions and activities that have already occurred unless there has been a material change in, or a material misrepresentation of, the facts provided by the taxpayer upon which the tax administrator reasonably relied in approving a reasonable alternative method.

G. The definitions in this subsection apply throughout this section.

1. **"Apportionable income"** means the gross income of the business taxable under the service classifications of a city's gross receipts tax, including income received from activities outside the City if the income would be taxable under the service classification if received from activities within the City, less any exemptions or deductions available.

2. **"Business activities tax"** means a tax measured by the amount of, or economic results of, business activity conducted in a city or county within the United States or within a foreign country. The term includes taxes measured in whole or in part on net income or gross income or receipts. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated on a gross receipts tax or a tax imposed on the privilege of doing business.

3. **"Compensation"** means wages, salaries, commissions, and any other form of remuneration paid to individuals for personal services that are or would be included in the individual's gross income under the federal Internal Revenue Code.

4. **“Customer”** means a person or entity to whom the taxpayer makes a sale or renders services or from whom the taxpayer otherwise receives gross income of the business.

5. **“Customer location”** means the following:

a. For a customer not engaged in business, if the service requires the customer to be physically present, where the service is performed.

b. For a customer not engaged in business, if the service does not require the customer to be physically present:

(1) The customer’s residence; or

(2) If the customer’s residence is not known, the customer’s billing/mailling address.

c. For a customer engaged in business:

(1) Where the services are ordered from;

(2) At the customer’s billing/mailling address if the location from which the services are ordered is not known; or

(3) At the customer’s commercial domicile if none of the above are known.

6. **“Individual”** means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

7. **“Primarily assigned”** means the business location of the taxpayer where the individual performs his or her duties.

8. **“Service-taxable income”** or **“service income”** means gross income of the business subject to tax under either the service or royalty classification.

9. **“Tax period”** means the calendar year during which tax liability is accrued. If taxes are reported by a taxpayer on a basis more frequent than once per year, taxpayers shall calculate the factors for the previous calendar year for reporting in the current calendar year and correct the reporting for the previous year when the factors are calculated for that year, but not later than the end of the first quarter of the following year.

H. Assignment or apportionment of revenue under this section shall be made in accordance with and in full compliance with the provisions of the interstate commerce clause of the United States Constitution where applicable.

**Section 11. Regulations Established.** A new TMC Section 3.26.078 is hereby established to read as follows:

### **3.26.078 Allocation and Apportionment of Printing and Publishing Income when Activities Take Place in More than One Jurisdiction**

Notwithstanding RCW 35.102.130, effective January 1, 2008, gross income from the activities of printing, and of publishing newspapers, periodicals, or magazines, shall be

allocated to the principal place in this state from which the taxpayer's business is directed or managed. As used in this section, the activities of printing, and of publishing newspapers, periodicals, or magazines, have the same meanings as attributed to those terms in RCW 82.04.280(1) by the Department of Revenue.

**Section 12. Regulations Established.** A new TMC Section 3.26.090 is hereby established to read as follows:

### **3.26.090 Exemptions**

**A. Public utilities.** This chapter shall not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of TMC Chapter 3.50.

**B. Investments - dividends from subsidiary corporations.** This chapter shall not apply to amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses, from investments or the use of money as such, and also amounts derived as dividends by a parent from its subsidiary corporations.

**C. Insurance business.** This chapter shall not apply to amounts received by any person who is an insurer or their appointed insurance producer upon which a tax based on gross premiums is paid to the state pursuant to RCW 48.14.020, and provided further, that the provisions of this subsection shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.

#### **D. Employees.**

1. This chapter shall not apply to any person in respect to the person's employment in the capacity as an employee or servant as distinguished from that of an independent contractor. For the purposes of this subsection, the definition of employee shall include those persons that are defined in the Internal Revenue Code, as hereafter amended.

2. A booth renter is an independent contractor for purposes of this chapter.

**E. Amounts derived from sale of real estate.** This chapter shall not apply to gross proceeds derived from the sale of real estate. This, however, shall not be construed to allow an exemption of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions. This chapter shall also not apply to amounts received for the rental of real estate if the rental income is derived from a contract to rent for a continuous period of 30 days or longer.

**F. Mortgage brokers' third-party provider services trust accounts.** This chapter shall not apply to amounts received from trust accounts to mortgage brokers for the payment of third-party costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules adopted by the director of financial institutions.

**G. Amounts derived from manufacturing, selling or distributing motor vehicle fuel.** This chapter shall not apply to the manufacturing, selling, or distributing motor

vehicle fuel, as the term “motor vehicle fuel” is defined in RCW 82.38.020 and exempt under RCW 82.38.280, provided that any fuel not subjected to the state fuel excise tax, or any other applicable deduction or exemption, will be taxable under this chapter.

H. **Amounts derived from liquor, and the sale or distribution of liquor.** This chapter shall not apply to liquor as defined in RCW 66.04.010 and exempt in RCW 66.08.120.

I. **Casual and isolated sales.** This chapter shall not apply to the gross proceeds derived from casual or isolated sales.

J. **Accommodation sales.** This chapter shall not apply to sales for resale by persons regularly engaged in the business of making retail sales of the type of property so sold to other persons similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to the vendor in the acquisition of the article and (2) the sale is made as an accommodation to the buyer to enable the buyer to fill a bona fide existing order of a customer or is made within 14 days to reimburse in kind a previous accommodation sale by the buyer to the seller.

K. **Taxes collected as trust funds.** This chapter shall not apply to amounts collected by the taxpayer from third parties to satisfy third party obligations to pay taxes such as the retail sales tax, use tax, and admission tax.

L. **Nonprofit organizations.** This chapter shall not apply to entities that are exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, except retail sales.

M. **Businesses operating as a casino.** This chapter shall not apply to establishments primarily engaged in operating gambling facilities that offer table wagering games along with other gambling activities.

N. **Amateur/Professional/Semi-professional sports teams.** This chapter shall not apply to amateur, professional or semi-professional sports teams or clubs primarily engaged in participating in live sporting events, such as baseball, basketball, football, hockey, soccer, and jai alai games, before a paying audience. These teams or clubs may or may not operate their own arena, stadium, or other facility for presenting these events.

**Section 13. Regulations Established.** A new TMC Section 3.26.100 is hereby established to read as follows:

### **3.26.100 Deductions**

In computing the license fee or tax, there may be deducted from the measure of tax the following items:

A. **Receipts from tangible personal property delivered outside the State.** In computing tax, there may be deducted from the measure of tax under retailing or wholesaling amounts derived from the sale of tangible personal property that is delivered

by the seller to the buyer or the buyer's representative at a location outside the State of Washington.

**B. Cash discount taken by purchaser.** In computing tax, there may be deducted from the measure of tax the cash discount amounts actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extracting or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the "value of product" provisions.

**C. Credit losses of accrual basis taxpayers.** In computing tax, there may be deducted from the measure of tax the amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis.

**D. Constitutional prohibitions.** In computing tax, there may be deducted from the measure of the tax amounts derived from business which the City is prohibited from taxing under the Constitution of the State of Washington or the Constitution of the United States.

**E. Receipts from the Sale of Tangible Personal Property and Retail Services Delivered Outside the City but Within Washington.** Effective January 1, 2024, amounts included in the gross receipts reported on the tax return derived from the sale of tangible personal property delivered to the buyer or the buyer's representative outside the City but within the State of Washington may be deducted from the measure of tax under the retailing, retail services, or wholesaling classification.

**F. Professional employer services.** In computing the tax, a professional employer organization may deduct from the calculation of gross income the gross income of the business derived from performing professional employer services that is equal to the portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement.

**G. Interest on investments or loans secured by mortgages or deeds of trust.** In computing tax, to the extent permitted by Chapter 82.14A RCW, there may be deducted from the measure of tax by those engaged in banking, loan, security or other financial businesses, amounts derived from interest received on investments or loans primarily secured by first mortgages or trust deeds on non-transient residential properties.

**Section 14. Regulations Established.** A new TMC Section 3.26.120 is hereby established to read as follows:

### **3.26.120 Tax Part of Overhead**

It is not the intention of this chapter that the taxes or fees herein levied upon persons engaging in business be construed as taxes or fees upon the purchasers or customer, but that such taxes or fees shall be levied upon, and collectible from, the person engaging in the business activities herein designated and that such taxes or fees shall constitute a part of the cost of doing business of such persons.

**Section 15. Regulations Established.** A new TMC Section 3.26.130 is hereby established to read as follows:

### **3.26.130 Severability Clause**

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances shall not be affected.

**Section 16. Chapter 3.27 of the Tukwila Municipal Code Established.** A chapter of the Tukwila Municipal Code entitled “Business and Occupation Tax Administrative Provisions,” to be codified as Tukwila Municipal Code (TMC) Chapter 3.27, is hereby established to read as follows:

## **CHAPTER 3.27 BUSINESS AND OCCUPATION TAX ADMINISTRATIVE PROVISIONS**

Sections:

- 3.27.010 Purpose
- 3.27.015 Application of Chapter Stated
- 3.27.020 Definitions
- 3.27.021 Definitions – References to Chapter 82.32 RCW
- 3.27.025 Registration/License Requirements
- 3.27.040 When Due and Payable – Reporting Periods – Monthly, Quarterly, and Annual Returns – Threshold Provisions or Relief from Filing Requirements – Computing Time Periods – Failure to File Returns
- 3.27.050 Payment Methods – Mailing Returns or Remittances – Time Extension – Deposits – Recording Payments – Payment Must Accompany Return – NSF Checks
- 3.27.060 Records to be Preserved – Examination – Estoppel to Question Assessment
- 3.27.070 Accounting Methods
- 3.27.080 Public Work Contracts – Payment of Fee and Tax Before Final Payment for Work
- 3.27.090 Underpayment of Tax, Interest, or Penalty – Interest
- 3.27.095 Time in Which Assessment May Be Made
- 3.27.100 Over Payment of Tax, Penalty, or Interest – Credit or Refund – Interest Rate – Statute of Limitations
- 3.27.110 Late Payment – Disregard of Written Instructions – Evasion – Penalties
- 3.27.120 Cancellation of Penalties
- 3.27.130 Taxpayer Quitting Business – Liability of Successor
- 3.27.140 Administrative Appeal
- 3.27.260 Severability

**Section 17. Regulations Established.** A new TMC Section 3.27.010 is hereby established to read as follows:

### 3.27.010 Purpose

The purpose of this Chapter is to provide for the administrative procedures for the Business and Occupation Tax as codified in TMC Chapter 3.26, setting administrative fees and prescribing penalties for noncompliance with the provisions of this chapter.

**Section 18. Regulations Established.** A new TMC Section 3.27.015 is hereby established to read as follows:

### 3.27.015 Application of Chapter Stated

The provisions of this Chapter shall apply with respect to the taxes imposed under TMC Chapter 3.26 and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter or section.

