



# CITY OF MERCER ISLAND

## CITY COUNCIL MEETING AGENDA

**Tuesday**  
**October 17, 2017**  
**6:00 PM**

**Mayor Bruce Bassett**  
**Deputy Mayor Debbie Bertlin**  
**Councilmembers Dan Grausz,**  
**Salim Nice, Wendy Weiker,**  
**David Wisenteiner, and Benson Wong**

Contact: 206.275.7793, [council@mercergov.org](mailto:council@mercergov.org)  
[www.mercergov.org/council](http://www.mercergov.org/council)

All meetings are held in the City Hall Council Chambers at  
9611 SE 36th Street, Mercer Island, WA unless otherwise noticed

"Appearances" is the time set aside for members of the public to speak to the City Council about any issues of concern. If you wish to speak, please consider the following points:  
(1) speak audibly into the podium microphone, (2) state your name and address for the record, and (3) limit your comments to three minutes.

*Please note: the Council does not usually respond to comments during the meeting.*

In compliance with the Americans with Disabilities Act, those requiring accommodation for the meeting should notify the City Clerk's Office at least 24 hours prior to the meeting at 206.275.7793.

## REGULAR MEETING

### CALL TO ORDER & ROLL CALL, 6:00 PM

### AGENDA APPROVAL

### EXECUTIVE SESSION

Executive Session to discuss (with legal Counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for one hour.

### SPECIAL BUSINESS, 7:00 PM

Mercer Island Fire Department Citizen Recognition

### CITY MANAGER REPORT

### APPEARANCES

### CONSENT CALENDAR

- (1) Payables: \$819,665.83 (10/05/2017) & \$1,235,523.49 (10/12/2017)
  - AB 5350 Freeman Avenue Roadway Repair Contract Award
  - AB 5351 Madrona Crest West Project Close-Out

### REGULAR BUSINESS

- (2) AB 5348 Code Amendment to Prohibit Animals on Synthetic Turf Fields (1st Reading)
- (3) AB 5349 Essential Public Facilities Code Amendment (2nd Reading and Adoption)
- (4) AB 5352 2017 Comprehensive Plan Amendments & Accompanying Zoning Code Amendments (1st Reading)
- (5) AB 5346 Approval of City of Mercer Island and Sound Transit Settlement Agreement

### OTHER BUSINESS

Councilmember Absences  
Planning Schedule  
Board Appointments  
Councilmember Reports

### ADJOURNMENT

## CERTIFICATION OF CLAIMS

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered, or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Mercer Island, and that I am authorized to authenticate and certify to said claim.

Charles L. Corder  
Finance Director

I, the undersigned, do hereby certify that the City Council has reviewed the documentation supporting claims paid and approved all checks or warrants issued in payment of claims.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

<u>Report</u>	<u>Warrants</u>	<u>Date</u>	<u>Amount</u>
Check Register	189257-189337	10/5/2017	\$ 819,665.83
			<b>\$ 819,665.83</b>

**Accounts Payable Report by Check Number**

Check No	Check Date	Vendor Name/Description	PO #	Invoice #	Invoice Date	Check Amount
00189257	10/05/2017	A.I.R. EMISSIONS INV 170900 FLEET VEHICLE EMISS	P0096660	170900	09/06/2017	1,092.00
00189258	10/05/2017	AA ASPHALTING INC 50% Retainage	P0095481	0089378IN	08/31/2017	17,204.00
00189259	10/05/2017	AM TEST INC INV 100911 WATER QUALITY	P0096667	100911	09/21/2017	260.00
00189260	10/05/2017	AMERICAN SEWING GUILD-SEATTLE rental contract #23879 complet	P0096641	23879	10/02/2017	50.00
00189261	10/05/2017	AMERIGAS-1400 INV 3068915083 2017 PROPANE DE	P93485	3068915083	09/09/2017	461.48
00189262	10/05/2017	AUTONATION INC INV 116711/467180/467539	P0096659	116711/467180C/4	09/20/2017	1,349.15
00189263	10/05/2017	BAKER, DENNIS L COMMERCIAL LICENSE FEE		OH008846	09/20/2017	102.00
00189264	10/05/2017	BEST PARKING LOT CLEANING INC INV	P0096671	V161338/276/246	09/16/2017	24,946.80
00189265	10/05/2017	BIANCHI, GEORGE Pro tem judge	P0096605	OH008834	09/18/2017	110.00
00189266	10/05/2017	BIHUN, JANET MILEAGE EXPENSE		OH008842	09/15/2017	45.64
00189267	10/05/2017	BLUELINE GROUP SUB BASIN 27A.9 SEWER & DRAIN	P91940	13868	09/05/2017	5,272.00
00189268	10/05/2017	CDW GOVERNMENT INC RSA 10 Software Tokens Renewal	P0096315	KCV9281	09/12/2017	506.00
00189269	10/05/2017	CENTURYLINK PHONE USE SEPT 2017		OH008849	09/20/2017	3,360.33
00189270	10/05/2017	CINTAS CORPORATION #460 2017 Rug cleaning services for	P93815	460204807/09714/	09/04/2017	123.00
00189271	10/05/2017	COMCAST 2017 ANNUAL PW WI-FI SERVICE	P93757	OH008835	05/07/2017	191.80
00189272	10/05/2017	CRYSTAL AND SIERRA SPRINGS INV 1455831090917 2017 ANNUAL	P94425	14555831090917	09/09/2017	230.23
00189273	10/05/2017	CURRID, GERALD D OVERPAYMENT REFUND		OH008847	09/29/2017	249.42
00189274	10/05/2017	DATAQUEST LLC Background checks for seasonal	P0096639	2739	06/30/2017	508.00
00189275	10/05/2017	DAVISON, MARK City is refunding vendor permi	P0096623	OH008821	09/28/2017	200.00
00189276	10/05/2017	DROLL LANDSCAPE ARCH, ROBERT W Island Crest Park South Field	P93596	1504409	09/25/2017	3,450.00
00189277	10/05/2017	EARTHCORPS INC 2017 - 2018 EarthCorps Volunt	P93946	6642	08/31/2017	1,180.00
00189278	10/05/2017	EMMANUEL DAY SCHOOL Preschool scholarships for EA	P93576	OH008822	09/29/2017	254.80
00189279	10/05/2017	ESRI ESRI Conference Pass	P93547	93348183/84	09/20/2017	2,590.00
00189280	10/05/2017	FOREST CLOUDS Groveland Beach Vegetation Wor	P0095484	OH008824	08/28/2017	6,909.93
00189281	10/05/2017	FOSSIL INDUSTRIES INC Replacement pedestal for Fossi	P0096244	F78209	09/01/2017	234.00
00189282	10/05/2017	FRANKLIN, DEREK TRAINING EXPENSE		OH008845	09/29/2017	155.00

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Check No	Check Date	Vendor Name/Description	PO #	Invoice #	Invoice Date	Check Amount
00189283	10/05/2017	GARDNER, BRENT PARKING FEE		OH008841	04/07/2017	32.00
00189284	10/05/2017	GOODYEAR TIRE & RUBBER CO, THE INV 195-1140497 TIRE INVENTORY	P0096658	1951140497	09/21/2017	526.90
00189285	10/05/2017	GRAINGER LED HEADLAMP	P0096573	9562937152	09/21/2017	13.05
00189286	10/05/2017	GRAND & BENEDICTS INC Operating supplies for Thrift	P93570	0914153IN	09/21/2017	42.03
00189287	10/05/2017	GREEN EARTHWORKS CONST INC SUB BASIN 27A.9 SEWER AND DRAI	P0095175	#3	09/26/2017	5,418.60
00189288	10/05/2017	HARB, SAM MILEAGE EXPENSE		OH008838	10/02/2017	26.11
00189289	10/05/2017	HARNISH, CHRISTOPHER JAMES LICENSE RENEWAL FEE		OH008844	09/06/2017	255.00
00189290	10/05/2017	HOME DEPOT CREDIT SERVICE INVENTORY PURCHASES	P0096631	0292731020518	09/28/2017	70.71
00189291	10/05/2017	KC FINANCE INV 84421 2ND TRIMESTER 2017 W	P0096656	84421B	09/13/2017	4,025.00
00189292	10/05/2017	KING COUNTY FINANCE Summer 2017 swim beach monitor	P0096637	86927	09/20/2017	2,915.00
00189293	10/05/2017	KPG CONSTRUCTION SERVICES	P93025	84017	09/19/2017	744.85
00189294	10/05/2017	KRAZAN & ASSOCIATES INC INV 609235-5832	P0096678	I6092355832	08/31/2017	4,635.00
00189295	10/05/2017	LAKERIDGE PAVING COMPANY SCHEDULE B,C,D, RESIDENTIAL		OH008848	09/20/2017	622,842.51
00189296	10/05/2017	LEVINSON, GREGORY S PER DIEM REIMB		OH008839	10/02/2017	145.25
00189297	10/05/2017	M & M BALLOON CO Helium tank rental & helium fo	P93826	32326	10/01/2017	23.65
00189298	10/05/2017	MAGNAS LLC MONTHLY LONG DISTANCE JAN-DEC	P93438	OH008825	09/30/2017	208.04
00189299	10/05/2017	MEINZINGER, VIOLET class cancelled due to fires,	P0096624	OH008827	09/28/2017	21.60
00189300	10/05/2017	MERCER ISLAND REPORTER MI-167112 SUBSCRIPTION RENEWAL	P0096669	OH008836	09/06/2017	39.00
00189301	10/05/2017	METROPRESORT 3RD Quarter Printing and Maili	P0096652	496185	09/27/2017	203.97
00189302	10/05/2017	MI CHAMBER OF COMMERCE MONTHLY BILLING FOR SERVICES	P93435	OH008826	09/24/2017	1,200.00
00189303	10/05/2017	MI SCHOOL DISTRICT #400 INV 2017-801 2017 SCHOOL DIST	P93880	OH008828	10/01/2017	12,542.75
00189304	10/05/2017	MID-AMERICA SPORTS ADVANTAGE SOCCER GOAL 7 X 21 X 0 X 7.25	P0096599	37393000	09/20/2017	2,570.52
00189305	10/05/2017	MORGAN SOUND INC Service Call 9/19/17. Reconnec	P0096646	CM016435	09/20/2017	303.88
00189306	10/05/2017	MULTICARE IMMEDIATE CLINIC Physical Exam - DOT	P0096635	5977	08/21/2017	90.00
00189307	10/05/2017	NOEL, BRIAN W PER DIEM REIMBURSEMENT		OH008840	10/21/2007	145.25
00189308	10/05/2017	OVERLAKE OIL INV 185102 /185273 / 185279 2	P93482	0185102/273/279	09/07/2017	6,347.12

