



**CITY OF MOUNT VERNON
CITY COUNCIL MEETING
AGENDA
January 22, 2020 7:00 p.m.
(Police Court Campus)**

I. OPENING CEREMONIES

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call of Councilmembers

II. CONSENT AGENDA

- A. Approval of December 11, 2019 Regular Council Meeting Minutes
- B. Approval of January 8, 2020 Regular Council Meeting Minutes
- C. Approval of January 17, 2020 payroll checks numbered 109835 - 109862 direct deposit checks numbered 75085 - 75328, and wire transfers numbered 814 – 818 in the amount of \$1,209,342.00
- D. Approval of January 22, 2020 Claims numbered 7332 - 7529 in the amount of \$1,920,842.06

III. REPORTS

- A. Committees
 - 1. Finance and Parks & Enrichment Services
- B. Community Comments
(An opportunity for Mount Vernon residents to address their City Council. Please limit comments to 3 minutes or less. Under normal circumstances, the Mayor and Council will not respond immediately to Community Comments. If you would like someone to follow-up with you regarding the topic of your comments, please leave your name and contact information on the form at the entrance of the Council Chambers.)
- C. Councilmember Comments
- D. Mayor's Report
- E. Committee Agenda Requests

IV. UNFINISHED BUSINESS

None

V. NEW BUSINESS

- A. Appointment to Mount Vernon Planning Commission
(Staff is requesting that Council approve the appointment of Marco Morales to the Mount Vernon Planning Commission.)
(required action – motion)
(staff contact – Chris Phillips)
- B. HB1406 Affordable Housing Local Sales Tax Authorization
(Staff will review the decisive dates for Affordable Housing Local Sales Tax Program and requests that Council adopt a resolution of intent to levy tax credit.)
(required action – resolution)
(staff contact – Chris Phillips)

- C. Closed Record Public Hearing – Preliminary Plat Approval of Eaglemont III-C
(This is a closed record public hearing where staff requests approval of a resolution to approve the preliminary plat of Eaglemont III-C. This subdivision would create 18 new single-family residential lots within the Eaglemont Planned Development.)
(required action – resolution)
(staff contact – Rebecca Lowell)
- D. Approval of Agreement with Skagit Valley College
(Staff is requesting that Council authorize the Mayor to enter into an agreement with Skagit Valley College for an Internship Program for EMS students.)
(required action – motion)
(staff contact – Bryan Harris)
- E. Approval of Agreement – Skagit County Department of Emergency Medical Services (EMS)
(Staff is requesting that Council authorize the Mayor to enter into an agreement with Skagit County EMS to provide training services.)
(required action – motion)
(staff contact – Bryan Harris)
- F. Approval of Agreement with Washington State Department of Transportation (DOT)
(Staff is requesting that Council authorize the Mayor to enter into an agreement with Washington State DOT in the amount of \$25,000 for design work on the Kulshan Trail Safety Lighting Project.)
(required action – motion)
(staff contact – William Bullock)
- G. Approval of Agreement with Washington State Department of Transportation (DOT)
(Staff is requesting that Council authorize the Mayor to enter into an agreement with Washington State DOT in the amount of \$260,000 for design work on the Freeway Drive Improvements.)
(required action – motion)
(staff contact – William Bullock)
- H. Approval of Agreement with Dike District 3
(Staff is requesting that Council authorize the Mayor to enter into an agreement with Dike District 3 for the contribution of \$100,000 towards completion of the Downtown Flood Project and conveyance of property.)
(required action – motion)
(staff contact – Kevin Rogerson)
- I. Community Action Impact Report
(Community Action Executive Director Bill Henkel will update Council on the work that Community Action has participated in recently.)
(required action – none)
(staff contact – Peter Donovan)

COMMITTEE MEETINGS

Finance and Parks & Enrichment Services

6:00 p.m.

Next Ordinance 3803
Next Resolution 972



DATE: January 22, 2020
TO: Mayor Boudreau and City Council
FROM: Chris Phillips, Development Services Director
SUBJECT: PLANNING COMMISSION APPOINTMENT MARCO MORALES

RECOMMENDED ACTION:

City Staff recommends City Council authorize the Mayor to Appoint Marco Morales as a Planning Commission Member.

INTRODUCTION/BACKGROUND:

Mr. Morales desires to be considered for an appointment to the Planning Commission to fulfill the final year of Planning Commissioner Shelly Acero. Mr. Morales has a diverse and impressive Undergrad and Masters Advanced Degree educational resume. His Community Service coupled with employment as a Mount Vernon High School Counselor provides the needed diversity of perspective the Planning Commission requires.

FINDINGS/CONCLUSIONS:

None

RECOMMENDATION:

City Staff strongly recommends City Council authorize the Mayor to appoint Mr. Marco Morales as a Planning Commissioner.

ATTACHED:

N/A.



DATE: January 22, 2020
TO: Mayor Boudreau and City Council
FROM: Chris Phillips, Development Services Director
SUBJECT: HB 1406 AFFORDABLE HOUSING LOCAL SALES TAX AUTHORIZATION

RECOMMENDED ACTION:

City Staff recommends City Council approve the Affordable Housing Local Sales Tax Authorization Resolution of intent to Levy Tax Credit.

INTRODUCTION/BACKGROUND:

HB 1406 allows a county or city may enter into an interlocal agreement with other local government or public housing authorities to pool the tax receipts received and pledging those taxes to bonds. This would allow the city to enter into an agreement with the County or Housing Authority for project related use of the revenue. The Department of Revenue requires 30-day's notice of adoption of sales tax credits and the change must occur on a first day of the month (RCW 82.14.055).

Skagit County passed Resolution of intent August 5, 2019.

State approved a local revenue sharing program allows .0146% Local Sales & Use Tax against State Sales Tax for Housing Investments to acquire, rehabilitate, or construct Affordable Housing; or, O&M of new Affordable or Supportive Housing Facilities; or, smaller cities Rental Assistance. The Tax Credit is in place for 20 years. Does not increase consumer sales tax. Must serve persons whose income is at or below 60% AMI.

Cities can issue bonds to finance authorized projects. Cities or counties imposing the tax may issue general obligation or revenue bonds and may pledge the revenue collected for repayment of the bonds.

FINDINGS/CONCLUSIONS:

City Council Committee (CM's Beaton, Brocksmith & Molenaar) & Mayor met on Dec 19, 2019 and recommend this action be approved.

HB 1406 requires City Council to:

- Pass a Resolution of Intent to Levy Tax Credit by January 28, 2020

- Pass an Ordinance to Levy Tax Credit by July 28, 2020
- Adopt "Qualifying Local Tax" (Optional) by July 31, 2020

RECOMMENDATION:

City Staff strongly recommends City Council approve the accompanying Resolution.

ATTACHED:

Resolution

RESOLUTION _____

A RESOLUTION OF THE CITY OF MOUNT VERNON DECLARING ITS INTENTION TO ADOPT LEGISLATION TO AUTHORIZE A SALES AND USE TAX FOR AFFORDABLE AND SUPPORTIVE HOUSING IN ACCORDANCE WITH SUBSTITUTE HOUSE BILL 1406 (CHAPTER 338, LAWS OF 2019), AND OTHER MATTERS RELATED THERETO

WHEREAS, in the 2019 Regular Session, the Washington State Legislature approved, and the Governor signed, Substitute House Bill 1406 (Chapter 338, Laws of 2019) (“SHB 1406”); and

WHEREAS, SHB 1406 authorizes the governing body of a city or county to impose a local sales and use tax for the acquisition, construction or rehabilitation of affordable housing or facilities providing supportive housing, and for the operations and maintenance costs of affordable or supportive housing, for cities of 100,000 or less; or (if eligible) for providing rental assistance to tenants; and

WHEREAS, the tax will be credited against state sales taxes collected within the City and; therefore, will not result in higher sales and use taxes within the City and will represent an additional source of funding to address housing needs in the City; and

WHEREAS, the tax must be used to assist persons whose income is at or below sixty percent of median income; and

WHEREAS, the City has a need to provide affordable housing, provide for the operations and maintenance costs of affordable, or supportive housing and to provide rental assistance and has determined that imposing the sales and use tax to address this need will benefit its citizens; and

WHEREAS, for a city or county to impose the tax, within six months of the effective date of SHB 1406, or January 28, 2020, the governing body must adopt a resolution of intent to authorize the maximum capacity of the tax, and within twelve months of the effective date of SHB 1406, or July 28, 2020, must adopt legislation to authorize the maximum capacity of the tax; and

WHEREAS, this Resolution constitutes the resolution of intent required by SHB 1406; and

WHEREAS, the City now desires to declare its intent to impose a local sales and use tax as authorized by SHB 1406 as set forth herein;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOUNT VERNON AS FOLLOWS:

Section 1. Resolution of Intent. The City declares its intent to adopt legislation to authorize the maximum capacity of the sales and use tax authorized by SHB 1406 within one year of the effective date of SHB 1406, or by July 28, 2020.

Section 2. Further Authority and Ratification. All City officials, their agents, and representatives are hereby authorized and directed to undertake all action necessary to carry out the terms, and complete the actions contemplated by, this Resolution. All acts taken pursuant to the authority of this Resolution but prior to its effective date are hereby ratified.

Section 3. Severability. The provisions of this Resolution are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Resolution or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the Resolution, or the validity of its application to other persons or circumstances.

Section 4. Effective Date. This Resolution shall become effective immediately upon adoption and signature as provided by law.

Passed by majority vote of the Mount Vernon City Council in open meeting this 22nd day of January, 2020

Signed in Authentication this _____ day of January, 2020

CITY OF MOUNT VERNON

Jill Boudreau, Mayor

Attest:

Doug Volesky, Finance Director

Approved as to form:

Kevin Rogerson, City Attorney



DATE: January 22, 2020

TO: Mayor Boudreau and City Council

FROM: Rebecca Lowell, Development Services

SUBJECT: CLOSED RECORD HEARING FOR PRELIMINARY PLAT APPROVAL OF EAGLEMONT III-C PLAN19-0183 (LEGACY PERMIT PL18-171)

RECOMMENDED ACTION:

The Hearing Examiner recommendation is submitted together with the attached proposed Resolution and supporting documentation for consideration. Staff requests that Council make a motion to authorize the Mayor to sign the accompanying Resolution approving the Plat of Eaglemont III-C (File No. PLAN19-0183) as conditioned.

INTRODUCTION/BACKGROUND:

Proposed is the creation of 18 single-family residential lots on an approximate 3.7-acre site located within the Eaglemont Planned Community. The proposed lots will range in size from 4,656 square feet to 7,197 square feet.

A 900± linear foot public road will be constructed off of Eaglemont Drive to access the proposed lots. Sanitary and storm sewers, potable water, and associated dry utilities will be installed to serve the proposed new lots.

The project site is located approximately 1,550 linear feet SE of the intersection of Eaglemont Drive and Beaver Pond Drive South, it is identified by the Skagit County Assessor as parcel P133779, and is located within the SE ¼ of Section 27, Township 34 North, Range 04 East, W.M.

The property owner is Polyield Summit, LLC represented by Ed Young.

FINDINGS/CONCLUSIONS:

This project has completed the required public process up to the closed record public hearing this evening.

The Hearing Examiner recommended conditional approval of the preliminary plat in a recommendation that is included with this memo. The Hearing Examiner's recommendation was sent to the applicant and parties of record with no requests for reconsideration of his recommendation.

RECOMMENDATION:

Council move to authorize the Mayor to sign the accompanying Resolution that will approve the preliminary plat of Eaglemont II-C with recommendations from the Hearing Examiner.

ATTACHED:

- Proposed Resolution for Council Consideration
- Hearing Examiner's Recommendation
- Staff Report and Exhibits
- Preliminary Plat Maps

RESOLUTION NO. ____

A RESOLUTION PERTAINING TO SUBDIVISION CONTROL AND ACCEPTING THE PRELIMINARY PLAT OF EAGLEMONT III-C (CITY FILE PLAN19-0183—LEGACY FILE NO. PL18-0171) PURSUANT TO CHAPTER 16.08 OF THE MOUNT VERNON MUNICIPAL CODE.

WHEREAS, an application for approval of a Preliminary Plat of a proposed 18 single-family lots and five tract subdivision has been made pursuant to Chapter 16.08 of the Mount Vernon Municipal Code by the owner of the real property described in Exhibit "1" which comprises approximately 3.7 acres in Mount Vernon, Washington; and

WHEREAS, the State Environmental Policy Act (SEPA) requirements per WAC 197-11-800 were addressed with the approval of the Master Plan/PUF for the entire Eaglemont Development; the City of Mount Vernon issued a Mitigated Determination of Non-Significance (MDNS) on October 8, 2007; and

WHEREAS, notices of the time, location and purpose of a public hearing for the purpose of giving approval, conditional approval or disapproval of the Preliminary Plat were sent pursuant to Chapter 14.05; and

WHEREAS, pursuant to Chapter 16.08 of the Mount Vernon Municipal Code, a public hearing was conducted before the Mount Vernon Hearing Examiner on December 18, 2019; and

WHEREAS, a Preliminary Plat map, Exhibit "2", has been reviewed and approved with conditions by the Hearing Examiner; and

WHEREAS, the Hearing Examiner recommended, based on Findings of Fact, Conclusions of Law listed within his recommendation, Preliminary Plat approval with conditions and restrictions listed in the accompanying Exhibit "3".

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON AS FOLLOWS:

That said Preliminary Plat known and described as **EAGLEMONT III-C** has been presented for acceptance, approval and filing and is hereby accepted, approved and ordered filed subject to the restrictions and conditions listed in Exhibit "3", attached hereto and made a part hereof by reference as though fully set forth herein.

The real property comprising such plat is hereby described in Exhibit "1" and shown in Exhibit "2", both of which are attached hereto and made a part hereof by reference as though fully set forth.

Dated this 22nd day of January, 2020:

Signed in Authentication this _____ day of _____ 2020

Jill Boudreau, Mayor

Attest:

Doug Volesky, Finance Director

Approved as to form:

Kevin Rogerson, City Attorney

**EXHIBIT "1":
EAGLEMONT III-C PRELIMINARY PLAT
LEGAL DESCRIPTION**

That portion of Lot 68, Eaglemont Golf Course Boundary Line Adjustment PL 14-041, also being a portion of Lot 4 for the purposes of said Boundary Line Adjustment, as recorded under Auditor's File Number 201612200009, records of Skagit County, Washington, lying with the Northwest Quarter of the Southeast Quarter and the Southwest quarter of the southeast quarter, Section 27, Township 34 North, Range 4 East, W.M., more particularly described as follows:

Commencing at the Southeast corner of said Section 27, as shown on said Eaglemont Golf Course Boundary Line Adjustment PL 14-041 recorded under Auditor's File Number 201612200009;

Thence North 1°15'19" East along the East line of said Section 27 a distance of 623.02 feet, more or less, to the intersection with the southerly margin of Eaglemont Drive, said point being on a 290.01 foot-radius curve concave to the South, and from which the radius point bears South 43°49'47" West;

Thence westerly along said curve through a central angle of 66°12'24" an arc distance of 335.11 feet;

Thence South 67°37'23" West for a distance of 299.79 feet;

Thence along a curve to the right having a radius of 349.99 feet through a central angle of 61°42'13" an arc distance of 376.92 feet;

Thence North 50°40'24" West for a distance of 104.89 feet;

Thence along a curve to the left having a radius of 370.00 feet through a central angle of 30°18'32" an arc distance of 195.72 feet;

Thence North 80°58'56" West for a distance of 1.42 feet to the common angle point in the boundary of Lot 67 and Lot 68, and on the Southerly margin of Eaglemont Drive;

Thence continuing North 80°58'56" West along said Southerly margin of Eaglemont Drive, for a distance of 97.86 feet;

Thence continuing along said margin the following courses;

Thence along a curve to the right having a radius of 355.00 feet through a central angle of 38°25'56" an arc distance of 238.12 feet;

Thence along a curve to the right having a radius of 480.00 feet through a central angle of 19°00'54" an arc distance of 159.30 feet to the TRUE POINT OF BEGINNING, said point also being the same point described as the true point of beginning in Statutory Warranty Deed recorded under Auditor's File Number 201708100015, records of Skagit County, Washington;

Thence leaving said right of way South 68°12'27" West for a distance of 117.70 feet;

Thence along a curve to the right having a radius of 270.00 feet through a central angle of 70°40'35" an arc distance of 333.05 feet;

Thence North 41°06'58" West for a distance of 21.42 feet;

Thence South 48°53'02" West for a distance of 124.65 feet;

Thence North 41°06'58" West for a distance of 92.08 feet;

Thence North 27°35'43" West for a distance of 138.85 feet;

Thence North 38°50'22" West for a distance of 167.30 feet;
Thence North 26°03'22" West for a distance of 274.17 feet;
Thence North 63°36'01" East for a distance of 133.35 feet;
Thence South 30°07'51" East for a distance of 143.79 feet;
Thence Southeasterly along a non-tangent curve concave to the Southwest whose radius point bears South 20°16'50" East a distance of 50.00 feet through a central angle of 105°31'08" an arc distance of 92.08 feet;
Thence South 68°28'33" East for a distance of 106.45 feet;
Thence South 41°06'58" East for a distance of 225.00 feet;
Thence South 24°04'59" East for a distance of 86.44 feet;
Thence South 45°06'08" West for a distance of 83.54 feet;
Thence South 41°06'58" East for a distance of 21.42 feet;
Thence along a curve to the left having a radius of 220.00 feet through a central angle of 70°40'35" an arc distance of 271.38 feet;
Thence North 68°12'27" East for a distance of 118.78 feet to the Southwesterly margin of said Eaglemont Drive;
Thence Southeasterly along a non-tangent curve concave to the Northeast whose radius point bears North 72°26'15" East a distance of 480.00 feet through a central angle of 5°58'21" and having an arc distance of 50.03 feet to the TRUE POINT OF BEGINNING.
Subject to and together with covenants, easements and restrictions of record.
Situated in the County of Skagit, State of Washington.