**Section 19. Regulations Established.** A new TMC Section 3.27.020 is hereby established to read as follows:

### 3.27.020 Definitions

For purposes of this Chapter, the definitions contained in TMC Chapter 3.26 shall apply equally to the provisions of this chapter unless the term is defined otherwise in this chapter. In addition, the following definitions shall apply:

A. **"Reporting period"** means:

1. A one-month period beginning the first day of each calendar month (monthly);  
or
2. A three-month period beginning the first day of January, April, July or October of each year (quarterly); or
3. A twelve-month period beginning the first day of January of each year (annual).

B. **"Return"** means any document a person is required by the City to file to satisfy or establish a tax or fee obligation that is administered or collected by the City and that has a statutorily defined due date.

C. **"Successor"** means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, any part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

D. **"Tax year"** or **"taxable year"** means the calendar year.

**Section 20. Regulations Established.** A new TMC Section 3.27.021 is hereby established to read as follows:

### **3.27.021 Definitions – References to Chapter 82.32 RCW**

Where provisions of Chapter 82.32 RCW are incorporated in TMC Section 3.27.090 of this Title, "Department" as used in the RCW shall refer to the "Director" as defined in TMC Section 3.26.040.D and "warrant" as used in the RCW shall mean "citation or criminal complaint."

**Section 21. Regulations Established.** A new TMC Section 3.27.025 is hereby established to read as follows:

#### **3.27.025 Registration/License Requirements**

No person shall engage in any business or conduct any business activity without first obtaining a valid current business registration as required by TMC 5.04.015.

**Section 22. Regulations Established.** A new TMC Section 3.27.040 is hereby established to read as follows:

#### **3.27.040 When Due and Payable – Reporting Periods – Monthly, Quarterly, and Annual Returns – Threshold Provisions or Relief from Filing Requirements – Computing Time Periods – Failure to File Returns.**

A. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by this chapter shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Effective January 1, 2024, tax payments are due on or before the time as provided in RCW 82.32.045(1), (2), and (3).

B. Taxes shall be paid as provided in this chapter and accompanied by a return on forms as prescribed by the Director. The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is complete and true.

C. Tax returns must be filed and returned by the due date whether or not any tax is owed.

D. For purposes of the tax imposed by TMC Chapter 3.26, any person whose value of products, gross proceeds of sales, or gross income of the business, subject to tax after all allowable deductions, is equal to or less than \$750,000 in the current calendar year, shall file a return, declare no tax due on their return, and submit the return to the Director. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.

E. A taxpayer that commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which the taxpayer is engaged in business activity.

F. Except as otherwise specifically provided by any other provision of this chapter, in computing any period of days prescribed by this chapter the day of the act or event from which the designated period of time runs shall not be included. The last day of the



period shall be included unless it is a Saturday, Sunday, or City or Federal legal holiday, in which case the last day of such period shall be the next succeeding day which is neither a Saturday, Sunday, or City or Federal legal holiday.

G. If any taxpayer fails, neglects or refuses to make a return as and when required in this chapter, the Director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the Director's estimate of the tax or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owed to the City by the taxpayer. The Director shall notify the taxpayer by mail of the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

**Section 23. Regulations Established.** A new TMC Section 3.27.050 is hereby established to read as follows:

**3.27.050 Payment Methods – Mailing Returns or Remittances – Time Extension – Deposits – Recording Payments – Payment Must Accompany Return – NSF Checks.**

A. Taxes shall be paid to the Director in United States currency by bank draft, certified check, cashier's check, personal check, money order, cash, or by wire transfer or electronic payment if such wire transfer or electronic payment is authorized by the Director. If payment so received is not paid by the bank on which it is drawn, the taxpayer, by whom such payment is tendered, shall remain liable for payment of the tax and for all legal penalties, the same as if such payment had not been tendered. Acceptance of any sum by the Director shall not discharge the tax or fee due unless the amount paid is the full amount due.

B. A return or remittance that is transmitted to the City by United States mail shall be deemed filed or received on the date shown by the cancellation mark stamped by the Post Office upon the envelope containing it. The Director may allow electronic filing of returns or remittances from any taxpayer. A return or remittance which is transmitted to the City electronically shall be deemed filed or received according to procedures set forth by the Director.

C. If a written request is received prior to the due date, the Director, for good cause, may grant, in writing, additional time within which to make and file returns.

D. The Director shall keep full and accurate records of all funds received or refunded. The Director shall apply payments first against all penalties and interest owing, and then upon the tax, without regard to any direction of the taxpayer.

E. For any return not accompanied by a remittance of the tax shown to be due thereon, the taxpayer shall be deemed to have failed or refused to file a return and shall be subject to the penalties and interest provided in this chapter.

F. Any payment made that is returned for lack of sufficient funds or for any other reason will not be considered received until payment by certified check, money order, or cash of the original amount due, plus a "non-sufficient funds" (NSF) charge of \$25.00 for checks of \$50.00 or less and \$40.00 for checks over \$50.00 is received by the

Director. Any license issued upon payment with a NSF check will be considered void, and shall be returned to the Director. No license shall be reissued until payment (including the NSF charge) is received.

G. The Director is authorized, but not required, to mail tax return forms to taxpayers, but failure of the taxpayer to receive any such forms shall not excuse the taxpayer from filing returns and making payment of the taxes or fees, when and as due under this chapter.

**Section 24. Regulations Established.** A new TMC Section 3.27.060 is hereby established to read as follows:

**3.27.060 Records to be Preserved – Examination – Estoppel to Question Assessment.**

Every person liable for any fee or tax imposed by this chapter shall keep and preserve, for a period of 5 years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, vendor lists, inventories, stocks of merchandise, and other data including federal income tax and state tax returns and reports shall be open for examination at any time by the Director or its duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent.

A. If a person does not keep the necessary books and records within the City, it shall be sufficient if such person (a) produces within the City such books and records as may be required by the Director, or (b) bears the cost of examination by the Director's agent at the place where such books and records are kept; provided that the person electing to bear such cost shall pay in advance to the Director the estimated amount thereof including round-trip fare, lodging, meals and incidental expenses, subject to adjustment upon completion of the examination.

B. Any person who fails, or refuses a Department request, to provide or make available records, or to allow inspection or examination of the business premises, shall be forever barred from questioning in any court action, the correctness of any assessment of taxes made by the City for any period for which such records have not been provided, made available or kept and preserved, or in respect of which inspection or examination of the business premises has been denied. The Director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the estimate of the tax or fees due. Such fee or tax assessment shall be deemed prima facie correct and shall be the amount of tax owing the City by the taxpayer. The Director shall notify the taxpayer by mail the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

**Section 25. Regulations Established.** A new TMC Section 3.27.070 is hereby established to read as follows:

### **3.27.070 Accounting Methods**

A. A taxpayer may file tax returns in each reporting period with amounts based upon cash receipts only if the taxpayer's books of account are kept on a cash receipts basis. A taxpayer that does not regularly keep books of account on a cash receipts basis must file returns with amounts based on the accrual method.

B. The taxes imposed and the returns required hereunder shall be upon a calendar year basis.

**Section 26. Regulations Established.** A new TMC Section 3.27.080 is hereby established to read as follows:

### **3.27.080 Public Work Contracts – Payment of Fee and Tax Before Final Payment for Work**

The Director may, before issuing any final payment to any person performing any public work contract for the City, require such person to pay in full all license fees or taxes due under this title from such person on account of such contract or otherwise, and may require such taxpayer to file with the Director a verified list of all subcontractors supplying labor and/or materials to the person in connection with said public work.

**Section 27. Regulations Established.** A new TMC Section 3.27.090 is hereby established to read as follows:

### **3.27.090 Underpayment of Tax, Interest, or Penalty - Interest**

A. If, upon examination of any returns, or from other information obtained by the Director, it appears that a tax or penalty less than that properly due has been paid, the Director shall assess the additional amount found to be due and shall add thereto interest on the tax only. The Director shall notify the person by mail of the additional amount, which shall become due and shall be paid within 30 days from the date of the notice, or within such time as the Director may provide in writing.

B. For tax periods after December 31, 2004 the Director shall compute interest in accordance with RCW 82.32.050 as it now exists or as it may be amended.

C. If TMC Section 3.27.090.B is held to be invalid, then the provisions of RCW 82.32.050 existing at the effective date of this ordinance shall apply.

**Section 28. Regulations Established.** A new TMC Section 3.27.095 is hereby established to read as follows:

### **3.27.095 Time in Which Assessment May Be Made**

The Director shall not assess, or correct an assessment for additional taxes, penalties, or interest due more than four years after the close of the calendar year in which they were incurred, except that the Director may issue an assessment:

- A. Against a person who is not currently registered or licensed or has not filed a tax return as required by this chapter for taxes due within the period commencing 10 years prior to the close of the calendar year in which the person was contacted in writing by the Director;
- B. Against a person that has committed fraud or who misrepresented a material fact; or
- C. Against a person that has executed a written waiver of such limitations.

**Section 29. Regulations Established.** A new TMC Section 3.27.100 is hereby established to read as follows:

**3.27.100 Over Payment of Tax, Penalty, or Interest – Credit or Refund – Interest Rate – Statute of Limitations**

- A. If, upon receipt of an application for a refund, or during an audit or examination of the taxpayer's records and tax returns, the Director determines that the amount of tax, penalty, or interest paid is in excess of that properly due, the excess amount shall be credited to the taxpayer's account or shall be refunded to the taxpayer. Except as provided in TMC Section 3.27.100.B, no refund or credit shall be made for taxes, penalties, or interest paid more than 4 years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.
- B. The execution of a written waiver shall extend the time for applying for, or making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the Director discovers that a refund or credit is due.
- C. Refunds shall be made by means of vouchers approved by the Director and by the issuance of a City check or warrants drawn upon and payable from such funds as the City may provide.
- D. Any final judgment for which a recovery is granted by any court of competent jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same manner, as provided in TMC Section 3.27.100.C, upon the filing with the Director a certified copy of the order or judgment of the court.

**Section 30. Regulations Established.** A new TMC Section 3.27.110 is hereby established to read as follows:

**3.27.110 Late Payment – Disregard of Written Instructions – Evasion - Penalties**

- A. If payment of any tax due on a return to be filed by a taxpayer is not received by the Director by the due date, the Director shall add a penalty in accordance with RCW 82.32.090(1), as it now exists or as it may be amended.
- B. If the Director determines that any tax has been substantially underpaid as defined in RCW 82.32.090(2), there shall be added a penalty in accordance with RCW 82.32.090(2), as it now exists or as it may be amended.

C. If a citation or criminal complaint is issued by the Director for the collection of taxes, fees, assessments, interest or penalties, there shall be added thereto a penalty in accordance with RCW 82.32.090(3), as it now exists or as it may be amended.