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00189309	10/05/2017	PACIFIC NW NAGINATA FEDERATION rental contract #24061 complet	P0096642	24061	10/02/2017	50.00
00189310	10/05/2017	PACIFIC RUBBER INV 3067018 FL-0478 REPAIR PAR	P0096661	3067018	09/07/2017	531.22
00189311	10/05/2017	PHILEN, SUZANNE VOLUNTEER BREAKFAST SUPPLIES		OH008843	09/28/2017	143.29
00189312	10/05/2017	PUGET SOUND ENERGY Utility Assistance for Emerenc	P93578	OH008831	09/29/2017	319.20
00189313	10/05/2017	PUGET SOUND ENERGY Utility Assistance for Emerenc	P93578	OH008829	09/29/2017	89.25
00189314	10/05/2017	PUGET SOUND ENERGY Utility Assistance for Emerenc	P93578	OH008830	09/29/2017	80.80
00189315	10/05/2017	PUGET SOUND ENERGY Utility Assistance for Emerenc	P93578	OH008832	09/29/2017	2.98
00189316	10/05/2017	PUGET SOUND ENERGY ENERGY USE SEPT 2017		OH008850	09/22/2017	24,056.01
00189317	10/05/2017	QUENCH USA INC Quarterly billing for Quench f	P93564	INV00897632	09/18/2017	237.60
00189318	10/05/2017	REDMOND, CITY OF 2nd Qtr 2017 Apparatus Mainten	P0096601	00002076	09/15/2017	14,133.13
00189319	10/05/2017	REPUBLIC SERVICES #172 8410 EMW HAUL AWAY	P0096680	0172007214017	08/31/2017	5,164.80
00189320	10/05/2017	ROSENSTEIN, SUSIE personal training - Luba	P0096645	127	09/28/2017	495.00
00189321	10/05/2017	SEATTLE BOAT COMPANY MARINE FUEL AUGUST	P0096543	OH008837	09/01/2017	11,179.51
00189322	10/05/2017	SEATTLE PUBLIC UTILITIES W0085912 WATER QUALITY SERVICE	P0096666	W0085912	09/05/2017	84.00
00189323	10/05/2017	SITEONE LANDSCAPE SUPPLY LLC RAINMASTER REPAIR	P0096596	82545883	09/14/2017	268.16
00189324	10/05/2017	SOUND SAFETY PRODUCTS RAINGEAR	P0096597	688123	09/21/2017	83.33
00189325	10/05/2017	SUNDSTROM, ROBERT Instructor fees - Birding trip	P0096638	OH008833	08/29/2017	615.18
00189326	10/05/2017	SYSTEMS DESIGN WEST LLC Transport Billing Fees/August	P0096600	MIFD0917	09/18/2017	1,220.43
00189327	10/05/2017	T2 SYSTEMS CANADA INC Monthly charges for boat launc	P93828	INVSTD0000024301	09/17/2017	77.00
00189328	10/05/2017	TOKAY SOFTWARE INV 107140 WEB TEST REPORT ENT	P0096668	107140	09/19/2017	400.00
00189329	10/05/2017	TOOLE DESIGN GROUP LLC Bollard Evaluation and	P90825	7071AUG09	09/20/2017	2,134.53
00189330	10/05/2017	TRAFFIC SAFETY SUPPLY PARK RULES SIGNS	P0096567	132689	09/18/2017	109.10
00189331	10/05/2017	TRANSPO GROUP USA INC INV 20837 EASTLINK MITIGATION	P0096424	20837	09/13/2017	9,747.46
00189332	10/05/2017	ULTRABLOCK INC BLOCKS FOR SLIDE REPAIR AT 841	P0096598	0042900IN	09/19/2017	2,904.00
00189333	10/05/2017	UNITED SITE SERVICES Volunteer Event Portable Restr	P93945	1145811996/12101	09/20/2017	221.52
00189334	10/05/2017	University of Mass, Amherst Soil Analysis for Pioneer Park	P0096310	32672/32710	09/05/2017	206.00

**Accounts Payable Report by Check Number**

Check No	Check Date	Vendor Name/Description	PO #	Invoice #	Invoice Date	Check Amount
00189335	10/05/2017	UTILITIES UNDERGROUND LOCATION INV 7090163 2017 UTILITY EXCAV	P0094977	7090163	09/30/2017	398.61
00189336	10/05/2017	VECA ELECTRIC & TECHNOLOGIES RESERVOIR FIBER OUTAGE	P0096640	80056	09/26/2017	8,074.40
00189337	10/05/2017	VERIZON WIRELESS J. Underwood VZ Billing Aug an	P94553	97931490521	09/21/2017	215.95
					Total	<u>819,665.83</u>

**Accounts Payable Report by GL Key**

PO #	Check #	Vendor:	Transaction Description	Check Amount
<b>Org Key: 001000 - General Fund-Admin Key</b>				
P0096623	00189275	DAVISON, MARK	City is refunding vendor permi	200.00
P0096641	00189260	AMERICAN SEWING GUILD-SEATTLE	rental contract #23879 complet	50.00
P0096642	00189309	PACIFIC NW NAGINATA FEDERATION	rental contract #24061 complet	50.00
P0096624	00189299	MEINZINGER, VIOLET	class cancelled due to fires,	21.60
<b>Org Key: 402000 - Water Fund-Admin Key</b>				
	00189295	LAKERIDGE PAVING COMPANY	HYDRANT METER REFUND	2,900.00
	00189273	CURRID, GERALD D	OVERPAYMENT REFUND	249.42
P0096631	00189290	HOME DEPOT CREDIT SERVICE	INVENTORY PURCHASES	70.71
<b>Org Key: CM1100 - Administration (CM)</b>				
P0096682	00189337	VERIZON WIRELESS	J. Underwood VZ Billing Aug an	57.89
<b>Org Key: CR1100 - CORe Admin and Human Resources</b>				
P0096682	00189337	VERIZON WIRELESS	K. Segle VZ Billing Aug and Se	40.01
P0096682	00189337	VERIZON WIRELESS	L. Tawney VZ Billing Aug and S	40.01
<b>Org Key: CT1100 - Municipal Court</b>				
P0096605	00189265	BIANCHI, GEORGE	Pro tem judge	110.00
<b>Org Key: DS1200 - Bldg Plan Review &amp; Inspection</b>				
	00189283	GARDNER, BRENT	PARKING FEE	32.00
<b>Org Key: FNBE01 - Financial Services</b>				
P93435	00189302	MI CHAMBER OF COMMERCE	MONTHLY BILLING FOR SERVICES	1,200.00
P0096652	00189301	METROPRESORT	3RD Quarter Printing and Maili	203.97
<b>Org Key: FR1100 - Administration (FR)</b>				
P0096600	00189326	SYSTEMS DESIGN WEST LLC	Transport Billing Fees/August	1,220.43
	00189269	CENTURYLINK	PHONE USE SEPT 2017	302.72
<b>Org Key: FR2100 - Fire Operations</b>				
P0096601	00189318	REDMOND, CITY OF	2nd Qtr 2017 Apparatus Mainten	14,133.13
<b>Org Key: IGBE01 - MI Pool Operation Subsidy</b>				
P93880	00189303	MI SCHOOL DISTRICT #400	2017 Operational support for M	10,913.50
<b>Org Key: IS1100 - IGS Mapping</b>				
P93547	00189279	ESRI	ESRI Conference Pass	1,726.67
<b>Org Key: IS2100 - IGS Network Administration</b>				
	00189269	CENTURYLINK	PHONE USE SEPT 2017	2,093.12
P93547	00189279	ESRI	ESRI Conference Pass	863.33
P0096315	00189268	CDW GOVERNMENT INC	RSA 10 Software Tokens Renewal	506.00
P93438	00189298	MAGNAS LLC	MONTHLY LONG DISTANCE JAN-DEC	208.04
<b>Org Key: MT2100 - Roadway Maintenance</b>				
	00189316	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	296.41
<b>Org Key: MT2300 - Planter Bed Maintenance</b>				
	00189316	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	12.31
<b>Org Key: MT3150 - Water Quality Event</b>				
P0096668	00189328	TOKAY SOFTWARE	INV 107140 WEB TEST REPORT ENT	400.00