EXHIBIT "2" HIGH POINT PRELIMINARY PLAT PRELIMINARY PLAT MAP

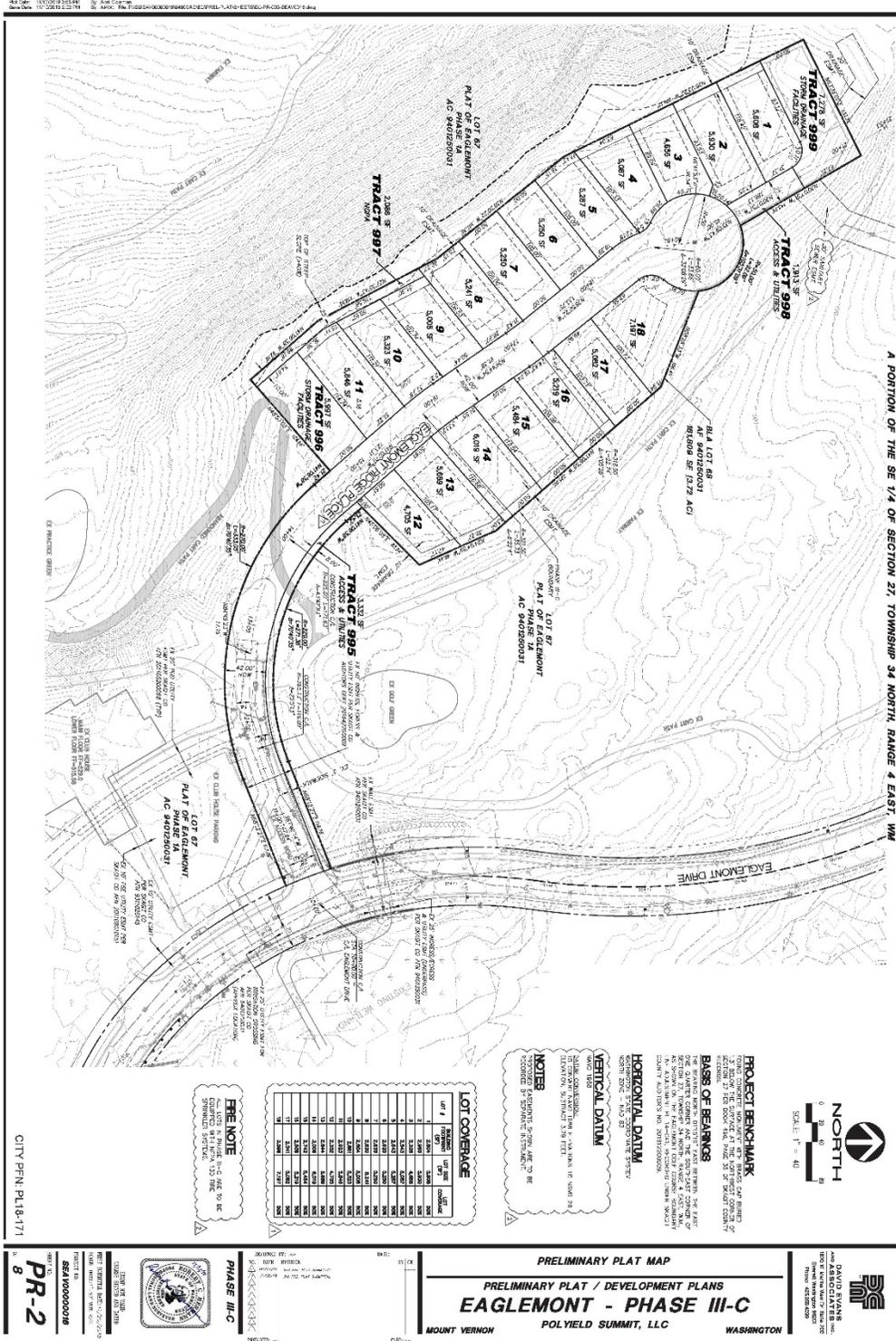


EXHIBIT "3":

CONDITIONS OF APPROVAL EAGLEMONT III-C PRELIMINARY PLAT

1. All applicable SEPA conditions from City Files LU07-006 and PL18-054 (attached as **Exhibit 3** to the Staff Report to the Hearing Examiner) shall be complied with.
2. Detailed plans for the disposal of excess excavated materials will be required as part of the grading permit for the project.
3. Final construction plans must include a landscape plan that conforms to the City of Mount Vernon requirements including plant list, planting details, standard landscape notes and approval block. A conceptual landscape proposal was included in the approved preliminary plat but is not the approved landscape plan.
4. A 2-year financial security guaranteeing two years of maintenance of the landscaped areas is required. To facilitate preparation of this financial security the following will be required to be submitted:
 - a. The landscape inspection report.
 - b. The as built landscape plan.
 - c. Copy of the receipts for the improvements broken down by plant type and quantity.
 - d. Copy of contract for maintenance.
5. Geotechnical recommendations for construction shall be as follows:
 - a. Upon stripping, all organic materials should be verified as removed from the remaining roadbed. The exposed road base material shall be inspected for suitability and recompacted.
 - b. New imported gravel base material meeting project specifications may then be applied and compacted to restore final base grade before placing CSTC and paving.
 - c. Final gravel base grade shall be compaction tested to verify suitable installation and/or recompaction is attained.
 - d. A proof roll shall be completed on all areas of the prepared roadway prior to placement of CSTC to assess for any localized soft or yielding areas remaining that require full removal and replacement of the base section. A proof roll prior to preparations may also be used to identify areas of concern to be over excavated initially prior to other efforts.
 - e. Where possible, excavations made within about one foot of finished subgrade level should be performed with smooth edged buckets to minimize subgrade disturbance and the potential for softening to the greatest extent practical.
 - f. After excavations have been completed to the planned subgrade elevations, but before placing fill or structural elements, the exposed subgrade soils should be evaluated.
 - g. Plans indicate that a dispersion trench is to be located to outfall near the northeastern corner of this facility near steep bedrock slopes. We recommend avoiding dispersion within this area as discharge of water within areas of high gradients and shallow cover soils over bedrock may increase the risk for erosion in this area. During our field investigation we observed a lower gradient flow path that exits the northwest corner of the stormwater tract that would be more suitable for dispersion per DoE SMMWW regulations.
 - h. Where appropriate, the subgrade should be proof-rolled with a minimum of two passes with a fully loaded dump truck, water truck or scraper.
 - i. Any loose soil should be compacted to a firm and unyielding condition and at least to 95 percent of the modified Proctor maximum dry density per ASTM D1557. Any areas that are identified as being soft or yielding during subgrade evaluation should be over-excavated to a firm and unyielding condition or to the depth determined by the geotechnical engineer. Where over-excavation is performed below a structure, the over-excavation area should extend beyond the outside of the footing a distance equal to the depth of the over-excavation below the footing. The over-excavated areas should be backfilled with properly compacted structural fill.
 - j. During wet weather, the contractor should take measures to protect exposed subgrades and limit construction traffic during earthwork activities.

- k. Measures should be implemented to prevent degradation or disturbance of the subgrade. These measures could include, but are not limited to, placing a layer of crushed rock or lean concrete on the exposed subgrade, or covering the exposed subgrade with a plastic tarp and keeping construction traffic off the subgrade.
- l. During wet weather, earthen berms or other methods should be used to prevent runoff from draining into excavations. All runoff should be collected and disposed of properly. Measures may also be required to reduce the moisture content of on-site soils in the event of wet weather. These measures can include, but are not limited to, air drying and soil amendment, etc.
- m. Because frozen soil is not suitable for use as structural fill, it is recommended that earthwork activities generally take place in late spring, summer or early fall.
- n. Dewatering efforts may be required locally if work occurs during the wet winter months or during heavy storm events, depending on actual soils encountered and weather conditions during earthwork. It is recommended that major earthwork activities take place during the dry season or shoulder seasons if possible, to minimize the potential for stormwater inundation or seepage within excavations.
- o. All material placed below structures or pavement areas should be considered structural fill. Structural fill material shall be free of deleterious material, have a maximum particle size of 4 inches, and be compactable to the required compaction level.
- p. Excavated shallow native glacial till soils may be potentially suitable for limited re-use, such as for utility trench backfill outside of roadways and general non-structural site grading, depending on moisture conditions, season of use, and project specifications. Excavated native soils considered for reuse should be carefully removed and stockpiled to prevent sediment cross-contamination, visually confirmed prior to placement, properly moisture-conditioned and placed in accordance with the recommendations described below (See condition “u”). During warm, dry weather, it will likely be necessary to add water to these soils after residing in stockpiles. The condition and suitability of stockpiled on-site materials should be verified prior to reuse as controlled fill. Material properties of re-used native soils shall meet project specifications for the intended use.
- q. Imported structural fill material should conform to Section 9-03.14(1), Gravel Borrow, of the most recent edition (at the time of construction) of the State of Washington Department of Transportation Standard Specifications for Road, Bridge, and Municipal Construction (WSDOT Standard Specifications).
- r. Controlled-density fill (CDF) or lean mix concrete can be used as an alternative to structural fill materials, except in areas where free-draining materials are required or specified.
- s. Prior to placement and compaction, structural fill should be moisture conditioned to within 3 percent of its optimum moisture content. Loose lifts of structural fill shall not exceed 12 inches in thickness; thinner lifts will be required for walk-behind or hand operated equipment.
- t. All structural fill shall be compacted to a dense and unyielding condition and to a minimum percent compaction based on its modified Proctor maximum dry density as determined per ASTM D1557.
- u. Structural fill placed beneath each of the following shall be compacted to the indicated percent compaction:
 Pavement Subgrades (upper 2 feet): 95 Percent
 Pavement Subgrades (below 2 feet): 90 Percent
 Utility Trenches (upper 4 feet): 95 Percent
 Utility Trenches (below 4 feet): 90 Percent
- v. It is recommended that fill placed on slopes steeper than 3:1 (H:V) be ‘benched’ in accordance with hillside terraces entry of section 2-03.3(14) of the WSDOT Standard Specifications.
- w. Temporary excavation slopes in the native silty and sandy soils should be inclined no steeper than 2H:1V. Heavy construction equipment, building materials, excavated soil, and vehicular traffic should not be allowed near the top of any excavation.
- x. Temporary excavations and slopes should be protected from the elements by covering with plastic sheeting or some other similar impermeable material. Sheeting sections should overlap by at least 12 inches and be tightly secured with sandbags, tires, staking, or other means to prevent wind from exposing the soils under the sheeting.

- y. It is recommended that new areas of permanent slopes including fill embankments be inclined no greater than 3H:1V. Permanent slopes should be planted with a deep-rooted, rapid-growth vegetative cover as soon as possible after completion of slope construction. Alternatively, the slope should be covered with plastic, straw, etc. until it can be landscaped.
 - z. It is recommend that all utility trenches, but particularly those greater than 4 feet in depth, be supported in accordance with state and federal safety regulations.
 - aa. Pipe bedding material should conform to the manufacturer's recommendations and be worked around the pipe to provide uniform support. Cobbles or boulders, if encountered, exposed in the bottom of utility excavations should be covered with pipe bedding or removed to avoid inducing concentrated stresses on the pipe.
 - bb. Particular care should be taken to insure bedding or fill material is properly compacted to provide adequate support to the pipe. Jetting or flooding is not a substitute for mechanical compaction and should not be allowed.
6. The future NGPA tract shall be delineated with high visibility construction fencing prior to earth moving activities occurring. This construction fencing shall remain in place for the duration of the construction of site infrastructure.
 7. A Final Plat Map meeting all of the requirements of RCW 58.17 and MVMC 16.12.030 must be submitted. The drawings submitted for preliminary approval are not adequate for Final Plat approval and must meet the Survey Recording Act and include at a minimum all of the standard plat notes, dedications, and certificates as required by the City of Mount Vernon.
 8. Final construction plans must include an exhibit demonstrating that the plat includes no less than 19, code compliant, on-street parking spaces. This may be accomplished by utilizing the existing road that extends from Eaglemont Drive to the SE corner of lot 12.
 9. PUD does not own or operate a water pipeline fronting the above-referenced property. In order to serve proposed plat with water, a waterline extension is required. PUD maps indicate the shortest required extension is 700 feet in length from southwest of the clubhouse on Eaglemont Drive. Costs related to the design and construction of waterline extensions are the responsibility of the customer.
 10. Waterline extensions through private property require the granting of a 20-foot wide utility easement to the PUD for operation, maintenance, and replacement purposes.
 11. The following setback and lot coverage requirements shall be placed on the face of the final plat: Front Yard Setback. Front yard setback may be reduced not less than 10 feet from property line, access easement, or back of sidewalk. The front of private garages shall maintain at least 20 feet from the back of sidewalk, property line, or access easement.
 - a. Rear yard setback: not less than 10 feet.
 - b. Side yard setback: not less than five feet for single-story homes; provided, that nothing (e.g., eaves, bay windows, enclosed stair landings, chimneys, etc.) will be allowed to project into this reduced side yard setback area. For structures that have more than one story the side yard setback shall be a minimum of five feet with the total of the two side yards being not less than 15 feet. Where the side yard setback is six feet or more the eaves of a structure may project no more than 12 inches into the side yard.
 - c. To protect privacy, windows facing the side yard shall be offset from the adjacent residence. The installation of fences, walls or hedges shall be required.
 - d. Lot Coverage. For detached single-family residential lots of any size the land covered by buildings shall be no more than 50 percent.
 12. A Homeowner's Association shall be created that includes all future building lots that shall be responsible for the maintenance of all landscape areas, fencing around the perimeter of the plat and around the stormwater ponds, sidewalks, street trees installed adjacent to sidewalks, and all Tracts that do not attenuate or treat stormwater from the to-be constructed public road. The City will not be maintaining any of the areas the homeowner's association is required to maintain.
 13. Codes, Covenants & Restrictions (CC&Rs) for this development shall be submitted to the Development Services Department for review and approval prior to final plat approval. The CC&Rs shall include a map that clearly shows the areas within the plat that the homeowner's association is responsible for maintaining. Evidence that sufficient funds will be collected from each of the future residents shall be supplied to the City to ensure proper maintenance of these areas. The City approved CC&Rs shall be recorded with, and cross-referenced on, the face of the final plat.