D. If the Director finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the Director a license as required by City of Tukwila, the Director shall impose a penalty in accordance with RCW 82.32.090(4), as it now exists or as it may be amended. No penalty shall be imposed under TMC Section 3.27.110.D if the person who has engaged in business without a license obtains a license prior to being notified by the Director of the need to be licensed.

E. If the Director determines that all or any part of a deficiency resulted from the taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended.

F. If the Director finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the Director shall assess a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended.

G. The penalties imposed under TMC Section 3.27.110.A through E can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

H. The Director shall not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.

I. For the purposes of this section, "return" means any document a person is required by the City of Tukwila to file to satisfy or establish a tax or fee obligation that is administered or collected by the City, and that has a statutorily defined due date.

J. If incorporation of future changes to RCW 82.32.090 into the Tukwila Municipal Code is deemed invalid, then the provisions of RCW 82.32.090 existing at the time this ordinance is effective shall apply.

**Section 31. Regulations Established.** A new TMC Section 3.27.120 is hereby established to read as follows:

### **3.27.120 Cancellation of Penalties**

A. The Director may cancel any penalties imposed under TMC Section 3.27.110.A if the taxpayer shows that its failure to timely file or pay the tax was due to reasonable cause and not willful neglect. Willful neglect is presumed unless the taxpayer shows that it exercised ordinary business care and prudence in making arrangements to file the return and pay the tax but was, nevertheless, due to circumstances beyond the taxpayer's control, unable to file or pay by the due date. The Director has no authority to cancel any other penalties or to cancel penalties for any other reason except as provided in TMC Section 3.27.120.C.

B. A request for cancellation of penalties must be received by the Director within 30 days after the date the Department mails the notice that the penalties are due. The request must be in writing and contain competent proof of all pertinent facts supporting a reasonable cause determination. In all cases the burden of proving the facts rests upon the taxpayer.

C. The Director may cancel the penalties in TMC Section 3.27.110.A one time if a person:

1. Is not currently licensed and filing returns,
2. Was unaware of its responsibility to file and pay tax, and
3. Obtained business licenses and filed past due tax returns within 30 days after being notified by the Department.

D. The Director shall not cancel any interest charged upon amounts due.

**Section 32. Regulations Established.** A new TMC Section 3.27.130 is hereby established to read as follows:

### **3.27.130 Taxpayer Quitting Business – Liability of Successor**

A. Whenever any taxpayer quits business, sells out, exchanges, or otherwise disposes of his business or his stock of goods, any tax payable hereunder shall become immediately due and payable. Such taxpayer shall, within 10 days thereafter, make a return and pay the tax due.

B. Any person who becomes a successor shall become liable for the full amount of any tax owing. The successor shall withhold from the purchase price a sum sufficient to pay any tax due to the City from the taxpayer until such time as: a) the taxpayer shall produce a receipt from the City showing payment in full of any tax due or a certificate that no tax is due, or b) more than 6 months has passed since the successor notified the Director of the acquisition and the Director has not issued and notified the successor of an assessment.

C. Payment of the tax by the successor shall, to the extent thereof, be deemed a payment upon the purchase price. If such payment is greater in amount than the purchase price, the amount of the difference shall become a debt due such successor from the taxpayer.

D. Notwithstanding the above, if a successor gives written notice to the Director of the acquisition, and the Department does not within 6 months of the date it received the notice issue an assessment against the taxpayer and mail a copy of that assessment to the successor, the successor shall not be liable for the tax.

**Section 33. Regulations Established.** A new TMC Section 3.27.140 is hereby established to read as follows:

### **3.27.140 Administrative Appeal**

A. Any person aggrieved by the calculation of the tax determined to be due to the City pursuant to this chapter may appeal to the Finance Director or his/her designee from such determination by filing a written notice of appeal with the City Clerk within 20 calendar days from the date on which such person was given notice of the tax. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the amount of the tax was incorrect. The Finance Director or designee shall review the basis for the appeal and may request clarification from the appellant. After the review is complete, the Finance Director or designee shall issue an administrative decision that may sustain or modify the amount of tax owed. Notice of the administrative decision shall be sent to the appellant by certified mail within 10 days of issuance.

B. The appellant, if aggrieved by the decision of the Finance Director or designee, may then appeal to the City Hearing Examiner within 20 calendar days of the date the administrative decision is mailed to the appellant. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the administrative decision is incorrect. The notice of appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council.

C. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner. The hearing shall be conducted no later than 30 days from the date of the notice of appeal, unless an extension is agreed to by the appellant or otherwise ordered by the Hearing Examiner for good cause shown. Notice of the hearing and the appeal shall be given to the appellant by certified mail at least five days prior to the date of the hearing.

D. The hearing shall be governed by the City of Tukwila Hearing Examiner's procedural rules. The hearing shall be de novo. The decision of the City's Hearing Examiner or other hearing body shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant. The Hearing Examiner or other hearing body may affirm, reverse or modify the Finance Director's decision.

E. Within 20 business days, excluding holidays recognized by the City of Tukwila, from the date of the hearing on an appeal under this section, the Hearing Examiner shall issue a written decision which shall set forth the reasons therefor.

**Section 34. Regulations Established.** A new TMC Section 3.27.260 is hereby established to read as follows:

### **3.27.260 Severability**

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances shall not be affected.

**Section 35. Referendum.** This ordinance is subject to referendum as set forth in RCW 35.21.706. A referendum petition to repeal this ordinance may be filed with the City Clerk within 7 days of adoption of this ordinance. Within 10 days of such filing, the City Clerk shall

confer with the petitioner concerning form and style of the petition, issue the petition and identifications number, and secure an accurate, concise, and positive ballot title from the City Attorney. The petitioner shall then have 30 days in which to secure the signatures of not less than 15% of the City's registered voters as of the last municipal general election upon petition forms which contain the ballot title and the full text of the measures to be referred. The City Clerk shall verify the sufficiency of the signatures and, if sufficient valid signatures are properly submitted, shall certify the referendum measure to the next election ballot within the City or at a special election ballot as provided pursuant to RCW 35.17.260(2).

**Section 36. Corrections by City Clerk or Code Reviser Authorized.** 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 37. 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 or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

**Section 38. 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 on January 1, 2024, 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 \_\_\_\_\_, 2022.

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: \_\_\_\_\_

\_\_\_\_\_  
Office of the City Attorney



Attachment: Comparison of Deviations from Core Model B&O Provisions and City of  
Tukwila Provisions



**Comparison of Deviations from Core Model Ordinance Provisions**

**City of Tukwila**

<b>B&amp;O TAX PROVISION:</b>	<b>Summary of Change from Model B&amp;O Tax Ordinance:</b>
.050 Imposition of the tax – tax or fee levied.	(2) The gross receipts tax imposed in this section shall not apply to any person whose gross proceeds of sales, gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the City during any calendar year is equal to or less than \$750,000, or is equal to or less than \$187,500 during any quarter if on a quarterly reporting basis.
.090 Exemptions.	<ul style="list-style-type: none"> <li>• Nonprofit organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue code (except retail sales)</li> <li>• Businesses operating as a casino</li> <li>• Amateur/Professional/Semi-Professional sports teams</li> </ul>





## INFORMATIONAL MEMORANDUM

TO: **Finance & Governance Committee**  
FROM: **Laurel Humphrey, Legislative Analyst**  
DATE: **October 17, 2022**  
SUBJECT: **City Council Compensation Ordinance**

### **ISSUE**

Ordinance setting City Council compensation for 2023-2026.

### **BACKGROUND**

City Council compensation is adopted by ordinance and codified at Tukwila Municipal Code 2.05. In 2022, the City Council requested a City Council compensation review as part of the biennial budget process. The Washington State Constitution prohibits any salary increase or decrease during the term of office for officials who set their own salary, so the earliest compensation could be adjusted for any City Council position is 2024.

TMC 2.05 provides that if “at any time the Tukwila City Council compensation rate of increase falls significantly below the cost-of-living increase,” it will be re-evaluated and possibly adjusted. The current compensation of \$1250 per month for all positions has been in place since 2014. The inflation rate per the Seattle-Tacoma-Bellevue CPI-U has increased \$31.91 in that time (June to June).

### *Retirement Plan*

Per WAC 415-108-570, in order to earn service credit in a state retirement plan, elected officials must earn at least 90 times the state minimum wage each month. The current Council compensation rate of \$1250 per month has fallen behind. With the increase in the state minimum wage to \$14.49 per hour in 2022, Councilmembers must earn at least \$1304.10 per month to earn service credit.

### *Proposal*

Staff suggests that the City Council consider a modest increase to its compensation for four reasons:

- 1) To reflect that the cost of living has significantly increased since 2014
- 2) To more reasonably reflect the time and effort involved in serving as a Councilmember
- 3) To help encourage diverse members of the Tukwila community to pursue elected office
- 4) To resume earning service credits for those participating in a state retirement plan

The table below reflects a monthly increase of \$200 per month beginning in 2024 for positions 2, 4 and 6, and in 2026 for positions 1, 3, 5 and 7. This represents a 16% increase, roughly half of the actual cost of living increase since the current compensation was adopted in 2014.

	Positions 1, 3, 5, 7	Positions 2, 4, 6
Year	Term Ends: 12/31/25	Term Ends: 12/31/23
2023	1250	1250
2024	1250	1450
2025	1250	1450
2026	1450	1450

The Finance & Governance Committee agreed with this proposal at its August 8, 2022 meeting and the draft ordinance has been prepared in accordance with this direction.

**RECOMMENDATION**

Staff is seeking a committee recommendation to forward to the November 14, 2022 Committee of the Whole along with other budget-related legislation.

## **DRAFT**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AMENDING TUKWILA MUNICIPAL CODE SECTION 2.05.010 TO FIX THE AMOUNT OF COMPENSATION FOR COUNCILMEMBERS FOR YEARS 2023 THROUGH 2026; REPEALING ORDINANCE NO. 2668; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, Ordinance No. 2668 set City Council compensation levels for the years 2022 and 2023; and

**WHEREAS**, City Council compensation has not changed since 2014; and

**WHEREAS**, the cost of living as measured by the Seattle-Tacoma-Bellevue Consumer Price Index (CPI-U) has risen by 32% since 2014; and

**WHEREAS**, public service should be adequately compensated to attract participation from a diverse community; and

**WHEREAS**, RCW 35A.12.070 requires that no Councilmember may increase or decrease the salary during the current term of office; and

**WHEREAS**, the City Council wishes to retain a conservative compensation;

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

**Section 1. TMC Chapter 2.05 Amended.** Chapter 2.05 of the Tukwila Municipal Code is hereby amended to read as follows:

## 2.05.010 Council Compensation

A. **Monthly compensation levels.** Pursuant to the provisions of RCW 35A.12.070, members of the Tukwila City Council shall receive the following monthly compensation during the years listed here according to their position and the date their term of office commences:

	<b>POSITIONS 1, 3, 5, 7</b>	<b>POSITIONS 2, 4, 6</b>
<b>YEAR</b>	<b><u>Current</u> Term of Office: 1/1/22 – 12/31/25</b>	<b><u>Current</u> Term of Office: 1/1/20 – 12/31/23</b>
2023	\$1,250/month	\$1,250/month
2024	\$1,250/month	\$1,450/month
2025	\$1,250/month	\$1,450/month
2026	\$1,450/month	\$1,450/month

B. **Compensation review.** At any time the Tukwila City Council compensation rate of increase falls significantly below the cost of living increase as measured by the Seattle-Tacoma-Bellevue Consumer Price Index (CPI-U), ~~Tukwila the City Council~~ will review ~~the stipends~~ and may increase the ~~City Council stipend compensation~~ accordingly.