**Accounts Payable Report by GL Key**

PO #	Check #	Vendor:	Transaction Description	Check Amount
P0096667	00189259	AM TEST INC	INV 100911 WATER QUALITY	260.00
<i>Org Key: MT3200 - Water Pumps</i>				
	00189316	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	3,550.54
<i>Org Key: MT3400 - Sewer Collection</i>				
P94698	00189264	BEST PARKING LOT CLEANING INC	INV	9,015.06
<i>Org Key: MT3500 - Sewer Pumps</i>				
	00189316	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	2,900.41
	00189269	CENTURYLINK	PHONE USE SEPT 2017	505.01
P94553	00189337	VERIZON WIRELESS	INV 9791435688 PS 18 & 24 WIRE	78.04
<i>Org Key: MT3600 - Sewer Associated Costs</i>				
	00189263	BAKER, DENNIS L	COMMERCIAL LICENSE FEE	102.00
<i>Org Key: MT3800 - Storm Drainage</i>				
P0096671	00189264	BEST PARKING LOT CLEANING INC	INV 161246 2017-18 STORM ON-C	12,776.79
P0096671	00189264	BEST PARKING LOT CLEANING INC	INV 161276 2017-18 STORM ON-CA	2,024.45
P0096671	00189264	BEST PARKING LOT CLEANING INC	INV 161338 2017-18 STORM ON-CA	1,130.50
<i>Org Key: MT3805 - Slide Repair 8410 WMW</i>				
P0096680	00189319	REPUBLIC SERVICES #172	8410 EMW HAUL AWAY	5,164.80
P0096598	00189332	ULTRABLOCK INC	BLOCKS FOR SLIDE REPAIR AT 841	2,904.00
<i>Org Key: MT4150 - Support Services - Clearing</i>				
P0094977	00189335	UTILITIES UNDERGROUND LOCATION	INV 7090163 2017 UTILITY EXCAV	398.61
P93757	00189271	COMCAST	2017 ANNUAL PW WI-FI SERVICE	191.80
P94425	00189272	CRYSTAL AND SIERRA SPRINGS	INV 1455831090917 2017 ANNUAL	102.10
P0096669	00189300	MERCER ISLAND REPORTER	MI-167112 SUBSCRIPTION RENEWAL	39.00
<i>Org Key: MT4200 - Building Services</i>				
	00189316	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	4,280.15
	00189316	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	3,958.31
<i>Org Key: MT4300 - Fleet Services</i>				
P0096543	00189321	SEATTLE BOAT COMPANY	MARINE FUEL AUGUST	11,179.51
P93482	00189308	OVERLAKE OIL	INV 185102 /185273 / 185279 2	6,347.12
P93750	00189303	MI SCHOOL DISTRICT #400	INV 2017-801 2017 SCHOOL DIST	1,629.25
P0096659	00189262	AUTONATION INC	INV 116711/467180/467539	1,349.15
P0096660	00189257	A.I.R. EMISSIONS	INV 170900 FLEET VEHICLE EMISS	1,092.00
P0096661	00189310	PACIFIC RUBBER	INV 3067018 FL-0478 REPAIR PAR	531.22
P0096658	00189284	GOODYEAR TIRE & RUBBER CO, THE	INV 195-1140497 TIRE INVENTORY	526.90
P93485	00189261	AMERIGAS-1400	INV 3068915083 2017 PROPANE DE	461.48
P0096638	00189325	SUNDSTROM, ROBERT	Instructor fees - Birding trip	68.38
<i>Org Key: MT4403 - Customer Response - Water</i>				
	00189288	HARB, SAM	MILEAGE EXPENSE	26.11
<i>Org Key: MT4501 - Water Administration</i>				
P0096666	00189322	SEATTLE PUBLIC UTILITIES	W0085912 WATER QUALITY SERVICE	84.00
	00189269	CENTURYLINK	PHONE USE SEPT 2017	53.77
<i>Org Key: MT4503 - Storm Water Administration</i>				
P0096656	00189291	KC FINANCE	INV 84421 2ND TRIMESTER 2017 W	4,025.00



**Accounts Payable Report by GL Key**

PO #	Check #	Vendor:	Transaction Description	Check Amount
<i>Org Key: MTBE01 - Maint of Medians &amp; Planters</i>				
	00189316	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	887.61
<i>Org Key: PO2200 - Marine Patrol</i>				
	00189296	LEVINSON, GREGORY S	PER DIEM REIMB	145.25
	00189307	NOEL, BRIAN W	PER DIEM REIMBURSEMENT	145.25
<i>Org Key: PR1100 - Administration (PR)</i>				
P93828	00189327	T2 SYSTEMS CANADA INC	Monthly charges for boat launc	77.00
P93564	00189317	QUENCH USA INC	Quarterly billing for Quench f	59.40
<i>Org Key: PR2100 - Recreation Programs</i>				
P0096638	00189325	SUNDSTROM, ROBERT	Instructor fees - Birding trip	546.80
P0096639	00189274	DATAQUEST LLC	Background checks for seasonal	275.50
<i>Org Key: PR2103 - Aquatics Programs</i>				
P0096637	00189292	KING COUNTY FINANCE	Summer 2017 swim beach monitor	2,915.00
<i>Org Key: PR2108 - Health and Fitness</i>				
P0096643	00189320	ROSENSTEIN, SUSIE	personal training - Luba	300.00
P0096644	00189320	ROSENSTEIN, SUSIE	Personal Training-Bryce Bogar	150.00
P0096645	00189320	ROSENSTEIN, SUSIE	Orientation Fitness Center-Jud	45.00
<i>Org Key: PR3500 - Senior Services</i>				
P93826	00189297	M & M BALLOON CO	Helium tank rental & helium fo	23.65
<i>Org Key: PR4100 - Community Center</i>				
	00189316	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	5,340.79
P0096646	00189305	MORGAN SOUND INC	Service Call 9/19/17. Reconnec	303.88
P0096639	00189274	DATAQUEST LLC	Background checks for MICEC st	148.00
	00189269	CENTURYLINK	PHONE USE SEPT 2017	51.58
<i>Org Key: PR6100 - Park Maintenance</i>				
	00189316	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	989.64
P94425	00189272	CRYSTAL AND SIERRA SPRINGS	INV 1455831090917 2017 ANNUAL	128.13
P0096635	00189306	MULTICARE IMMEDIATE CLINIC	Physical Exam - DOT	90.00
P0096567	00189330	TRAFFIC SAFETY SUPPLY	PARK RULES SIGNS	109.10
P0096639	00189274	DATAQUEST LLC	Background checks for seasonal	63.00
<i>Org Key: PR6200 - Athletic Field Maintenance</i>				
	00189269	CENTURYLINK	PHONE USE SEPT 2017	90.95
P0096597	00189324	SOUND SAFETY PRODUCTS	RAINGEAR	58.33
P0096597	00189324	SOUND SAFETY PRODUCTS	RAINGEAR	25.00
P0096639	00189274	DATAQUEST LLC	Background checks for seasonal	21.50
<i>Org Key: PR6500 - Luther Burbank Park Maint.</i>				
	00189316	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	758.59
	00189269	CENTURYLINK	PHONE USE SEPT 2017	263.18
P93815	00189270	CINTAS CORPORATION #460	2017 Rug cleaning services for	123.00
<i>Org Key: PR6600 - Park Maint-School Related</i>				
P0096599	00189304	MID-AMERICA SPORTS ADVANTAGE	SOCCER GOAL 7 X 21 X 0 X 7.25	2,570.52
	00189316	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	375.01

**Accounts Payable Report by GL Key**

PO #	Check #	Vendor:	Transaction Description	Check Amount
<i>Org Key: PR6700 - I90 Park Maintenance</i>				
P0096596	00189323	SITEONE LANDSCAPE SUPPLY LLC	RAINMASTER REPAIR	268.16
	00189316	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	124.62
<i>Org Key: ST0001 - ST Traffic Safety Enhancements</i>				
P0096424	00189331	TRANSPO GROUP USA INC	INV 20837 EASTLINK MITIGATION	9,747.46
<i>Org Key: WD301S - Neighborhood Spot Drainage Imp</i>				
P0096573	00189285	GRAINGER	LED HEADLAMP	13.05
<i>Org Key: WD531C - Sub Basin 27a</i>				
P0095175	00189287	GREEN EARTHWORKS CONST INC	SUB BASIN 27A.9 SEWER AND DRAI	1,777.30
<i>Org Key: WP115S - ICP South Synthetic Field</i>				
P93596	00189276	DROLL LANDSCAPE ARCH, ROBERT W	Island Crest Park South Field	3,450.00
<i>Org Key: WP122P - Open Space - Pioneer/Engstrom</i>				
P0096310	00189334	University of Mass, Amherst	Soil Analysis for Pioneer Park	206.00
<i>Org Key: WP122R - Vegetation Management</i>				
P0095485	00189280	FOREST CLOUDS	Groveland Beach Vegetation Wor	5,109.93
P0095484	00189280	FOREST CLOUDS	Luther Burbank Park Vegetation	1,800.00
P93946	00189277	EARTHCORPS INC	2017 - 2018 EarthCorps Volunt	1,180.00
P93945	00189333	UNITED SITE SERVICES	Volunteer Event Portable Restr	221.52
<i>Org Key: WP720R - Recurring Park Projects</i>				
P0095481	00189258	AA ASPHALTING INC	2017 Pioneer Park Pavement Pat	9,462.20
P0095481	00189258	AA ASPHALTING INC	50% Retainage	7,741.80
<i>Org Key: WR101R - Residential Street Improvement</i>				
P0095905	00189295	LAKERIDGE PAVING COMPANY	SCHEDULE B,C,D, RESIDENTIAL	454,865.51
P0096678	00189294	KRAZAN & ASSOCIATES INC	INV 609235-5832	3,625.00
<i>Org Key: WR544C - ICW Crosswalk at SE 32nd</i>				
P93025	00189293	KPG	CONSTRUCTION SERVICES	744.85
<i>Org Key: WR717R - Preservation WMW (I-90 to Rnk)</i>				
P0095905	00189295	LAKERIDGE PAVING COMPANY	SCHEDULE A WMW OVERLAYS	165,077.00
P0096678	00189294	KRAZAN & ASSOCIATES INC	INV609235-5832	1,010.00
<i>Org Key: WS512R - Sewer Repair at Sub-Basin 27</i>				
P0095175	00189287	GREEN EARTHWORKS CONST INC	SUB BASIN 27A.9 SEWER AND DRAI	3,641.30
P85542	00189267	BLUELINE GROUP	SUB BASIN 27A.9 SEWER & DRAINAGE	417.00
<i>Org Key: WW523R - EMW 5400-6000 Block Watermain</i>				
P91940	00189267	BLUELINE GROUP	EMW 5400 - 6000 BLK WATER SYST	4,855.00
<i>Org Key: XG150T - Small Tech/Equipment</i>				
P0096640	00189336	VECA ELECTRIC & TECHNOLOGIES	RESERVOIR FIBER OUTAGE	8,074.40
<i>Org Key: XP520R - Recreational Trail Connections</i>				
P90825	00189329	TOOLE DESIGN GROUP LLC	Bollard Evaluation and	2,134.53
<i>Org Key: XP710R - Luther BB Minor Capital LEVY</i>				
P0096244	00189281	FOSSIL INDUSTRIES INC	Replacement pedestal for Fossi	234.00

**Accounts Payable Report by GL Key**

PO #	Check #	Vendor:	Transaction Description	Check Amount
<i>Org Key: YF1100 - YFS General Services</i>				
	00189289	HARNISH, CHRISTOPHER JAMES	LICENSE RENEWAL FEE	255.00
P93564	00189317	QUENCH USA INC	Quarterly billing for Quench s	59.40
	00189266	BIHUN, JANET	MILEAGE EXPENSE	45.64
<i>Org Key: YF1200 - Thrift Shop</i>				
	00189316	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	581.62
	00189311	PHILEN, SUZANNE	VOLUNTEER BREAKFAST SUPPLIES	143.29
P93564	00189317	QUENCH USA INC	Quarterly billing for Quench s	118.80
P93570	00189286	GRAND & BENEDICTS INC	Operating supplies for Thrift	42.03
<i>Org Key: YF2500 - Family Counseling</i>				
	00189282	FRANKLIN, DEREK	TRAINING EXPENSE	155.00
<i>Org Key: YF2600 - Family Assistance</i>				
P93578	00189312	PUGET SOUND ENERGY	Utility Assistance for Emerenc	319.20
P93576	00189278	EMMANUEL DAY SCHOOL	Preschool scholarships for EA	254.80
P93578	00189313	PUGET SOUND ENERGY	Utility Assistance for Emerenc	89.25
P93578	00189314	PUGET SOUND ENERGY	Utility Assistance for Emerenc	80.80
P93578	00189315	PUGET SOUND ENERGY	Utility Assistance for Emerenc	2.98
Total				<u>819,665.83</u>

## CERTIFICATION OF CLAIMS

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered, or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Mercer Island, and that I am authorized to authenticate and certify to said claim.