14. The future homes that will be constructed following final plat approval will be subject to the City's Design Review Standards that are codified within Mount Vernon Municipal Code Chapter 17.70.
15. The future lots that are part of this preliminary plat approval are part of a Planned Unit Development (PUD). The homes, open spaces, landscaping, and Native Growth Protection Areas (NGPAs), as applicable, were created through the PUD process that requires innovative residential development. Through the PUD process the City was able to deviate from standard residential plat requirements and allow a denser development with a mix of lot characteristics different than those allowed under standard zoning requirements. All future permits for uses and structures within this PUD are required to comply with the PUD requirements, the City's Design Standards, and all other applicable chapters of the Mount Vernon Municipal Code. The Applicant will be required to create PUD documents that will be recorded and cross-referenced on the final plat documents.
16. The portion of the NGPA tract abutting future lots 1 – 11 shall have fencing and signage installed consistent with MVMC 15.40.040 prior to final plat approval. The type of fence and its installation will be subject to design review.
17. The 10-foot wide drainage easements shown across the rear yards of lots 1 to 16 will not be required to be located in separate tracts; however, a note shall be added to the face of the final plat stating that structures cannot be placed within these drainage easement areas.
18. Prior to final plat approval, the detention ponds with side slopes greater than 5:1 shall be screened with fence with no less than a 7-foot wide landscaping strip outside of the fence that includes 2-inch caliper street trees and evergreen trees that are a minimum of 7 feet in height installed 15 feet on center with minimum 5-gallon shrubs and 2-gallon ground cover. The shrubs and ground cover shall be installed at a density that will fill eight-five percent (85%) of the 5-foot wide landscaping strip within two (2) years.
19. The mailbox location and the requisite architectural feature around the mailbox shall be shown on the construction plans submitted following preliminary plat approval and shall be installed prior to final plat approval.
20. "No Parking" signs shall be mounted on decorative posts that are a maximum of three (3) feet in height, prior to final plat approval.
21. Automatic fire sprinkler systems shall be installed within each of the residential structures to be built after final plat approval.
22. Consistent with Resolution 808 revised and updated Master Plan maps shall be submitted to the City for approval prior to final plat approval.
23. The conditions of approval of the street modification request processed as City File ENGR19-0212 shall be complied with prior to final plat approval. This preliminary plat approval shall modify the conditions of approval of permit ENGR19-0212 such that 18 code compliant, on-street parking spaces shall be identified and created prior to final plat approval (versus the 19 spaces that were originally required).
24. Prior to final plat approval the Applicant shall submit to the City supplemental information as follows:
 - a. The area of each lot.
 - b. The maximum area of each lot to be covered by structures as defined in MVMC Chapter 17.06, S Definitions.
 - c. The maximum area of each lot to be covered by impervious surfaces as defined in MVMC Chapter 13.33.020.In addition, the Applicant must verify that the drainage analysis conducted includes all of the impervious surface for each lot where those lots exceed 50 percent impervious surface (i.e. lot coverage plus other impervious surfaces). If the drainage analysis does not include the actual amount of impervious surface a revised drainage analysis must be submitted and approved by the City prior to construction permits being issued to construct site infrastructure following preliminary plat approval.

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4 **BEFORE THE HEARING EXAMINER FOR THE CITY OF MOUNT VERNON**

5 Phil Olbrechts, Hearing Examiner

6 RE: Eaglemont III-C 7 Preliminary Short Plat 8 PL18-171	FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION
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9 **INTRODUCTION**

10 The Applicant has requested approval of an eighteen-lot preliminary plat for a 3.7-acre
11 site located within the Eaglemont Planned Community, located approximately 1,550
12 linear feet southeast from the intersection of Eaglemont Drive and Beaver Pond Drive
13 South. The plat is located within the within the southern half of the Eaglemont Golf
14 Course. The public hearing was attended by some members of the public who were
15 there to just ask questions and appeared to be primarily concerned about traffic and
16 speeding on Eaglemont Drive. It is recommended that the City Council approve the
17 preliminary plat application with the conditions recommended by staff.

16 **ORAL TESTIMONY**

17 *Note: The summary of Oral Testimony below should not be construed as findings of*
18 *fact or conclusions of law or suggest any priority or importance to any testimony. The*
19 *summary is just provided to facilitate Council review of the proceedings. The*
20 *recording of the proceeding is available from the planning department should anyone*
21 *need an accurate rendition of the proceeding.*

21 Marianne Manville-Ailles, City contract planner, summarized the staff report. She
22 noted that the Notice of Application date identified for Ex. 1b at page 3 of the staff
23 report needed to be corrected to January 28, 2019. Ms. Manville-Ailles identified that
24 the preliminary plat is completely surrounded by a golf course. She noted there are
25 steep slopes around the project site but only a tiny native growth protection area on one
lot was necessary to protect the small amount of slopes actually on the project site.

Ms. Manville-Ailles noted that Mount Vernon Resolution 809, amending the
Eaglemont Master Plan, was a little unclear in distinguishing between lot coverage and
impervious surface requirements. Based upon the master plan amendment, the plat

1 conditions of approval erroneously limited drainage study requirements for lots that
2 had more than 50% structural coverage when the City's stormwater regulations require
3 drainage studies for more than 50% impervious surface, which includes driveways and
4 other impervious surfaces that extend beyond what would be considered to be a
5 structure. In light of this, Ex. 8 proposes revisions to the staff report, including its
6 conditions of approval, that assures that stormwater analysis will be done for lots with
7 more than 50% impervious surface as opposed to more than 50% structural coverage.
8 She noted that another revision requested by Ex. 8 is to change the reference in the staff
9 report from 40% maximum lot coverage (which is permitted structural coverage) to
10 50% to reflect the increase in permitted lot coverage authorized by Resolution 809. In
11 response to Examiner questions, Ms. Manville-Ailles identified that there are no
12 schools near the project site. She noted that the project is age-restricted so there
13 probably are not going to be many school children at the project site.

14 Jeff Morgan, Applicant representative, noted that the Applicant agrees with the staff
15 report.

16 Craig Cammock, Applicant's attorney, noted that the Applicant and staff have worked
17 through several iterations of the project and there are no issues with the staff
18 recommendation. He noted that the staff report erroneously references 19 legacy
19 parking spaces, which was initially proposed when the Applicant contemplated 19 lots.
20 The number of proposed parking spaces has been reduced to 18 spaces to reflect the 18
21 proposed lots. Mr. Cammock highlighted Condition No. 17, which allows drainage
22 ways to be placed in easements as opposed to separate tracts. Mr. Cammock
23 emphasized that the Applicant has not committed to making the plat age restricted and
24 that should the Applicant not elect to make the plat age restricted then school issues
25 can be addressed by the payment of impact fees and evaluation of walking conditions
to and from school. He noted that the plat has sidewalks that match the sidewalks
throughout the Eaglemont development and that the sidewalks connect all the way to
Division Street, which is a long distance away.

John Smith, project engineer, noted that the preliminary drainage report report
calculations are based upon 50% lot coverage plus an allowance of another 400 square
feet for additional impervious surface. This will be fine-tuned at the next stage of
construction documents.

Deborah Wheeler, neighbour, said neighbours have an issue with the speed of vehicles
going down Eaglemont Drive. There's a slope right below the entrance to the project
site where vehicles going both directions tend to increase speed. She wanted to know
if any mitigation was contemplated for that speeding problem.

Julie Hinkle, neighbour, noted that people had heard that Waugh Road would be
extended as a result of the project.

1 Ms. Manville-Ailles noted that the City's traffic consultant did a concurrency report
2 and didn't find the need for an off-site stop sign or any other off-site traffic
3 improvements or revisions. Ms. Manville-Ailles explained that the Applicant had been
4 required to prepare a concurrency report assessing traffic impacts and that the City used
5 a traffic consultant to review that report. As to Waugh Road, there is a provision in the
6 master plan conditions of approval that requires extension of Waugh Road when the
7 development reaches a certain amount of trip generation. That number will not be
8 reached by the proposal under review, but it's very close and the next preliminary plat
9 that comes in will probably trigger the extension requirement. Likely there is less than
10 10 trips of capacity remaining before the extension requirement kicks in. Ex. 2c
11 addresses the extension issue. There are other Eaglemont projects in the pipeline so
12 the extension requirement will be triggered soon.

13 Allen Danforth, City of Mount Vernon Development Review Engineering Manager,
14 noted that concurrency reviews just look at trip generation and don't consider issues
15 such as speeding. If there are problems with speeding, the area residents should
16 coordinate with the traffic safety committee of the public works department, which
17 meets once per month. The committee is composed of engineers and they will consider
18 mitigation options for problem speeding area. A developer can't be legally made
19 responsible to fix existing speeding problems.

20 Mr. Smith noted that the Applicant will be required to pay traffic impact fees, and those
21 fees can be used to address existing speeding problems. The access to the plat will
22 have a stop sign at Eaglemont Drive.

23 EXHIBITS

24 Exhibits 1-7 identified at Page 3 of the December 13, 2019 revised staff report were
25 admitted into the record during the December 18, 2019 public hearing. The following
exhibits were also admitted during the hearing:

Ex. 8: 12/17/19 memo to Examiner; Subject: Supplemental Information for Staff
Report

26 FINDINGS OF FACT

27 Procedural:

- 28 1. Applicant and Property Owner. The Applicant is Polyield Summit, LLC
29 Contact: Ed Young, 4800 Eaglemont Drive, Mount Vernon, WA 98274.
- 30 2. Hearing. A hearing on the application was held on December 18, 2020 in
31 the Chinook Room of December 18, 2019.

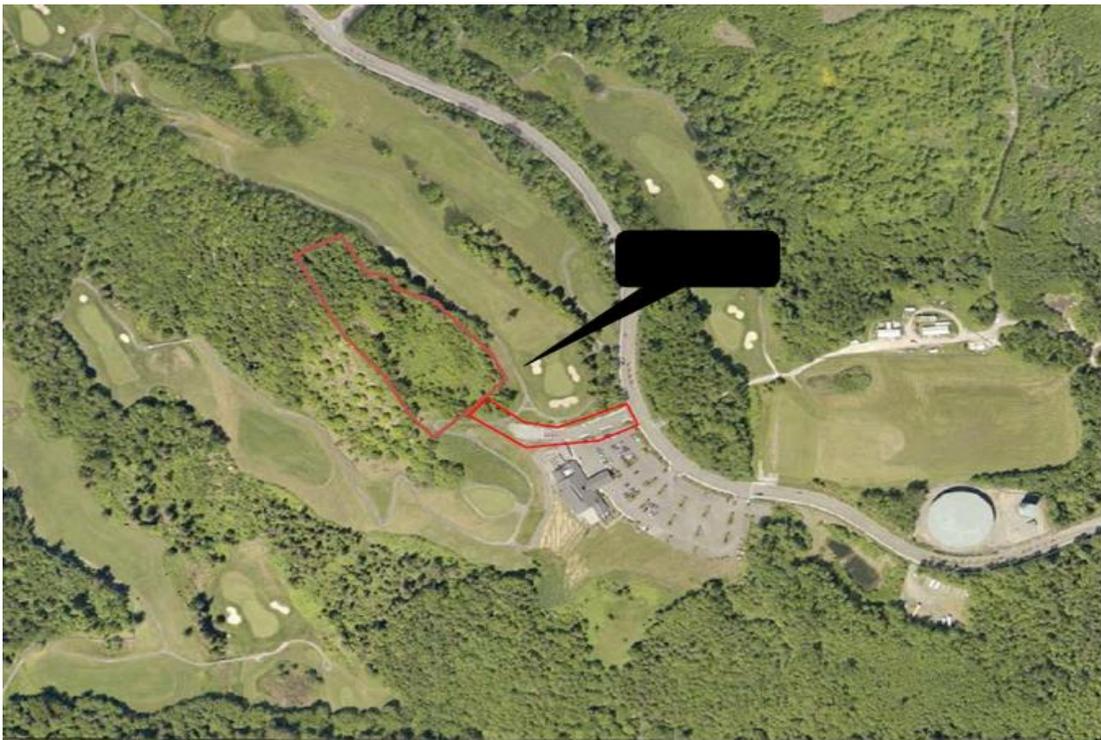
32 Substantive:

Preliminary Plat

p. 3

Findings, Conclusions and Recommendation

1 3. Site/Proposal Description. The Applicant has requested approval of an
2 eighteen-lot preliminary plat for a 3.7-acre site located within the Eaglemont Planned
3 Community, located approximately 1,550 linear feet southeast of the intersection of
4 Eaglemont Drive and Beaver Pond Drive South within the southern half of the
5 Eaglemont Golf Course. A 900± linear foot public road will be constructed off of
6 Eaglemont Drive to access the proposed lots. Proposed lots will range in size from
7 4,656 square feet to 7,197 square feet. Sanitary and storm sewers, potable water, and
8 associated dry utilities will be installed to serve the proposed new lots. The project site
9 is outlined in red in the aerial photograph below copied from the staff report (project
10 site caption did not copy).



20 4. Characteristics of the Area. The project is surrounded by the Eaglemont
21 Golf Course. The Eaglemont Clubhouse (with its associated facilities) is located south
22 of the future plat.

23 5. Adverse Impacts. There are no significant adverse impacts created by the
24 proposal. Environmental impacts were assessed in detail and subject to more than 27
25 mitigation measures in an October 8, 2007 State Environmental Policy Act
Determination of Non-Significance, Ex. 3, for an earlier phase of master plan
development encompassing 139 lots. Pertinent impacts not already addressed for
project infrastructure in Finding of Fact No. 6 are more specifically addressed as
follows:

1 A. Critical Areas. The only critical areas on site is a small area with steep slopes.
2 There are no wetlands or streams the subject plat. The site includes areas where
3 slopes exceed 15% and is adjacent to a much larger area with steep slopes. A
4 Geotechnical Report was reviewed and approved with the clearing permit that
5 was obtained for this property. That report includes recommendations for
6 stormwater management, roadway, utility, and home construction. In addition,
7 a small NGPA has been identified and set aside on the proposed plat map.

8 Staff determined that by following the recommendations included in the
9 Geotechnical report (included as plat conditions) and the provisions applicable
10 to the identified NGPA (appropriate plat notes discussing the protection of that
11 area will be included on the final plat map) the Applicant will be in compliance
12 with the portions of the MVMC related to critical areas thus demonstrating
13 appropriate provisions for critical areas have been met.

14 B. Compatibility. The proposal is fully compatible with surrounding uses. The
15 subdivision is bounded on the south, east and west with the Eaglemont Golf
16 Course. The aerial photograph in the staff report shows vacant, heavily treed
17 land to the north.

18 6. Adequacy of Infrastructure and Public Services. As conditioned by this decision,
19 adequate and appropriate infrastructure and public services will serve development as
20 follows:

21 A. Drainage: The city's drainage standards impose detailed requirements that mandate
22 that the development maintain pre-development off-site stormwater flow volumes
23 and velocities. *See Stormwater Management Manual for Western Washington*,
24 prepared and published by the Washington State Department of Ecology that is
25 adopted as part of Chapter 13.33 MVMC. Consequently, no adverse impacts to
adjoining properties are anticipated. A preliminary drainage assessment has been
completed for the project and reviewed by engineering staff. This preliminary
assessment helps assure that the general preliminary plat design can accommodate
the stormwater facilities necessary to control drainage and more detailed
engineering and construction of required improvements will be installed prior to
approval of the final plat.

B. Transportation: Proposed streets and transportation facilities have been reviewed
by the City's Public Works staff and found to be in conformance with the City's
street standards, specifically Chapters 14.10 (Concurrency Management), Chapter
12.04 (Public Works Specifications), and 16.16, (Design Standards for Nonarterial
streets). On this basis, it is determined that the proposal makes adequate and
appropriate provision for transportation facilities.

1 Concurrency review was completed by the City’s traffic consultants, TSI, who
2 found the following:

- 3 1. The Project will generate 5.7 new PM peak hour trips, which is within the
4 “Phase I – Golf Course” trip reservation identified in the Eaglemont Gold Course
5 and Residential Community Master Plan.
- 6 2. All new and modified sidewalks, curb ramps, and driveway aprons must
7 satisfy current Americans with Disabilities Act (ADA) Standards.
- 8 3. The Applicant will be responsible for paying transportation impact fees.

9 The City’s development regulations require that developers pay traffic impact fees
10 per MVMC Chapter 3.40. This impact fee will be required to be paid prior to
11 building permit issuance. Impact fees pay for a proportionate share of the cost of
12 public streets and roads needed to serve the development.

