



**CITY OF MOUNT VERNON  
CITY COUNCIL MEETING  
AGENDA  
July 8, 2020 6:00 p.m.  
(Virtual Meeting)**

*The Mount Vernon City Councilmembers will be participating in this meeting via video/teleconference technology.*

**To virtually attend the meeting, the public may:**

- 1. Call the conference line:** 1-888-924-9240; Access Code: 3366211  
(please 'mute' your phone, if possible, to minimize distractions)
- 2. Watch the meeting live on TV10:** Comcast/Xfinity Channel 10
- 3. Watch the meeting live, online:**  
[https://www.youtube.com/channel/UCUob\\_hcQUmd4S93YkletdrA](https://www.youtube.com/channel/UCUob_hcQUmd4S93YkletdrA)

**I. OPENING CEREMONIES**

- A. Call to Order
- B. Roll Call of Councilmembers

**II. CONSENT AGENDA**

- A. Approval of June 24, 2020 Regular Council Meeting Minutes
- B. Approval of July 2, 2020 payroll checks numbered 110124 - 110151 direct deposit checks numbered 77642 - 77851, and wire transfers numbered 864, 865, 871– 873 in the amount of \$1,038,014.06
- C. Approval of July 8, 2020 Claims numbered 9600 – 9601 and 9603 - 9730 in the amount of \$957,226.42

**III. REPORTS**

- A. Review of Emails from the Public  
(All public comments must be sent via email to [council@mountvernonwa.gov](mailto:council@mountvernonwa.gov). The comments will be read aloud into the record during the public comment portion of the agenda.)
- B. Councilmember Comments
- C. Mayor's Report

**IV. NEW BUSINESS**

- A. Proposed Collaboration with Skagit County for Shelter Funds Grant  
(Washington State Department of Commerce has released information about a grant program offering local governments funding for sheltering of homeless individuals. There is an opportunity for the City of Mount Vernon and Skagit County to work collaboratively and apply jointly for a three-year grant from August 2020 to June 2023.)  
(required action – none)  
(staff contact – Peter Donovan)
- B. Public Hearing – 2020 Comprehensive Plan Docket  
(This is a public hearing for the City Council to make a decision regarding which Comprehensive Plan amendments and development regulation amendments will be considered during the 2020 amendment cycle. To comment on this item please contact the Mayor's office at [mvmayor@mountvernonwa.gov](mailto:mvmayor@mountvernonwa.gov) or call 360-336-6211.)  
(required action – resolution)  
(staff contact – Rebecca Lowell)

- C. Adoption of Interim Regulations for Permits and Approvals  
(Staff is requesting that Council declare an emergency and adopt an ordinance approving interim regulations to allow additional time before permits and approvals expire due to the COVID-19 pandemic.)  
(required action – ordinance)  
(staff contact – Rebecca Lowell)
- D. Contract Amendment with Reichhardt & Ebe – College Way Widening  
(Staff is requesting that Council authorize the Mayor to enter into a contract amendment with Reichhardt & Ebe for the College Way Widening Project.)  
(required action – motion)  
(staff contact – William Bullock)
- E. Approval of Agreement – T-Mobile West, LLC.  
(Staff is requesting that Council authorize the Mayor to enter into a renewal of the Utility and Access Easement agreement with T-Mobile for the Little Mountain Site.)  
(required action – motion)  
(staff contact – Blaine Chesterfield)
- F. Public Works Update
- Program Coordination Division
    - Maddox Creek Culvert Removal Project
    - T-Mobile Utility and Access Easement Agreement
  - Project Updates
    - 2020 Sanitary and Storm Sewer Lining
    - College Way and Riverside Dr. Corridor Signals
    - 4<sup>th</sup> St. N and Riverside Dr. Railroad Crossing
    - College Way & 30<sup>th</sup> Street Signal
  - Public Works Director Comments
    - WWTP Admin Building Advertise for Bid
    - Solid Waste Transfer Station Rate Pass Thru
  - Traffic Safety Committee Update
    - Next Traffic Safety Committee August 18, 2020
  - Miscellaneous/For the Good of the Order
    - Donation of parcel to the City P26191
- G. For the Good of the Order:
- COVID-19 pandemic response and discussion

**COMMITTEE MEETINGS**

Public Works and Library

Cancelled

Next Ordinance 3805  
Next Resolution 978



**DATE:** July 8, 2020  
**TO:** Mayor Boudreau and City Council  
**FROM:** Peter Donovan, Project Development Manager  
**SUBJECT:** SHELTER FUNDING GRANT

**RECOMMENDED ACTION:**

None

**INTRODUCTION/BACKGROUND:**

Sarah Hinman from Skagit County Public Health Department will present an overview of an opportunity for the City and County governments to jointly apply for Washington State Department of Commerce grant funding, to provide shelter to individuals experiencing homelessness.

- 3-year grant begins August 2020, through June 2023
- Funding amount is \$270,000/year, for 3 years
- County must submit the application jointly with the City of Mount Vernon to receive maximum funding

**FINDINGS/CONCLUSIONS:**

Opportunity to put State funding to use in addressing a local challenge.

**RECOMMENDATION:**

From Mayor and Skagit County:

- 11-12 year round motel vouchers for households with children
  - \$56/night if 2+ people in each motel room
  - Provides case management and work towards securing permanent housing
- Continue to work with shelter solutions group and re-direct funds when plan is developed and ready to implement

**ATTACHED:**

Shelter Program Overview—from WA State Dept of Commerce

# Shelter Program Overview

The Department of Commerce (Commerce) intends for communities to use equitable and creative approaches to develop or expand shelter programs and bring people inside with a goal of exiting participants to permanent housing quickly.

Funds will be awarded for a three-year period: August 2020 to June 2023.

## Program Requirements

1. Shelter program will enact strategies to ensure racially equitable access and racially equitable outcomes at exit.
2. Shelter rules and policies do not include pre-conditions for receiving shelter, and are narrowly focused on maintaining a safe environment for residents and the community and avoiding exits to unsheltered homelessness.
3. Shelter staff are trained on LGBTQ+ competency, racial equity and how to implement trauma informed care.
4. Shelter program provides outreach to unsheltered individuals.
5. Shelter program provides residents with housing stability focused services, including diversion and problem solving. Shelter programs connect shelter residents to mainstream services including behavioral health, chemical dependency, education or workforce training, employment services and permanent supportive housing.
6. Shelter must be available for occupancy by December 2020. In special circumstances, Commerce will consider approval of later occupancy dates. Commerce intends to recapture and redistribute funds for shelters not available for occupancy by the December deadline.
7. Shelter program is consistent with county local homeless housing plans.
8. Direct service providers must enter client data into the Homeless Management Information System.

## Eligible Types of Shelter

For the purpose of this grant, shelter facilities are defined as:

- **Emergency Shelter Facility:** a building locally permitted to provide emergency shelter for people experiencing homelessness. Examples include: re-use of existing buildings and new buildings. This designation requires a certificate of occupancy issued by the local jurisdiction.
- **Temporary Shelter Site:** structure(s) or location locally permitted to provide temporary shelter for people experiencing homelessness. Tents or "tent cities" are an example of a temporary shelter. This designation requires use approval, as required by local jurisdiction. This could be conditional or temporary use permits, or a zoning letter stating approvals required.

Hotels, motels, dormitories and efficiency dwelling units or apartments are allowable types of shelter facilities. If an emergency shelter hotel/motel voucher model is used, programs must be able to ensure access to a set number of hotel/motel beds 365 days a year.

Given the context of COVID-19, traditional models of congregate shelter services may not be appropriate. For not only this reason, sites utilizing temporary shelter structures referred to as "tiny shelters" or "tiny homes" are allowable, in addition to other models that meet minimum standards of safety and dignity.

All shelters must implement applicable COVID-19 Washington State Department of Health recommendations and Centers for Disease Control and Prevention COVID-19 [Guidance](#) for Shared of Congregate Housing. Shelter facilities must obtain approval by the relevant local public health jurisdiction, Public Health Officer, County Medical Director or Department of Public Health Director prior to occupancy of shelter.

## Eligible Costs

Commerce will reimburse for new beds<sup>1</sup> created on and after January 1, 2020.

Commerce will reimburse up to \$56 per day per net additional person sheltered above the baseline of shelter occupancy prior to the award of funding.

Eligible uses of funds include:

- Shelter operations including housing case management, navigation to other services, outreach related to bringing unsheltered individuals inside and efforts to address potential impacts of shelter on surrounding neighborhoods
  - Supporting shelter residents with move-in costs and other flexible funds are allowable costs, if those costs directly help participants exit homelessness and obtain housing. Flexible funds will be reimbursed as part of the \$56 per day reimbursement rate paid for people while in shelter.
- Shelter maintenance
- Capital improvements and construction
- Shelter rent and loan repayment

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<sup>1</sup> Examples of new beds include tents converted to tiny shelters/homes, seasonal or temporary beds converted to permanent beds or nightly drop-in beds converted to 24-hour beds.