Finance Director

I, the undersigned, do hereby certify that the City Council has reviewed the documentation supporting claims paid and approved all checks or warrants issued in payment of claims.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

<u>Report</u>	<u>Warrants</u>	<u>Date</u>	<u>Amount</u>
Check Register	189338-189432	10/12/2017	\$ 1,235,523.49
			<b>\$ 1,235,523.49</b>

**Accounts Payable Report by Check Number**

Check No	Check Date	Vendor Name/Description	PO #	Invoice #	Invoice Date	Check Amount
00189338	10/12/2017	ALPINE PRODUCTS INC INVENTORY PURCHASES	P0096649	TM171045	09/25/2017	302.59
00189339	10/12/2017	BRAILEY CONSULTING Sept 2017 Public Engagement	P0096704	OH008870	10/02/2017	4,500.00
00189340	10/12/2017	CADMAN INC 5/8"-MINUS ROCK (163.4 TONS)	P0096742	5460806/5459272/	09/01/2017	6,860.38
00189341	10/12/2017	CAMDEN GARDENS Aljoya & Aubrey Davis Park Sha	P94071	64725	10/01/2017	424.88
00189342	10/12/2017	CENTURYLINK PHONE USE OCT 2017		OH008875	10/01/2017	1,249.22
00189343	10/12/2017	CERTIFIED LABORATORIES INVENTORY PURCHASES	P0096739	2879793	10/02/2017	222.21
00189344	10/12/2017	COLUMBIA FORD INV 3-H2583 UTILITY TEAM FL-03	P0095283	3H2583	09/25/2017	45,317.02
00189345	10/12/2017	COMPLETE OFFICE OFFICE SUPPLIES SEPT 2017		OH008887	09/30/2017	3,052.48
00189346	10/12/2017	CONFIDENTIAL DATA DISPOSAL Shredding Services for full Ci	P0096697	95387	09/28/2017	200.00
00189347	10/12/2017	CORE & MAIN LP HYDRANT NOZZLE & GASKET	P0096714	H803372	09/29/2017	90.09
00189348	10/12/2017	CRIMINAL JUSTICE TRAINING COMM Training fees for Officers Geh	P0096686	201128853	09/13/2017	100.00
00189349	10/12/2017	CROWN FILMS/CUSTOM BIOPLASTICS PSSH DOG WASTE BAGS (4000)	P0096684	81289	09/25/2017	222.35
00189350	10/12/2017	DATAQUEST LLC Background for EMAC vol - Invo	P0096693	3550	09/30/2017	129.00
00189351	10/12/2017	DKS ASSOCIATES REPLACE WARRANT 189201		OH008883	10/09/2017	444.91
00189352	10/12/2017	DMD & ASSOCIATES LTD Island Crest Park Lighting	P93542	4835A155DM	09/29/2017	895.00
00189353	10/12/2017	DROLL LANDSCAPE ARCH, ROBERT W ICP North Outfield Field Conve	P0096707	1701903	09/25/2017	3,518.23
00189354	10/12/2017	EQUIFAX Credit reports for background	P0096688	4470453	09/18/2017	114.96
00189355	10/12/2017	EXCEL SUPPLY COMPANY INVENTORY PURCHASES	P0096611	89819	09/26/2017	112.46
00189356	10/12/2017	FINANCIAL CONSULTANTS INT'L Replace Mic in MP Boat - Invoi	P0096690	156575	09/18/2017	196.02
00189357	10/12/2017	FIRE PROTECTION INC FIRE ALARM MONITORING FEE	P0096789	40574	09/19/2017	532.50
00189358	10/12/2017	GOODSELL POWER EQUIPMENT CHAINSAW (SN/182211193) & TRIM	P0096674	722090/722091	09/25/2017	1,428.24
00189359	10/12/2017	GRAINGER INVENTORY PURCHASES	P0096634	8570531765	09/29/2017	317.60
00189360	10/12/2017	GREER, J SCOTT Pro tem judge 10.9.17	P0096777	OH008852	10/09/2017	100.00
00189361	10/12/2017	H D FOWLER INVENTORY PURCHASES	P0096653	I4644325	09/26/2017	4,460.01
00189362	10/12/2017	HAWLEY, C J TRAINING EXPENSES		OH008879	10/10/2017	1,525.65
00189363	10/12/2017	HEALTHFORCE PARTNERS LLC Medical's for Hammer and Gehrck	P0096702	11291	07/31/2017	1,348.00

**Accounts Payable Report by Check Number**

Check No	Check Date	Vendor Name/Description	PO #	Invoice #	Invoice Date	Check Amount
00189364	10/12/2017	HOME DEPOT CREDIT SERVICE PIPE FITTINGS	P0096732	0054715084900	10/05/2017	48.86
00189365	10/12/2017	HONEYWELL, MATTHEW V Professional services - Invoic	P0096709	993	09/26/2017	1,350.00
00189366	10/12/2017	HOOMAN, ELLIE PER DIEM REIMBURSEMENT		OH008880	10/10/2017	123.20
00189367	10/12/2017	HORIZON INV 3M248151 FL-0454 REPAIR	P0096670	3M248151	09/28/2017	154.33
00189368	10/12/2017	IDAX DATA SOULTIONS INV 17322 DAY SPEED VOLUME	P0096724	17322	08/31/2017	1,000.00
00189369	10/12/2017	INTERCOM LANGUAGE SERVICES INC Interpreting Services 17-337	P0096778	17337/16445/481/	10/04/2017	1,880.00
00189370	10/12/2017	ISSAQUAH CITY JAIL August 2017 Jail Bill - Invoic	P0096694	0450008485	09/28/2017	3,298.00
00189371	10/12/2017	KC RECORDER RELEASE OF SEWER LIEN 8530 SE	P0096722	OH008871	10/05/2017	33.00
00189372	10/12/2017	KELLEY IMAGING SYSTEMS MACHINE REPAIR	P0096769	IN307405	10/02/2017	1,049.79
00189373	10/12/2017	KING COUNTY FINANCE MONTHLY SEWER JAN-DEC 2017	P93436	30020327	10/01/2017	401,517.60
00189374	10/12/2017	KROESENS UNIFORM COMPANY Magnan Class "A" Uniform - Inv	P0096687	46561/62/84	09/12/2017	934.26
00189375	10/12/2017	LANGUAGE LINE SERVICES Language Line #4164731	P0096775	4164731	09/30/2017	38.28
00189376	10/12/2017	LEXIPOL LLC Lexipol Policy Subscription -	P0096745	21918	09/13/2017	7,792.00
00189377	10/12/2017	MAX-R INV. 685532 RECYCLE BINS FOR T	P0096672	685532	09/15/2017	3,775.00
00189378	10/12/2017	METRON-FARNIER LLC INVENTORY PURCHASES	P0096677	25011	09/28/2017	3,827.87
00189379	10/12/2017	MI HARDWARE - BLDG MISC. HARDWARE FOR THE MONTH O	P0096719	OH008863	09/30/2017	31.85
00189380	10/12/2017	MI HARDWARE - MAINT MISC. HARDWARE FOR THE MONTH O	P0096720	OH008864	09/30/2017	110.96
00189381	10/12/2017	MI HARDWARE - P&R MICEC Misc supplies	P0096723	OH008866	09/30/2017	56.34
00189382	10/12/2017	MI HARDWARE - ROW MISC. HARDWARE FOR THE MONTH O	P0096721	OH008865	09/30/2017	16.81
00189383	10/12/2017	MI HARDWARE - UTILITY MISC. HARDWARE FOR THE MONTH O	P0096733	OH008867	09/30/2017	8.49
00189384	10/12/2017	MI UTILITY BILLS PAYMENT OF UTILITY BILLS FOR W	P0096728	OH008861	09/30/2017	58,735.71
00189385	10/12/2017	MOSBRUCKER EXCAVATING INC DRAINAGE AND ASPHALT REPAIR CC	P0096727	217121	09/25/2017	99,696.62
00189386	10/12/2017	NGUYEN, QUOC MI CASE #2017-11555		OH008872	10/11/2017	304.15
00189387	10/12/2017	NORCOM 911 POLICE DISPATCH 2017	P93734	0000428	10/01/2017	156,159.75
00189388	10/12/2017	NORCOM 911 FIRE DISPATCH 2017	P93585	0000427	10/01/2017	39,018.00
00189389	10/12/2017	ORTON, ANNA LICENSE RENEWAL FEE		OH008873	10/09/2017	106.00