13 A part of the project, the Development Services Director has approved the
14 following modifications to City street standards (See Ex. 6):

15 APPROVED MODIFICATIONS	
16 Right-of-Way	42 feet from 51 feet required by MVMC
17 Total Lane Width	28 feet (2, 14-foot lanes) from 32 feet required by MVMC
18 Sidewalks	5-foot (sidewalk on one side of the road) from 10 feet 19 required by MVMC (5-foot sidewalks on both sides of 20 street)

21 C. Parks and Open Space: The MVMC does not require any specific open space for
22 subdivisions and there is no substantial evidence in the record establishing general
23 open space needs, so none can be required from the Applicant. See *Isla Verde Int’l
24 Holdings v. City of Camas*, 146 Wn.2d 740 (2002)(If a municipality wishes to
25 make a developer set aside land for park purposes, the municipality has the burden
of proof in establishing the need for that park space.).

The City’s development regulations require that developers pay impact fees for
Parks, Open Space and Recreation Facilities per MVMC Chapter 3.40. This impact
fee will be required to be paid prior to building permit issuance. Park impact fees
pay for a proportionate share of the cost of new parks, open space and recreation
facilities needed to serve the development.

D. Water and Sewer: Water service in the City is provided through Public Utility
District #1 (PUD) of Skagit County.

1 Sanitary wastes are regulated by MVMC Chapters 13.08, 13.12, 13.16, and 13.32.
2 The Applicant will be required to design and install sanitary sewers to serve each
3 of the proposed residential lots. The Applicant's site plans submitted as part of the
4 short plat show where the sanitary sewers are proposed to be located. The
Applicant will pay connection chargers per MVMC 13.32 once the final plat is
finalized and building permits are issued for the new residential structures to be
built on what are currently proposed lots.

5 E. Schools: The City's development regulations require that developers pay impact
6 fees for School Facilities per MVMC 3.36. The impact fees will be required to be
7 paid prior to building permit issuance. School impact fees pay for a proportionate
8 share of the cost of new school facilities needed for the development. Should the
9 Applicant choose to restrict the age of the future residents within this plat to those
10 that are 55 and over the Mount Vernon School District could waive or reduce the
required school impact fees. According to City staff testimony during the hearing,
no schools are within walking distance from the project site and the projects internal
sidewalks connect to off-site sidewalk all the way to Division Street, so off-site
walking conditions do not need to be further assessed.

11 CONCLUSIONS OF LAW

12 Procedural:

13 1. Authority of Hearing Examiner. MVMC 14.05.060 designates preliminary
14 plat review as a Type IV process. MVMC 14.05.070 requires the hearing examiner to
15 hold an open record hearing and make a recommendation to the City Council on
Process IV applications.

16 Substantive:

17 2. Zoning Designation. Eaglemont Planned Unit Development (PUD) overlay
18 with underlying zoning of R-A.

19 3. Review Criteria and Application. MVMC 16.08.040 governs the review
20 criteria for preliminary plats. Relevant criteria are quoted below and applied through
21 corresponding conclusions of law.

22 **MVMC 16.08.040:** *At the open record pre-decision hearing, the hearing examiner shall*
23 *inquire into the public interest to be served by the establishment of the subdivision and*
24 *dedication. The hearing examiner shall determine if appropriate provisions have been*
25 *included in the preliminary plat for, but not limited to, the public health, safety and general*
welfare, open spaces, drainage ways, critical areas, streets, alleys, other public ways,
water supplies, sanitary wastes, parks, playgrounds and sites for schools.

A. *If the hearing examiner finds that the public use and interest will be served by the*
platting of such subdivision, then the hearing examiner shall recommend approval. If the

1 *hearing examiner finds that the proposed plat does not make such appropriate provisions*
2 *or that the public use and interest will not be served, then the hearing examiner may*
3 *recommend disapproval of the preliminary plat.*

4 *B. Dedication of land to any public body; and/or dedication of easements to abutting*
5 *property owners may be required as a condition of subdivision approval and shall be*
6 *clearly shown on the final plat. The hearing examiner shall not require, as a condition of*
7 *the approval of any plat, that a release of liability be procured from other property owners.*

8 4. Criterion is satisfied. The proposal serves the public use and interest and makes
9 appropriate provisions for the public health, safety and welfare because it enables the
10 reasonable exercise of property rights without adversely affecting other properties or
11 creating any significant adverse impacts as determined in Finding of Fact No. 5. The
12 public interest is further ensured by the proposal's compliance with all applicable zoning
13 and critical area standards as outlined in the staff report. The proposal makes adequate
14 provision for public infrastructure and facilities identified in MVMC 16.08.040 as
15 determined in Finding of Fact No. 6.

11 **Recommendation**

12 All preliminary plat criteria are met for the reasons identified in the Conclusions of
13 Law above and it is recommended that the City Council approve the preliminary plat
14 subject to the following conditions of approval:

- 15 1. All applicable SEPA conditions from City Files LU07-006 and PL18-
16 054 (attached as **Exhibit 3**) shall be complied with.
- 17 2. Detailed plans for the disposal of excess excavated materials will be
18 required as part of the grading permit for the project.
- 19 3. Final construction plans must include a landscape plan that conforms to
20 the City of Mount Vernon requirements including plant list, planting
21 details, standard landscape notes and approval block. A conceptual
22 landscape proposal was included in the approved preliminary plat but is
23 not the approved landscape plan.
- 24 4. A 2-year financial security guaranteeing two years of maintenance of the
25 landscaped areas is required. To facilitate preparation of this financial
security the following will be required to be submitted:
 - a. The landscape inspection report.
 - b. The as built landscape plan.
 - c. Copy of the receipts for the improvements broken down by plant
type and quantity.
 - d. Copy of contract for maintenance.
5. Geotechnical recommendations for construction shall be as follows:
 - a. Upon stripping, all organic materials should be verified as
removed from the remaining roadbed. The exposed road base
material shall be inspected for suitability and recompacted.

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- b. New imported gravel base material meeting project specifications may then be applied and compacted to restore final base grade before placing CSTC and paving.
- c. Final gravel base grade shall be compaction tested to verify suitable installation and/or recompaction is attained.
- d. A proof roll shall be completed on all areas of the prepared roadway prior to placement of CSTC to assess for any localized soft or yielding areas remaining that require full removal and replacement of the base section. A proof roll prior to preparations may also be used to identify areas of concern to be over excavated initially prior to other efforts.
- e. Where possible, excavations made within about one foot of finished subgrade level should be performed with smooth edged buckets to minimize subgrade disturbance and the potential for softening to the greatest extent practical.
- f. After excavations have been completed to the planned subgrade elevations, but before placing fill or structural elements, the exposed subgrade soils should be evaluated.
- g. Plans indicate that a dispersion trench is to be located to outfall near the northeastern corner of this facility near steep bedrock slopes. We recommend avoiding dispersion within this area as discharge of water within areas of high gradients and shallow cover soils over bedrock may increase the risk for erosion in this area. During our field investigation we observed a lower gradient flow path that exits the northwest corner of the stormwater tract that would be more suitable for dispersion per DoE SMMWW regulations.
- h. Where appropriate, the subgrade should be proof-rolled with a minimum of two passes with a fully loaded dump truck, water truck or scraper.
- i. Any loose soil should be compacted to a firm and unyielding condition and at least to 95 percent of the modified Proctor maximum dry density per ASTM D1557. Any areas that are identified as being soft or yielding during subgrade evaluation should be over-excavated to a firm and unyielding condition or to the depth determined by the geotechnical engineer. Where over-excavation is performed below a structure, the over-excavation area should extend beyond the outside of the footing a distance equal to the depth of the over-excavation below the footing. The over-excavated areas should be backfilled with properly compacted structural fill.
- j. During wet weather, the contractor should take measures to protect exposed subgrades and limit construction traffic during earthwork activities.
- k. Measures should be implemented to prevent degradation or disturbance of the subgrade. These measures could include, but are not limited to, placing a layer of crushed rock or lean concrete on the exposed subgrade, or covering the exposed subgrade with a plastic tarp and keeping construction traffic off the subgrade.

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- l. During wet weather, earthen berms or other methods should be used to prevent runoff from draining into excavations. All runoff should be collected and disposed of properly. Measures may also be required to reduce the moisture content of on-site soils in the event of wet weather. These measures can include, but are not limited to, air drying and soil amendment, etc.
- m. Because frozen soil is not suitable for use as structural fill, it is recommended that earthwork activities generally take place in late spring, summer or early fall.
- n. Dewatering efforts may be required locally if work occurs during the wet winter months or during heavy storm events, depending on actual soils encountered and weather conditions during earthwork. It is recommended that major earthwork activities take place during the dry season or shoulder seasons if possible, to minimize the potential for stormwater inundation or seepage within excavations.
- o. All material placed below structures or pavement areas should be considered structural fill. Structural fill material shall be free of deleterious material, have a maximum particle size of 4 inches, and be compactable to the required compaction level.
- p. Excavated shallow native glacial till soils may be potentially suitable for limited re-use, such as for utility trench backfill outside of roadways and general non-structural site grading, depending on moisture conditions, season of use, and project specifications. Excavated native soils considered for reuse should be carefully removed and stockpiled to prevent sediment cross-contamination, visually confirmed prior to placement, properly moisture-conditioned and placed in accordance with the recommendations described below (See condition “u”). During warm, dry weather, it will likely be necessary to add water to these soils after residing in stockpiles. The condition and suitability of stockpiled on-site materials should be verified prior to reuse as controlled fill. Material properties of re-used native soils shall meet project specifications for the intended use.
- q. Imported structural fill material should conform to Section 9-03.14(1), Gravel Borrow, of the most recent edition (at the time of construction) of the State of Washington Department of Transportation Standard Specifications for Road, Bridge, and Municipal Construction (WSDOT Standard Specifications).
- r. Controlled-density fill (CDF) or lean mix concrete can be used as an alternative to structural fill materials, except in areas where free-draining materials are required or specified.
- s. Prior to placement and compaction, structural fill should be moisture conditioned to within 3 percent of its optimum moisture content. Loose lifts of structural fill shall not exceed 12 inches in thickness; thinner lifts will be required for walk-behind or hand operated equipment.
- t. All structural fill shall be compacted to a dense and unyielding condition and to a minimum percent compaction based on its

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modified Proctor maximum dry density as determined per ASTM D1557.

- u. Structural fill placed beneath each of the following shall be compacted to the indicated percent compaction:
Pavement Subgrades (upper 2 feet): 95 Percent
Pavement Subgrades (below 2 feet): 90 Percent
Utility Trenches (upper 4 feet): 95 Percent
Utility Trenches (below 4 feet): 90 Percent
 - v. It is recommend that fill placed on slopes steeper than 3:1 (H:V) be ‘benched’ in accordance with hillside terraces entry of section 2-03.3(14) of the WSDOT Standard Specifications.
 - w. Temporary excavation slopes in the native silty and sandy soils should be inclined no steeper than 2H:1V. Heavy construction equipment, building materials, excavated soil, and vehicular traffic should not be allowed near the top of any excavation.
 - x. Temporary excavations and slopes should be protected from the elements by covering with plastic sheeting or some other similar impermeable material. Sheeting sections should overlap by at least 12 inches and be tightly secured with sandbags, tires, staking, or other means to prevent wind from exposing the soils under the sheeting.
 - y. It is recommended that new areas of permanent slopes including fill embankments be inclined no greater than 3H:1V. Permanent slopes should be planted with a deep-rooted, rapid-growth vegetative cover as soon as possible after completion of slope construction. Alternatively, the slope should be covered with plastic, straw, etc. until it can be landscaped.
 - z. It is recommend that all utility trenches, but particularly those greater than 4 feet in depth, be supported in accordance with state and federal safety regulations.
 - aa. Pipe bedding material should conform to the manufacturer’s recommendations and be worked around the pipe to provide uniform support. Cobbles or boulders, if encountered, exposed in the bottom of utility excavations should be covered with pipe bedding or removed to avoid inducing concentrated stresses on the pipe.
 - bb. Particular care should be taken to insure bedding or fill material is properly compacted to provide adequate support to the pipe. Jetting or flooding is not a substitute for mechanical compaction and should not be allowed.
6. The future NGPA tract shall be delineated with high visibility construction fencing prior to earth moving activities occurring. This construction fencing shall remain in place for the duration of the construction of site infrastructure.
7. A Final Plat Map meeting all of the requirements of RCW 58.17 and MVMC 16.12.030 must be submitted. The drawings submitted for preliminary approval are not adequate for Final Plat approval and must meet the Survey Recording Act and include at a minimum all of the standard plat notes, dedications, and certificates as required by the City of Mount Vernon.

- 1 8. Final construction plans must include an exhibit demonstrating that the
2 plat includes no less than 19, code compliant, on-street parking spaces.
3 This may be accomplished by utilizing the existing road that extends
4 from Eaglemont Drive to the SE corner of lot 12.
- 5 9. PUD does not own or operate a water pipeline fronting the above-
6 referenced property. In order to serve proposed plat with water, a
7 waterline extension is required. PUD maps indicate the shortest required
8 extension is 700 feet in length from southwest of the clubhouse on
9 Eaglemont Drive. Costs related to the design and construction of
10 waterline extensions are the responsibility of the customer.
- 11 10. Waterline extensions through private property require the granting of a
12 20-foot wide utility easement to the PUD for operation, maintenance,
13 and replacement purposes.
- 14 11. The following setback and lot coverage requirements shall be placed on
15 the face of the final plat: Front Yard Setback. Front yard setback may be
16 reduced not less than 10 feet from property line, access easement, or back
17 of sidewalk. The front of private garages shall maintain at least 20 feet
18 from the back of sidewalk, property line, or access easement.
 - 19 a. Rear yard setback: not less than 10 feet.
 - 20 b. Side yard setback: not less than five feet for single-story homes;
21 provided, that nothing (e.g., eaves, bay windows, enclosed stair
22 landings, chimneys, etc.) will be allowed to project into this
23 reduced side yard setback area. For structures that have more than
24 one story the side yard setback shall be a minimum of five feet
25 with the total of the two side yards being not less than 15 feet.
Where the side yard setback is six feet or more the eaves of a
structure may project no more than 12 inches into the side yard.
 - c. To protect privacy, windows facing the side yard shall be offset
from the adjacent residence. The installation of fences, walls or
hedges shall be required.
 - d. Lot Coverage. For detached single-family residential lots of any
size the land covered by buildings shall be no more than 50
percent.
12. A Homeowner's Association shall be created that includes all future
building lots that shall be responsible for the maintenance of all
landscape areas, fencing around the perimeter of the plat and around the
stormwater ponds, sidewalks, street trees installed adjacent to sidewalks,
and all Tracts that do not attenuate or treat stormwater from the to-be
constructed public road. The City will not be maintaining any of the areas
the homeowner's association is required to maintain.
13. Codes, Covenants & Restrictions (CC&Rs) for this development shall be
submitted to the Development Services Department for review and
approval prior to final plat approval. The CC&Rs shall include a map
that clearly shows the areas within the plat that the homeowner's
association is responsible for maintaining. Evidence that sufficient funds
will be collected from each of the future residents shall be supplied to
the City to ensure proper maintenance of these areas. The City approved
CC&Rs shall be recorded with, and cross-referenced on, the face of the
final plat.

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- 14. The future homes that will be constructed following final plat approval will be subject to the City’s Design Review Standards that are codified within Mount Vernon Municipal Code Chapter 17.70.
- 15. The future lots that are part of this preliminary plat approval are part of a Planned Unit Development (PUD). The homes, open spaces, landscaping, and Native Growth Protection Areas (NGPAs), as applicable, were created through the PUD process that requires innovative residential development. Through the PUD process the City was able to deviate from standard residential plat requirements and allow a denser development with a mix of lot characteristics different than those allowed under standard zoning requirements. All future permits for uses and structures within this PUD are required to comply with the PUD requirements, the City’s Design Standards, and all other applicable chapters of the Mount Vernon Municipal Code. The Applicant will be required to create PUD documents that will be recorded and cross-referenced on the final plat documents.
- 16. The portion of the NGPA tract abutting future lots 1 – 11 shall have fencing and signage installed consistent with MVMC 15.40.040 prior to final plat approval. The type of fence and its installation will be subject to design review.
- 17. The 10-foot wide drainage easements shown across the rear yards of lots 1 to 16 will not be required to be located in separate tracts; however, a note shall be added to the face of the final plat stating that structures cannot be placed within these drainage easement areas.
- 18. Prior to final plat approval, the detention ponds with side slopes greater than 5:1 shall be screened with fence with no less than a 7-foot wide landscaping strip outside of the fence that includes 2-inch caliper street trees and evergreen trees that are a minimum of 7 feet in height installed 15 feet on center with minimum 5-gallon shrubs and 2-gallon ground cover. The shrubs and ground cover shall be installed at a density that will fill eight-five percent (85%) of the 5-foot wide landscaping strip within two (2) years.
- 19. The mailbox location and the requisite architectural feature around the mailbox shall be shown on the construction plans submitted following preliminary plat approval and shall be installed prior to final plat approval.
- 20. “No Parking” signs shall be mounted on decorative posts that are a maximum of three (3) feet in height, prior to final plat approval.
- 21. Automatic fire sprinkler systems shall be installed within each of the residential structures to be built after final plat approval.
- 22. Consistent with Resolution 808 revised and updated Master Plan maps shall be submitted to the City for approval prior to final plat approval.
- 23. The conditions of approval of the street modification request processed as City File ENGR19-0212 shall be complied with prior to final plat approval. This preliminary plat approval shall modify the conditions of approval of permit ENGR19-0212 such that 18 code compliant, on-street parking spaces shall be identified and created prior to final plat approval (versus the 19 spaces that were originally required).