Commerce will reimburse up to \$10,000 per shelter bed prior to occupancy for costs associated with creating additional shelter capacity or improving existing shelters to improve occupancy rates and positive outcomes.

Eligible costs prior to occupancy include:

- Acquisition and construction
- Equipment
- Staff costs
- Other costs directly related to creating additional shelter capacity

## Service Provision

### Rules and Policies

Shelter programs must have realistic and clear expectations. Rules and policies must be narrowly focused on maintaining a safe environment for residents and the community and avoiding exits to homelessness. Shelter programs must have flexible intake schedules and require minimal documentation. At the minimum, people must not be screened out based on the following criteria<sup>2</sup>:

- Having little or no income
- Having poor credit or financial history
- Having poor or lack of rental history
- Having involvement with criminal justice system
- Having active or a history of alcohol and/or substance use\*
- Having a history of victimization
- The type or extent of disability-related services or supports that are needed
- Lacking identification or proof of U.S. Residency Status
- Other behaviors that are perceived as indicating a lack of "housing readiness," including resistance to receiving services

Shelters must be oriented toward exiting to people to permanent housing, and may not have stay limits. Residents must not be exited to homelessness solely due to the number of days spent residing at shelter.

Shelter programs must not require participants to pay a share of rent.

Participants must not be terminated from the program for the following reasons:

- Failure to participate in supportive services or treatment programs
- Failure to make progress on a housing stability plan
- Alcohol and/or substance abuse in and of itself is not considered a reason for termination (does not apply to sobriety/recovery focused shelter)\*

\*Each county should provide access to shelter that is realistically accessible to the diversity of people experiencing unsheltered homelessness. For many people, sobriety-based shelter is appropriate as they work to address dependence. Research is clear that some people will not be able to maintain sobriety, even with the threat of becoming unsheltered, and as a result would be ejected into unsheltered homelessness if sobriety-based shelter is the only option. As a condition of receiving this funding, jurisdictions will be required to

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<sup>2</sup> Shelter programs serving minors will follow guidance on shelter rules and policies from the Office of Homeless Youth.

provide shelter options that do not require sobriety as a condition of program enrollment proportionate to the requests for such placements.

### **Housing Stability Focused Services and Case Management**

Housing case management is driven by the needs of the resident, is flexible, uses a strengths-based approach and is focused on obtaining housing.

### **Diversion and Problem-Solving**

Diversion is a creative problem-solving approach to help people resolve their housing crisis, ideally before entering the crisis response system. Diversion uses exploratory conversations to help people identify realistic housing options based on their own resources. Diversion is often accompanied with short-term services including one-time financial assistance.

Diversion approaches will be utilized prior to program entry and throughout a resident's shelter stay.

### **Racially Equitable Access and Outcomes**

Shelter programs must develop and implement strategies to prevent racial inequities in who is served and program outcomes. Strategies must include policies and procedures that promote:

- Hiring and promoting both frontline and management staff who reflect the racial, cultural and language demographics of the population being served
- Implementing inclusive programming by intentionally seeking and utilizing input from the population being served
- Working with HAU staff to develop measures of equitable outcomes and address disparities

### **Program Contact:**

- Megan Kendig
- Email: [megan.kendig@commerce.wa.gov](mailto:megan.kendig@commerce.wa.gov)

## Program webpage:

<https://www.commerce.wa.gov/serving-communities/homelessness/office-of-family-and-adult-homelessness/shelter-program/>



## AGENDA ITEM: B

**DATE:** July 8, 2020

**TO:** Mayor Boudreau and City Council

**FROM:** Rebecca Lowell, Development Services

**SUBJECT:** PUBLIC HEARING - 2020 COMPREHENSIVE PLAN DOCKET

**RECOMMENDED ACTION:**

Following the required public hearing that the accompanying Resolution containing the 2020 Docket be approved.

**INTRODUCTION/BACKGROUND:**

The City of Mount Vernon accepts applications annually for map and/or text amendments to our Comprehensive Plan and changes to our development regulations. Two applications were received before the January 31<sup>st</sup> deadline, as follows:

1. McLaughlin Road LLC; Paul Woodmansee, a request to re-designate one parcel FROM Church (CH) TO Medium High Density Multi-Family (MF-MH).
2. Optimum Properties, LLC; Craig Cammock; a request to re-designate two parcels FROM Health District (HD) TO Medium High Density Multi-Family(MF-MH).

In addition to the site specific request there is a number of other legislative work program items listed on the docket.

**FINDINGS/CONCLUSIONS:**

This docketing request is consistent with the City's Comprehensive Plan, Resolution 491, and RCW 36.70A.

A legal notice of the docket hearing was originally published in the classifieds sections of the Skagit Valley Herald on March 6, 2020 providing notice for a hearing on March 25, 2020. However, due to the COVID-19 pandemic and the ensuing orders from the Governor this hearing was postponed. A second public hearing notice was published in the classifieds sections of the Skagit Valley Herald on June 17, 2020 providing notice for the hearing tonight.

**RECOMMENDATION:**

That City Council approve the attached proposed Resolution.

**ATTACHED:**

- Proposed Resolution

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION PERTAINING TO THE COMPREHENSIVE PLAN DOCKET FOR 2020  
PURSUANT TO RESOLUTION 491 AND RCW 36.70A**

**WHEREAS**, the City’s public participation program that was adopted with Resolution 491 outlines the process by which the City receives and docketed proposed Comprehensive Plan amendments; and

**WHEREAS**, the City’s public participation program, GMA docketing process and the ultimate GMA process for reviewing and deciding Comprehensive Plan amendment requests are discretionary, legislative decisions involving City Council policy decisions; and

**WHEREAS**, consistent with Resolution 491 two (2) site specific amendment applications were submitted to the City before January the 31, 2020 deadline; and

**WHEREAS**, on March 6, 2020 a public hearing notice was published in the *Skagit Valley Herald* providing notice of a hearing before the Mount Vernon City Council scheduled for March 25, 2020. However, this hearing was cancelled due to the COVID-19 pandemic and orders from the WA State Governor limiting activities where the spread of COVID-19 could occur; and

**WHEREAS**, on June 17, 2020 a second public hearing notice was published in the *Skagit Valley Herald* providing notice of a hearing before the Mount Vernon City Council scheduled for June 24, 2020; and

**WHEREAS**, on June 24, 2020, the City Council held a public hearing to review proposed 2020 Comprehensive Plan Amendments and Mount Vernon Municipal Code Amendments as necessary; and

**WHEREAS**, at the June 24, 2020 public hearing City Council reviewed the proposed amendments to be docketed for 2020, considered the relative importance of the proposed amendments, the relationship they may have to other proposed amendments, whether or not there is need for prompt review, how long amendments have been on the docket for review, and ability of staff and Planning Commission to review the proposed amendments; and

**WHEREAS**, at the public hearing, the Council approved the docketing for the 2020 cycle of site specific and legislative work plan items listed on the attached **Exhibit A**; and

**NOW, THEREFORE,**

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

**SECTION ONE.** The City Council does hereby adopt the above listed recitals as set forth fully herein.

**SECTION TWO.** That the City of Mount Vernon will accept for docketing and review the proposed Comprehensive Plan Amendments and Mount Vernon Municipal Code Amendments, as described in the attached **Exhibit ‘A’**, incorporated herein by this reference. Any associated rezone set forth herein shall require submittal of a separate permit and shall not be considered until legislative action of the Comprehensive Plan amendment process has been taken by the City Council.

Passed this 24<sup>th</sup> day of June, 2020

Signed in Authentication this \_\_\_\_\_ day of \_\_\_\_\_, 2020

BY: \_\_\_\_\_  
Jill Boudreau, Mayor

\_\_\_\_\_  
Doug Volesky, Finance Director

Approved as to form:

\_\_\_\_\_  
Kevin Rogerson, City Attorney

**EXHIBIT A – 2020 DOCKET**

1. Land Use Number: PLAN20-0028

Proponent: McLaughlin Road LLC; Paul Woodmansee; PO Box 619  
Sedro-Woolley, WA 98284

Parcel: P24856

Comprehensive Plan: FROM: Church (CH) TO Medium High  
Density Multi-Family (MF-MH)



2. Land Use Number: PLAN20-0029

Proponent: Optimum Properties, LLC; Craig Cammock; PO Box 836, Mount Vernon, WA 98273

Parcels: P26688, P83257

Comprehensive Plan: FROM Health District (HD) TO Medium High Density Multi-Family(MF-MH)



3. MVMC Chapter 14.10: Interim and final regulations to extend timeframes due to COVID-19
4. MVMC Chapter 17.210: Interim and final regulations for Temporary homeless encampments
5. MVMC Chapter 8.50: Interim and final regulations for emergency weather shelters
6. Shoreline Management Master Plan, updates
7. Amendments to Chapter 17, Zoning to incorporate additional affordable housing tools and a draft Planning Action for future residential development in the Historic Downtown
8. Park and Recreation Comprehensive Plan, updates
9. Park Impact Fees, updates
10. Amendments to zoning code definitions creating a length of stay allowed for Hotels and Motels, new regulations
11. Updating Development Services Permit and License Fees
12. MVMC 15.18: Land Clearing, amendments
13. MVMC 17.100: Wireless towers and Antennas, amendments
14. Updated Fire Impact Fees, updates
15. MVMC 17.87: Sign Code, amendments
16. Work to become a Certified Local Government, new regulations

The following pages (5 to 8) contain additional details regarding the above-listed legislative work program items.