**Accounts Payable Report by Check Number**

Check No	Check Date	Vendor Name/Description	PO #	Invoice #	Invoice Date	Check Amount
00189390	10/12/2017	PACIFIC AIR CONTROL INC CITY HALL COURT HVAC REPAIR	P0096792	6441	09/29/2017	592.90
00189391	10/12/2017	PACIFIC RIM EQUIPMENT RENTAL TRACK LOADER RENTAL	P0096734	21208	09/30/2017	746.20
00189392	10/12/2017	PF PETTIBONE & CO Archival paper for minutes bin	P0096718	173095	09/28/2017	49.85
00189393	10/12/2017	PND ENGINEERS INC Lincoln Landing Design Engineer	P0095391	17090186	09/19/2017	6,053.07
00189394	10/12/2017	POLLARD WATER LIQUID SMOKE (5 GAL)	P0096673	0088800	09/21/2017	572.08
00189395	10/12/2017	PROJECT A INC Homepage Ad Development	P0096749	172083	10/01/2017	947.50
00189396	10/12/2017	PROVOST, ALAN FRLEOFF1 Retiree Medical Expen	P0096710	OH008868	10/03/2017	909.89
00189397	10/12/2017	PUGET SOUND ENERGY ENERGY USE OCT 2017		OH008886	10/02/2017	3,596.33
00189398	10/12/2017	RELX INC DBA LEXISNEXIS Library Subscriptions - Invoic	P0096706	3091117820	09/30/2017	317.90
00189399	10/12/2017	REMOTE SATELLITE SYSTEMS INT'L EMAC Sat phone service - Invoi	P0096703	00090388	09/11/2017	48.95
00189400	10/12/2017	RODDA PAINT CO PAINT FOR CITY HALL	P0096788	19890413	09/28/2017	119.53
00189401	10/12/2017	SAFELITE FULFILLMENT INC wo #1804-788246 FL-0446 GLASS	P0096676	01804491881	09/22/2017	175.73
00189402	10/12/2017	SCHREUDER, ASTRID signed up for incorrect progra	P0096736	OH008869	10/05/2017	21.78
00189403	10/12/2017	SEATTLE PUBLIC UTILITIES September 2017 SPU New Retail	P0096735	OH008858	09/30/2017	17,656.00
00189404	10/12/2017	SEATTLE TIMES, THE Advertising YFS Clinical Super	P0096743	OH008859	09/30/2017	250.00
00189405	10/12/2017	SEATTLE, CITY OF Sept 2017 Water Purchases	P0096628	OH008857	09/27/2017	292,412.10
00189406	10/12/2017	SITEONE LANDSCAPE SUPPLY LLC WHITE FIELD PAINT (15 BUCKETS)	P0096683	82723984	09/25/2017	1,049.40
00189407	10/12/2017	SKYLINE COMMUNICATIONS INC EOC INTERNET SERVICE	P0096756	IN43336	10/01/2017	206.55
00189408	10/12/2017	SOUND SAFETY PRODUCTS SAFETY BOOTS & RAIN JACKET	P0096626	697823	09/29/2017	769.74
00189409	10/12/2017	SPIETZ, ALLISON PER DIEM REIMBURSEMENT		OH008882	10/10/2017	356.46
00189410	10/12/2017	SWEDISH MEDICAL GROUP Dive Physical (Lab work) for	P0096701	3784888500	07/03/2017	3,960.34
00189411	10/12/2017	T-MOBILE USA PERMIT REFUND		1706006	10/10/2017	1,105.03
00189412	10/12/2017	TRAFFIC SAFETY SUPPLY "GROVELAND BEACH PARK (W/ARROW	P0096726	133801	09/28/2017	148.68
00189413	10/12/2017	TREAT, NOEL REPLACE WARRANT 175533		OH008878	10/10/2017	363.64
00189414	10/12/2017	TRUE VALUE CONSTRUCTION DEPT light bulb	P0096758	OH008860	09/30/2017	3.75
00189415	10/12/2017	UNDERWATER SPORTS INC. Dive Team Gear - Weight and Tr	P0096744	2014318/50012013	06/23/2017	7,020.56

**Accounts Payable Report by Check Number**

Check No	Check Date	Vendor Name/Description	PO #	Invoice #	Invoice Date	Check Amount
00189416	10/12/2017	UNITED SITE SERVICES Art Uncorked restrooms	P94171	1145821698/99/70	09/22/2017	874.06
00189417	10/12/2017	VERIZON WIRELESS INV 9791516271 2017 PUBLIC WOR	P93481	9793271641	09/23/2017	1,540.69
00189418	10/12/2017	VERIZON WIRELESS ISG WIFI, LOANER, MDC1, SPARE	P0096741	9793271639/97915	08/23/2017	3,392.85
00189419	10/12/2017	WA LEGAL MESSENGERS INC Legal Messenger Service - IFM	P0096705	319962	09/22/2017	127.50
00189420	10/12/2017	WA ST REVENUE 3RD QTR LEASEHOLD EXCISE TAX 2	P93476	OH008853	09/30/2017	4,923.71
00189421	10/12/2017	WA ST TREASURER'S OFFICE SEPT17 NC Court Transmittal	P0096730	OH008855	09/30/2017	4,101.98
00189422	10/12/2017	WA ST TREASURER'S OFFICE SEPT17 MI Court Transmittal	P0096731	OH008856	09/30/2017	15,251.58
00189423	10/12/2017	WASHINGTON STATE PATROL CPL Background Checks - Invoic	P0096696	I08002155	10/04/2017	72.00
00189424	10/12/2017	WASHINGTON STATE PATROL Background Checks Thrift Shop	P0096738	I18001668	10/04/2017	36.00
00189425	10/12/2017	WASHINGTON2 ADVOCATES LLC September 2017 I-90 Loss of Mo	P0096633	5949	09/30/2017	2,500.00
00189426	10/12/2017	WATAI Collision Team Dues	P0096692	OH008854	09/19/2017	270.00
00189427	10/12/2017	WESCOM Radar Calibration and service	P0096689	22802	09/28/2017	363.00
00189428	10/12/2017	WHISTLE WORKWARE SAFETY BOOTS	P0096715	T295055	09/30/2017	177.80
00189429	10/12/2017	WWGCSA Pesticide training course	P0096711	12288	09/29/2017	1,440.00
00189430	10/12/2017	XEROX CORPORATION Copier Costs Sept #719447971	P93831	090817097	10/01/2017	1,189.78
00189431	10/12/2017	YOUTH TECH INC Game design remainder payment	P0096717	6018	10/04/2017	546.00
00189432	10/12/2017	ZEE MEDICAL Quarterly Maintenance City Hal	P0096729	68345035	10/05/2017	531.91
					Total	<u>1,235,523.49</u>



**Accounts Payable Report by GL Key**

PO #	Check #	Vendor:	Transaction Description	Check Amount
<b>Org Key: 001000 - General Fund-Admin Key</b>				
P0096731	00189422	WA ST TREASURER'S OFFICE	SEPT17 MI Court Transmittal	6,327.85
P0096731	00189422	WA ST TREASURER'S OFFICE	SEPT17 MI Court Transmittal	3,586.23
P0096731	00189422	WA ST TREASURER'S OFFICE	SEPT17 MI Court Transmittal	2,696.03
P93476	00189420	WA ST REVENUE	3RD QTR LEASEHOLD EXCISE TAX 2	2,620.50
P0096730	00189421	WA ST TREASURER'S OFFICE	SEPT17 NC Court Transmittal	1,455.87
P0096731	00189422	WA ST TREASURER'S OFFICE	SEPT17 MI Court Transmittal	988.49
P0096730	00189421	WA ST TREASURER'S OFFICE	SEPT17 NC Court Transmittal	854.08
P0096730	00189421	WA ST TREASURER'S OFFICE	SEPT17 NC Court Transmittal	768.54
P0096731	00189422	WA ST TREASURER'S OFFICE	SEPT17 MI Court Transmittal	494.97
P0096730	00189421	WA ST TREASURER'S OFFICE	SEPT17 NC Court Transmittal	324.21
P0096731	00189422	WA ST TREASURER'S OFFICE	SEPT17 MI Court Transmittal	278.91
P0096730	00189421	WA ST TREASURER'S OFFICE	SEPT17 NC Court Transmittal	199.98
P0096730	00189421	WA ST TREASURER'S OFFICE	SEPT17 NC Court Transmittal	199.98
P0096731	00189422	WA ST TREASURER'S OFFICE	SEPT17 MI Court Transmittal	195.55
P0096731	00189422	WA ST TREASURER'S OFFICE	SEPT17 MI Court Transmittal	195.53
P0096731	00189422	WA ST TREASURER'S OFFICE	SEPT17 MI Court Transmittal	173.35
P0096730	00189421	WA ST TREASURER'S OFFICE	SEPT17 NC Court Transmittal	171.68
P0096731	00189422	WA ST TREASURER'S OFFICE	SEPT17 MI Court Transmittal	151.35
P0096731	00189422	WA ST TREASURER'S OFFICE	SEPT17 MI Court Transmittal	96.15
P0096730	00189421	WA ST TREASURER'S OFFICE	SEPT17 NC Court Transmittal	56.80
P0096730	00189421	WA ST TREASURER'S OFFICE	SEPT17 NC Court Transmittal	41.36
P0096731	00189422	WA ST TREASURER'S OFFICE	SEPT17 MI Court Transmittal	40.51
P0096731	00189422	WA ST TREASURER'S OFFICE	SEPT17 MI Court Transmittal	26.66
P0096736	00189402	SCHREUDER, ASTRID	signed up for incorrect progra	21.78
P0096730	00189421	WA ST TREASURER'S OFFICE	SEPT17 NC Court Transmittal	14.50
P0096730	00189421	WA ST TREASURER'S OFFICE	SEPT17 NC Court Transmittal	8.38
	00189411	T-MOBILE USA	PERMIT REFUND	4.50
P0096730	00189421	WA ST TREASURER'S OFFICE	SEPT17 NC Court Transmittal	4.05
P0096730	00189421	WA ST TREASURER'S OFFICE	SEPT17 NC Court Transmittal	2.55
<b>Org Key: 402000 - Water Fund-Admin Key</b>				
P0096735	00189403	SEATTLE PUBLIC UTILITIES	September 2017 SPU New Retail	17,656.00
P0096677	00189378	METRON-FARNIER LLC	INVENTORY PURCHASES	3,827.87
P0096647	00189361	H D FOWLER	INVENTORY PURCHASES	2,541.75
P0096648	00189361	H D FOWLER	INVENTORY PURCHASES	1,581.48
P0096649	00189338	ALPINE PRODUCTS INC	INVENTORY PURCHASES	302.59
P0096613	00189359	GRAINGER	INVENTORY PURCHASES	247.55
P0096739	00189343	CERTIFIED LABORATORIES	INVENTORY PURCHASES	222.21
P0096611	00189355	EXCEL SUPPLY COMPANY	INVENTORY PURCHASES	112.46
<b>Org Key: CA1100 - Administration (CA)</b>				
P0096706	00189398	RELX INC DBA LEXISNEXIS	Library Subscriptions - Invoic	317.90
P0096705	00189419	WA LEGAL MESSENGERS INC	Legal Messenger Service - IFM	127.50
<b>Org Key: CA1200 - Prosecution &amp; Criminal Mngmnt</b>				
P0096709	00189365	HONEYWELL, MATTHEW V	Professional services - Invoic	1,350.00
<b>Org Key: CM1100 - Administration (CM)</b>				
P0096704	00189339	BRAILEY CONSULTING	Sept 2017 Public Engagement	4,500.00
<b>Org Key: CM11SP - Special Projects-City Mgr</b>				