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24. Prior to final plat approval the Applicant shall submit to the City supplemental information as follows:
- a. The area of each lot.
 - b. The maximum area of each lot to be covered by structures as defined in MVMC Chapter 17.06, S Definitions.
 - c. The maximum area of each lot to be covered by impervious surfaces as defined in MVMC Chapter 13.33.020.
- In addition, the Applicant must verify that the drainage analysis conducted includes all of the impervious surface for each lot where those lots exceed 50 percent impervious surface (i.e. lot coverage plus other impervious surfaces). If the drainage analysis does not include the actual amount of impervious surface a revised drainage analysis must be submitted and approved by the City prior to construction permits being issued to construct site infrastructure following preliminary plat approval.

Dated this 4th day of January, 2020.



Phil A. Olbrechts

City of Mount Vernon Hearing Examiner



DATE: January 16, 2020
TO: Mayor Boudreau and City Council
FROM: Bryan Harris, Assistant Fire Chief
SUBJECT: CONTRACT FOR INTERNSHIP FOR EMS STUDENTS AT SKAGIT VALLEY COLLEGE

RECOMMENDED ACTION:

Staff recommends that Council adopt the contract for services with Skagit Valley College and authorize the Mayor to execute the contract.

INTRODUCTION/BACKGROUND:

Skagit County EMS Department has historically provided an Emergency Medical Technician Course in Skagit Valley. In 2018 Skagit County EMS department decided to no longer provide this service, and instead has worked with Skagit Valley College to bolster and support the EMT course and program. Washington Administrative Code (WAC 246-976-022) requires the college to arrange for clinical and field internship experience for qualified EMT students. This agreement will help and allow for the students to ride with and learn from the trained professionals of the Mount Vernon Fire Department. Additionally, this contract will support the long-standing agreement with Skagit Valley College for services in kind in use of the training tower.

FINDINGS/CONCLUSIONS:

The agreement has no cost to the fire department, as the student would ride as a third person on an already staffed city apparatus. Washington Administrative codes and Revised Codes of Washington have laid the legal ground-work and require the student to ride with an employee trained to the minimum level of EMT. This is an excellent opportunity and possible recruiting tool to enlist interest from local college aged students to the Fire and EMS industry.

RECOMMENDATION:

Staff recommends that Council adopt the contract for services with Skagit County Department of Emergency Medical Services and authorize the Mayor to execute the contract.

ATTACHED:

Internship Contract

INTERLOCAL AGREEMENT REGARDING INTERNSHIP FOR EMS STUDENTS AT SKAGIT VALLEY COLLEGE

THIS AGREEMENT is made and entered into by and between the City of Mount Vernon ("**City**") and Skagit Valley College ("**College**").

PURPOSE: WAC 246-976-022 and -023 require the College, which offers an emergency medical services (EMS) training program, to arrange for clinical and field internship experience for qualified EMT-B students (hereinafter "interns"). This requires the College to contract with licensed EMS providers that can offer such field experience. The Mount Vernon Fire Department ("**Department**") is licensed by the Department of Health as a verified ambulance service to provide life support services and provide field internship experience to qualified students taking emergency medical services courses at the College. This agreement sets the responsibilities and obligations of the City and College for a student internship program for qualified students.

AUTHORITY: Mount Vernon, a general purpose government, and the College, a state agency, are authorized by the Washington State constitution and state laws to enter into contracts which authorization includes, but is not limited to Interlocal Corporation Act set forth in chapter 39.34 RCW.

1. CITY RESPONSIBILITIES:

- 1.1 Ensure that each student intern, before beginning any internship work, has reported to the Mount Vernon Department of Human Resources to complete any paperwork for personnel matters, including enrollment in the worker's compensation medical only coverage authorized under RCW 51.12.170.
- 1.2 In cooperation with the College, schedule student interns to receive field rotation experience that meets training requirements for interns to become eligible for Washington State EMT-B certification.
- 1.3 Assure that student interns are allowed and at all times supervised for field rotation experience in an ambulance with two regular Department employees, who are, at a minimum, Washington State EMT-B certified.
- 1.4 Limit rotations to one student intern per ambulance at a time as an additional third person, not replacing required or paid staff on the vehicle.
- 1.5 Establish internal policies and procedures for student intern field observation experience, and provide a copy of the same to College. These policies and procedures shall include, but need not be limited to:
 - a. Specification of the roles and responsibilities of College and City;
 - b. A statement that student interns are only permitted to assist in actual patient care that falls within the EMT-B scope of practice and must at all times be under the direct supervision of a certified EMT-B employed by City; and
 - c. Dress code, rules of conduct, curfew, etc.
- 1.6 Admit all student interns qualified for field rotation without regard to or discrimination due to race, gender, creed, religion, etc.
- 1.7 Allow qualified student interns the use of the same break/meal room and rest room facilities as Department employees.

- 1.8 Require qualified students to observe College and Department dress codes and rules of conduct during field observation, and report any student intern failing to observe said rules to the course director for the College's EMT-B program.
- 1.9 Upon request, provide College with proof of liability coverage in the amount of at least \$1,000,000 per occurrence.
- 1.10 Notify the College course director of any adverse incident involving a student intern.

2. COLLEGE RESPONSIBILITIES:

- 2.1 Ensure that all student interns qualify under RCW 51.12.170 as student volunteers in a College-sponsored, unpaid work-based clinical experience and intern program and advise each intern, in writing, that students will not be paid, that students have no expectation of future work, and that workers' compensation benefits are the sole remedy for any injury the intern may incur while engaged in activities under the internship program.
- 2.2 Ensure that all student interns have passed a background check and meet other requirements set by the Department of Health before referral to the City for participation in the internship program.
- 2.3 Ensure that all student interns are properly enrolled for any available liability insurance coverage to student interns, have passed a background check, and meet other requirements set by the Department of Health before referral to the City for participation in the internship program.
- 2.4 Provide didactic and laboratory instruction to qualify student interns for field rotation.
- 2.5 Before scheduling a rotation for a student intern, ensure that the student intern has met with the Mount Vernon Department of Human Resources to provide necessary personnel information, signed up for workers' compensation coverage under RCW 51.12.170, and completed any required personnel training, such as sexual harassment.
- 2.6 Coordinate with the Department for scheduling of each student intern's rotation, subject to availability of Department equipment and personnel.
- 2.7 Require qualified student interns to observe Department dress code, rules of conduct, curfew, and other reasonable requests of the City or Department.
- 2.8 Establish internal policies and procedures for field rotation and training with the Department and provide a copy of the same to Department and to each student intern. These policies and procedures shall include but need not be limited to:
 - a. Policies and procedures of College and City, which includes a statement that student interns are only to assist in patient care that falls within the EMT-B scope of practice and must at all times be under the direct supervision of a certified EMT-B employed by EMS Agency.
 - b. Training Program and EMS Agency dress code, rules of conduct, curfew, etc.
 - c. Notice that medical-only coverage under the state workers' compensation program is the student intern's exclusive remedy for injuries that may be incurred while engaged in activities under the internship program.
- 2.9 Upon request, provide City with proof of liability coverage in the amount of at least \$1,000,000 per occurrence.

3. FINANCING: Neither party is expected to transfer funds to the other party for that Party's use.

4. TERM AND TERMINATION: This Agreement takes effect upon its execution by both parties and continues for ten years thereafter, unless sooner terminated pursuant to the terms herein. Thereafter, this Agreement will automatically extend for additional terms of one year each, unless one party provides notice to the other party of its intent to withdraw from the Agreement no later than sixty days prior to the end of the then-current term. The initial term and each subsequent term are subject to earlier termination by any party, at any time with or without cause, upon providing forty-five days' notice to the other party.

5. ENTIRE AGREEMENT: This Agreement contains all the terms and conditions agreed upon by the parties. Any items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties thereto.

6. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS: This Agreement may be changed, amended, or modified only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

7. ADMINISTRATION: The following persons are designated as representatives of the parties. The representatives shall be responsible for administration of this Agreement, and for coordinating and monitoring performance under this Agreement. In the event the representatives are changed, the party making the change shall notify the other party.

7.1 The City's representative shall be:

Bryan Bryce, Fire Chief
1901 N. LaVenture
Mount Vernon, WA 98273 (360) 336-6277

7.2 The College's representative shall be:

Ed Jaramillo, VP Administrative Services
2405 E. College Way
Mount Vernon, WA 98273 (360) 416-7719

8. NOTICES: Any and all notices or communications required or permitted to be given under any of the provisions of this Agreement must be in writing and will be deemed to have been given upon receipt when personally delivered; the next day when sent by overnight courier; or when made via United States mail, three (3) days after deposit in the United States mail if sent by first class, certified or registered mail, return receipt requested. All notices must be addressed to the addresses set forth below or at such other address specified by notice by one party to the other party.

8.1 Notice to the City:

Attn: Mayor
Mount Vernon City Hall
910 Cleveland Avenue

8.2 Notice to the College:

Attn: President, Skagit Valley College
2405 E. College Way
Mount Vernon, WA 98273

9. **TREATMENT OF ASSETS AND PROPERTY:** Any City or College assets or property required for use during the internship program shall remain the property of the City or College.

10. **INDEMNIFICATION:** Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions of those of their officials, officers, agents, or employees to the fullest extent required by law, and further agree to save, indemnify, defend, and hold the other party harmless from to the extent of such liability. For purposes of indemnity and liability, interns shall be treated as officials, officers, agents or employees of the College. It is further provided that no liability shall attach to any party by reason of entering into this Agreement except as expressly provided herein.

11. **SCOPE OF AUTHORITY:** No partnership and/or joint venture exists between the parties, and no partnership and/or joint venture is created by and between the parties by virtue of this Agreement. Except as provided under the INDEMNIFICATION clause above, no agent, employee, contractor, subcontractor, consultant, volunteer, and/or other representative of the parties shall be deemed an agent, employee, contractor, subcontractor, consultant, volunteer, or other representative of the other party. No party has any independent authority to direct the management of the other party's activities under this Agreement or unless authorized in writing by the other party. No party has any authority to bind or to act for or to assume any obligations or responsibilities on behalf of the other party.

12. **APPLICABLE LAW:** This Agreement, and any rights and obligations hereunder, shall be construed and interpreted in accordance with the laws of the State of Washington. Any dispute or proceeding arising out of this Agreement shall be filed in the Superior Court of the State of Washington for Skagit County

13. **ASSIGNMENT:** This Agreement is personal to the parties. No party to this Agreement may assign its rights or obligations hereunder.

14. **AUTHORIZATION:** Each party represents and warrants to the others that it is duly authorized to enter into and to carry out the terms of this Agreement.

15. **INDEPENDENT REVIEW:** This Agreement has been reviewed by legal counsel for each party and no presumption or rule that ambiguity shall be construed against-the party drafting the document shall apply to the interpretation or enforcement of this Agreement.

16. SEVERABILITY: In the case any term of this Agreement is held invalid, illegal or unenforceable in whole or in part, neither the validity of the remaining part of such term nor the validity of the remaining terms of this Agreement will in any way be affected thereby.

17. COUNTERPARTS: This Agreement may be executed in counterparts, each of which shall be an original but all of which taken together constitute one and the same instrument.

18. RECORDING/WEB-SITE NOTICE: Each party will post this Agreement on its web site or will, at its own expense, record this Agreement with the Skagit County Auditor as required by RCW 39.34.040.

19. NO THIRD-PARTY BENEFICIARIES: This Agreement is not intended to nor does it create any third party beneficiary or other rights in any third person or party, including, but not limited to, the general public, property owners and residents that may be served during the course of the internship program, or any other organization or entity, or any agent, contractor, subcontractor, consultant, employee, volunteer, or other representative of any party.

EXECUTED by the Parties this _____ day of _____, 2019

CITY OF MOUNT VERNON

SKAGIT VALLEY COLLEGE

Jill Boudreau, Mayor

Ed Jaramillo, VP Administrative Services

Mailing Address:
910 Cleveland Avenue Mount Vernon,
WA 98273

Mailing Address:
2405 E. College Way Mount Vernon, WA 98273

Attest:

Doug Volesky, City Finance Director

Approved as to form:

Kevin Rogerson, City Attorney



DATE: January 13, 2020

TO: Mayor Boudreau and City Council

FROM: Bryan Harris, Assistant Fire Chief

SUBJECT: RENEWAL CONTRACT FOR TRAINING SERVICES WITH SKAGIT COUNTY DEPARTMENT OF EMERGENCY MEDICAL SERVICES (EMS)

RECOMMENDED ACTION:

Staff recommends that Council adopt the contract for services with Skagit County Department of Emergency Medical Services (EMS) and authorize the Mayor to execute the contract.

INTRODUCTION/BACKGROUND:

This contract updates the previous version to reflect identified and necessary changes that meet the mutual needs of the training hubs and Skagit county EMS Department. Updates include necessary language to provide cardio pulmonary resuscitation and automatic external defibrillator training CPR/AED to local high schools, minimum requirements to deliver public CPR/AED training, and methods to recover deliverable costs of training and transportation.

Emergency Medical Services (EMS) in Skagit County are coordinated and managed through the County. As such they have certain responsibilities for assisting providers in the County with training and ensuring competency for delivering medical services. In the past they managed the training programs for the Paramedics and EMT's; this included the city fire departments and fire districts. This agreement is a shift in the process for delivering the needed training to the fire departments. In addition it shifts the delivery of the community CPR and first aid to identified training hubs operated by the municipal cities.

Through this agreement the City of Mount Vernon will be a "training hub" for the purposes of delivering training. By utilizing the trained personnel from the fire department we strengthen our firefighters and paramedics skills through their instruction; in addition, we strengthen relationships with our neighboring fire

districts. We also become the central entity that is providing CPR and first aid to our community members.

The agreement establishes a set of deliverables from the City, along with the corresponding cost reimbursement from the County. The agreement has built in cost escalators along with a provision for administrative cost reimbursement.

FINDINGS/CONCLUSIONS:

The fire budget will see the costs reflected in the Overtime section of the budget. Last year 2019, the total cost for services provided was \$12,000. The reimbursement amount from the County was \$12,800.

RECOMMENDATION:

Staff recommends that Council adopt the contract for services with Skagit County Department of Emergency Medical Services and authorize the Mayor to execute the contract.

ATTACHED:

EMS Training Hub Contract

AMENDMENT # _____ TO
INTERLOCAL COOPERATIVE AGREEMENT BETWEEN

Skagit County
AND
Mount Vernon

WHEREAS, Skagit County ("County") and the City of Mount Vernon ("MVFD"), collectively referenced as "Parties", entered into Skagit County Contract number C20180498 for various Emergency Medical Services ("EMS") related training services; and

WHEREAS, the County finds that it is valuable to the County-wide system of EMS to have quality and consistent training of emergency first responders as well as providing public CPR and First Aid training opportunities to the community; and

WHEREAS, both Parties agree that the existing Interlocal agreement for EMS training services need to be replaced to provide more specificity of EMS training reimbursement and other requirements of the Parties.

TERMS OF AMENDMENT

NOW THEREFORE, the Parties hereby agree that effective (add in date) the below terms and conditions below shall completely replace and supersede the terms and Skagit County Contract number C20180498.