### **3. INTERIM AND FINAL REGULATIONS TO ALLOWING EXTENSIONS OF TIME TO DEVELOPMENT REGULATIONS DUE TO THE COVID-19 PANDEMIC**

**BACKGROUND AND REASON:** to extend the expiration timeframes associated with development regulations to account for the length of time within which certain activities, services and construction were not allowed, or were limited, due to the COVID-19 pandemic. The extension is proposed to be the number of days between Governor Enslee’s proclamation of a State of Emergency and when Skagit County was recognized by the State as being within Phase 2 of the Governor’s Safe State proclamation.

### **4. INTERIM AND FINAL REGULATIONS FOR TEMPORARY HOMELESS ENCAMPMENTS, MVMC CHAPTER 17.210**

**BACKGROUND:** Council has adopted interim regulations for Temporary Homeless Encampments (otherwise known as Safe Parking) with the adoption of Ordinances 3791 and 3793. Due to the COVID-19 shut down the interim regulations that were in place for these regulations have expired. This means that interim regulations need to be adopted first, followed by final, permanent regulations. Additionally, new State regulations (ESHB 1754) have been adopted that will need to be taken into consideration with these regulations.

**REASON FOR WORK PLAN ITEM:** Council has set this code amendment in process and provided staff with direction to move forward in adoption of permanent regulations.

### **5. FINAL REGULATIONS FOR EMERGENCY WEATHER SHELTERS, MVMC CHAPTER 8.50**

**BACKGROUND:** Council has adopted interim regulations for Emergency Weather Shelters with the adoption of Ordinances 3780, 3783 and 3794. A work plan was adopted with Ordinance 3794 and the Department. Due to the COVID-19 shut down the interim regulations that were in place for these regulations have expired. This means that interim regulations need to be adopted first, followed by final, permanent regulations. Additionally, new State regulations (ESHB 1754) have been adopted that will need to be taken into consideration with these regulations.

**REASON FOR WORK PLAN ITEM:** Council has set this code amendment in process and provided staff with direction to move forward in adoption of permanent regulations.

### **6. UPDATE TO SHORELINE MANAGEMENT MASTER PLAN & MVMC CHAPTER 15.07**

**BACKGROUND:** The Shoreline Management Act (SMA) requires the City to review and revised/update our SMA in 2020.

**REASON FOR WORK PLAN ITEM:** To comply with State law.

## **7. AFFORDABLE HOUSING WORK PLAN, MVMC TITLE 17 AND DRAFT PLANNED ACTION FOR HOUSING IN HISTORIC DOWNTOWN**

Work anticipated to commence in Q3/Q4 of 2020

**BACKGROUND:** Following adoption of the City’s 2016 Comprehensive Plan an Affordable Housing Work Plan was created to prioritize legislative work necessary to encourage the creation of affordable housing throughout the City.

**REASON FOR WORK PLAN ITEM:** To continue with the adoption of regulations to encourage the creation of affordable housing.

## **8. UPDATED PARK & RECREATION COMPREHENSIVE PLAN**

Work anticipated to commence in Q3/Q4 of 2020

**BACKGROUND:** State law requires the City’s Comprehensive Plan be updated every eight years. During the last required update in 2016 the Park and Recreation Plan received minimal attention due to the scope of other update work required. This element needs to be updated to match the other elements of the plan.

**REASON FOR WORK PLAN ITEM:** There are projects listed in the CIP that need to be incorporated into the Comprehensive Plan; and to make this element consistent with the other elements of the Comprehensive Plan.

## **9. UPDATED PARK IMPACT FEES (MVMC CHAPTER 3.40)**

Work anticipated to commence in Q3/Q4 of 2020

**BACKGROUND:** The City’s Park impact fees have not been updated since 1998 and are due to be updated.

**REASON FOR WORK PLAN ITEM:** To ensure impact fees collected are consistent with adopted Capital Facility and Capital Improvement Plans.

## **10. ADDING A MAXIMUM ALLOWABLE STAY INTO THE DEFINITION OF HOTELS/MOTELS WITHIN MVMC TITLE 17**

**BACKGROUND AND REASON:** The City’s zoning code, MVMC Title 17, does not currently specify a maximum number of days that someone is allowed stay at a hotel or motel. The current definition of hotel/motel is, “*means a building or portion thereof designed or used for the transient rental of five or more units for sleeping purposes. A central kitchen and dining room and accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care.*” The City has at least one motel where the City is concerned about life/safety measures related to the areas people are living and sleeping where it appears that people are permanently residing versus using the facility as a transitory accommodation.

## 2020 WORK PLAN – TIME ALLOWING

### 11. UPDATING DEVELOPMENT SERVICES PERMIT/LICENSE FEES (MVMC CHAPTER 14.15)

Unlikely to be started in 2020

**BACKGROUND:** Currently collected Development Services fees pay for approximately 40% of the actual cost to process and issue the permits the Department is tasked with processing.

**REASON FOR WORK PLAN ITEM:** To minimize the extent that public funds are used to pay for work the Department completes on behalf of developers, builders, etc.

### 12. AMENDMENTS TO MVMC CHAPTER 15.18, LAND CLEARING

Unlikely to be started in 2020

**BACKGROUND:** Several developers have requested amendments to MVMC Chapter 15.18, Land Clearing. Should Council choose to place these amendments on the Department's 2020 Docket staff will commence the work necessary to amend this Chapter of the MVMC.

**REASON FOR WORK PLAN ITEM:** To address concerns raised by Developers.

### 13. AMENDMENTS TO WIRELESS TOWERS/ANTENNAS REGULATIONS (MVMC CHAPTER 17.100) \*\*

Unlikely to be started in 2020

**BACKGROUND:** Federal and State regulatory frameworks are rapidly changing in response to the demand for wireless services. National infrastructure is being prepared for 5G (the fifth generation wireless technology for digital cellular networks that began wide deployment in 2019); which means that the City will need to adopt regulations to respond to new Federal and State laws. The timing for this work plan item will vary; however, the City will need to rapidly respond to new regulations when necessary.

**REASON FOR WORK PLAN ITEM:** To comply with Federal and State laws while taking into account local circumstances and needs.

*\*\* Please note that this item may need to be actioned sooner depending on federal and/or state regulations that could be adopted at any time*

### 14. UPDATED FIRE IMPACT FEES (MVMC CHAPTER 3.40)

Unlikely to be started in 2020

**BACKGROUND:** The City's Fire impact fees have not been updated since 1998 and are due to be updated.

**REASON FOR WORK PLAN ITEM:** To ensure impact fees collected are consistent with adopted Capital Facility and Capital Improvement Plans.

## **15. AMENDMENTS TO SIGN CODE (MVMC CHAPTER 17.87)**

**BACKGROUND AND STATUS:** staff started a process to update the City's Chapter of the MVMC that regulates signage in 2012. Since 2012 staff has completed many small updates to the Sign Code; however, a complete overhaul of this code needs to be completed at some point in time. Unlikely to be started in 2020

## **16. BECOMING A CERTIFIED LOCAL GOVERNMENT**

**BACKGROUND AND STATUS:** Certified Local Governments (CLGs) can help the City to encourage, develop, and maintain local preservation efforts and can apply for special grants from the State. In addition CLGs can offer Special Tax Valuation to locally listed properties, receive certain State and Federal recognitions, and participate in many other preservation programs. Unlikely to be started in 2020.



**DATE:** July 8, 2020  
**TO:** Mayor Boudreau and City Council  
**FROM:** Rebecca Lowell, Development Services  
**SUBJECT:** INTERIM REGULATIONS TO EXTEND PERMIT EXPIRATION TIMEFRAMES DUE TO THE COVID-19 PANDEMIC

**RECOMMENDED ACTION:**

Council declare an emergency and approve the interim regulations accompanying this memo that allow additional time before permits and approvals would otherwise expire.

**INTRODUCTION/BACKGROUND:**

As a result of the COVID-19 pandemic on February 20, 2020 the Governor issued a State of Emergency for all counties in the State. Similarly, on March 11, 2020 Mayor Boudreau issued a Proclamation of Civil Emergency for Mount Vernon.

Through no fault of their own, applicants have had their development projects delayed primarily due to precautions put in place by the Governor to decrease the spread of COVID-19.

**FINDINGS/CONCLUSIONS:**

To support developments and investments the City finds it prudent and necessary to extend the timeframes within which permits and approvals would otherwise expire.

**RECOMMENDATION:**

Approval of the accompanying Ordinance.