**Section 2. Repealer.** Ordinance No. 2668 is hereby repealed.

**Section 3. Corrections by City Clerk or Code Reviser. Authorized** 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 4. 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 or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

**Section 5. 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 \_\_\_\_\_, 2022.

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: \_\_\_\_\_

\_\_\_\_\_  
Office of the City Attorney





## **INFORMATIONAL MEMORANDUM**

**TO: Mayor Ekberg  
Finance & Governance Committee**

**FROM: David Cline, City Administrator**

**BY: Cheryl Thompson, Executive Assistant**

**DATE: October 17, 2022**

**SUBJECT: Contract for City Attorney Services**

### **ISSUE**

The current contract for City Attorney Services provided by Ogden Murphy Wallace expires December 31, 2022. The proposed contract for 2023-2024 is attached.

### **DISCUSSION**

Ogden Murphy Wallace began providing City Attorney Services to the City of Tukwila in April 2020. Under the proposed 2023-2024 contract, general City Attorney services are maintained at 28 hours per week at the flat monthly rate of \$33,000 per month for 2023 with an increase of the flat monthly rate to \$35,000 per month in 2024. Litigation, contested administrative proceedings, and special services are subject to prior approval and are billed at the hourly rates of the staff involved. Hourly rates are listed in Exhibit B to the contract.

### **RECOMMENDATION**

The Committee is being asked to move this contract forward to the November 14, 2022 Committee of the Whole Meeting for discussion

### **ATTACHMENTS**

Draft 2023-2024 Contract for Legal Services



**KARI SAND**  
206.447.2250  
ksand@omwlaw.com

September 23, 2022

**SENT VIA E-MAIL ONLY**

Mayor Allan Ekberg  
City of Tukwila  
6200 Southcenter Boulevard  
Tukwila, WA 98188  
[Alan.Ekberg@TukwilaWA.gov](mailto:Alan.Ekberg@TukwilaWA.gov)

Re: Engagement Letter for City Attorney Services through December 31, 2024

Dear Mayor Ekberg:

My team at OMW and I appreciate the opportunity to be of continued service providing City Attorney services for the City of Tukwila from January 1, 2023 through December 31, 2024. The purpose of this letter is to confirm how our services will be provided.

**Terms of Engagement**

In our representation of clients, we think it is critical that our clients and the firm share the same understanding of the attorney-client relationship. To that end, enclosed is a copy of our Standard Terms of Engagement. This engagement letter and the enclosed Standard Terms of Engagement set forth our agreement with you. Please review them carefully and let me know if you have any questions regarding the proposed terms.

**Legal Fees**

We will provide City Attorney services up to approximately 28-hours per week consistent with Exhibit A, the Scope of Services. I will serve as City Attorney and will be available, either in-person or remotely, as needed. Associates Emily Miner and Andrew Tsoming will be otherwise available, either on-site or remotely, as appropriate, as well as any other Member of my firm whose expertise may be needed, such as Member Karen Sutherland. Invoice statements will be sent monthly via regular mail or e-mail, unless you request otherwise. As supervising attorney, I will be responsible for seeing that the work is carried out in an efficient and economical manner. I will be assisted by other attorneys and legal assistants in our office. They are all bound to you by the same duties of loyalty and confidentiality that binds me.

Hours of Work	Staffing Model	General Services Rate
<p align="center"><b>Approx. 28 hours per week (varies)</b></p>	<p><b>KLS</b> = Supervising Lead City Attorney  <b>EFM &amp; ADT</b> = Assistant City Attorneys</p>	<p>Flat monthly rate of  <b>\$33,000 in 2023;</b>          flat monthly rate of  <b>\$35,000 in 2024;</b> and          other fees for separate          &amp; special services, as          explained below.</p>

The flat monthly billing rate will be \$33,000 per month for City Attorney “General Services,” as specified in Exhibits A (Scope of Services) and B (Compensation and Method of Payment). For representation on “Separate Services,” such as administrative and judicial appeals, litigation, and other project/site-specific land use work, as specified in Exhibits A and B, the Member billing rate will be \$350 per hour, and the Associate billing rate will be \$275 per hour. For representation on “Special Services” that are eligible for reimbursement to the City from an applicant (*e.g.*, franchise), as well as telecommunications work (*e.g.*, small cell ROW agreements, pole leases, etc.) will be billed at \$385 per hour for Members and \$285 per hour for Associates. We will not bill for travel time to and from Tukwila City Hall. Travel to other locations for City-related business outside of regular office hours will be billed at applicable hourly rates (*e.g.*, travel to the Kent Regional Justice Center or the King County Courthouse for the Friday motion calendar).

We appreciate your expression of confidence in Ogden Murphy Wallace, P.L.L.C. and would like to assure you that we will do our best to provide you with high quality legal services. If you have any questions or concerns during the course of our relationship, we encourage you to raise them with me or our Managing Member, Geoffrey J. Bridgman or our Chair, Donald W. Black. If you agree with the provisions of this engagement letter and the attached Terms and Conditions, please sign where indicated below and return to me. We look forward to working with you.

Very truly yours,

**OGDEN MURPHY WALLACE, P.L.L.C.**



Kari L. Sand

KLS/ljv

Enclosure – OMW Standard Terms of Engagement  
 cc: Vicki Carlsen, Finance Director

Mayor Allan Ekberg  
September 23, 2022  
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I HEREBY ACCEPT AND AGREE TO the foregoing letter and the attached Standard Terms of Engagement this \_\_\_\_\_ day of November, 2022.

By: \_\_\_\_\_

Print Name: Allan Ekberg

Its: Mayor

**OGDEN MURPHY WALLACE, P.L.L.C.  
STANDARD TERMS OF ENGAGEMENT**

**General Rates**

The usual basis for determining our fees is the time expended by attorneys, paralegals, and legal assistants of the firm. The rates for our services presently range from \$175 to \$635 per hour and are subject to change from time to time. Our current rate schedule is always available upon request. Whenever it is appropriate, we will use associate attorneys, law clerks or legal assistants in our office.

**Other Factors in Rates**

Although time expended and costs incurred are usually the sole basis for determining our fees, by mutual agreement billings to you for legal services may, in some instances, be based on a more comprehensive evaluation of the reasonable value of the firm's services. The firm is committed to charging reasonable fees for its services. In certain situations, factors other than the amount of time required will have a significant bearing on the reasonable value of the services performed. Such factors include: the novelty and complexity of the questions involved; the skill required to provide proper legal representation; familiarity with the specific areas of law involved; the preclusion of other engagements caused by your work; the magnitude of the matter; the results achieved; customary fees for similar legal services; time limitations imposed by you or by circumstances; and the extent to which office forms and procedures have produced a high quality product efficiently. There may be some activity that we can do on a contingent or other basis; however, we will handle matters on a contingency or other basis only when and to the extent specifically agreed in writing in advance of the work.

In circumstances where our fees will be based on or include factors other than our normal hourly charges and costs, we will notify you promptly and prior to proceeding. Any basic document fee that we may charge you has been and will be set in light of these various factors.

**Billing Fees and Costs**

The City will not be charged for normal clerical or secretarial work, the expense of which has been calculated into our hourly rates for attorneys. Reimbursement will be made by the City for expenditures related to court costs and fees, copying, postage, computer-aided legal research when conducted on behalf of the City, mileage, and parking. Other expenses shall be reimbursed when authorized in advance by the City.

We will bill the City monthly for services performed. Our bill will show the service provided, the date, the person providing the service, and the time expended in tenths of an hour.

We will work with the City to develop and implement a billing and invoicing framework that meets the City's needs. At the City's preference, individual billing numbers can be established for each



department, as well as for any specialty matter (e.g. litigation, contract negotiations, etc.) that arises.

Legal services would be billed monthly, and each invoice would include a billing narrative for every time entry sensitive to protecting the attorney/client privilege.

### **Payment; Interest**

You agree to make payment within thirty (30) days of receipt of our monthly statement. Outstanding balances that are not paid when due will accrue interest at the rate of one percent compounded monthly from the date of invoice until paid.

### **Termination**

You may terminate our representation at any time, with or without cause, by notifying us. Upon such action, all fees and expenses incurred before the termination are due to the firm. If such termination occurs, your original papers will be returned to you promptly upon receipt of payment for outstanding fees and costs. If you wish to have a paper or electronic copy of your file at the conclusion of our representation, we will provide it to you at the current copy rate per page then in effect.

### **Confidentiality and Electronic Communications**

Ogden Murphy Wallace is committed to maintaining the security of our system and the communications with our clients. Unless you otherwise instruct us in writing, we intend to use various communications devices in the normal course (which may include wired or wireless devices, e-mail, cellular telephones, voice over Internet, texting, and electronic data/document web sites) to communicate with and send or make available documents to you and others. Though encryption is a security tool that we utilize, not all communications are encrypted. By signing this letter, you consent to the usage of a variety of communication methods even if such methods are not encrypted.

It is important for us to maintain open communication with each other throughout the engagement. We will regularly keep you informed of the status of the matter and will promptly notify you of any major case developments. We will consult with you whenever appropriate.

You agree to communicate with and provide us with complete and accurate information as needed to further the case. Further, you will timely notify us of any changes in the structure of your organization, changes to the personal information or residence of any individuals related to this matter, or any extended periods of time when you will be unavailable.