1. PURPOSE:

MVFD will provide pursuant to the terms and conditions detailed in this Agreement Basic Life Support Ongoing Training & Evaluation Program ("BLS OTEP") Community CPR and First Aid training, CPR training to High Schools and other courses mutually agreed upon by the parties in the "MVFD Training Hub" to the County at the costs set forth in the agreement. Such training shall include training for Fire Districts 2, 3, 7, 9 and 15 officials. The County agrees to pay the costs and provide the services set forth in the agreement necessary to allow the MVFD to provide the training services.

2. RESPONSIBILITIES:

A. County shall be responsible as follows:

- (1) Curriculum: County shall provide MVFD with a standardized training curriculum for each BLS OTEP training course that MVFD shall follow. County reserves the right from time to time to update the standardized training curriculum that MVFD is required to follow.

- (2) Reimbursement of Training Costs: Upon pre-authorization in writing by the Skagit County EMS Director or designee, and pursuant to Paragraph 4, "Manner of Financing," County will reimburse for the following eligible costs related to training:
 - Equipment and supplies and facility rental fees needed for approved training
 - Costs to train the MVFD EMS Evaluator necessary to administer the BLS OTEP program, Community CPR and First Aid training.
 - Train the Trainer courses
 - Other expenses that are pre-authorized in writing by the Skagit County EMS Director or designee.
- (3) Course Fees: County may charge fees for the general public to attend Community CPR and First Aid Training. In the event the County elects to charge fees, the County shall be responsible for the receipt, management, and processing of fees charged for Community CPR and First Aid Training. Standard rates for the general public through the MVFD Training Hub will be a flat rate per person.

B. The City shall be responsible as follows:

- (1) Scheduling Training Plan: MVFD on an annual basis shall create and provide to County a detailed "Scheduled Training plan" to be submitted to the County by November 15th annually detailing MVFDs plan to providing the required Training detailed in this Agreement. The County in its sole and absolute discretion may either approve the submitted training plan, reject the plan or request modifications. Only those trainings detailed in a County accepted Training Plan will be eligible for reimbursements pursuant to Paragraph 5 of this Agreement. The County EMS Director may authorize, in writing, modifications to an accepted training plan.
- (2) Required Community CPR and First Aid Training: MVFD will provide Community CPR and First Aid through a nationally recognized training program, at a minimum of twice per year. MVFD may determine whether to provide CPR and First Aid together or as separate classes. All classes will have a minimum of a seven student to one instructor, unless prior authorized is given by the Skagit County EMS Director or designee not less than 96 hours in advance of the class.
- (3) Required High School Training: MVFD will provide CPR training at Northwest Career & Technical Academy, Mount Vernon High School and Emerson High School seniors. MVFD and EHS will work with the schools to ensure efficient scheduling to minimize training expense and approved by ems in the work plan. If classes are taught over a series of days, Skagit County will pay compensation for one hour of prep time per class if needed to be spread over multiple days for scheduling.
- (4) Required OTEP Training: MVFD shall provide a minimum of 12 BLS OTEP and maximum of 16 pre-authorized trainings per year. MVFD agrees to coordinate with Fire Districts 2, 3, 7, 9 and 15 (the Districts) in order to find mutually agreeable sites for the training in order to minimize impact to both the Districts and the MVFD. In the event mutually agreeable sites cannot be reached, MVFD shall determine the training sites.

- (5) Class Rosters: MVFD Instructors shall utilize the County's approved method and process for creating class rosters for all training types including all high school and community CPR/First Aid courses.
 - (6) Subcontracting: MVFD may elect to utilize subcontractors to preform training required pursuant to this Agreement. Any MVFD subcontractor providing training or other services pursuant to this Agreement must meet all terms and conditions contained in this Agreement including, but not limited to meeting all required standards for the courses he or she is teaching, insurance requirements and indemnification of County.
3. **TERM OF AGREEMENT**: The term of this Agreement shall be from September 1, 2018 through December 31, 2024.
4. **MANNER OF FINANCING**: The County shall pay the following rates for the training services contained in Contractor's county approved training plan. The City shall annually submit a standard quarterly invoice to the County EMS office Administrative Coordinator email address for payment quarterly by January 5th, March 5th, June 5th and September 5th. Skagit County will reimburse approximately 30 days after receipt of invoice.
 - A. Sixty-seven dollars and sixty-three cents per hour (\$67.63) for 2020 BLS OTEP training and or Community First Aid/CPR. A two percent (2%) rate increase shall apply annually for 2021-2024.
 - B. For each approved training class, the County will reimburse Contractor for one additional hour of preparation time in addition to the instruction time. This includes High School courses. Preparation time shall include setup and breakdown.
 - C. Contractor shall be reimbursed an additional administration fee of 7% per training hour.
 - D. Reimbursement from the Training Hub administrative site to the training site and back, shall be compensated at the current annual Federal Mileage Reimbursement Rate.
5. **ADMINISTRATION**: The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.
 - A. The County's representative shall be Skagit County EMS Director
 - B. MVFD's representative shall be the Fire Chief or Designee.
6. **TREATMENT OF ASSETS AND PROPERTY**: No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.
7. **INDEMNIFICATION**: Each party agrees to be responsible and assume liability for its

own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to either party by reason of entering into this contract except as expressly provided herein.

8. **TERMINATION:** Any party hereto may terminate this Agreement upon thirty (30) days notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
9. **CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:** The Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
10. **SEVERABILITY:** In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.
11. **ENTIRE AGREEMENT:** This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.



DATE: January 22, 2020

TO: Mayor Boudreau and City Council

FROM: William Bullock, P.E., City Engineer

SUBJECT: KULSHAN TRAIL SAFETY LIGHTING PROJECT: LOCAL AGENCY AGREEMENT FOR DESIGN, CIP T-19-02

RECOMMENDED ACTION:

Authorize the Mayor to execute the Local Agency Agreement with Washington State Department of Transportation to authorize Preliminary Engineering, for the Kulshan Trail Safety Lighting Project, from Riverside Drive to 18th Street, in the amount of \$25,000.

INTRODUCTION/BACKGROUND:

Grant funding will be made available to the City for the Kulshan Trail Safety Lighting Project, from Riverside Drive to 18th Street. Improvements include new trail lighting, security enhancements, and minor trail improvements. The project was selected by the Regional Transportation Planning Organization as a priority project in the region as part of the Transportation Alternatives Program (TAP). TAP funding requires a 13.5% local funding match of \$3,375 to match the 86.5% federal funding of \$21,625 for the preliminary engineering phase.

At this time, it is anticipated that right of way acquisition will not be required. The total preliminary cost estimate for the project including design and construction is \$295,000.

FINDINGS/CONCLUSIONS:

The grant is needed to fund these activities. WSDOT requires that the City enter into this agreement prior to proceeding with work associated with this program.

RECOMMENDATION:

Staff recommends Council approve the agreement with Washington State Department of Transportation and authorize the Mayor to execute the local agency agreement.

ATTACHED:

1. Local Agency Federal Aid Project Prospectus – Kulshan Trail
2. Local Agency Agreement – Kulshan Trail



**Local Agency Federal Aid
Project Prospectus**

	Prefix	Route	()	Date	
Federal Aid Project Number				DUNS Number	
Local Agency Project Number		(WSDOT Use Only)		Federal Employer Tax ID Number	

Agency		CA Agency Yes No	Federal Program Title 20.205 Other		
Project Title		Start Latitude N		Start Longitude W	
		End Latitude N		End Longitude W	
Project Termini From-To		Nearest City Name			Project Zip Code (+4)
Begin Mile Post	End Mile Post	Length of Project		Award Type Local Local Forces State Railroad	
Route ID	Begin Mile Point	End Mile Point	City Number	County Number	County Name
WSDOT Region	Legislative District(s)		Congressional District(s)		Urban Area Number

Phase	Total Estimated Cost (Nearest Hundred Dollar)	Local Agency Funding (Nearest Hundred Dollar)	Federal Funds (Nearest Hundred Dollar)	Phase Start Date	
				Month	Year
P.E.					
R/W					
Const.					
Total					

Description of Existing Facility (Existing Design and Present Condition)

Roadway Width	Number of Lanes

Description of Proposed Work

Description of Proposed Work (Attach additional sheet(s) if necessary)

Local Agency Contact Person		Title		Phone	
Mailing Address			City	State	Zip Code
Project Prospectus	By _____ Approving Authority				
	Title				Date

Agency	Project Title	Date
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Type of Proposed Work				
Project Type (Check all that Apply)			Roadway Width	Number of Lanes
New Construction	Path / Trail	3-R		
Reconstruction	Pedestrian / Facilities	2-R		
Railroad	Parking	Other		
Bridge				

Geometric Design Data						
Description	Through Route			Crossroad		
Federal Functional Classification	Urban	Principal Arterial		Urban	Principal Arterial	
		Minor Arterial			Minor Arterial	
	Rural	Collector		Rural	Collector	
		Major Collector			Major Collector	
	NHS	Minor Collector		NHS	Minor Collector	
		Local Access			Local Access	
Terrain	Flat	Roll	Mountain	Flat	Roll	Mountain
Posted Speed						
Design Speed						
Existing ADT						
Design Year ADT						
Design Year						
Design Hourly Volume (DHV)						

Performance of Work		
Preliminary Engineering Will Be Performed By	Others	Agency
	%	%
Construction Will Be Performed By	Contract	Agency
	%	%

Environmental Classification	
Class I - Environmental Impact Statement (EIS) Project Involves NEPA/SEPA Section 404 Interagency Agreement Class III - Environmental Assessment (EA) Project Involves NEPA/SEPA Section 404 Interagency Agreements	Class II - Categorically Excluded (CE) Projects Requiring Documentation (Documented CE)

Environmental Considerations

Agency	Project Title	Date
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Right of Way		
No Right of Way Needed * All construction required by the contract can be accomplished within the exiting right of way.	Right of Way Needed	
	No Relocation	Relocation Required

Utilities	Railroad
No utility work required All utility work will be completed prior to the start of the construction contract All utility work will be completed in coordination with the construction contract	No railroad work required All railroad work will be completed prior to the start of the construction contract All the railroad work will be completed in coordination with the construction contract

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

FAA Involvement Is any airport located within 3.2 kilometers (2 miles) of the proposed project? Yes No

Remarks

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

Date _____ Agency
 By _____ Mayor/Chairperson



**Washington State
Department of Transportation**

Agency City of Mount Vernon

Address

P.O. Box 809
Mount Vernon, WA 98273

Local Agency Agreement

CFDA No. 20.205

(Catalog or Federal Domestic Assistance)

Project No.

Agreement No.

For OSC WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR Part 200, (4) 2 CFR Part 180 – certifying that the local agency is not excluded from receiving Federal funds by a Federal suspension or debarment, (5) the policies and procedures promulgated by the Washington State Department of Transportation, and (6) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name Kulshan Trail Safety Lighting Project
Termini Riverside Drive to 18th Street

Length 0.80 miles

Description of Work

Construct trail lighting adjacent to Kulshan Trail (Riverside Dr. - 18th Street).

Project Agreement End Date December 31, 2024

Proposed Advertisement Date

Claiming Indirect Cost Rate

Yes No

Type of Work	Estimate of Funding		
	(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE			
86.5 % a. Agency			
b. Other Contract	24,000.00	3,240.00	20,760.00
Federal Aid Participation Ratio for PE			
c. Other			
d. State	1,000.00	135.00	865.00
e. Total PE Cost Estimate (a+b+c+d)	25,000.00	3,375.00	21,625.00
Right of Way			
% f. Agency			
g. Other			
Federal Aid Participation Ratio for RW			
h. Other			
i. State			
j. Total R/W Cost Estimate (f+g+h+i)	0.00	0.00	0.00
Construction			
% k. Contract			
l. Other			
m. Other			
Federal Aid Participation Ratio for CN			
n. Other			
o. Agency			
p. State			
q. Total CN Cost Estimate (k+l+m+n+o+p)	0.00	0.00	0.00
r. Total Project Cost Estimate (e+j+q)	25,000.00	3,375.00	21,625.00

Agency Official

By

Title Jill Boudreau, Mayor, City of Mount Vernon

Washington State Department of Transportation

By

Director, Local Programs

Date Executed

Construction Method of Financing (Check Method Selected)

State Ad and Award

Method A - Advance Payment - Agency Share of total construction cost (based on contract award)

Method B - Withhold from gas tax the Agency's share of total construction coast (line 5, column 2) in the amount of

\$ _____ at \$ _____ per month for _____ months.

Local Force or Local Ad and Award

Method C - Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on

_____, Resolution/Ordinance No. _____.

Provisions

I. Scope of Work

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

Once written authorization is given, the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result the Agency's project becoming inactive, as described in 23 CFR 630, and subject to de-obligation of federal aid funds and/or agreement closure.

If right of way acquisition, or actual construction of the road for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which preliminary engineering phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

If actual construction of the road for which right of way has been purchased is not started by the close of the tenth fiscal year following the fiscal year in which the right of way phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project. The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 60 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S. C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

- (1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.
- (2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.
- (3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.
- (4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

- (a) Cancel, terminate, or suspend this agreement in whole or in part;
- (b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and
- (c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

- (1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.
- (2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.
- (3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.
- (4) The Secretary is notified by the Federal Highway Administration that the project is inactive.
- (5) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

XVII. Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Additional Provisions



DATE: January 22, 2020
TO: Mayor Boudreau and City Council
FROM: William Bullock, P.E., City Engineer
SUBJECT: FREEWAY DRIVE IMPROVEMENTS: LOCAL AGENCY AGREEMENT FOR DESIGN, CIP T-97-07

RECOMMENDED ACTION:

Authorize the Mayor to execute the Local Agency Agreement with Washington State Department of Transportation to authorize Preliminary Engineering, for the Freeway Drive Improvements Project, from Cameron Way to College Way, in the amount of \$260,000.

INTRODUCTION/BACKGROUND:

Grant funding will be made available to the City for project improvements upgrading Freeway Drive to a complete streets standard from Cameron Way to College Way. Improvements include new sidewalk on the west side, bike lanes, enhanced street lighting, and pavement rehabilitation. The project was selected by the Regional Transportation Planning Organization as a priority project in the region as part of the Surface Transportation Program (STP). STP funding requires a 13.5% local funding match of \$35,100 to match the 86.5% federal funding of \$224,900 for the preliminary engineering phase.

At this time, it is anticipated that right of way acquisition will not be required. The total preliminary cost estimate for the project including design and construction is \$2,170,000.

FINDINGS/CONCLUSIONS:

The grant is needed to fund these activities. WSDOT requires that the City enter into this agreement prior to proceeding with work associated with this program.

RECOMMENDATION:

Staff recommends Council approve the agreement with Washington State Department of Transportation and authorize the Mayor to execute the local agency agreement.

ATTACHED:

1. Local Agency Federal Aid Project Prospectus – Freeway Drive
2. Local Agency Agreement – Freeway Drive



**Local Agency Federal Aid
Project Prospectus**

	Prefix	Route	()	Date	
Federal Aid Project Number				DUNS Number	
Local Agency Project Number		(WSDOT Use Only)		Federal Employer Tax ID Number	

Agency		CA Agency Yes No		Federal Program Title 20.205 Other	
Project Title			Start Latitude N		Start Longitude W
			End Latitude N		End Longitude W
Project Termini From-To			Nearest City Name		Project Zip Code (+4)
Begin Mile Post	End Mile Post	Length of Project		Award Type Local Local Forces State Railroad	
Route ID	Begin Mile Point	End Mile Point	City Number	County Number	County Name
WSDOT Region	Legislative District(s)		Congressional District(s)		Urban Area Number

Phase	Total Estimated Cost (Nearest Hundred Dollar)	Local Agency Funding (Nearest Hundred Dollar)	Federal Funds (Nearest Hundred Dollar)	Phase Start Date	
				Month	Year
P.E.					
R/W					
Const.					
Total					

Description of Existing Facility (Existing Design and Present Condition)

Roadway Width	Number of Lanes

Description of Proposed Work

Description of Proposed Work (Attach additional sheet(s) if necessary)

Local Agency Contact Person		Title		Phone	
Mailing Address			City	State	Zip Code
Project Prospectus	By _____ Approving Authority				
	Title				Date

Agency	Project Title	Date
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Type of Proposed Work				
Project Type (Check all that Apply)			Roadway Width	Number of Lanes
New Construction	Path / Trail	3-R		
Reconstruction	Pedestrian / Facilities	2-R		
Railroad	Parking	Other		
Bridge				

Geometric Design Data						
Description	Through Route			Crossroad		
Federal Functional Classification	Urban	Principal Arterial		Urban	Principal Arterial	
		Minor Arterial			Minor Arterial	
	Rural	Collector		Rural	Collector	
		Major Collector			Major Collector	
	NHS	Minor Collector		NHS	Minor Collector	
		Local Access			Local Access	
Terrain	Flat	Roll	Mountain	Flat	Roll	Mountain
Posted Speed						
Design Speed						
Existing ADT						
Design Year ADT						
Design Year						
Design Hourly Volume (DHV)						

Performance of Work		
Preliminary Engineering Will Be Performed By	Others	Agency
	%	%
Construction Will Be Performed By	Contract	Agency
	%	%

Environmental Classification	
Class I - Environmental Impact Statement (EIS) Project Involves NEPA/SEPA Section 404 Interagency Agreement Class III - Environmental Assessment (EA) Project Involves NEPA/SEPA Section 404 Interagency Agreements	Class II - Categorically Excluded (CE) Projects Requiring Documentation (Documented CE)

Environmental Considerations

Agency	Project Title	Date
--------	---------------	------

Right of Way		
No Right of Way Needed * All construction required by the contract can be accomplished within the existing right of way.	Right of Way Needed	
	No Relocation	Relocation Required

Utilities	Railroad
No utility work required All utility work will be completed prior to the start of the construction contract All utility work will be completed in coordination with the construction contract	No railroad work required All railroad work will be completed prior to the start of the construction contract All the railroad work will be completed in coordination with the construction contract

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

FAA Involvement Is any airport located within 3.2 kilometers (2 miles) of the proposed project? Yes No

Remarks

This project has been reviewed by the legislative body of the administration agency or agencies, or its designee, and is not inconsistent with the agency's comprehensive plan for community development.