**ATTACHED:**

Proposed Ordinance for Council consideration

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, DECLARING AN EMERGENCY AND ADOPTION OF INTERIM CONTROL REGULATIONS FOR TIMELINES ASSOCIATED WITH PERMITS AND APPROVALS REGULATED UNDER CHAPTERS 14.05, 15.04, 16.08, 16.32, 16.40 MOUNT VERNON MUNICIPAL CODE (MVMC) DUE TO THE COVID-19 PANDEMIC**

**WHEREAS**, on February 20, 2020, as a result of the coronavirus disease 19 (COVID-19) pandemic, the Washington State Governor issued a State of Emergency for all counties in the State; and

**WHEREAS**, on March 11, 2020, as a result of the coronavirus disease 19 (COVID-19) pandemic and the State of Emergency issued by the Governor, Mayor Boudreau issued a Proclamation of Civil Emergency for the City of Mount Vernon; and

**WHEREAS**, following the issuance of a State of Emergency on March 23, 2020 the Governor issued a Stay at Home, Stay Healthy Executive Order; and

**WHEREAS**, as a result of the Governor’s State of Emergency and subsequent Executive Orders many business activities had to be temporarily shut down and/or had their operations significantly impacted. This included either prohibiting or severely limited the ability to engage in general construction activities to implement certain permits issued under Chapters 14.05, 15.04, 16.08, 16.32, 16.40 of the MVMC; and

**WHEREAS**, on May 31, 2020 the Governor issued a new proclamation transitioning from his Stay Home – Stay Healthy Proclamation to Safe Start – Stay Healthy proclamation containing a county-by-county phased reopening plan; and

**WHEREAS**, a total of 75 calendar days lapsed between the Governor’s Stay at Home, Stay Healthy Executive Order on March 23, 2020 and June 5, 2020 when Skagit County was recognized by the State as being within Phase 2 of the Governor’s Safe Start proclamation; and

**WHEREAS**, the City is facing unprecedented downturn in the local economy as a result of the COVID-19 pandemic and Executive Orders issues to combat the spread of highly contagious disease; and

**WHEREAS**, it is unknown how long the economic recovery from the COVID-19 pandemic will take; and

**WHEREAS**, the City finds that continued economic development and investments in the City can be supported by extending expiration timelines for permits and approvals to account for the timeframe between March 23, 2020 when the Governor issued his Stay at Home, Stay Healthy Executive Order and June 5, 2020 when the City was recognized by the State as being in Phase 2 of Governor Inslee’s Safe Start Proclamation to promote the public health, safety, and welfare of the City; and

**WHEREAS**, the City Council finds that extending expiration timeframes for projects subject to the identified code sections does not alter, create or amend the rights of the applicants relating to land use approvals which were previously issued; and

**WHEREAS**, the City Council finds this ordinance is needed to address local impacts on the business and development community as well as investments made in the City as a result of the COVID-19 pandemic and is in the best interest of City of Mount Vernon citizens and promotes the health, safety and welfare of the citizens of the City of Mount Vernon; and

**WHEREAS**, RCW 35A.63.220 and RCW 36.70A.390, as well as interpretative judicial decisions, authorize adoption of interim zoning controls and regulations with certain limitations, including the requirement to hold a public hearing on the adopted interim zoning controls/regulations within 60 days of its adoption, and the adoption of findings of facts and, if appropriate, a work plan; and

**WHEREAS**, in accordance with RCW 35A.63.220, interim zoning controls may be effective for no longer than six months, but may be effective for up to a year if a work plan is developed for related studies providing for such a longer period, and

**WHEREAS**, the City Council shall hold a public hearing within 60 days at a regularly held meeting of the City Council on this Ordinance to consider public testimony regarding adoption of this Ordinance and adopt findings of fact justifying its action in the event such findings are not adopted prior to the hearing; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Recitals Incorporated. That the City Council adopts the recitals set forth above as findings justifying adoption of this Ordinance and incorporates those recitals as if set forth fully herein. The Council may adopt additional findings in the event that additional public hearings are held or evidence presented to the City Council.

**SECTION 2.** Section 14.05.140, Expiration of Approvals, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

**14.05.140 Expiration of approval.**

The city declares that circumstances surrounding land use decisions change over time. To assure the compatibility of a decision with current needs and concerns, such decisions must be limited in duration to ensure the action or improvements authorized by the decision are implemented promptly. Any application or permit approved pursuant to this chapter, with the exception of shoreline permits, plats and PUDs, rezones, and master plans shall be implemented within two years of such approval unless other time limits are specifically prescribed elsewhere in the Mount Vernon Municipal Code. Any application or permit that is not so implemented shall terminate at the conclusion of that period of time and become null and void; except as noted below:

A. For large scale or phased development projects, the examiner may at the time of approval or recommendation set forth time limits for expiration that exceed those prescribed in this section for such extended time limits as are justified by the record.

B. An extension of time up to one year may be granted by the final decision maker; i.e., the director, examiner, planning commission, or city council on an approved application or permit for good cause shown. An extension under this subsection may be granted only if the following takes place:

1. The applicant requests the extension in writing prior to the expiration time;
2. The applicant meets the burden for justifying why the extension should be granted; and
3. The extension of time is not for a shoreline, plat, or PUD application. (Ord. 3427 § 2 (Exh. A), 2008).

C. Applications or permits approved pursuant to this chapter on or before June 5, 2020 shall be automatically granted seventy five (75) calendar days in addition to the two years within which they are otherwise required to be implemented; provided however, the additional timeframe set forth in this subsection shall not apply to shoreline permits, plats, PUDs, rezones, or master plans.

**SECTION 3.** Section 16.08.060, Effective Period of Preliminary Plat Approval, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

**16.08.060 Effective period of preliminary plat approval.**

The approval of a preliminary plat shall be effective as follows:

A. Except as provided by subsections B and C of this section, a final plat meeting all requirements of the preliminary plat, this chapter, and the Mount Vernon Municipal Code where applicable shall be submitted to the city council for approval within seven years of the date of preliminary plat approval if the date of the preliminary plat approval is on or before December 31, 2014, and within five years of the date of preliminary plat approval if the date of the preliminary plat approval is on or after January 1, 2015. Failure to submit a final plat meeting all the requirements of the preliminary plat, this chapter, and the Mount Vernon Municipal Code where applicable within this period shall result in expiration of preliminary plat approval.

B. A final plat meeting all requirements of the preliminary plat, this chapter, and the Mount Vernon Municipal Code where applicable shall be submitted to the city council for approval within 10 years of the date of preliminary plat approval if the project is located within the city limits, not subject to requirements adopted under Chapter 90.58 RCW, and the date of preliminary plat approval is on or before December 31, 2007. Failure to submit a final plat meeting all the requirements of the preliminary plat, this chapter, and the Mount Vernon Municipal Code where applicable within this period shall result in expiration of preliminary plat approval.

C. If the developer fails to receive final plat approval within the time frames outlined within subsection A or B of this section the preliminary plat approval shall expire unless one of the following requests is submitted to the CEDD and approved by the city council through a Type V process:

1. An applicant who files a written request to the office of the community and economic development department may be granted a one-year extension upon a showing that they have attempted in good faith to submit the final plat within the required period. There shall be allowed only one such extension. In granting an extension the council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to; or

2. An applicant who files a written request to the office of the community and economic development department may be granted no more than a three-year extension for preliminary plat approvals granted on or before December 31, 2010. There shall be allowed only one three-year extension; and this extension shall not be combined with the one-year extension allowed within subsection (C)(1) of this section. In granting this extension a development agreement consistent with the requirements of RCW 36.70B.170 shall be prepared and approved by the city council. In granting this extension the council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to. (Ord. 3651 § 3, 2015).

D. Applicants that had their preliminary plat approval extended by City Council, pursuant to the requirements of MVMC 16.08.060(C)(1) or (2), on or before June 5, 2020 shall be automatically granted seventy five (75) calendar days in addition to the previously approved one or three year extension within which their preliminary plat would have otherwise expired.

**SECTION 4.** Section 16.32.070, Effective Period of Preliminary Approval, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

**16.32.070 Effective period of preliminary approval.**

The approval of a preliminary short plat shall be effective as follows:

A. Except as provided by subsections B and C of this section, a final short plat meeting all requirements of the preliminary short plat, this chapter, and the Mount Vernon Municipal Code where applicable shall be submitted to the community and economic development and public works directors for approval within seven years of the date of preliminary short plat approval if the date of the preliminary short plat approval is on or before December 31, 2014, and within five years of the date of preliminary short plat approval if the date of the preliminary short plat approval is on or after January 1, 2015. Failure to submit a final short plat meeting all the requirements of the preliminary short plat, this chapter, and the Mount Vernon Municipal Code where applicable within this period shall result in expiration of preliminary short plat approval.