**Accounts Payable Report by GL Key**

PO #	Check #	Vendor:	Transaction Description	Check Amount
P0096633	00189425	WASHINGTON2 ADVOCATES LLC	September 2017 I-90 Loss of Mo	2,500.00
<i>Org Key: CM1200 - City Clerk</i>				
	00189409	SPIETZ, ALLISON	MILEAGE EXPENSE	233.26
	00189366	HOOMAN, ELLIE	PER DIEM REIMBURSEMENT	123.20
	00189409	SPIETZ, ALLISON	PER DIEM REIMBURSEMENT	123.20
<i>Org Key: CR1100 - COrre Admin and Human Resources</i>				
P0096702	00189363	HEALTHFORCE PARTNERS LLC	Medical's for Hammer and Gehrke	1,348.00
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	1,056.73
P0096743	00189404	SEATTLE TIMES, THE	Advertising YFS Clinical Super	250.00
P0096737	00189432	ZEE MEDICAL	Quarterly Maintenance City Hal	118.58
P0096688	00189354	EQUIFAX	Credit reports for background	114.96
<i>Org Key: CT1100 - Municipal Court</i>				
P0096778	00189369	INTERCOM LANGUAGE SERVICES INC	interpreting services 16-525	500.00
P0096778	00189369	INTERCOM LANGUAGE SERVICES INC	interpreting services 16-481	320.00
P0096778	00189369	INTERCOM LANGUAGE SERVICES INC	interpreting services 16-495	320.00
P0096778	00189369	INTERCOM LANGUAGE SERVICES INC	interpreting services 16-509	300.00
P0096778	00189369	INTERCOM LANGUAGE SERVICES INC	interpreting services 16-569	220.00
P0096776	00189430	XEROX CORPORATION	Copier Costs Sept #719447971	162.39
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	121.23
P0096778	00189369	INTERCOM LANGUAGE SERVICES INC	Interpreting Services 17-337	120.00
P0096777	00189360	GREER, J SCOTT	Pro tem judge 10.9.17	100.00
P0096778	00189369	INTERCOM LANGUAGE SERVICES INC	interpreting services 16-445	100.00
P0096775	00189375	LANGUAGE LINE SERVICES	Language Line #4164731	38.28
<i>Org Key: DS0000 - Development Services-Revenue</i>				
	00189411	T-MOBILE USA	PERMIT REFUND	611.20
	00189411	T-MOBILE USA	PERMIT REFUND	375.00
	00189411	T-MOBILE USA	PERMIT REFUND	82.94
	00189411	T-MOBILE USA	PERMIT REFUND	29.59
	00189411	T-MOBILE USA	PERMIT REFUND	1.80
<i>Org Key: DS1100 - Administration (DS)</i>				
	00189351	DKS ASSOCIATES	REPLACE WARRANT 189201	444.91
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	6.22
<i>Org Key: FN4502 - Utility Billing (Sewer)</i>				
P0096722	00189371	KC RECORDER	RELEASE OF SEWER LIEN 8530 SE	33.00
<i>Org Key: FR1100 - Administration (FR)</i>				
	00189342	CENTURYLINK	PHONE USE OCT 2017	169.72
<i>Org Key: FR2100 - Fire Operations</i>				
P93585	00189388	NORCOM 911	FIRE DISPATCH 2017	39,018.00
<i>Org Key: GGM001 - General Government-Misc</i>				
P0096749	00189395	PROJECT A INC	Website hosting 10/01 - 12/31	900.00
P0096716	00189416	UNITED SITE SERVICES	Art Uncorked restrooms	290.90
P0096749	00189395	PROJECT A INC	Homepage Ad Development	47.50
<i>Org Key: GGM004 - Gen Govt-Office Support</i>				
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	460.19

**Accounts Payable Report by GL Key**

PO #	Check #	Vendor:	Transaction Description	Check Amount
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	251.80
P0096697	00189346	CONFIDENTIAL DATA DISPOSAL	Shredding Services for full Ci	200.00
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	183.12
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	11.79
<i>Org Key: GGM005 - Genera Govt-L1 Retiree Costs</i>				
P0096710	00189396	PROVOST, ALAN	FRLEOFF1 Retiree Medical Expen	519.50
P0096710	00189396	PROVOST, ALAN	FRLEOFF1 Retiree Medical Expen	390.39
<i>Org Key: IS2100 - IGS Network Administration</i>				
	00189342	CENTURYLINK	PHONE USE OCT 2017	495.59
P0096754	00189418	VERIZON WIRELESS	ISG WIFI, LOANER, MDC1, SPARE	200.05
	00189342	CENTURYLINK	PHONE USE SEPT 2017	101.01
<i>Org Key: MT2100 - Roadway Maintenance</i>				
	00189397	PUGET SOUND ENERGY	ENERGY USE OCT 2017	2,971.30
	00189397	PUGET SOUND ENERGY	ENERGY USE OCT 2017	610.25
P0096726	00189412	TRAFFIC SAFETY SUPPLY	STREET SIGNS	77.00
P0096725	00189412	TRAFFIC SAFETY SUPPLY	"GROVELAND BEACH PARK	71.68
P0096632	00189408	SOUND SAFETY PRODUCTS	SAFETY BOOTS & RAIN JACKET	25.00
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	22.06
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	19.34
P0096721	00189382	MI HARDWARE - ROW	MISC. HARDWARE FOR THE MONTH O	16.81
	00189397	PUGET SOUND ENERGY	ENERGY USE SEPT 2017	14.78
<i>Org Key: MT2200 - Vegetation Maintenance</i>				
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	16.58
<i>Org Key: MT2300 - Planter Bed Maintenance</i>				
P0096728	00189384	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	2,157.77
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	19.34
<i>Org Key: MT2500 - ROW Administration</i>				
P0096632	00189408	SOUND SAFETY PRODUCTS	SAFETY BOOTS & RAIN JACKET	226.72
<i>Org Key: MT3000 - Water Service Upsizes and New</i>				
P0096742	00189340	CADMAN INC	5/8"-MINUS ROCK (163.4 TONS)	442.88
P0096648	00189361	H D FOWLER	1/4" ARBOR PILOT DRILLS & TAPP	243.40
<i>Org Key: MT3100 - Water Distribution</i>				
P0096728	00189384	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	1,455.53
P0096742	00189340	CADMAN INC	5/8"-MINUS ROCK (163.4 TONS)	442.88
P0096634	00189359	GRAINGER	CONNECTORS 3M MOISTURE RESISTA	70.05
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	19.34
<i>Org Key: MT3120 - Hydrant Maintenance</i>				
P0096714	00189347	CORE & MAIN LP	HYDRANT NOZZLE & GASKET	90.09
<i>Org Key: MT3150 - Water Quality Event</i>				
P0096732	00189364	HOME DEPOT CREDIT SERVICE	PIPE FITTINGS	39.84
P0096651	00189364	HOME DEPOT CREDIT SERVICE	PIPE FITTINGS	9.02
<i>Org Key: MT3200 - Water Pumps</i>				
	00189342	CENTURYLINK	PHONE USE OCT 2017	119.38

**Accounts Payable Report by GL Key**

PO #	Check #	Vendor:	Transaction Description	Check Amount
	00189342	CENTURYLINK	PHONE USE OCT 2017	59.69
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	16.58
<i>Org Key: MT3300 - Water Associated Costs</i>				
P0096625	00189408	SOUND SAFETY PRODUCTS	MISC. WORK CLOTHES	84.70
<i>Org Key: MT3400 - Sewer Collection</i>				
P0096728	00189384	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	667.23
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	19.34
<i>Org Key: MT3500 - Sewer Pumps</i>				
P0096673	00189394	POLLARD WATER	LIQUID SMOKE (5 GAL)	451.00
P0096673	00189394	POLLARD WATER	FLUID SMOKE CONTAINER WITH HOS	121.08
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	19.34
P0096733	00189383	MI HARDWARE - UTILITY	MISC. HARDWARE FOR THE MONTH O	8.49
<i>Org Key: MT3600 - Sewer Associated Costs</i>				
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	22.06
<i>Org Key: MT3800 - Storm Drainage</i>				
P0096626	00189408	SOUND SAFETY PRODUCTS	MISC. WORK CLOTHES	433.32
P0096684	00189349	CROWN FILMS/CUSTOM BIOPLASTICS	PSSH DOG WASTE BAGS (4000)	222.35
P0096653	00189361	H D FOWLER	12" CATCH BASIN & GRATE & PIPE	93.38
P0096728	00189384	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	66.72
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	19.34
<i>Org Key: MT3805 - Slide Repair 8410 WMW</i>				
P0096742	00189340	CADMAN INC	5/8"-MINUS ROCK (163.4 TONS)	3,140.42
P0096742	00189340	CADMAN INC	4" X 8" ROCK (31.87 TONS)	890.45
<i>Org Key: MT4150 - Support Services - Clearing</i>				
P93481	00189417	VERIZON WIRELESS	INV 9791516271 2017 PUBLIC WOR	1,540.69
P94314	00189430	XEROX CORPORATION	INV 90488154 & 90488153 2017	489.91
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	69.33
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	-17.53
<i>Org Key: MT4200 - Building Services</i>				
P0096728	00189384	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	16,211.67
P0096791	00189390	PACIFIC AIR CONTROL INC	CITY HALL COURT HVAC REPAIR	288.20
P0096788	00189400	RODDA PAINT CO	PAINT FOR CITY HALL	119.53
P0096790	00189357	FIRE PROTECTION INC	FIRE ALARM MONITORING FEE	84.75
P0096719	00189379	MI HARDWARE - BLDG	MISC. HARDWARE FOR THE MONTH O	31.85
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	16.58
<i>Org Key: MT4300 - Fleet Services</i>				
P0096676	00189401	SAFELITE FULFILLMENT INC	wo #1804-788246 FL-0446 GLASS	175.73
P0096670	00189367	HORIZON	INV 3M248151 FL-0454 REPAIR	154.33
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	16.58
<i>Org Key: MT4420 - Transportation Planner Eng</i>				
P0096724	00189368	IDAX DATA SOULTIONS	INV 17322 DAY SPEED VOLUME	1,000.00
<i>Org Key: MT4501 - Water Administration</i>				
P0096628	00189405	SEATTLE, CITY OF	Sept 2017 Water Purchases	292,412.10