Date _____ Agency
 By _____ Mayor/Chairperson



**Washington State
Department of Transportation**

Agency City of Mount Vernon

Address

P.O. Box 809
Mount Vernon, WA 98273

Local Agency Agreement

CFDA No. 20.205

(Catalog or Federal Domestic Assistance)

Project No.

Agreement No.

For OSC WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR Part 200, (4) 2 CFR Part 180 – certifying that the local agency is not excluded from receiving Federal funds by a Federal suspension or debarment, (5) the policies and procedures promulgated by the Washington State Department of Transportation, and (6) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name Freeway Drive (Cameron Way to College Way)

Length 0.65 miles

Termini Cameron Way to College Way

Description of Work

Construct pavement sidewalks, lighting, and storm drainage to provide pedestrian and bike facilities, center turn lane to increase capacity.

Project Agreement End Date December 31, 2024

Proposed Advertisement Date

Claiming Indirect Cost Rate

Yes No

Type of Work	Estimate of Funding		
	(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE			
86.5 % a. Agency			
b. Other Contract	256,000.00	34,560.00	221,440.00
Federal Aid Participation Ratio for PE			
c. Other			
d. State	4,000.00	540.00	3,460.00
e. Total PE Cost Estimate (a+b+c+d)	260,000.00	35,100.00	224,900.00
Right of Way			
% f. Agency			
g. Other			
Federal Aid Participation Ratio for RW			
h. Other			
i. State			
j. Total R/W Cost Estimate (f+g+h+i)	0.00	0.00	0.00
Construction			
% k. Contract			
l. Other			
Federal Aid Participation Ratio for CN			
m. Other			
n. Other			
o. Agency			
p. State			
q. Total CN Cost Estimate (k+l+m+n+o+p)	0.00	0.00	0.00
r. Total Project Cost Estimate (e+j+q)	260,000.00	35,100.00	224,900.00

Agency Official

By

Title Jill Boudreau, Mayor, City of Mount Vernon

Washington State Department of Transportation

By

Director, Local Programs

Date Executed

Construction Method of Financing (Check Method Selected)

State Ad and Award

Method A - Advance Payment - Agency Share of total construction cost (based on contract award)

Method B - Withhold from gas tax the Agency's share of total construction coast (line 5, column 2) in the amount of

\$ _____ at \$ _____ per month for _____ months.

Local Force or Local Ad and Award

Method C - Agency cost incurred with partial reimbursement

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When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

Once written authorization is given, the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result the Agency's project becoming inactive, as described in 23 CFR 630, and subject to de-obligation of federal aid funds and/or agreement closure.

If right of way acquisition, or actual construction of the road for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which preliminary engineering phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

If actual construction of the road for which right of way has been purchased is not started by the close of the tenth fiscal year following the fiscal year in which the right of way phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project. The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 60 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S. C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

- (1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.
- (2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.
- (3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.
- (4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

- (a) Cancel, terminate, or suspend this agreement in whole or in part;
- (b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and
- (c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

- (1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.
- (2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.
- (3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.
- (4) The Secretary is notified by the Federal Highway Administration that the project is inactive.
- (5) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

XVII. Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Additional Provisions



DATE: January 22, 2020
TO: Mayor Boudreau and City Council
FROM: Kevin Rogerson
SUBJECT: INTERLOCAL AGREEMENT WITH DIKE DISTRICT NO. 3

RECOMMENDED ACTION:

That the City council authorize the Mayor to enter into an interlocal agreement with the Dike District No. 3 (the "District") for One Hundred Thousand Dollars in funds to be used by the City towards the completion of the downtown flood project (the "Project").

INTRODUCTION/BACKGROUND:

The District and the City have been working cooperatively for a number of years toward the goal of providing the City's downtown area with a permanent flood project. The City previously entered into interlocal agreements where District 3 contributed funds toward the Project. The Project provides a baseline level of protection for the one hundred year (or greater) flood event.

As part of previous agreements, at the time the Project reaches completion, ownership and the attendant responsibilities for repair and maintenance of the flood elements of the Project are to be conveyed over the District (subject to conditions) while the City retains ownership of any property interest surplus to that effort (for example, the promenade and trail, property no acquired but no longer needed for the project, other open space not needed for flood efforts and public restrooms). Completion the documents necessary for such a conveyance will require substantial costs including but not limited to significant survey work and drafting. The Parties have been engaged in discussing terms and conditions for such a transfer including form of deed and operational interlocal agreements. In addition, the City is still expending revenues and incurring costs as a direct result of the Project and to complete of the Project. This agreement contributes to the costs of these efforts incurred by the City.

District 3 has already approved the Interlocal Agreement.

FINDINGS/CONCLUSIONS:

That the execution of an interlocal agreement as previously described is within the best interests of the City.

RECOMMENDATION:

That the City Council authorizes the Mayor to enter into an interlocal agreement with District No. 3 contributing funds toward the completion of the Downtown Flood Project.

After Recording Return to:
KEVIN ROGERSON
CITY ATTORNEY'S OFFICE
CITY OF MOUNT VERNON
910 CLEVELAND AVENUE
MOUNT VERNON, WA 98273

INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN

City of Mount Vernon
AND
Skagit County Diking District #3

THIS INTERIM AGREEMENT is made and entered into pursuant to authority found in Chapter 39.34 RCW, Washington State's Interlocal Cooperation Act, and as provided elsewhere by state law and/or constitutional grant by and between the City of Mount Vernon ("City"); a municipal corporation organized pursuant to Title 35A RCW, and Skagit County Diking District No. 3 ("District"); a special purpose district organized pursuant to Title 85.05 RCW collectively referred to as "the Parties".

RECITALS

- A. RCW 85.05.010 and RCW 85.38.180 grants District authority to enter into agreements and contracts with public and private parties; and
- B. The City and District are authorized by law including but not limited to Chapter 39.34 RCW to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, and population and other factors influencing the needs and development of local communities; and
- C. The Parties recognize the importance of working together to coordinate and fund the development and implementation of measures to reduce flood hazards, and to reduce damages caused by flooding; and

- D. While the City maintains surface water controls, drainage and stormwater treatment facilities independent of the District, it is the responsibility and purpose of the District to construct, repair, maintain, and improve that system of levees which protect life and property located within its boundaries from inundation or flow of flood water and enter into agreements consistent with that purpose; and
- E. The City of Mount Vernon has adopted plans for a flood mitigation project (the “**Project**”) which in addition to flood mitigation provides stimulus toward community development for Mount Vernon’s historical downtown. The Project provides mitigation from the inundation or flow of flood water caused by a “base flood” or flows up to and including the 100 year flood event within a portion of the District. The plans have been reviewed by the Federal Emergency Management Agency (FEMA) and received a Conditional Letter of Map Revision (CLOMR) removing the protected area from the 100 year flood plain once construction is certified and approved. Project construction has been divided into three phases; and
- F. The City and District previously entered into Interlocal Agreements (the “**Project Agreements**”), which the District contributed funds towards the completion of the Project and that upon project completion the City will convey certain flood elements of the Project to the District according to the terms and conditions of the Project Agreements; and
- G. The City has nearly completed and closed out all phases of the Project and has requested from FEMA a Letter of Map Revision as a result; and
- H. The Project when completed is designed to remove lands including lands located within and south of Mount Vernon’s historical downtown and lands included within District boundaries (the “**Benefited Area**”) from the FEMA Flood Insurance Rate Maps, established through the National Flood Insurance Program (“**NFIP**”), and the minimum flood plain development standards required by local jurisdiction under the NFIP; and
- I. The City still requires to expend funds to complete construction provide professional services to assist in the resolution of claims (both legal and equitable) as a result of the Project, resolve claims that have merit, and provide professional services to implement the Project Agreements which call for further surveying, reconciliation and conveyance of property rights among the Parties; and;
- J. The Board of Commissioners of the District passed Resolution No 20191204-01 finding that: i) the District historically supported the construction of the Project over many years, ii) progress has been made to implement the downtown planned project and further funds are needed to finalize the Project, iii) the District supports the City’s request for regulatory relief from FEMA through its submission of its LOMR, iv) properties assessed by the District are within the Benefited Area, will receive direct protection by the Project, and will benefit upon the completion of the Project in accordance with FEMA’s LOMR as now or hereafter amended resulting in a map revision removing the Benefitted Area from the 100 regulated floodplain; and

- K. Through passage of Resolution No. 20191204-01 the Board of Commissioners resolved to contribute to the City additional funds of up to \$100,000.00 for the completion of the legal instruments, retaining of professional services, legal descriptions, easements, operational agreement, further interlocal agreements, and other matters pertaining Project; and
- L. The City and District acknowledge in their Project Agreements that the City and District may enter into further agreements for the application of District funds to the completion of the Project including agreements to fund construction and other services related to the Project and that further work toward a fully completed Flood Project shall be considered additional consideration to any future agreement; and
- M. The Project consists of flood project elements (**the “Flood Elements”**) including a series of flood walls, levees, stop logs and other design features to mitigate the 100 year flood event or greater as established by FEMA base flood elevation and Flood Insurance Rate Maps (**“FIRMS”**) as defined by 44 CFR § 59.1 and non-flood related elements that will promote economic development, aesthetic value, and quality of life for the citizens of Mount Vernon such as public open space, a promenade, visual access to the shoreline and public rest rooms (**the “Non-Flood Elements”**); and
- N. RCW 85.38.180 allows the District to expend funds through contracting for the purposes of flood control, drainage control, storm water control, and surface control activities. This include funds spent toward the construction, design, contracting for services for projects and facilities necessary to prevent inundation from river flooding and to control surface water and flood waters; and
- O. RCW 39.33.010 allows two government entities to sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including but not limited to title to real property on such terms and conditions as may be mutually agreed upon ; and
- P. The State Attorney General has opined that the requirement pursuant to RCW 43.09.210 that transactions between two different governments receive “full value” should be applied flexibly and practically, taking into account the circumstances of each particular transaction allowing governments freedom to negotiate the terms which include the freedom to bargain the property to be transferred in exchange for such consideration as each government deems valuable such as for services performed or relief from a financial or liability burden. *See Atty.Gen.Op. 1997, No. 5.*

NOW THEREFORE in consideration of the foregoing recitals and the mutual covenants herein, and pursuant to law including but not limited to Chapter 39.34 RCW, **THE PARTIES AGREE** as follows:

1 **Recitals.** The foregoing recitals are incorporated herein as if fully set forth herein.

2 **Effective Date.** For the purposes of this Agreement, the date on which the last party executes this Agreement and delivers it to the other party shall hereinafter be referred to as the "Effective Date."

3 **General Obligations.**

3.1 **Purpose/Scope of Work.** The purpose of this Agreement is supplemental funding paid to the City for final completion of the Flood Project Flood Elements and implementation the Project Agreements (the "Work"). The Work includes but is not limited to funding for the following: i) remaining costs to, acquire land, design, and construct a series of levee improvements, floodwalls, stop logs and other flood control works to mitigate flood hazards to the Benefited Area; ii) remaining costs in time or other services required to process and receive from FEMA a LOMR recognizing that the Flood Project mitigates for a one hundred year flood event or greater thereby removing the Benefited Area from the FEMA designated 100 year flood plain; iii) remaining costs for professional services necessary to draft and implement the Project Agreements including, legal, survey, other professional services, and title searches.

3.2 **General Terms.** District shall contribute funds (the "Funds") in the amount of **One Hundred Thousand and NO/100 Dollars (\$100,000.00)**. All funds shall be used by the City towards the completion of the Project Agreements as set forth in Section 3.1. In the event further District funds are needed to complete the Project, this Agreement does not preclude further agreement between the City and District nor constitute consideration for a completed Flood Project. The City and District may enter into further agreements for the conveyance of District funds toward the completion or progress of the Project. Further work or progress toward a completed Project shall be considered additional consideration to any future agreements.

3.3. **Payment of Funds** District covenants and agrees to pay the City One Hundred Thousand Dollars and 00/100 cents (\$100,000.00). Payments shall be made according to the following terms:

District shall pay to the City for the Downtown Flood Protection Project, upon receipt of an invoice therefore, the sum set forth above to be deposited into the appropriate account commencing on or before April 1, 2020.

No interest shall accrue during the term of this Agreement for sums due or for the account balance held in suspense.

3.4 **Remedies** In the event further funding for the Project cannot be achieved or the Project is rendered impossible or impractical, in the City's discretion, the City agrees to return unexpended funds provided under this Agreement and by deed or bill of sale transfer to District all property acquired for construction of the Flood Elements including real property interests, flood protection equipment, materials purchased for the Project Flood Elements, engineering, design, permit and construction documents for the use and benefit of the District or its lawful successor as set forth in the Project Agreements. Nothing in the Agreement shall require the City to convey any property rights acquired through third party agreements which require the City to re-convey

property rights in the event the Project is terminated or which require consent by the third party prior to conveyance.

4. Mutual Indemnity Without prejudice to any governmental immunity which either or both parties may have for actions taken to protect the public interest District and City agree that with respect to claims of damages incurred by either party or a third party arising from the performance of this agreement and consistent with RCW 4.24.115 the following shall apply:

i. District shall indemnify and hold the City, its successors and assigns harmless against any claims, damages, expenses (including attorneys' fees in defending against claims and enforcing this indemnity), liabilities and costs incurred by the City which directly or indirectly result from, or arise in connection with, any negligent act or omission of the District, its officials, agents, or employees, pertaining to its activities and obligations under this Agreement. The District expressly agrees and understands that in no event will the City, its successors and assigns, agents, officers, directors, employees or shareholders be liable for any personal injuries, death, or property damage, direct, indirect, or consequential damages, including loss of profit or revenue, to the District or of the District to any third party by reason of or resulting from the District's own wrongful and/or negligent acts.

ii. The City shall indemnify and hold District, its successors and assigns harmless against any and all claims, demands, damages, expenses (including attorney's fees in defending against claims and enforcing this indemnity), liabilities and costs incurred by District which directly or indirectly result from, or arise in connection with, any negligent act or omission of the City, its officials, agents, or employees, pertaining to its activities and obligations under this Agreement. The City expressly agrees and understands that in no event will District, its successors and assigns, agents, officers, directors, employees or shareholders be liable for any personal injuries, death, or property damage, direct, indirect, or consequential damages, including loss of profit or revenue, to the City or of City to any third party by reason of or resulting from City's own wrongful and/or negligent acts, or any liability of resulting from the negligent construction or design of the Project.

5. Term of Agreement. The Term of this Agreement shall be from the date of execution of this agreement through the final acceptance of the Project, resolution of all claims, and conveyance of the Flood Elements to the District.

Any term involving maintenance, repair, replacement, property rights, or indemnity shall be covenants that run with the land and shall survive the termination of this Agreement.