B. A final plat meeting all requirements of the preliminary short plat, this chapter, and the Mount Vernon Municipal Code where applicable shall be submitted to the community and economic development and public works directors for approval within 10 years of the date of preliminary short plat approval if the project is located within the city limits, not subject to requirements adopted under Chapter 90.58 RCW, and the date of preliminary short plat approval is on or before December 31, 2007. Failure to submit a final short plat meeting all the requirements of the preliminary short plat, this chapter, and the Mount Vernon Municipal Code where applicable, within this period shall result in expiration of preliminary short plat approval.

C. If the developer fails to receive final short plat approval within the time frames outlined within subsection A or B of this section the preliminary short plat approval shall expire unless one of the following requests is submitted to the CEDD and approved by the city council through a Type V process:

1. An applicant who files a written request to the office of the community and economic development department may be granted a one-year extension upon a showing that they have attempted in good faith to submit the final short plat within the required period. There shall be allowed only one such extension. In granting an extension the council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to.

2. An applicant who files a written request to the office of the community and economic development department may be granted up to a three-year extension for preliminary short plat approvals granted on or before December 31, 2010. There shall be allowed only one three-year extension; and this extension shall not be combined with the one-year extension allowed within subsection (C)(1) of this section. In granting this extension a development agreement consistent with the requirements of RCW 36.70B.170 shall be prepared and approved by the city council. In granting this extension the council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to. (Ord. 3651 § 4, 2015).

D. Applicants that had their preliminary short plat approval extended by City Council, pursuant to the requirements of MVMC 16.32.070(C)(1) or (2), on or before June 5, 2020 shall be automatically granted seventy five (75) calendar days in addition to the previously approved one or three year extension within which their preliminary plat would have otherwise expired.

**SECTION 5.** Section 16.40.100, Effective Period of Preliminary Binding Site Plan Approval, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

**16.40.100 Effective period of preliminary binding site plan approval.**

The approval of a preliminary binding site plan shall be effective as follows:

A. Except as provided by subsections B and C of this section, a final binding site plan meeting all requirements of the preliminary binding site plan, this chapter, and the Mount Vernon Municipal Code where applicable shall be submitted to the community and economic development and public works directors for approval within seven years of the date of preliminary binding site plan approval if the date of the preliminary binding site plan approval is on or before December 31, 2014, and within five years of the date of preliminary binding site plan approval if the date of the preliminary binding site plan approval is on or after January 1, 2015. Failure to submit a final binding site plan meeting all the requirements of the preliminary binding site plan, this chapter, and the Mount Vernon Municipal Code where applicable within this period shall result in expiration of preliminary binding site plan approval.

B. A final binding site plan meeting all requirements of the preliminary binding site plan, this chapter, and the Mount Vernon Municipal Code where applicable shall be submitted to the community and economic development and public works directors for approval within 10 years of the date of preliminary binding site plan approval if the project is located within the city limits, not subject to requirements adopted under Chapter 90.58 RCW, and the date of preliminary binding site plan approval is on or before December 31, 2007. Failure to submit a final binding site plan meeting all the requirements of the preliminary binding site plan, this chapter, and the Mount Vernon Municipal Code where applicable within this period shall result in expiration of preliminary binding site plan approval.

C. If the developer fails to receive final approval within the time frames outlined within subsection A or B of this section the preliminary binding site plan approval shall expire unless one of the following requests is submitted to the CEDD and approved by the city council through a Type V process.

1. An applicant who files a written request to the office of the community and economic development department may be granted a one-year extension upon a showing that they have attempted in good faith to submit the final binding site plan within the required period. There shall be allowed only one such extension. In granting an extension the council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to.

2. An applicant who files a written request to the office of the community and economic development department may be granted up to a three-year extension for preliminary binding site plan approvals granted on or before December 31, 2010. There shall be allowed only one three-year extension; and this extension shall not be combined with the one-year extension allowed within subsection (C)(1) of this section. In granting this extension a development agreement consistent with the requirements of RCW 36.70B.170 shall be prepared and approved by the city council. In granting this extension the council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to. (Ord. 3651 § 5, 2015).

D. Applicants that had their preliminary binding site plan approval extended by City Council, pursuant to the requirements of MVMC 16.40.100(C)(1) or (2), on or before June 5, 2020 shall be automatically granted seventy five (75) calendar days in addition to the previously approved one or three year extension within which their preliminary plat would have otherwise expired.

**SECTION 6.** Section 15.04.030, Amendments Generally, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

**15.04.030 Amendments generally.**

A. Pursuant to authority granted by the Revised Code of Washington under the State Building Code Act, amendments to the International Building Code, International Residential Code, International Mechanical Code, Uniform Plumbing Code, International Property Maintenance Code, and Uniform Code for the Abatement of Dangerous Buildings are hereby adopted, with the following amendments as set forth in the following sections of this chapter, and apply within this jurisdiction. (Ord. 3499 § 1, 2010).

B. All building permit applications approved but pending issuance, or that have been issued on or before June 5, 2020 shall have the one hundred eighty (180) day timeframe within which their permit is valid automatically extended by an additional seventy five (75) calendar days.

**SECTION 7. Hearing To Be Held.** Pursuant to RCW 36.70A.390 and/or RCW 35A.63.220, the City Council shall hold a public hearing on this interim regulation within 60 days of adoption of this interim regulations ordinance.

**SECTION 8. City to Consider Permanent Regulations.** The City Council hereby directs the City's Development Services Department study the issue of extending the expiration timelines of permits and approvals subject to MVMC Chapter 14.05 as a result of the COVID-19 pandemic and begin the process of drafting proposed permanent regulations to be considered through the City's public participation process including allowing for public input and providing for public hearings at both the Planning Commission and City Council.

**SECTION 9. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**SECTION 10. Savings Clause.** All previous ordinances which may be repealed in part or their entirety by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

**SECTION 11. Effective Date and Declaration of Emergency.** The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority plus one of the whole membership of the Council, and that the same is not subject to a referendum. Without an immediate interim regulation on the City's acceptance of business licenses, building applications, permits or other types of land use/development permits/approvals, such applications could become vested under regulations subject to change by the City in this comprehensive review and regulation amendment/adoption process. This Ordinance will not affect any existing rights, or any vested applications previously submitted to the City.

**SECTION 12. Ordinance to be Transmitted to Department.** Pursuant to RCW 36.70A.106, this Interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

**PASSED AND ADOPTED** this 8<sup>th</sup> day of July, 2020.

**SIGNED IN AUTHENTICATION** this \_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
JILL BOUDREAU, Mayor

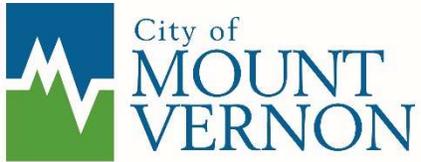
\_\_\_\_\_  
DOUG VOLESKY, Finance Director

Approved as to form:

\_\_\_\_\_  
KEVIN ROGERSON, City Attorney

Published: \_\_\_\_\_

Effective Date: \_\_\_\_\_



**DATE:** July 8, 2020

**TO:** Mayor Boudreau and City Council

**FROM:** William Bullock, PE – City Engineer

**SUBJECT: REICHHARDT & EBE CONTRACT AMENDMENT – COLLEGE WAY (SR 538)  
WIDENING CONTRACT INCREASE COVERING ADDITIONAL CONSTRUCTION  
MANAGEMENT COSTS**

**RECOMMENDED ACTION:**

Staff recommends a contract increase with Reichhardt & Ebe (R & E) for Construction Management services on the College Way Widening Project to cover prior scope increase and final closeout costs in the amount of \$65,717.05. This level of cost escalation is within acceptable expectations and is not atypical of large complex projects of this nature (this represents a 4% increase).

**INTRODUCTION/BACKGROUND:**

The College Way Widening project has been a significant year and half construction effort that has met a few complex challenges requiring additional resources. This has resulted in required scope increases and cost to R & E; coupled with cost efficiencies experienced throughout the project have resulted in what amounts to an end of project “true-up” for the services rendered.

**FINDINGS/CONCLUSIONS:**

The additional scope changes that were required stem primarily from the retaining wall modifications needed to stabilize the slope under the interstate that took place in February 2019. This contract amendment covers the net increase of these efforts (and others) as well as the remaining work to close the project. These remaining items include:

- \* Project Close Out
- \* Project As-builts and survey
- \* WSDOT project records review (audit)

**RECOMMENDATION:**

Motion to authorize the Mayor to approve and sign the attached contract amendment (Supplemental Agreement) with Reichhardt & Ebe Engineering for an increase of \$65,717.05 for a new “not to exceed” contract amount of \$1,502,295.38.