### **Dispute Resolution**

If you disagree with the amount of our fee, please take up the question with your principal attorney contact or with the firm's managing member. Typically, such disagreements are resolved to the satisfaction of both sides with little inconvenience or formality. Any disputes relating to these Terms of Engagement or the accompanying engagement letter (collectively this "agreement") or the amount of legal fees related thereto, will be submitted to arbitration through the American Arbitration Association (the "AAA") in Seattle, Washington, according to its then-effective rules, and to Ogden Murphy Wallace, P.L.L.C. and you agree to be bound by the results of such arbitration. Please be aware that by agreeing to arbitration, you are waiving the right to a trial by jury and your right to appeal. Although the arbitrator will be authorized to award any damages or relief that a court of law having jurisdiction over the dispute could award, the arbitrator will be bound by the AAA rules and not by state or federal court rules, and discovery will be limited to what is allowed under the AAA rules. The grounds for appeal of an arbitration award are limited as compared to a court judgment or jury verdict. Arbitration fees and expenses shall be borne equally by the parties. In the event of non-payment such that we must pursue collection of your account, you agree to pay the costs of collecting the debt, including court costs and fees, and a reasonable attorney's fee.

The law of the state of Washington will apply to any such dispute.

### **Withdrawal**

We reserve the right to withdraw from representing you if, for any reason, our fees are not timely paid in accordance with this agreement, or for any other appropriate reason, as determined by the firm in accordance with applicable law and the Rules of Professional Conduct.

### **Client Documents**

During the engagement, we will maintain certain documents relevant to this representation. At the conclusion of this engagement, we will retain your original documents for a period of ten years unless you request that they be returned to you. If you have not requested possession of the file or any of its contents at the end of ten years, the file may be destroyed in accordance with our record retention program.

We may store some or all of your electronic files on a variety of platforms, including third-party cloud-based servers. You specifically consent to the use of these services for document storage and management, and to the conversion of all paper documents in your file to electronic form. You recognize that technology is ever evolving and that electronic communications cannot be fully protected from unauthorized interception. You acknowledge that our email system may be unencrypted, and you covenant and agree to proactively notify us in writing if you require that any of your deliverables or emails be sent to you with encryption. We caution you not to send or access any email or other electronic message to or from us, respectively, via any public or semi-public network, or network or devices owned or controlled by any third party. Nonetheless, for efficiency

Mayor Allan Ekberg  
September 23, 2022  
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purposes, you authorize us to transmit information, including information of a confidential nature, to you (or your designated representative) by email to any address which you may provide to us for such purposes, including responding to the sending address of any such message that we may receive from you. In addition, you authorize our use of third-party cloud, back-up, client management, timekeeping, and file-sharing services, including, but not limited to, ShareFile, Dropbox, DocuSign, Carpe Diem, Mimecast, and SurePoint, in the course of our representation. You acknowledge that we may be bound by certain third party terms and conditions related to the use of such services and that our use of such services is not without risks (and you agree to assume such risks).

Please note that if we represent you in a matter in litigation, you have an obligation to preserve all documents that may be relevant to this matter.

#### **Disclaimer**

You acknowledge that we have made no guarantees regarding the disposition, outcome, or results of your legal or business matters, and all expressions we have made relevant thereto are only our opinions as lawyers based upon the information available to us at the time.

#### **Independent Advice**

Since the Engagement Agreement is legally binding and affects your legal rights, you may wish to seek the advice of independent counsel prior to executing it.

#### **Conclusion**

Thank you for retaining our firm. We look forward to working with you.

## **EXHIBIT A-SCOPE OF SERVICES**

Contractor agrees to provide a level of service equal to or greater than the level of service provided by an in-house city attorney working approximately 28 hours per week. Kari L. Sand is the designated member of Ogden Murphy Wallace that will serve as the City Attorney. Any changes in this position must be approved in advance by the City.

### **1. Flat Rate Fee for City Attorney General Services**

Contractor agrees to provide general city attorney services, for a flat fee, including but not limited to:

- A. Attending regular meetings of the City Council and executive sessions scheduled for regular meetings of the City Council and, upon request, attending special meetings of the City Council, meetings of the Committee of the Whole, other Committee meetings, and meetings of City Boards and Commissions.
- B. Preparation and/or legal review of contracts, interlocal agreements, resolutions and ordinances and other city documents or materials as requested.
- C. Practice “preventative law” in the form of regular consultation with Mayor, City Councilmembers, City Administrator, and staff.
- D. Except as set forth in Section 2, defend and manage (for WCIA-related matters) litigation brought against the City.
- E. Providing legal advice relating to the Public Records Act and public records requests, including review and redaction of records and preparation and review of exemption logs, as requested.
- F. As requested, providing special classes and/or seminars for staff, elected officials, Boards, and Commissions on issues including, but not limited to, the PRA, OPMA, ethics, conflicts of interest, and the appearance of fairness doctrine.
- G. Such other general city attorney matters as are assigned.
- H. Work up to approximately 28 hours per week on average.
- I. Maintain comprehensive Internet and remote access capability, including e-mail, linking Contractor's office with City Hall.
- J. It is incumbent upon the City, in partnership with the City Attorney, to manage the general services within the estimated 28-hour work week staffing model.

## **2. Separate Matter Services**

Contractor agrees to provide City Attorney Separate Matter Services for litigation and contested administrative proceedings, which include but are not limited to:

- A. Each individual civil action filed by or against the City, except matters for which WCIA has assigned primary, lead defense counsel, which the City Attorney shall manage as part of general city attorney services, and except that multiple condemnation lawsuits related to the same project shall constitute only one Separate Matter;
- B. All Code Enforcement matters conducted before the Hearing Examiner or in Court, but not including general code enforcement services, which shall be included in Contractor's flat monthly fee; and
- C. All drug or other forfeiture matters collectively filed by or against the City.

For each such Separate Matter, Contractor shall be paid hourly rates for 2023-2024 as set forth in Exhibit B, Section 2.

## **3. Special Services**

Contractor agrees to provide City Attorney Special Services, which include but are not limited to:

Other specialized municipal law services, including but not limited to franchise negotiations and telecommunications work (e.g., small cell ROW agreements, pole leases, etc.); provided, however, that any such Special Services shall first be authorized by the City.

For such Special Services, Contractor shall be paid hourly rates for 2023-2024 as set forth in Exhibit B, Section 3.

**It is understood and agreed that the City Attorney shall not provide private legal services to any employee of the City of Tukwila during the term of this Agreement.**

**EXHIBIT B-COMPENSATION AND METHOD OF PAYMENT**

**1. City Attorney General Services**

For 2023, all city attorney general services set forth in Section 1 of Exhibit A, Contractor shall be paid a flat monthly fee of \$33,000, plus extraordinary expenses. For 2024, all city attorney general services set forth in Section 1 of Exhibit A, Contractor shall be paid a flat monthly fee of \$35,000, plus extraordinary expenses.

Extraordinary expenses shall include court filing fees, deposition and other discovery costs, parking, mileage costs other than to and from City Hall or other locations within the City, and other similar expenses advanced by Contractor on City's behalf. Extraordinary expenses shall not include routine photocopying, fax, or long-distance telephone charges.

**2. City-Attorney Separate Matter Services**

All litigation and administrative proceeding services set forth in Section 2 of Exhibit A shall be considered Separate Matter Services. Contractor shall maintain its current practice of providing individual monthly billing statements for each Separate Matter.

<b>2023-2024</b>	<b>Hourly Rates for Separate Services</b>
Member	\$350/hour
Associates	\$275/hour

**3. City-Attorney Special Services**

Special Services shall first be authorized by the City. Contractor shall be paid hourly rates for 2023-2024 as set forth below for authorized Special Services.

<b>2023-2024</b>	<b>Hourly Rates for Special Services</b>
Member	\$385/hour
Associates	\$285/hour

Paralegal services for all matters will be billed at \$140/hour.



## INFORMATIONAL MEMORANDUM

TO: **Mayor Ekberg  
Finance & Governance Committee**

FROM: **David Cline, City Administrator**

BY: **Cheryl Thompson, Executive Assistant**

DATE: **October 17, 2022**

SUBJECT: **Contract for Public Defense Services**

### **ISSUE**

The current contract for public defender services provided by Kirshenbaum & Goss expires December 31, 2022. The proposed contract for 2023-2024 is attached.

### **BACKGROUND**

The Sixth Amendment of the United States Constitution requires that people accused of serious crimes who cannot afford to pay for private counsel be provided with an attorney. Responsibility for upholding the mandate of the Sixth Amendment lies with the states although in Washington State this responsibility has been delegated to counties and municipalities that have judicial branches. The City of Tukwila contracts for public defense services to provide legal representation for indigent criminal defendants who qualify for appointment of counsel. Representation is provided from the time of screening for eligibility through trial, sentencing and appeals to the superior court, if necessary.

Two significant occurrences have impacted the provision of public defense services in the recent past: 1) Effective January 1, 2015, Public Defense Standards were adopted by the Washington State Supreme Court. These standards delineate the number of cases each attorney can handle per year and mandates that compensation include administrative and training costs. 2) The federal court decision, *Wilbur v. Mt. Vernon* provided additional emphasis on requirements for timely contact with clients, provision of support services for public defense attorneys to provide adequate representation like investigation services, interpreter services and expert witnesses, and reasonable compensation.

The City has developed a Public Defense program that fully complies with the Public Defense Standards and *Wilbur v. Mt. Vernon*.

### **DISCUSSION**

The City has historically contracted with Kirshenbaum & Goss, Inc. P.S. for the provision of public defense services. In September 2022 the City advertised a Request for Proposals for the

provision of public defense services. Kirshenbaum & Goss was the only firm to submit a proposal. The proposal requests a modest increase to the monthly base compensation with provisions for additional compensation if the quarterly caseload exceeds 240 cases, and if a case is appealed to King County Superior Court.

In 2021-2022 we paid a flat rate of \$29,100 per month for public defense services with \$27,600 per month being paid from the general fund and \$1,500 per month from the Office of Public Defense (OPD) grant funds as allowed by the OPD Grant Agreement. The proposed Base Compensation rate for 2023-2024 is \$29,500 per month, with an additional \$400 per case for each case assigned over the 240 quarterly caseload and an additional \$800 for any case that is appealed to King County Superior Court where the firm has to prepare and submit a brief. This represents a minimum annual increase of \$4,800 to the general fund. We do not anticipate exceeding 240 case assignments per quarter and the City has averaged less than one appeal per year to Superior Court in the past five years.

The Agreement allows for compensation review in two circumstances: 1) When the City receives notice from the Office of Public Defense regarding the 2024-2025 Grant Application, to adjust compensation, if needed; and 2) If the Tukwila Municipal Court implements a Community Court during the term of the Agreement, the impact to provision of public defense services for the Community Court will be assessed and compensation may be adjusted accordingly.

**RECOMMENDATION**

The Committee is being asked to move this item forward to the November 14, 2022 Committee of the Whole meeting for further discussion.

**ATTACHMENTS**

Draft Contract for Public Defense Services for 2023-2024





CONTRACT FOR PUBLIC DEFENSE SERVICES

This Agreement is entered into by and between the CITY OF TUKWILA, Washington, a non-charter optional municipal code city hereinafter referred to as “the City,” and Kirshenbaum & Goss, Inc. P.S., a Washington Corporation, hereinafter referred to as “the Contractor” (collectively, “the Parties”).