**Accounts Payable Report by GL Key**

PO #	Check #	Vendor:	Transaction Description	Check Amount
<i>Org Key: MT4502 - Sewer Administration</i>				
P93436	00189373	KING COUNTY FINANCE	MONTHLY SEWER JAN-DEC 2017	401,517.60
<i>Org Key: MTBE01 - Maint of Medians &amp; Planters</i>				
P0096672	00189377	MAX-R	INV. 685532 RECYCLE BINS FOR T	3,775.00
P0096728	00189384	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	1,045.95
<i>Org Key: PO1100 - Administration (PO)</i>				
P0096698	00189418	VERIZON WIRELESS	Cell Phone service for PD - In	1,368.93
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	159.08
P0096691	00189374	KROESENS UNIFORM COMPANY	Uniform pants - Magnan - invoi	109.98
P0096691	00189374	KROESENS UNIFORM COMPANY	Magnan Class "A" Uniform - Inv	76.89
<i>Org Key: PO1350 - Police Emergency Management</i>				
P0096756	00189407	SKYLINE COMMUNICATIONS INC	EOC INTERNET SERVICE	206.55
P0096693	00189350	DATAQUEST LLC	Background for EMAC vol - Invo	129.00
P0096703	00189399	REMOTE SATELLITE SYSTEMS INT'L	EMAC Sat phone service - Invoi	48.95
<i>Org Key: PO1700 - Records and Property</i>				
P0096774	00189432	ZEE MEDICAL	First Aid supplies restock	137.12
<i>Org Key: PO1800 - Contract Dispatch Police</i>				
P93734	00189387	NORCOM 911	POLICE DISPATCH 2017	156,159.75
P0096745	00189376	LEXIPOL LLC	Lexipol Policy Subscription -	7,792.00
P0096696	00189423	WASHINGTON STATE PATROL	CPL Background Checks - Invoice	72.00
<i>Org Key: PO1900 - Jail/Home Monitoring</i>				
P0096694	00189370	ISSAQUAH CITY JAIL	August 2017 Jail Bill - Invoice	3,298.00
<i>Org Key: PO2100 - Patrol Division</i>				
	00189386	NGUYEN, QUOC	MI CASE #2017-11555	304.15
P0096692	00189426	WATAI	Collision Team Dues	270.00
P0096685	00189427	WESCOM	Radar Calibration and service	99.00
P0096759	00189427	WESCOM	RADAR system calibration	88.00
P0096689	00189427	WESCOM	Radar Calibration and service	88.00
P0096685	00189427	WESCOM	Radar Calibration and service	88.00
P0096687	00189374	KROESENS UNIFORM COMPANY	Uniforms & Clothing	76.44
<i>Org Key: PO2200 - Marine Patrol</i>				
P0096701	00189410	SWEDISH MEDICAL GROUP	Dive Physical for Herzog	3,689.34
P0096700	00189410	SWEDISH MEDICAL GROUP	Dive Physical (Lab work) for	271.00
P0096690	00189356	FINANCIAL CONSULTANTS INT'L	Replace Mic in MP Boat - Invoi	196.02
<i>Org Key: PO2201 - Dive Team</i>				
P0096744	00189415	UNDERWATER SPORTS INC.	Dive Team Gear - Dry-suit - In	3,505.76
P0096744	00189415	UNDERWATER SPORTS INC.	Dive Team Gear - Aquacom - Inv	2,593.80
P0096744	00189415	UNDERWATER SPORTS INC.	Dive Team Gear - Hydro Testing	474.10
P0096695	00189415	UNDERWATER SPORTS INC.	Dive Team Repair equipment -	325.90
P0096695	00189415	UNDERWATER SPORTS INC.	Dive Team Gear - Weight and Tr	121.00
<i>Org Key: PO2450 - Special Operations Team</i>				
	00189362	HAWLEY, C J	TRAINING EXPENSES	1,109.65
	00189362	HAWLEY, C J	PER DIEM REIMBURSEMENT	416.00

**Accounts Payable Report by GL Key**

PO #	Check #	Vendor:	Transaction Description	Check Amount
<b>Org Key: PO3100 - Investigation Division</b>				
P0096687	00189374	KROESENS UNIFORM COMPANY	Jacket for Detective Jira - In	406.98
P0096687	00189374	KROESENS UNIFORM COMPANY	Pants for Detective Jira - Inv	263.97
P0096758	00189414	TRUE VALUE CONSTRUCTION DEPT	light bulb	3.75
<b>Org Key: PO4300 - Police Training</b>				
P0096686	00189348	CRIMINAL JUSTICE TRAINING COMM	Training fees for Officers Geh	100.00
<b>Org Key: PR0000 - Parks &amp; Recreation-Revenue</b>				
P93476	00189420	WA ST REVENUE	3RD QTR LEASEHOLD EXCISE TAX 2	2,303.21
<b>Org Key: PR1100 - Administration (PR)</b>				
	00189342	CENTURYLINK	PHONE USE OCT 2017	51.74
<b>Org Key: PR2100 - Recreation Programs</b>				
P0096717	00189431	YOUTH TECH INC	Game design remainder payment	546.00
<b>Org Key: PR3500 - Senior Services</b>				
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless bill for July	51.02
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless Bill for Augu	51.02
<b>Org Key: PR4100 - Community Center</b>				
P0096728	00189384	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	10,967.53
P93831	00189430	XEROX CORPORATION	Use Charge 8-21-17 to 9-21-17	270.28
P93831	00189430	XEROX CORPORATION	2017 Lease charges for MICEC C	267.20
P0096790	00189357	FIRE PROTECTION INC	FIRE ALARM MONITORING FEE	84.75
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	79.32
P0096723	00189381	MI HARDWARE - P&R	MICEC Misc supplies	56.34
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless bill for July	32.81
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless Bill for Augu	32.81
P0096720	00189380	MI HARDWARE - MAINT	MISC. HARDWARE FOR THE MONTH O	15.82
<b>Org Key: PR5700 - Special Programs</b>				
P0096718	00189392	PF PETTIBONE & CO	Archival paper for minutes bin	49.85
<b>Org Key: PR6100 - Park Maintenance</b>				
P0096757	00189384	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	3,963.51
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless bill for July	363.08
P0096711	00189429	WWGCSA	Pesticide training course	288.00
P0096715	00189428	WHISTLE WORKWARE	SAFETY BOOTS	177.80
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	19.34
P0096720	00189380	MI HARDWARE - MAINT	MISC. HARDWARE FOR THE MONTH O	6.52
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless Bill for Augu	-135.67
<b>Org Key: PR6200 - Athletic Field Maintenance</b>				
P0096757	00189384	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	5,839.85
P0096683	00189406	SITEONE LANDSCAPE SUPPLY LLC	WHITE FIELD PAINT (15 BUCKETS)	346.30
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless bill for July	171.95
P0096711	00189429	WWGCSA	Pesticide training course	144.00
	00189342	CENTURYLINK	PHONE USE OCT 2017	86.34
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless Bill for Augu	25.98
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	19.34
<b>Org Key: PR6500 - Luther Burbank Park Maint.</b>				

**Accounts Payable Report by GL Key**

PO #	Check #	Vendor:	Transaction Description	Check Amount
P0096757	00189384	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	4,671.39
P0096675	00189358	GOODSELL POWER EQUIPMENT	CHAINSAW (SN/182211193) & TRIM	741.27
P0096789	00189357	FIRE PROTECTION INC	REPLACE CARETAKER HOUSE SECURI	363.00
P0096711	00189429	WWGCSA	Pesticide training course	288.00
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless bill for July	187.14
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless Bill for Augu	41.17
P0096720	00189380	MI HARDWARE - MAINT	MISC. HARDWARE FOR THE MONTH O	32.64
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	19.34
<b>Org Key: PR6600 - Park Maint-School Related</b>				
P0096683	00189406	SITEONE LANDSCAPE SUPPLY LLC	WHITE FIELD PAINT (15 BUCKETS)	356.80
P0096711	00189429	WWGCSA	Pesticide training course	288.00
P0096720	00189380	MI HARDWARE - MAINT	MISC. HARDWARE FOR THE MONTH O	55.98
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless bill for July	39.12
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless Bill for Augu	39.12
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	16.49
<b>Org Key: PR6700 - I90 Park Maintenance</b>				
P0096757	00189384	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	10,930.72
P0096674	00189358	GOODSELL POWER EQUIPMENT	DRILL, CHUCK & CARBURETOR	515.42
P0096711	00189429	WWGCSA	Pesticide training course	432.00
P94071	00189341	CAMDEN GARDENS	Aljoya & Aubrey Davis Park Sha	424.88
P94171	00189416	UNITED SITE SERVICES	2017 Portable Toilet Rentals &	356.36
P0096683	00189406	SITEONE LANDSCAPE SUPPLY LLC	WHITE FIELD PAINT (15 BUCKETS)	346.30
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless bill for July	187.14
P94171	00189416	UNITED SITE SERVICES	2017 Portable Toilet Rentals &	151.20
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless Bill for Augu	41.17
P0096729	00189432	ZEE MEDICAL	FIRST AID SUPPLIES	19.34
<b>Org Key: PR6800 - Trails Maintenance</b>				
P0096675	00189358	GOODSELL POWER EQUIPMENT	TRIMMER PARTS	92.37
P0096674	00189358	GOODSELL POWER EQUIPMENT	SAW CHAIN	79.18
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless bill for July	20.01
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless Bill for Augu	20.00
<b>Org Key: PY4617 - Flex Spending Admin 2017</b>				
	00189413	TREAT, NOEL	REPLACE WARRANT 175533	363.64
<b>Org Key: WG105R - Community Center Bldg Repairs</b>				
P0096727	00189385	MOSBRUCKER EXCAVATING INC	DRAINAGE AND ASPHALT REPAIR CC	99,696.62
<b>Org Key: WG110T - Computer Equip Replacements</b>				
P0096769	00189372	KELLEY IMAGING SYSTEMS	MACHINE REPAIR	1,049.79
<b>Org Key: WG130E - Equipment Rental Vehicle Repl</b>				
P0095283	00189344	COLUMBIA FORD	INV 3-H2583 UTILITY TEAM FL-03	45,617.02
P0095283	00189344	COLUMBIA FORD	EARLY PAYMENT DISCOUNT	-300.00
<b>Org Key: WP107R - Island Crest Park Repairs</b>				
P93542	00189352	DMD & ASSOCIATES LTD	Island Crest Park Lighting	895.00
<b>Org Key: WP115S - ICP South Synthetic Field</b>				
P0096707	00189353	DROLL LANDSCAPE ARCH, ROBERT W	ICP North Outfield Field Conve	3,518.23