**ATTACHED:**

1. Supplemental Agreement 005



**Washington State  
Department of Transportation**

<b>Supplemental Agreement Number</b> <u>005</u>		Organization and Address	
Original Agreement Number <u>14-15</u>		Reichhardt & Ebe Engineering, Inc. 423 Front Street - PO Box 978 Lynden, WA 98264 Phone: 360-354-3687	
Project Number <u>STPUS-0538(010)</u>		Execution Date	Completion Date <u>12/31/2020</u>
Project Title <u>College Way (SR538) Widening</u>		New Maximum Amount Payable <u>\$1,502,295.38</u>	
Description of Work <u>Additional construction management services as a result of an extended project schedule caused by a change in site conditions.</u>			

The Local Agency of City of Mount Vernon  
desires to supplement the agreement entered in to with Reichhardt & Ebe Engineering, Inc.  
and executed on 12/28/2015 and identified as Agreement No. 14-15

All provisions in the basic agreement remain in effect except as expressly modified by this supplement.  
The changes to the agreement are described as follows:

**I**

Section 1, SCOPE OF WORK, is hereby changed to read:  
See attached scope of work.

**II**

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days  
for completion of the work to read: \_\_\_\_\_

**III**

Section V, PAYMENT, shall be amended as follows:

This supplement increased the contract amount by \$65,717.05 for a new total contract amount of  
\$1,502,295.38. See the attached fee schedule.

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.  
If you concur with this supplement and agree to the changes as stated above, please sign in the Appropriate  
spaces below and return to this office for final action.

By: Nathan Zylstra By: \_\_\_\_\_

Consultant Signature

Approving Authority Signature

\_\_\_\_\_  
Date

## Supplement 005

### SCOPE OF WORK

The project scope of work is modified to include the following:

- Provide additional design services to redesign aspects of the concrete retaining wall as requested by Granite Construction. Design services for the redesign include work by subconsultants KPFF and GeoEngineers and additional coordination from R&E. A change order under the construction contract has been executed in which Granite has reimbursed the City for the redesign cost.
- The reimbursable expenses have been updated to include the Ecology NPDES Construction Stormwater General permit fee and seed mix as requested by the City.
- Provide extended construction management, contract administration, and construction inspection including special inspections because of the change of site conditions under the I-5 overpass. The change of site conditions was encountered on February 19, 2019 and resulted in an extended project schedule by 49 working days.
- Provide additional coordination with WSDOT for the installation of a Comcast service to the WSDOT ITS and camera system.

### FEE

As a majority of the above additional work has previously been performed under the original contract amount, it is therefore desirable to estimate the fee associated with Supplement 005 as an anticipated cost to complete which is reflected in the attached fee estimate.

**EXHIBIT B  
MANHOUR AND COST ESTIMATE**

**COLLEGE WAY (SR538) WIDENING Supplement 005**  
Man-Hour and Cost Estimate

July 1, 2020

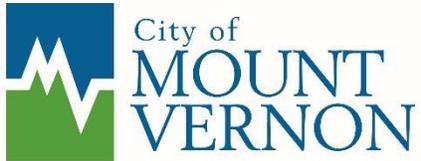
**Construction Management Services**

TASK DESCRIPTION	CLASSIFICATION AND LEVEL									
	E-7	E-6	E-4	E-3	T-6	T-5	T-4	T-1	C-4	
<b>Cost to Complete</b>	65	26	30	16	76	118	63	6		
Sub-Total	65	26	30	16	76	118	63	6		0
TOTAL HOURS	65	26	30	16	76	118	63	6		0
HOURLY RATE	\$ 136.82	\$ 126.19	\$ 89.00	\$ 79.70	\$ 110.92	\$ 73.73	\$ 64.43	\$ 46.47	\$ 59.12	
SUB-TOTAL	\$ 8,893.30	\$ 3,280.94	\$ 2,670.00	\$ 1,275.20	\$ 8,429.92	\$ 8,700.14	\$ 4,059.09	\$ 278.82	\$ -	
<b>TOTAL</b>										<b>\$ 37,587.41</b>

<b>SUBCONSULTANTS</b>	
GeoEngineers, Inc.	\$ 2,928.10
KPFF Consulting Engineers	\$ 8,923.85
Herman Traffic Engineering	\$ 1,405.30
GeoTest Services, Inc.	\$ -
Larry Steele & Associates	\$ 13,852.49
Widener & Associates	\$ -
<b>TOTAL</b>	<b>\$ 27,109.74</b>

<b>REIMBURSABLES</b>	
Seed	\$ 1,019.90
Sub-Total	\$ 1,019.90

<b>GRAND TOTAL</b>	<b>\$65,717.05</b>
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**DATE:** July 8, 2020  
**TO:** Mayor Boudreau and City Council  
**FROM:** Blaine Chesterfield, Engineering Manager  
**SUBJECT:** T-MOBILE WEST LLC, UTILITY AND ACCESS EASEMENT AGREEMENT

**RECOMMENDED ACTION:**

The City Council by motion authorize the Mayor to enter into the Utility and Access Easement Agreement with T-Mobile West LLC for the Little Mountain communication tower site.

**INTRODUCTION/BACKGROUND:**

The City and T-Mobile originally entered into a utility and access easement agreement on January 17, 2014, which allowed for the needed utilities to the leased cell tower site located on Little Mountain. That agreement expired in October 2018 with the cell tower lease.

The City and T-Mobile entered into an additional ten year Little Mountain cell tower lease with an effective date of October 28, 2018, and an expiration date of October 28, 2028.

This new easement utility and access agreement shall be for a term so long as the Site Lease agreement is in effect.

The easement agreement is for a payment to the City of \$6,000 dollars.

**FINDINGS/CONCLUSIONS:**

None

**RECOMMENDATION:**

Approval of the Utility and Access Easement Agreement.

**ATTACHED:**

Proposed Utility and Access Easement Agreement.

*Prepared by and Return to:*

T-Mobile West LLC  
12920 SE 381 Street,  
Bellevue, WA 98006  
Site No. SE07164E

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STATE OF WASHINGTON  
COUNTY OF SKAGIT

**UTILITY AND ACCESS EASEMENT AGREEMENT**

THIS UTILITY AND ACCESS EASEMENT AGREEMENT (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2020 by the City of Mount Vernon (“Grantor”) to T-Mobile West LLC, a Delaware limited liability company (“Grantee”). The designation Grantor and Grantee as used herein shall include, to the extent not limited herein below, said parties, their heirs, successors, and assigns and shall include singular, plural, masculine, feminine, or neuter as required by context;

**WITNESSETH:**

WHEREAS, Grantor is the owner of certain real property, including building(s) as more particularly described in **Exhibit “A”** attached hereto and made a part hereof by this reference (“Property”); and

WHEREAS, Grantee is the lessee of certain land and easements related thereto located upon that certain portion of Property described in **Exhibit “B”** attached hereto (the “Grantee Premises”); and

WHEREAS, Grantor wishes to grant certain easements over Property as hereinafter set forth.

NOW, THEREFORE, in consideration of good and valuable consideration in hand paid by Grantee to Grantor, and the covenants and agreements herein contained, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

1. **Grant of Easement.** Grantor hereby conveys to Grantee, its successors and assigns, as limited hereinafter, for its use and the use of its employees, agents, subtenant, invitees and permittees, a permanent non-exclusive right and easement on a 24-hour, 7-day per week basis, for the purpose of the installation and maintenance of an underground conduit for purpose of a fiber optic cable connection between Grantee’s existing lease area and the Comcast demarcation point in the Grantor owned eastern equipment shelter. The easement is described in **Exhibit “C”** attached hereto and incorporated herein.

2. Access and Utilities. Grantee, employees, agents, and contractors, shall have the right to access the easement property seven days a week, 24 hours a day, for the construction, installation, maintenance, and repair of the underground conduit and associated fiber optic cable contained within. If the Grantee, employees, agents, or contractors, should deviate from the defined easement area Grantee shall be assessed a Ten Thousand and No/100 Dollar (\$10,000.00) fee as liquidated damages for repair of damage caused to the Grantor's property. Grantee shall relocate, at the cost of Grantee, the underground conduit and associated fiber upon request of Grantor. If it becomes necessary to relocate any of the conduit and associated fiber cable, Grantor hereby agrees to reasonably cooperate with Grantee to pursue relocation of any of the conduit and associated fiber lines that will not disturb Grantor's property rights and create a revised legal description for easement that will reflect such relocation. In addition, at the time of initial construction, Grantee shall place a second underground conduit at Grantee's expense in the easement described in Exhibit "C" which will belong to the Grantor. The Grantor shall be responsible for maintaining its respective cable, conduit or fiber optic cable buried in the easement.

3. Non-Disturbance. The easement described herein shall be non-exclusive except that Grantee shall have the exclusive right to install and maintain the underground conduit and fiber optic cable within the easement property. Grantor may use the surface of the easement property provided such use does not interfere with Grantee's rights contained in this easement, Grantor shall not permit any other use or utilities located in the easement property without written consent of the Grantee.

4. Duration. The duration of the easement granted herein (the "Term") shall be for so long as the Site Lease Agreement, executed in 2019 for SE7164E WABEL021 T-Mobile West, between Grantor and Grantee is in effect, unless Grantee provides written notice to Grantor of its intent to terminate this Agreement. This easement shall automatically terminate with the termination of the above-named site lease agreement.