WHEREAS, the City has a need to have legal services available for those charged with a crime in Tukwila Municipal Court who are deemed indigent and are entitled to the effective assistance of counsel at the public expense; and

WHEREAS, the Federal Court decision *Wilbur v. Mt. Vernon* emphasizes the need for the City to provide indigent defense services to clients of the Tukwila Municipal Court in a manner which fully complies with the City’s obligations under the Sixth Amendment to the United States Constitution; and

WHEREAS, the City desires to have the Contractor perform such services pursuant to certain terms and conditions; now, therefore,

IN CONSIDERATION OF the mutual benefits and conditions hereinafter contained, the Parties hereto agree as follows:

1. **Scope and Schedule of Services to be Performed by Contractor.** The Contractor shall perform those services described on Exhibit A attached hereto and incorporated herein by this reference as if fully set forth. In performing such services, the Contractor shall at all times comply with all federal, state, and local statutes, rules and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith, including the provisions of Washington Supreme Court Order 25700-A-1013 and the public defense standards adopted by the City pursuant to TMC 2.70. Compliance with these standards goes to the essence of this Agreement. The Contractor shall request and obtain prior written approval from the City if the scope of work or schedule of services is to be modified in any way.
2. **Compensation and Method of Payment.** The City shall pay the Contractor for services rendered according to the rate and method set forth on Exhibit B attached hereto and incorporated herein by this reference. Base Compensation is in consideration of a caseload not to exceed 960 cases per year. In compliance with the public defense standards, the case counts include the Contractor’s appearance at 48 arraignment calendars per year.
3. **Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing January 1, 2023 and ending December 31, 2024 unless sooner terminated under the provisions hereinafter specified.

4. **Independent Contractor.** Contractor and City agree that Contractor 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 Contractor nor any employee of Contractor shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to the Contractor, or any employee of the Contractor.
5. **Indemnification.** The Contractor shall defend, indemnify and hold the City, its officers, agents, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of 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.
6. **Insurance.** The Contractor 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 Contractor, their agents, representatives, employees or subcontractors. Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
  - A. **Minimum Scope of Insurance.** Contractor shall obtain insurance of the types and with the limits described below:
    1. **Automobile Liability:** The Contractor shall procure and maintain in full force throughout the duration of this Agreement 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:** The Contractor shall procure and maintain in full force throughout the duration of this Agreement Commercial General Liability insurance with

limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate, and \$2,000,000 products-completed operations aggregate limit. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors, personal injury and advertising injury. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 26.

3. Workers' Compensation: The Contractor shall procure and maintain Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability Insurance: The Contractor shall procure and maintain in full force throughout the duration of this Agreement Professional Liability insurance with a minimum coverage of \$2,000,000 per claim and \$2,000,000 aggregate. Contractor shall provide evidence of such coverage in a manner and form acceptable to the City in the City's sole discretion. Cancellation of the required insurance shall automatically result in termination of this Agreement.

B. **Other Insurance Provision.** The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

C. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

D. **Verification of Coverage.** Contractor shall furnish the City 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 Contractor before commencement of the work.

E. **Notice of Cancellation.** The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation, within two business days of their receipt of such notice.

7. **Record Keeping and Reporting.**

A. The Contractor shall maintain accounts and records, including personnel, property, financial and programmatic records which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed in the performance of this Agreement and other such records as may be deemed necessary by the City to ensure the performance of this Agreement.

B. These records shall be maintained for a period of seven (7) years after termination hereof unless permission to destroy them is granted by the office of the archivist in accordance with RCW Chapter 40.14 and by the City.

8. **Termination.** This Agreement may at any time be terminated by the City giving to the Contractor thirty (30) days written notice of the City's intention to terminate the same. If the Contractor's insurance coverage is canceled for any reason, the City shall have the right to terminate this Agreement immediately.
9. **Discrimination Prohibited.** The Contractor, 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, the presence of any disability, or any other protected class status under state or federal law, in the selection and retention of employees or procurement of materials or supplies.
10. **Assignment and Subcontract.** The Contractor shall not assign or subcontract any portion of the services contemplated by this Agreement without the written consent of the City.
11. **Entire Agreement.** This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the City and the Contractor 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.
12. **Notices.**  
Notices to the City of Tukwila shall be sent to the following address:  
  
City Clerk  
City of Tukwila  
6200 Southcenter Blvd.  
Tukwila, Washington 98188  
  
Notices to the Contractor shall be sent to the following address:  
  
Kirshenbaum & Goss, Inc. P.S.  
1314 Central Ave S Ste. 101  
Kent, WA 98032-7430
13. **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.

14. **Applicable Law, Venue, Attorney’s Fees.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. 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. The prevailing party in any such action shall be entitled to its attorney’s fees and costs of suit.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF TUKWILA

CONTRACTOR:

\_\_\_\_\_  
Allan Ekberg, Mayor

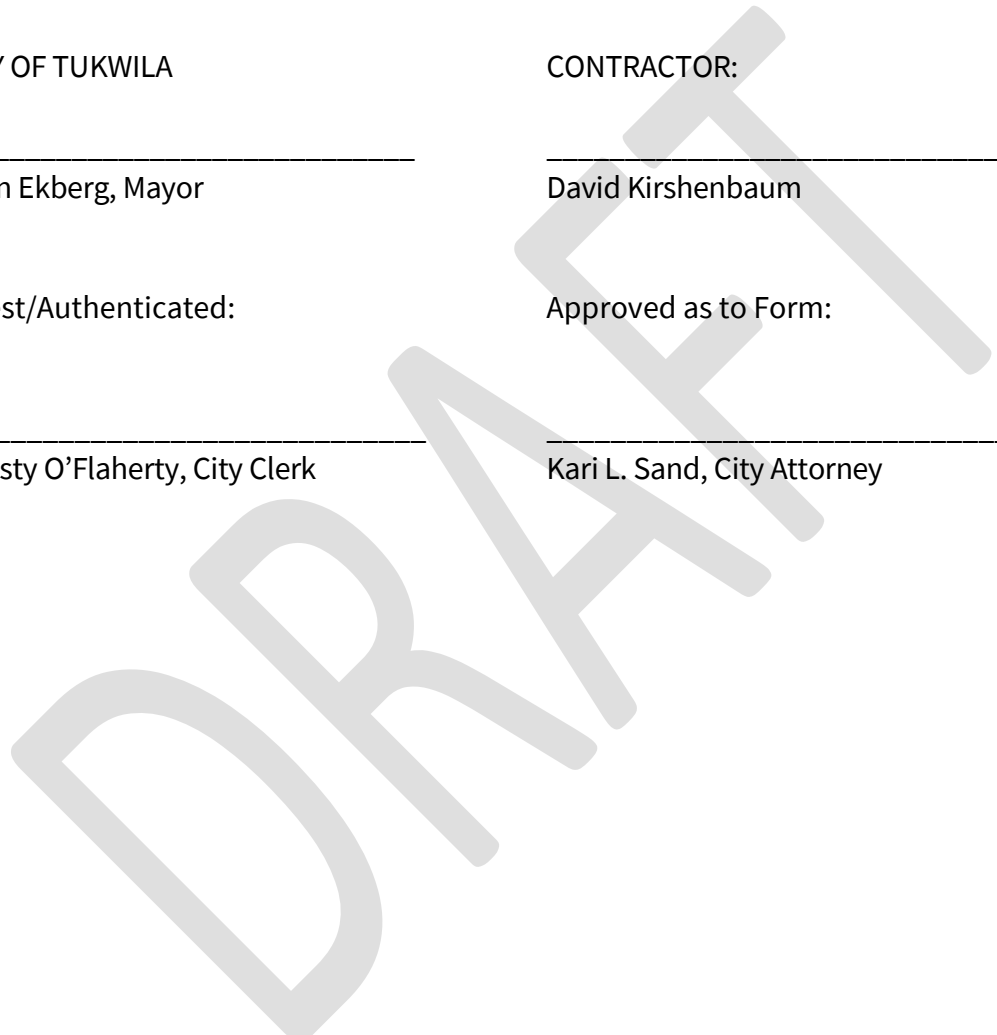
\_\_\_\_\_  
David Kirshenbaum

Attest/Authenticated:

Approved as to Form:

\_\_\_\_\_  
Christy O’Flaherty, City Clerk

\_\_\_\_\_  
Kari L. Sand, City Attorney



## EXHIBIT A - SCOPE OF SERVICES

1. General Scope of Representation. Provide legal representation services in accordance with the standards adopted by the City in TMC 2.70, the standards set forth by the Washington State Bar Association Standards for Indigent Defense Services, the Rules of Professional Conduct, *Wilbur v. Mt. Vernon*, other related case law and applicable court rules defining the duties of counsel and the rights of defendants in criminal cases for all indigent criminal defendants charged with a misdemeanor or gross misdemeanor under ordinances of the City who qualify for appointment of counsel. The Contractor agrees to attempt to contact the client within 72 hours of notification of appointment. The Contractor shall provide legal representation for each of these defendants from time of screening for eligibility through trial, sentencing and appeals to the superior court, if necessary.
2. Video Court Services. Provide daily video court public defense services to defendants charged under ordinances of the City who are detained at the SCORE Jail and qualify for public defense services in a manner consistent with the accepted practices for similar services, performed to the City's satisfaction.
3. Attorney of the Day Services. Provide an attorney for weekly arraignment calendars, available to all unrepresented defendants for consultation.
4. Screening. Determination of indigency for eligibility for appointed counsel under this Agreement shall be determined by an independent screening process established by the City. Should the Contractor determine a defendant is not eligible for assigned counsel prior to the establishment of the attorney/client privilege, the Contractor shall so advise the City to reconsider the screening of that particular individual.
5. 24-Hour Contact Information. The Contractor shall provide to the City Police Department, a telephone number or numbers at which an attorney may be reached 24-hours each day for "critical stage" advice to the defendants during the course of police investigations and/or arrest for misdemeanor violations of City Ordinances.
6. Authority to practice. Any counsel associated with or employed by the Contractor shall have the authority to perform the services called for herein and the Contractor may employ associate counsel to assist him/her at the Contractor's expense and with written consent from the City in compliance with Section 11 of this Agreement. The Contractor and any other attorneys retained pursuant to this section shall be admitted to practice pursuant to the rules of the Supreme Court of the State of Washington and shall have read and be fully familiar with the provisions of the Washington Supreme Court rule and the standards adopted by the City pursuant to TMC 2.70, as well as the *Wilbur v. Mt. Vernon* decision.
7. Conflicts. In the event representation of a defendant hereunder raises a conflict of interest such that the Contractor cannot ethically represent the defendant, said defendant shall be referred

back to the City for further assignment, without being included in the caseload assignments for the Contractor.