6. Administration. The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

6.1 The City's representative shall be the
Finance Director

PO Box 809
910 Cleveland Avenue
Mount Vernon, WA 98273

With Copy to:

City Attorney
City of Mount Vernon
PO Box 809
910 Cleveland Avenue
Mount Vernon, WA 98273

6.2 The Dike District's representative shall be the

Darrin Morrison - Downtown Project Representative
Skagit County Diking District No. 3
PO Box 324
Conway, WA 98238

With Copy to:

Peter Ojala - District Attorney
PO Box 211
Snohomish, WA 98291

7. **Treatment of Assets and Property:** Other than property expressly identified in this agreement, no fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

8. **General Provisions.**

8.1 **Binding on Successors; Assignment.**

8.1.1 **Binding Agreement.** This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the parties hereto.

8.1.2 **Assignment.** Neither party shall have the right to assign or transfer all or any portion of the respective interests, rights or obligations under this Agreement to other parties without consent by the other, which shall not be unreasonably withheld, conditioned or delayed.

8.2 **Independent Contractor.**

8.2.1 **No Employee-Employer Relationship.** It is agreed by and between the parties that because this Agreement shall not constitute nor create an employer-

employee relationship, each Party shall be responsible for their own obligations relating to federal income tax, self-employment FICA taxes and contributions, and all other so-called employer taxes and contributions, including, but not limited to, industrial insurance (Workmen's Compensation), and shall indemnify, defend and hold the other party harmless from any claims, valid or otherwise, made that arise out of a failure to satisfy such obligations.

8.2.2 Worker's Compensation Act. Any and all employees of District while engaged in the performance of any work, shall be considered employees of District only, and not employees of the City. As between District and the City, District shall be solely liable for any and all claims that may arise under the Worker's Compensation Act on behalf of said employees and volunteers engaged in flood fighting on behalf of District while so engaged and subject to immunity and exclusive remedy limitations for any and all claims made by a third party as a consequence of any negligent act or omission on the part of the District's employees, while so engaged on any of the work. Any and all employees the City while engaged in the performance of any work, shall be considered employees of only the City and not employees of the District. As between the City and the District, the City shall be solely liable for any and all claims that may arise under the Worker's Compensation Act on behalf of said employees of the City while so engaged and for any and all claims made by a third party as a consequence of any negligent act or omission on the part of the City or its employees, while so engaged on any of the work

8.2.3 Fair Labor Standards Act. Subject to exemptions for emergency flood fighting volunteers, parties agree to comply with all applicable provisions of the Fair Labor Standards Act and other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees, and shall at all times hold each other free, clear and harmless from all actions, claims, demands and expenses arising out of a failure to comply with said Act and any rules and regulations that are or may be promulgated in connection therewith.

8.2.4 Payment of Taxes and Wages. Parties agree to assume full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes (such as state and city business and occupation taxes), fees, licenses, excises or payments, including payment of prevailing wages if required in accordance with RCW 39.12 and the rules and regulations of the Department of Labor and Industries, by any city, federal or state legislation, which are now or may during the term of the Agreement be enacted as to all persons employed by the party and as to all duties, activities and requirements in performance of their work, and shall assume exclusive liability therefore, and meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.

8.3 Severability. In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

8.4 Interpretation. The parties intend this Agreement to be interpreted to the full extent authorized by law as an exercise of the District and the City's authority to enter into such agreements, and this Agreement shall be construed to reserve to the City that police power authority which is prohibited by law from being subject to a mutual agreement with consideration.

8.5 Authority. The City and District each represent and warrant to each other that it has the respective power and authority and is duly authorized to execute, deliver and perform its obligations under this Agreement.

8.6 Incorporation by Reference. All Map Revision Documents as now or hereafter amended are incorporated in the agreement by this reference as if fully set forth. The Project Agreement attached hereto is incorporated in the agreement by this reference as if fully set forth.

8.7 Headings. The headings in this Agreement are inserted for reference only, and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement.

8.8 Time is of the Essence. Time is of the essence of this Agreement and every provision hereof.

8.9 Entire Agreement. This Agreement, any attachments hereto, and the Project Agreements and any attachments contain all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

8.10 Governing Law and Venue. This Agreement and the documents in the forms attached as exhibits hereto shall be governed by, and construed in accordance with, the laws of the State of Washington. In the event of any legal action to enforce or interpret this Agreement or any of the documents in the forms attached as exhibits hereto, the sole and exclusive venue shall be a court of competent jurisdiction located in the County in which the Property is located; and the parties hereto agree to and do hereby submit to the jurisdiction of such court.

8.11 Disputes; Default and Remedies. In the event of any dispute, default or remedy relating to this Agreement the parties shall use all dispute, default and remedy procedures set forth in the Project Agreement.

8.12 No Third-Party Beneficiary. This Agreement is made and entered into for the sole protection and benefit of the City and District and their respective successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

8.13 Cooperation. Except as otherwise provided in this Agreement, the parties shall not unreasonably withhold requests for information, approvals or consents provided for in this Agreement. The parties agree to take further reasonable actions and execute further documents, either jointly or within their respective powers and authority, to implement the intent of this Agreement. The parties agree to work cooperatively to achieve the mutually agreeable goals as set forth in this Agreement, subject to the City's independent exercise of judgment.

8.14 Delays. If either party is delayed in the performance of its obligations under this Agreement due to a Force Majeure Event (as hereinafter defined), then performance of those obligations shall be excused for the period of delay. The term "Force Majeure Event" as used in this Agreement is defined as an actual delay not occasioned by the conduct or financial condition of the party claiming the Force Majeure Event, whether that delay is an act of God or a public enemy, whether the occurrence is caused by war, riot, storm, inclement weather, earthquake or other natural forces, moratoriums, the failure of government agencies to issue any necessary permits or approvals without cause after timely submittal therefor, unavailability of material or labor, unforeseen conditions and/or by the reasonably foreseeable acts of anyone other than the party claiming the Force Majeure Event.

8.15 Professional Fees. If either party commences an action against the other to interpret or enforce any of the terms of this Agreement or because of the breach by the other party of any of the terms hereof, the losing party shall pay to the prevailing party reasonable attorneys' fees, costs and expenses and court costs and other costs of action incurred in connection with the prosecution or defense of such action, whether or not the action is prosecuted to a final judgment. For the purpose of this Agreement, the terms "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties hereto, which may include printing, photostating, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals, librarians and others not admitted to the bar but performing services under the supervision of an attorney. The terms "attorneys' fees" or "attorneys' fees and costs" shall also include, without limitation, all such fees and expenses incurred with respect to appeals, arbitrations and bankruptcy proceedings, and whether or not any action or proceeding is brought with respect to the matter for which said fees and expenses were incurred. The term "attorney" shall have the same meaning as the term "counsel."

8.16 No Waiver of Contingencies. Neither party can waive a contingency unless done in a writing signed by that party and delivered to the other. Neither Party's actions or failures to act shall be deemed waiver of any contingencies or any rights granted in this Agreement.

8.17 No Merger. No representations and warranties unless expressly included herein shall exist and all obligations referred to or required to be performed after the effective date shall not survive the termination of the Agreement unless expressly provided.

8.18 Construction of Agreement. The Agreement contained herein shall not be construed in favor of or against either party, but shall be construed as if both parties prepared this Agreement. District and the City acknowledge that they have been represented, or have had the opportunity to be represented, by counsel of their own choice.

8.19 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

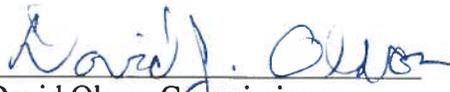
8.20 Representation by Counsel. Notwithstanding any rule or maxim of construction to the contrary, any ambiguity or uncertainty shall not be construed against either District or the City based upon authorship of any of the provisions hereof. District and the City each hereby warrant, represent and certify to the other as follows: (a) that the contents of this Agreement have been completely and carefully read by the representing party and counsel for the representing party; (b) that the representing party has been separately represented by counsel and the representing party is satisfied with such representation; (c) that the representing party's counsel has advised the representing party of, and the representing party fully understands, the legal consequences of this Agreement; and (d) that no other person (whether a party to this Agreement or not) has made any threats, promises or representations of any kind whatsoever to induce the execution hereof, other than the performance of the terms and provisions hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement this ___ day of _____, 2020.

CITY OF MOUNT VERNON
SKAGIT COUNTY, WASHINGTON

SKAGIT COUNTY DIKING DISTRICT NO. 3
SKAGIT COUNTY, WASHINGTON

Jill Boudreau
Mayor, City of Mount Vernon


David Olson, Commissioner

Attest By:

Darrin Morrison, Commissioner

Doug Volesky, Finance Director

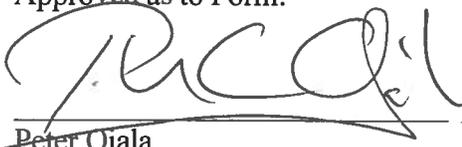
 1-8-20-20

Brad Smith, Commissioner

Approved as to Form:

Approved as to Form:

Kevin Rogerson
City Attorney



Peter Ojala
Attorney for District No. 3



DATE: January 22, 2020
TO: Mayor Boudreau and City Council
FROM: Peter Donovan, Project Development Manager
SUBJECT: COMMUNITY ACTION OF SKAGIT COUNTY UPDATE

RECOMMENDED ACTION:

None

INTRODUCTION/BACKGROUND:

Community Action of Skagit County strives toward their mission of fostering and advocating for self-sufficiency among low-income people in Skagit County. The City of Mount Vernon supports Community Action, both through City Council budget, as well as with pass-through funding of federal Community Development Block Grant support. Community Action Executive Director, Bill Henkel, will update Council on the work that Community Action has participated in recently.

FINDINGS/CONCLUSIONS:

None

RECOMMENDATION:

None

ATTACHED:

Community Action 2018 Report Card

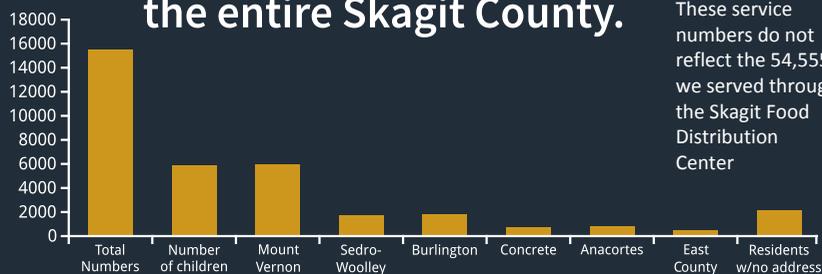
Community Action Annual Report Card For 2018

RESULTS THAT MATTER

WITH HELP FROM **YOU....**

We are able to change lives with the 20 different programs we offer.

With your support we serve the entire Skagit County.



54,555

people benefited from the Skagit Food Distribution Center



7,047

volunteer hours were served



370

veterans received services



445

were provided legal aid through the Volunteer Lawyer Program



260

average monthly food deliveries to place bound seniors

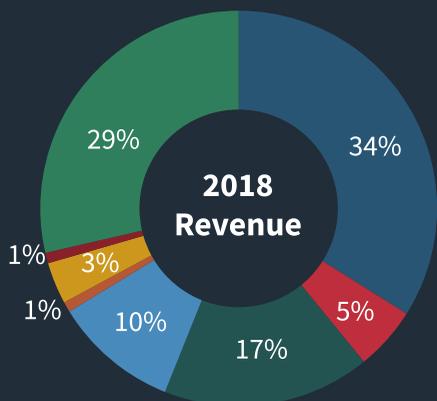


8,835

lunches served

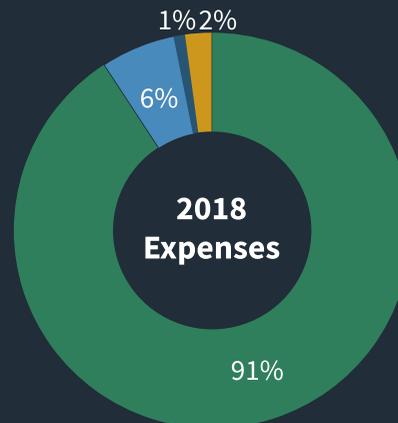
at the Concrete Community Center

Our Financials



Federal	\$3,767,412	United Way	\$93,108
State	\$575,914	Donations /fundraising	\$379,055
Local Govern	\$1,878,284	Other revenue	\$96,441
Foundations /corporations	\$1,133,460	In-kind	\$3,174,871

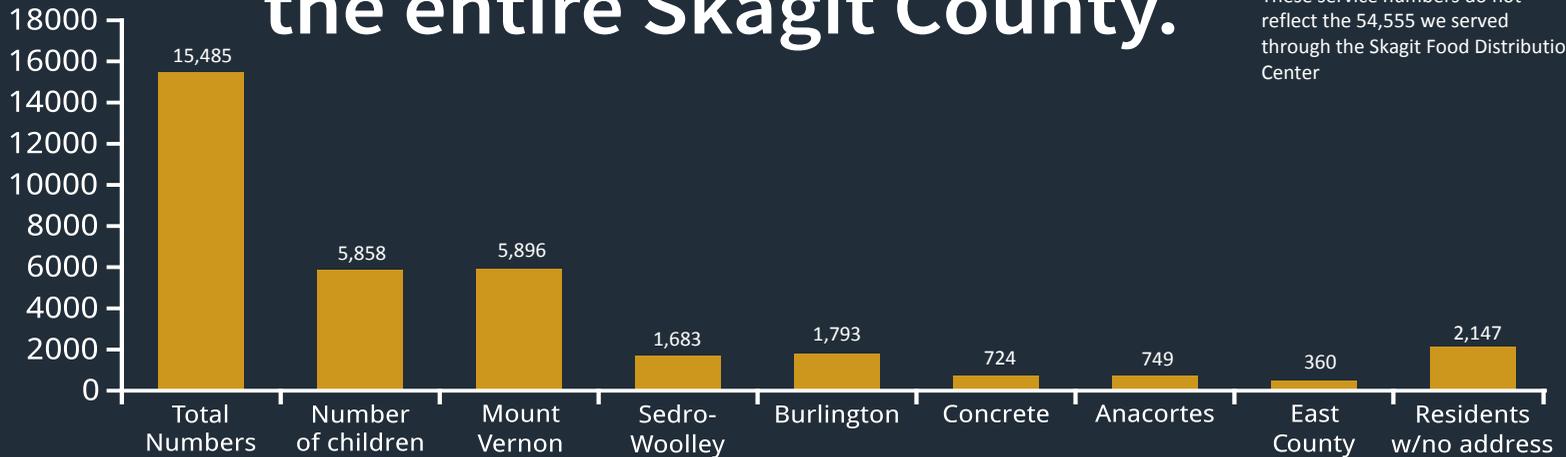
Total \$11,052,393



Program services expenses	\$9,736,384
Admin & General	\$652,612
Admin & General Capital	\$105,830
Fundraising	\$229,778

Total \$10,724,604

With your support we serve the entire Skagit County.



These service numbers do not reflect the 54,555 we served through the Skagit Food Distribution Center

➔ Community Action Services

Behavioral Health Ombudsman

Community Engagement

- AmeriCorps/VISTA
- Skagit Volunteer Center

East County Services

- Community Center Hot Meal Program

Education & Employment Services

Energy & Home Heating

Assistance Housing

- Family Development Center
- Rental Assistance And Coaching
- Transitional Housing
- Homeless Prevention

Resource Center

- Housing Resource Center
- Veterans Assistance

Senior & Disabled Services

Skagit Food Distribution Center

Volunteer Lawyer Program

Women, Infants And Children Nutrition Program

Learn more on our website

CommunityActionSkagit.org



SAVE THE DATE: March 25th

Have a *Heart* for Community

Join us on March 25, 9 am to 4 pm at the Swinomish Casino and Lodge for our new event Have a Heart for Community. This year we will be featuring the renowned author of "The Librarians Guide to Homelessness" for a community training opportunity.

For more information on this event please go to our website www.communityactionskagit.org to learn more and to register.



Ryan J. Dowd

We change thousands of lives in Skagit County.

Community Action of Skagit County

330 Pacific Place Mount Vernon, WA 98273

Phone: (360) 416-7585 Fax: (360) 416-7599

Annual Report Card
sponsored by



Make a tax-deductible donation at
CommunityActionSkagit.org