5. Successors Bound. This easement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, successors and assigns. It is the intention of the parties hereto that all of the various rights, obligations, restrictions and easements created in this Agreement, shall run with the affected lands and shall inure to the benefit of and be binding upon all future owners and lessees of the affected lands and all persons claiming under them.

6. Assignment. Grantee may not assign this Agreement, in whole or in part, to any person or entity at any time without the prior written consent of Grantor, which shall not be unreasonably withheld. Notwithstanding anything to the contrary herein, Grantee may assign this Agreement without Grantor's written agreement to any person controlling, controlled by, or under common control with Grantee, or any person or entity that, after first receiving FCC or state regulatory agency approvals, acquires Grantee's radio communications business and assumes all obligations of Grantee's under the Site Lease Agreement.

7. Easement Consideration. Grantor hereby acknowledges the receipt, within thirty (30) days of the full execution hereof, of all consideration due hereunder, Six Thousand and No/Dollars (\$6,000.00). Accordingly, no additional consideration shall be due during the Term of this Agreement.

8. Indemnification. Grantee agrees to indemnify Grantor from and against liability, including attorney's fees, incurred by Grantor as a result of any acts or omissions of Grantee or any of its respective employees, agents, contractors, invitees and or licensees in the exercise of the rights herein granted to Grantee, but nothing herein shall require Grantee to indemnify Grantor for that portion of any such liability attributable to the negligence of Grantor or the negligence of others.

9. Restoration. Promptly following the completion of any activities undertaken by Grantee, the Grantee shall restore the surface of the Grantor's Property to substantially the same grade and condition as it was in prior to commencement of such activities, unless otherwise agreed upon between the Grantor and Grantee in writing, all at the Grantee's sole cost and expense. Without limiting the generality of the foregoing, the Grantee shall properly compact any fill and shall promptly restore all utilities, landscaping, vegetation other than trees and invasive bushes, paving, curbs, sidewalks or other permitted improvements that are disturbed by the Grantee's activities. The Grantee shall also promptly remove from the Grantor's Parcel all debris created by the Grantee's activities.

10. Applicable Law. This instrument shall be governed by and construed in accordance with the laws of the State of Washington. Jurisdiction over and venue of any suit arising out of or related to this instrument shall be exclusively within the state of Washington, Skagit County or federal courts of King County, Washington.

11. Abandonment. The rights herein granted shall continue until such time as Grantee ceases to use the easement area for a period of one year. In such event, this easement shall terminate, and any improvements remaining in the easement area, shall revert to or otherwise become the property of Grantor, and upon written request of Grantor, the Grantee shall provide Grantor with a document in recordable form releasing to Grantor any and all of Grantee's rights to the easement area. The Grantee shall provide said release within thirty (30) days of receipt of the written request, unless a written extension is granted by the Grantor. Grantee shall bear the cost and expense of releasing the Grantee's interests to the easement area, provided that Grantor shall pay the costs of recording such release.

12. Relocation. Upon at least three (3) months prior written notice from Grantor to Grantee, Grantee shall relocate Grantee's systems to a location mutually acceptable to both Grantor and Grantee, provided however, that such relocation shall be at Grantee's sole cost and expense.

13. Entire Agreement. This instrument contains the entire agreement between the parties with respect to this matter and may not be modified except in a writing signed by both parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS, the Parties execute this Amendment as of the Effective Date.

**GRANTOR:**

**City of Mount Vernon**

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Attest:**

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

Title: Doug Volesky, Finance Director

**Approved as to Form:**

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

Title: Kevin Rogerson, City Attorney

**GRANTEE:**

**T-Mobile West LLC,  
a Delaware limited liability company**

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

Print Name: Mike D. Taylor

Title: V.P. CIP & CM

Date: June 15, 2020

Kelly Dunham 5/20/20  
T-Mobile Contract Attorney, as to form



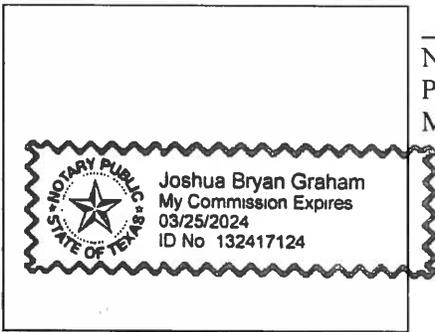


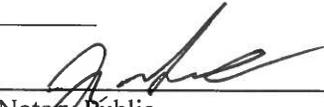
**Notary Block for Grantee:**

STATE OF Texas )  
 ) ss.  
COUNTY OF Collin )

I certify that I know or have satisfactory evidence that Mike D. Taylor is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the U.P. CIP & CM of T-Mobile West LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: June 15, 2020



  
\_\_\_\_\_  
Notary Public  
Print Name Joshua B. Graham  
My commission expires 03/25/2024

(Use this space for notary stamp/seal)

**EXHIBIT "A"**

Description of the Property in which a portion shall be leased as set forth in the Lease Agreement

Figure A.1 depicts the rough location (Exact Location listed as unknown) of the Little Mountain Telecommunications Tower compound designated P29659. The current legal description is (1.12 acres) TR IN NE ¼ NW ¼. This is located at the summit and within the boundaries of Little Mountain Park (P29653) and just east of the terminus of Little Mountain Road as shown in Figure A-1.

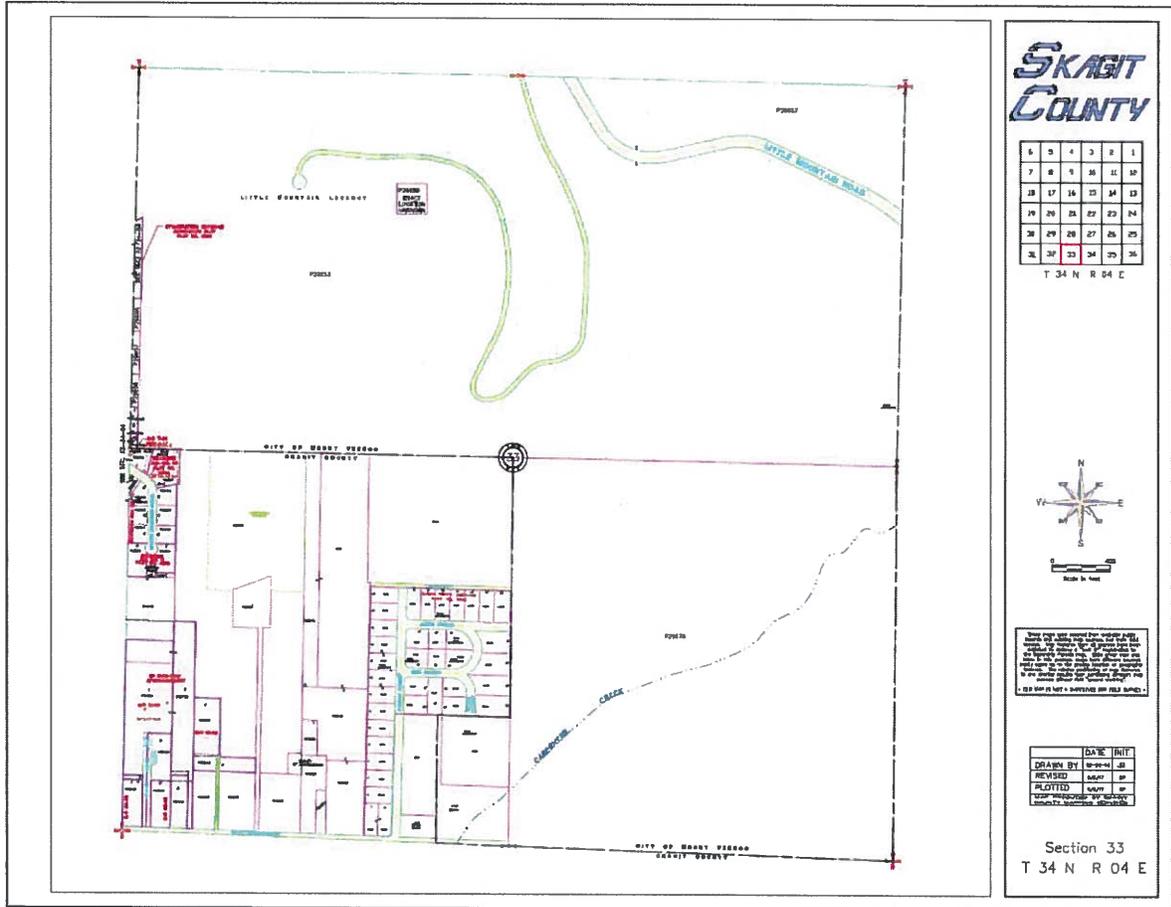
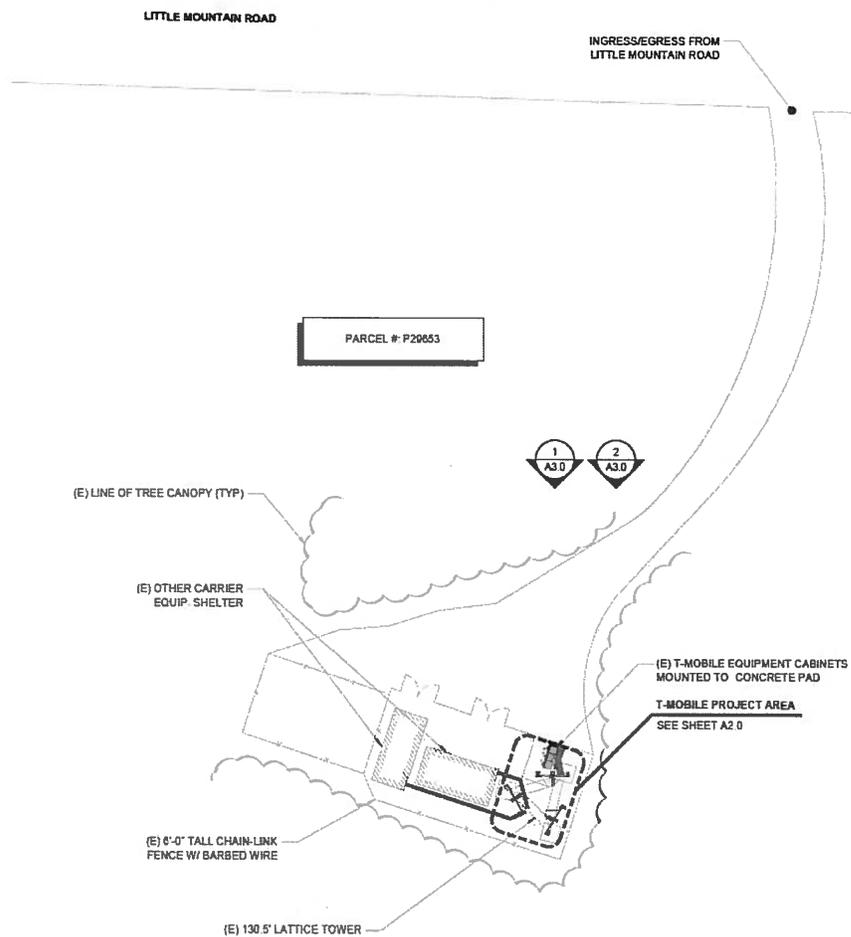