8. Discovery. The City shall provide to the Contractor, at no cost, one copy of all discoverable material concerning each assigned case. Such material shall include, where relevant, a copy of the abstract of the defendant's driving record.
9. Training. Contractor agrees to attend seven (7) hours of criminal defense training each year. The training must be approved by the Washington State Office of Public Defense (OPD) in compliance with the OPD Improvement Program Training requirements. This requirement also applies to all associate counsel. Each attorney will submit a copy of their Continuing Legal Education (CLE) Credits transcript from the Washington State Bar Association (WSBA) with the Annual Report.
10. Case management. Pursuant to TMC 2.70.050 Standard 8, the Contractor shall maintain a case reporting and case management system that includes number & type of cases, attorney hours and disposition.
11. Reporting. Contractor agrees to submit the following reports:
  - Monthly Case Assignment List: Includes Cause Number, Name, Charges, Date of Assignment and Date of First Effort to Contact;
  - Monthly Statistics Report: This report shall take substantially the same form as that attached hereto as Exhibit C and shall be submitted with the monthly invoice;
  - Quarterly Certification of Compliance: The Contractor shall certify compliance with the standards required by CrRLJ 3.1. The Certification shall take substantially the same form as that attached hereto as Exhibit D and shall be filed quarterly with the Tukwila Municipal Court on the following dates: January 1, April 1, July 1, and October 1, or the next court day, if the filing day falls on a weekend or holiday;
  - Annual Report: Detailing the number of other public defense contracts including jurisdiction, the number and type of non-public defense cases handled, and the total hours billed for non-public defense cases.
12. Client Contact Prior to Court Hearings. Contact all clients 1-2 business days prior to their court hearing to confirm access to and knowledge of how to utilize the necessary technology to appear before the court.
13. Additional Coverage for Review Calendars. Provide a minimum of two attorneys at each review calendar to expedite efficient hearings.

## EXHIBIT B - COMPENSATION AND METHOD OF PAYMENT

1. **Base Compensation Rate.** Effective January 1, 2023 for all public defense services set forth in Exhibit A, Contractor shall be paid a flat monthly fee of \$29,500, which includes \$1,500 per month Office of Public Defense (OPD) grant funds to compensate for additional services provided as outlined in Exhibit A Sections 12 & 13. Should provision of the additional services be modified in any way, compensation will be adjusted accordingly. OPD grant funds have been awarded for 2023. If needed, a mid-contract review will be conducted to adjust compensation based on grant funding.
2. **Caseload Compensation.** Caseload assignments will be evaluated on a quarterly basis. For each case per quarter over 240 cases additional compensation will be provided at the rate of \$375 per case.
3. **Appeals.** The City shall pay the Attorney an additional sum of \$800 per RALJ appeal filed with the King County Superior Court in which a brief has been filed by the Contractor.
4. **Community Court.** The Tukwila Municipal Court is researching implementation of a cross-jurisdictional Community Court. If a Community Court is implemented during the term of this contract, the impact to provision of public defense services for the Community Court will be assessed and compensation will be adjusted accordingly.
5. **Preauthorized Non-Routine Expenses.** Non-routine case expenses requested by Attorney and preauthorized by order of the Tukwila Municipal Court. Non-Routine expenses include, but are not limited to:
  - a. Medical and psychiatric evaluations;
  - b. Expert witness fees and expenses;
  - c. Interpreters for languages not commonly spoken in the city or interpreters for services other than attorney/client communication;
  - d. Investigation expenses;
  - e. Medical, school, birth, DMV, 911, emergency communication recordings and logs, and other similar records when the cost of an individual item does not exceed \$75; and
  - f. Any other non-routine expenses the Tukwila Municipal Court finds necessary and proper for the investigation, preparation, and presentation of a case.
6. **Invoices.** The Contractor shall invoice the City by the fifth day of the month for all cases assigned to him/her for the previous month. The bill shall delineate the following:
  - City compensation;
  - Miscellaneous Charges: Copies of invoices and or receipts for miscellaneous charges shall be attached to the bill; and
  - A list of the cases assigned for the month including the defendant's full name, case number, charges, date of assignment & date of first contact.



EXHIBIT C – PUBLIC DEFENSE MONTHLY REPORT – Kirshenbaum & Goss

<b>CLIENT CONTACT</b>	<b># per month</b>
Jail Visits	
Out of Court Meetings	
Phone Calls	
Email Correspondence	
<b>MOTIONS PRACTICE</b>	
Motions	
<b>RESOURCES UTILIZED</b>	
Expert Consulted	
Immigration Case Assistance/Resources (WDA)	
Interpreter (out of court)	
Investigator	
Referred for Mental Health/Competency Evaluation	
Social Services Liaison	
<b>COMPLAINTS</b>	
Complaint Forms Received from Clients	
Complaints Filed with the WSBA	
<b>TRAINING (in hours)</b>	
WDA	
WACDL	
Other	

EXHIBIT D – CERTIFICATION OF COMPLIANCE

**MUNICIPAL COURT FOR  
CITY OF TUKWILA  
STATE OF WASHINGTON**

[ ] No.: \_\_\_\_\_

[ ] Administrative Filing

**CERTIFICATION BY:**

**FOR THE**

**\_\_\_ CALENDAR QUARTER OF \_\_\_\_\_**

CERTIFICATION OF APPOINTED COUNSEL OF  
COMPLIANCE WITH STANDARDS REQUIRED BY CrR  
3.1/CrRLJ 3.1/JuCR 9.2

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The undersigned attorney hereby certifies that for the past quarter and for the remainder of the year:

1. Approximately \_\_\_\_\_% of my practice time is devoted to indigent defense cases for the City of Tukwila.

Approximately \_\_\_\_\_% of my practice is devoted to indigent defense cases for the following jurisdictions: \_\_\_\_\_

Approximately \_\_\_\_\_% of my practice is devoted to private practice.

2. I am familiar with the applicable Standards adopted by the Supreme Court for attorneys appointed to represent indigent persons and certify that:
- a. **Basic Qualifications:** I meet the minimum basic professional qualifications in Standard 14.1.
  - b. **Office:** I have access to an office that accommodates confidential meetings with clients, and I have a postal address and adequate telephone services to ensure prompt response to client contact, in compliance with Standard 5.2.
  - c. **Investigators:** I have investigators available to me and will use investigation services as appropriate, in compliance with Standard 6.1.
  - d. **Caseload:** I will comply with Standard 3.2 during representation of the defendant in my cases. I will not accept a greater number of cases than specified in Standard 3.4, prorated if the amount of time spent for indigent defense is less than full time.
  - e. **Case Specific Qualifications:** I am familiar with the specific case qualifications in Standard 14.2, Sections B-K and will not accept appointment in a case as lead counsel unless I meet the qualifications for that case.
  - f. **Training:** I will attend seven (7) hours of criminal defense training approved by the Washington State Office of Public Defense (OPD) in compliance with the OPD Improvement Program Training requirements each calendar year.

\_\_\_\_\_  
Attorney, WSBA No.

\_\_\_\_\_  
Date



## INFORMATIONAL MEMORANDUM

TO: **Finance & Governance Committee**

FROM: **Tony Cullerton, Deputy Finance Director**

CC: **Mayor Ekberg**

DATE: **October 24, 2022**

SUBJECT: **August 2022 General Fund Departmental Budget-to-Actuals Report**

### Summary

The purpose of the August 2022 General Fund Financial Report is to summarize for the City Council the general state of departmental expenditures and to highlight significant items. The following provides a high-level summary of the departmental financial performance.

The August 2022 report is based on financial data available as of October 1, 2022, for the period ending August 31, 2022. Additional details can be found within the included financial report.

### Expenditures

General Fund departmental expenditures totaled \$40.7 million through August, which is \$97,234 less than the allocated budget of \$40.8 million. Department 20, which is transfers to other funds, totaled \$2.68 million, which is \$1.9 million less than the allocated budget. This underbudgeted amount is due to pending transfers from Non-Departmental to the Debt Service Fund. The allocated budget is calculated to reflect year-to-date spending patterns of the previous year. Transfers to capital project funds are transferred to capital project funds as needed for cash flow purposes. Debt service transfers are done quarterly.

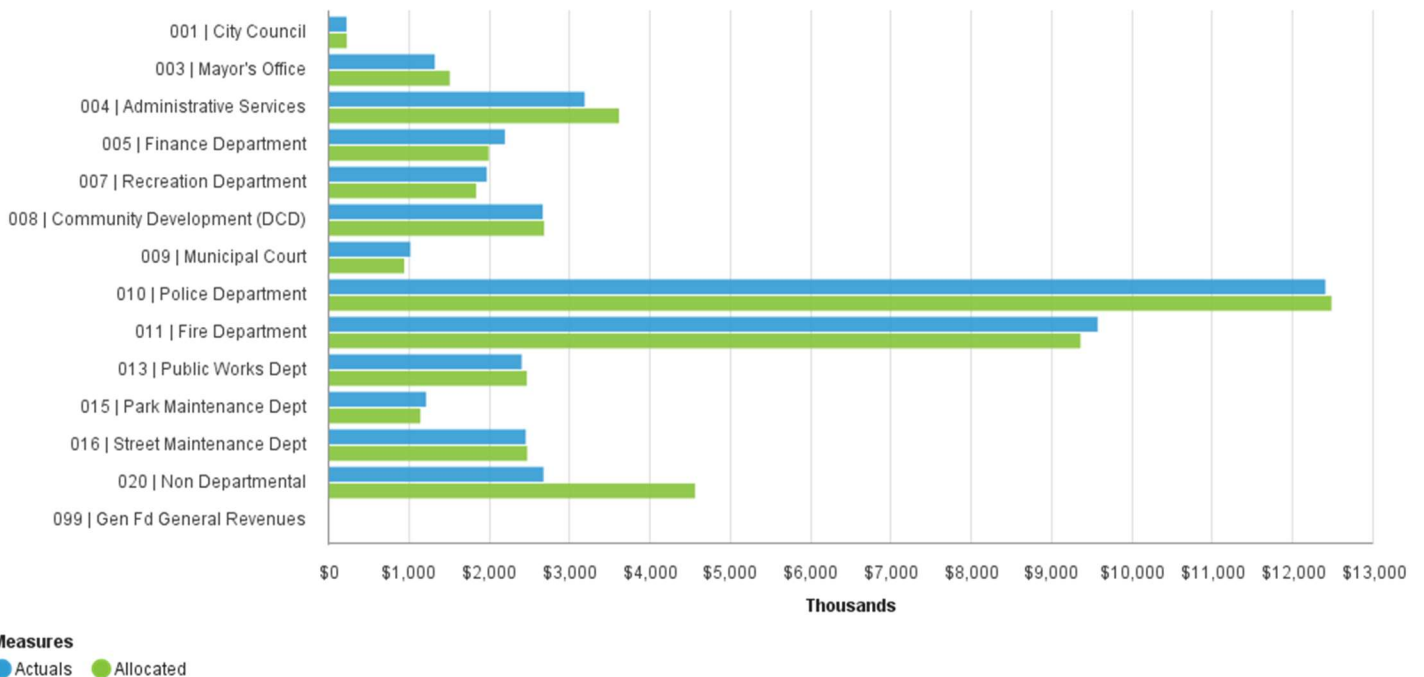
In total, the General Fund reported expenditures of \$43.4million, which is equivalent to **58.2%** of the annual budget at the completion of **66.67%** of the year. While the General Fund as a whole is currently tracking expenditures below the YTD annual budget, three departments are trending slightly higher than 66.67% of the annual budget at the completion of August.