Figure A-1: Map of P29659 (Cell Site) and P29653 (Little Mountain Park)

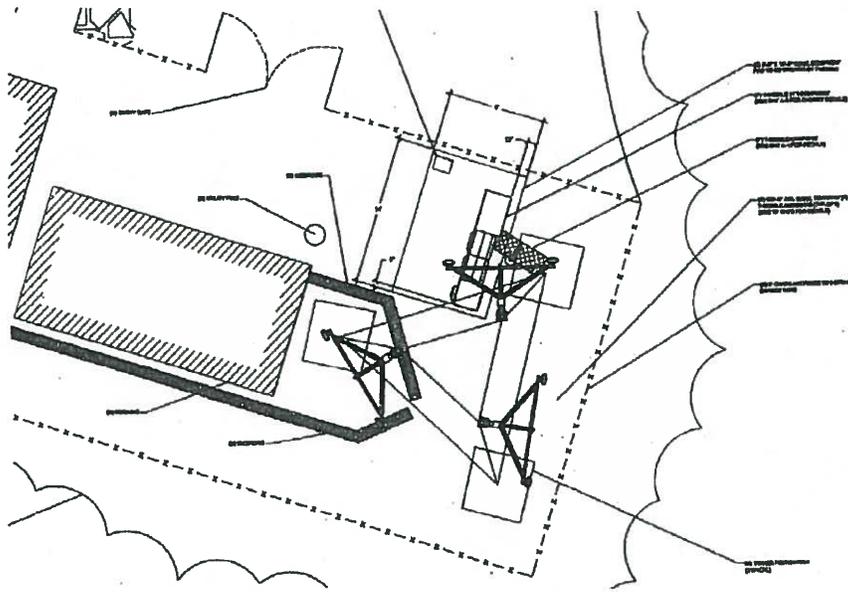
**EXHIBIT "B"**  
**Description of the Site**

The Site is configured as shown in the drawing below. Lessee's Site consists of the Ground Premises as depicted on Figures B-1, B-2, and B-3. The Tower Premises and permitted equipment are listed in Table B-1. Lessee's non-exclusive easement for access is over the access road shown in the images below (not to scale). Lessee's non-exclusive utility easement is an aerial easement only, connecting from Little Mountain Road to the Ground Premises using the existing utility poles, as also shown in the drawing below (not to scale):



**Figure B-1: Ground Premises**

The non-exclusive Ground Premises rights consist of a nine foot by fourteen-foot (9'x14') portion of space within the existing fenced area upon the Property at the base of the Tower, as shown in the drawing above.



**Figure B-2: Ground Premises Expanded View**

Below 2 is an aerial view of P29659 (Cell Site) showing key identification features of this property, access road, and cell site.

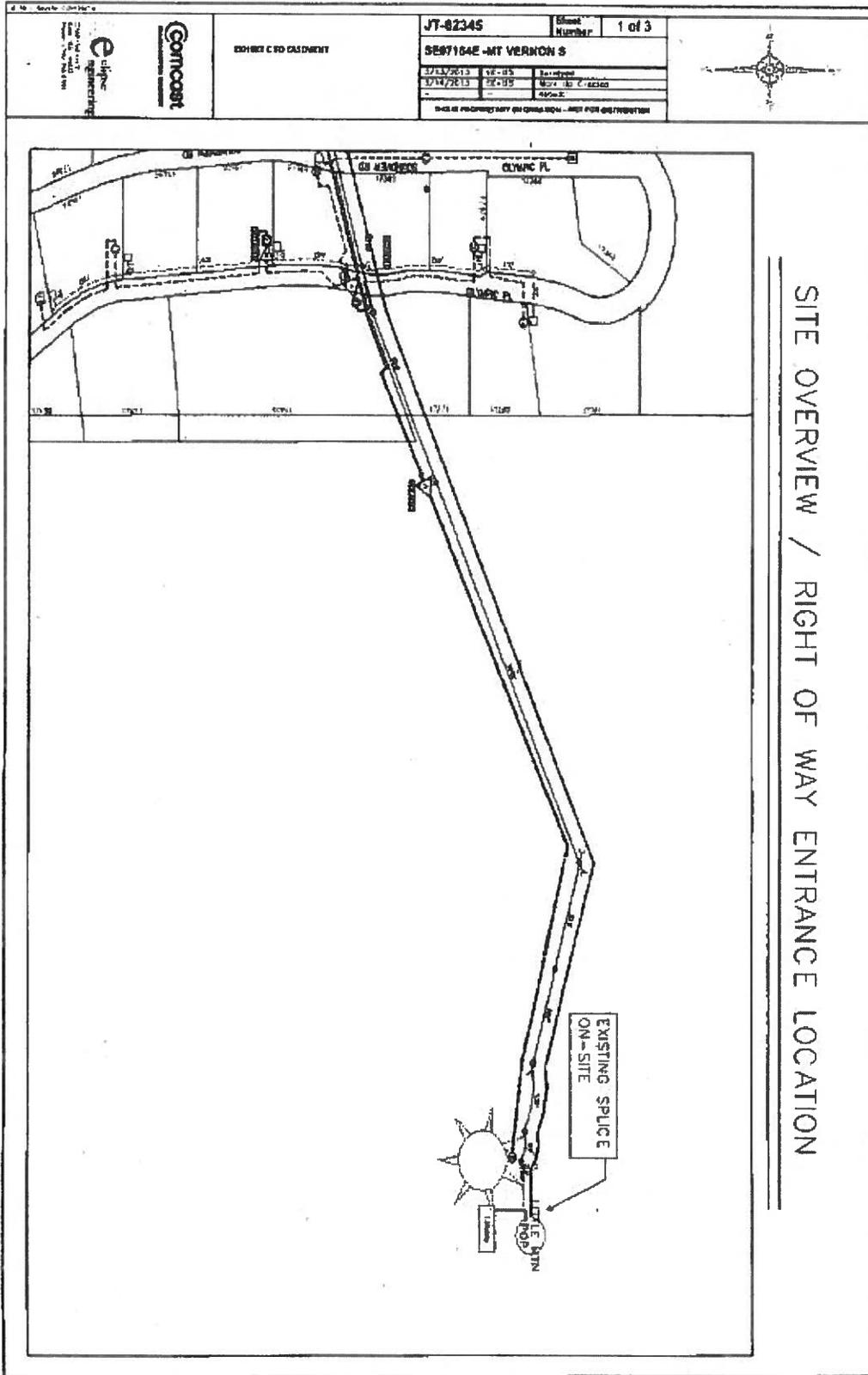


**Figure B-3: Aerial Map of P29659 (Cell Site) and Little Mountain Road**

**EXHIBIT "C"**

**Easement**

**See attachment**



TMO Site ID: SE07164E  
TMO Lease ID: 141837