**Fire** expenditures totaled 67% of annual budget at the completion of 66.67% of the year. The overage of 0.35% (\$213,962) is reflected in YTD overtime. There is an expectation that Fire will exceed total budget, resulting in the need for a budget amendment. **Parks Maintenance** reported expenditures of 70.85% of budget at the end of August. The 4.2% overage equated to \$71,317. In prior months the increase was primarily due to higher contracted services compared to the prior year. In this case, the increase is attributed to expenses that will be reimbursed by the SEEK grant. Parks will be receiving a revenue-backed budget amendment and is expected to end the year within their allocated budget. **Street Maintenance** reported department expenditures of 71.35% of annual budget. While this is 4.68% over the targeted 66.67%, Street Maintenance is \$18,633 less than their allocated budget, suggesting the variance is related to expenditure timing issues. Street is also expected to be below budget by the end of the year.

**Departmental Variances**

Year to Date Department Expenditures Compared to Allocated Budget Through August 2022:

EXPENDITURES BY DEPARTMENT	BUDGET		ACTUAL			COMPARISON OF RESULTS					
	2022	2022	2020	2021	2022	Allocated Budget vs Actual OVER/(UNDER)	% Actual Year-Over-Year				
	Annual	Allocated					Expended	\$ Change	% Change	\$ Change	% Change
001 City Council	385,826	236,281	229,807	222,681	231,966	(4,315)	60.12%	(7,126)	-3.10%	9,285	4.17%
003 Mayor's Office	2,565,927	1,517,302	1,378,052	1,287,985	1,331,644	(185,658)	51.90%	(90,067)	-6.54%	43,660	3.39%
004 Administrative Services	5,869,141	3,624,148	2,828,064	3,185,419	3,196,410	(427,738)	54.46%	357,355	12.64%	10,991	0.35%
005 Finance Department	3,347,587	2,002,245	1,721,251	1,789,333	2,203,236	200,991	65.82%	68,081	3.96%	413,903	23.13%
007 Recreation Department	3,233,011	1,845,104	1,693,740	1,710,524	1,978,148	133,044	61.19%	16,783	0.99%	267,624	15.65%
008 Community Development (DCD)	4,662,212	2,691,866	2,059,536	2,526,548	2,674,794	(17,072)	57.37%	467,012	22.68%	148,247	5.87%
009 Municipal Court	1,597,482	950,350	838,250	802,203	1,027,546	77,196	64.32%	(36,046)	-4.30%	225,343	28.09%
010 Police Department	19,844,123	12,491,545	11,646,339	11,653,368	12,415,548	(75,997)	62.57%	7,028	0.06%	762,180	6.54%
011 Fire Department	14,297,033	9,367,645	8,188,951	9,000,611	9,581,607	213,962	67.02%	811,660	9.91%	580,996	6.46%
013 Public Works Dept	3,982,685	2,476,987	2,372,804	2,258,072	2,412,657	(64,330)	60.58%	(114,732)	-4.84%	154,585	6.85%
015 Park Maintenance Dept	1,726,097	1,151,594	1,021,381	1,051,591	1,222,911	71,317	70.85%	30,210	2.96%	171,320	16.29%
016 Street Maintenance Dept	3,452,085	2,481,525	2,177,709	2,290,739	2,462,892	(18,633)	71.35%	113,030	5.19%	172,153	7.52%
<b>Subtotal</b>	<b>64,963,209</b>	<b>40,836,592</b>	<b>36,155,884</b>	<b>37,779,072</b>	<b>40,739,358</b>	<b>(97,234)</b>	<b>62.71%</b>	<b>1,623,188</b>	<b>4.49%</b>	<b>2,960,286</b>	<b>7.84%</b>
020 Non Departmental	9,619,291	4,569,953	2,068,215	2,732,130	2,683,765	(1,886,188)	27.90%	663,915	32.10%	(48,365)	-1.77%
<b>Total Expenditures</b>	<b>74,582,500</b>	<b>45,406,545</b>	<b>38,224,099</b>	<b>40,511,202</b>	<b>43,423,123</b>	<b>(1,983,422)</b>	<b>58.22%</b>	<b>2,287,103</b>	<b>5.98%</b>	<b>2,911,921</b>	<b>7.19%</b>
							% of Year	66.67%			



# INFORMATIONAL MEMO

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General Fund  
City of Tukwila  
General Fund Expenditures

Year-to-Date as of Aug 31, 2022

		BUDGET		ACTUAL			COMPARISON OF RESULTS			
		2022	2022	2020	2021	2022	Allocated Budget	%	% Change	
		Annual	Allocated				vs Actuals	Expended	2020/2021	2021/2022
							OVER/(UNDER)			
511	Salaries	32,802,451	20,731,432	18,803,202	18,541,097	19,906,019	(825,413)	60.7%	(1.4%)	7.4%
512	Extra Labor	584,220	122,923	121,661	109,036	314,988	192,065	53.9%	(10.4%)	188.9%
513	Overtime	2,000,115	1,357,040	735,246	1,478,149	1,717,114	360,074	85.9%	101.0%	16.2%
515	Holiday Pay	515,500	78,815	65,888	78,815	84,116	5,301	16.3%	19.6%	6.7%
521	FICA	2,151,955	1,318,105	1,171,380	1,177,800	1,293,563	(24,542)	60.1%	0.5%	9.8%
522	Pension-LEOFF	920,517	664,883	722,756	649,939	690,043	25,160	75.0%	(10.1%)	6.2%
523	Pension-PERS/PSERS	1,494,905	967,993	1,114,465	1,056,362	976,085	8,092	65.3%	(5.2%)	(7.6%)
524	Industrial Insurance	876,892	613,725	596,511	612,975	496,267	(117,458)	56.6%	2.8%	(19.0%)
525	Medical & Dental	7,551,216	4,903,604	4,162,551	4,483,393	4,901,442	(2,162)	64.9%	7.7%	9.3%
526	Unemployment	0	0	27,319	20,710	31,615	31,615	-	(24.2%)	52.6%
528	Uniform/Clothing	8,525	2,124	1,334	2,124	1,511	(613)	17.7%	59.3%	(28.9%)
<b>Total Salaries &amp; Benefits</b>		<b>48,906,296</b>	<b>30,760,646</b>	<b>27,522,312</b>	<b>28,210,402</b>	<b>30,412,764</b>	<b>(347,882)</b>	<b>62.2%</b>	<b>2.5%</b>	<b>7.8%</b>
531	Supplies	890,636	355,972	291,274	350,017	192,208	(163,763)	21.6%	20.2%	(45.1%)
532	Repairs & Maint Supplies	299,025	160,356	208,632	140,246	214,559	54,203	71.8%	(32.8%)	53.0%
534	Resale Supplies	10,000	0	235	0	128	128	1.3%	(100.0%)	-
535	Small Tools	41,250	34,271	51,044	35,933	34,799	527	84.4%	(29.6%)	(3.2%)
536	Technology Supplies	13,000	13,000	31,457	32,220	20,174	7,174	155.2%	2.4%	(37.4%)
537	Fleet Supplies	3,000	2,289	11,193	2,289	3,932	1,643	131.1%	(79.5%)	71.8%
<b>Total Supplies</b>		<b>1,256,911</b>	<b>565,888</b>	<b>593,835</b>	<b>560,705</b>	<b>465,801</b>	<b>(100,088)</b>	<b>37.1%</b>	<b>(5.6%)</b>	<b>(16.9%)</b>
541	Professional Services	7,391,918	4,740,855	4,123,553	4,590,387	4,709,089	(31,766)	63.7%	11.3%	2.6%
542	Communications	458,739	288,902	317,424	288,902	276,452	(12,450)	60.3%	(9.0%)	(4.3%)
543	Professional Development	252,921	252,921	186,186	268,831	216,631	(36,290)	85.7%	44.4%	(19.4%)
544	Advertising	40,250	4,551	9,836	4,834	9,673	5,122	24.0%	(50.9%)	100.1%
545	Rentals	478,484	311,400	274,768	338,887	235,469	(75,931)	49.2%	23.3%	(30.5%)
546	Technology Services	348,291	300,762	509,401	312,402	388,895	88,133	111.7%	(38.7%)	24.5%
547	Utilities	2,034,285	1,789,480	1,540,786	1,751,795	1,872,086	82,606	92.0%	13.7%	6.9%
548	Repairs & Maint Services	2,185,367	1,374,143	829,320	1,313,477	1,456,667	82,523	66.7%	58.4%	10.9%
549	Miscellaneous	879,747	76,535	242,968	62,267	444,788	368,253	50.6%	(74.4%)	614.3%
<b>Total Services</b>		<b>14,070,002</b>	<b>9,139,549</b>	<b>8,034,243</b>	<b>8,931,782</b>	<b>9,609,749</b>	<b>470,200</b>	<b>68.3%</b>	<b>11.2%</b>	<b>7.6%</b>
564	Machinery & Equipment	730,000	103,629	5,495	76,184	251,046	147,416	34.4%	1,286.5%	229.5%
<b>Total Capital Outlay</b>		<b>730,000</b>	<b>103,629</b>	<b>5,495</b>	<b>76,184</b>	<b>251,046</b>	<b>147,416</b>	<b>34.4%</b>	<b>1,286.5%</b>	<b>229.5%</b>
750	Transfers Out	9,619,291	4,836,834	2,068,215	2,732,130	2,683,765	(2,153,069)	27.9%	32.1%	(1.8%)
<b>Total Non Operating Expense</b>		<b>9,619,291</b>	<b>4,836,834</b>	<b>2,068,215</b>	<b>2,732,130</b>	<b>2,683,765</b>	<b>(2,153,069)</b>	<b>27.9%</b>	<b>32.1%</b>	<b>(1.8%)</b>
<b>TOTAL EXPENDITURES</b>		<b>74,582,500</b>	<b>45,406,546</b>	<b>38,224,099</b>	<b>40,511,202</b>	<b>43,423,123</b>	<b>(1,983,422)</b>	<b>58.2%</b>	<b>6.0%</b>	<b>7.2%</b>