**Accounts Payable Report by GL Key**

PO #	Check #	Vendor:	Transaction Description	Check Amount
<i>Org Key: WP122P - Open Space - Pioneer/Engstrom</i>				
P94171	00189416	UNITED SITE SERVICES	2017 Portable Toilet Rentals &	75.60
<i>Org Key: WP122R - Vegetation Management</i>				
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless Bill for Augu	20.01
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless bill for July	20.00
<i>Org Key: WP710C - Street End - Lincoln Landing</i>				
P0095391	00189393	PND ENGINEERS INC	Lincoln Landing Design Enginee	6,053.07
<i>Org Key: WP720R - Recurring Park Projects</i>				
P0096742	00189340	CADMAN INC	1 1/4" X 5/8" CLEAR ROCK (14.4	505.64
<i>Org Key: XG118T - Maintenance Mgmt System</i>				
P0096741	00189418	VERIZON WIRELESS	Verizon Wireless Bill for Augu	615.99
<i>Org Key: XP520R - Recreational Trail Connections</i>				
P0096742	00189340	CADMAN INC	3/8"-0 CRUSHED ROCK (38.06 TON	1,438.11
P0096734	00189391	PACIFIC RIM EQUIPMENT RENTAL	TRACK LOADER RENTAL	746.20
<i>Org Key: YF1100 - YFS General Services</i>				
	00189345	COMPLETE OFFICE	OFFICE SUPPLIES SEPT 2017	627.08
	00189389	ORTON, ANNA	LICENSE RENEWAL FEE	106.00
P0096738	00189424	WASHINGTON STATE PATROL	Background Checks Thrift Shop	36.00
<i>Org Key: YF1200 - Thrift Shop</i>				
P0096728	00189384	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	757.84
P0096792	00189390	PACIFIC AIR CONTROL INC	REPLACE FRESH AIR SCREENS IN H	304.70
	00189342	CENTURYLINK	PHONE USE OCT 2017	165.75
Total				<u>1,235,523.49</u>





## BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND, WA

AB 5350  
October 17, 2017  
Consent Calendar

### FREEMAN AVENUE ROADWAY REPAIR CONTRACT AWARD

**Proposed Council Action:**  
Award contract.

DEPARTMENT OF	Public Works (Jason Kintner)
COUNCIL LIAISON	n/a
EXHIBITS	n/a
2017-2018 CITY COUNCIL GOAL	n/a
APPROVED BY CITY MANAGER	

AMOUNT OF EXPENDITURE	\$	236,953
AMOUNT BUDGETED	\$	0
APPROPRIATION REQUIRED	\$	236,953

### SUMMARY

On February 24, 2016, the City discovered a landslide on Freeman Avenue, which compromised the road and hillside. The damaged portion of the roadway was located on both City right-of-way and private property. Freeman Avenue is also home to a City sewer pump station.

Due to the duration of this project to reach a resolution, the project was split into two phases. Phase I work, budgeted at \$150,000, included investigation into the landslide, geotechnical services, survey and design work, appraisal services, and studies in accordance with the street vacation process. On June 19, 2017, the Council passed Ordinance 17-6 vacating a portion of Freeman Avenue while retaining easements for City infrastructure. In total, \$329,891 in revenue was generated from the vacation of a portion of Freeman Avenue, which was deposited in the Capital Improvement Fund in accordance with RCW 35.79.035(3).

Private repairs to the hillside and private roadway have been completed, leaving the City's portion of the roadway to be replaced. Phase two work includes the reconstruction of the roadway and stormwater improvements. All remaining work is within public right-of-way and replacement will meet City standards for public transportation construction and Washington State Department of Transportation Manual Specifications.

### PROJECT DESCRIPTION

As currently designed, the Freeman Avenue Roadway Reconstruction project will replace approximately 275 lineal feet of existing concrete roadway within public right-of-way. All of the existing 12-13 foot wide concrete roadway will be removed and replaced with new 16-foot wide concrete pavement, meeting the City's minimum street standards. Trench drains will be installed in the new pavement to control the roadway's surface runoff, and curtain drains will be installed under the pavement to control groundwater. Freeman Avenue's existing concrete pavement has a 2016 PCI rating of 42, which is at the bottom of the "Poor" condition bracket.

At the completion of design work in September, the estimated cost of roadway reconstruction work on Freeman Avenue was \$241,450.

## BID RESULTS AND AWARD RECOMMENDATION

Four construction bids for the project were received and opened on October 4, 2017. The lowest responsive bid was received from NPM Construction Company, in the amount of \$178,408. The bid results for the project are shown in the following table.

2017 FREEMAN AVENUE ROADWAY RECONSTRUCTION BID RESULTS				
Engineer's Estimate	NPM Construction Co.	Kamins Construction, Inc	Welwest Construction, Inc	Axum Construction, Inc
\$ 241,450.00	\$178,408.00	\$229,628.50	\$235,400.00	\$244,758.00

NPM Construction has a good work history with other local cities, such as Bellevue, Issaquah, Kent, and Medina, and they are currently finishing up the City of Mercer Island's Pedestrian Crosswalk project at Island Crest Way and SE 32<sup>nd</sup> Street. Review of the Labor and Industries (L&I) website confirms NPM Construction is a contractor in good standing, with no license violations, outstanding lawsuits, or L&I tax debt. NPM Construction has current insurance and bonding capacity. Based on staff's review of the bid submittals, including reference checks, NPM Construction is the lowest responsible bidder for the Freeman Avenue Roadway Reconstruction project.

The following table summarizes the overall project costs and project budget:

2017 FREEMAN AVENUE ROADWAY RECONSTRUCTION PROJECT BUDGET	
Description	TOTAL
	<b>Award to NPM Construction</b>
Construction Contract	\$178,408
Construction Contingency @ 15%	\$26,761
Inspection Services	\$15,000
Contract Administration / Project Management	\$15,000
1% for the Arts	\$1,784
<b>Total Project Budget</b>	<b>\$236,953</b>

Adding amounts for construction contingency, inspection services, contract administration, and 1% for the Arts brings the project's total estimated cost to \$236,953. Given the difficult location and time of year for building this project, staff has set the construction contingency at 15%.

Funding for this project is proposed to come from the Street Fund, Sewer Fund, and Stormwater Fund. Stormwater expenditures, including soft costs, are related to specific stormwater improvements at the project site. The remaining project budget has been split equally between the Street Fund and the Sewer Fund. Due to other capital project savings, there is available fund balance in all three funds to cover this project appropriation.

The following table summarizes the funding allocations:

	<b>Streets</b>	<b>Sewer</b>	<b>Stormwater</b>	<b>Total</b>
<b>AMOUNT OF EXPENDITURE</b>	\$ 94,200	\$ 94,200	\$ 48,553	\$ 236,953
<b>AMOUNT BUDGETED</b>	\$ -	\$ -	\$ -	\$ -
<b>APPROPRIATION REQUIRED</b>	<b>\$ 94,200</b>	<b>\$ 94,200</b>	<b>\$ 48,553</b>	<b>\$ 236,953</b>

Given the timing to reach a suitable agreement with property owners following the landslide, the private road repair construction being completed earlier this year, and a short construction window before winter weather sets in, staff recommends going forward with the bid award.

Approval of this appropriation will authorize staff to commence work and incur expenses on this project. Staff recommends awarding the Freeman Avenue Roadway Reconstruction project to NPM Construction and executing the construction contract.

## **RECOMMENDATION**

*Public Works Director*

MOVE TO: Award the Freeman Avenue Roadway Reconstruction project to NPM Construction Company, in the amount of \$178,408, set the project construction budget at \$236,953, and direct the City Manager to execute the construction contract.



**BUSINESS OF THE CITY COUNCIL  
CITY OF MERCER ISLAND, WA**

**AB 5351  
October 17, 2017  
Consent Calendar**

**MADRONA CREST WEST PROJECT  
CLOSEOUT**

**Proposed Council Action:**  
Accept the completed project.

<b>DEPARTMENT OF</b>	Public Works (Rona Lin)
<b>COUNCIL LIAISON</b>	n/a
<b>EXHIBITS</b>	n/a
<b>2017-2018 CITY COUNCIL GOAL</b>	n/a
<b>APPROVED BY CITY MANAGER</b>	

<b>AMOUNT OF EXPENDITURE</b>	\$ 1,699,033
<b>AMOUNT BUDGETED</b>	\$ 2,009,153
<b>APPROPRIATION REQUIRED</b>	\$ 0

**SUMMARY**

The Madrona Crest West project combined four separate capital improvement projects into a single construction contract with the objective to minimize construction impacts in the neighborhood to a single construction season and to integrate the efforts for design, project management, and inspection. A summary of the completed work is described below:

- 1) Schedule A – Madrona Crest West Water System Improvements:  
Replaced and installed approximately 3,560 lineal feet of water main, 8 water main connections, 83 water services, and 8 fire hydrants.
- 2) Schedule B - Sub-basin 6 Storm Drainage Extension  
Installed 450 lineal feet of storm pipe and 9 catch basins.
- 3) Schedule C - Safe Routes to School – Madrona Crest (86<sup>th</sup> Ave) Sidewalk  
Installed 610 lineal feet of 6-foot wide concrete sidewalk, replaced and relocated a pedestrian signal pole, and installed an ADA compliant curb ramp.
- 4) Schedule D - Residential Street Overlays  
Completed residential street overlay on 86<sup>th</sup> Ave SE between SE 39<sup>th</sup> Street and SE 40<sup>th</sup> Street.

The construction of the Madrona Crest West project started at the end of May 2016 and was completed on October 31, 2016. The release of lien from the contractor was submitted to the City in January 2017. At that point the City requested the required releases from the State Agencies. The final release was received in July 2017, and the project is now ready for its closeout.

The final construction costs for all 4 schedules are within. A small amount of contingency (\$3,665) was used for Schedule C – Safe Routes to School due to the extra effort required for regrading and adjusting the roadway base to match the new sidewalk, curb, and gutter.

The total project cost was \$1,699,033 with a total savings of \$310,120 when compared to the approved project budget established at the time of bid award. Table 1 below summarizes the actual expenditures as compared to the project budget. The \$310,120 of unspent budget from the project will remain in the respective funds: Water (\$225,698); Storm (\$35,532); and Streets (\$48,890).

<b>MADRONA CREST WEST PROJECT COSTS</b>		
<b>Description</b>	<b>Approved Project Budget</b>	<b>Actual Expenditures</b>
<b>Construction Contract</b>		
Schedule A - Water	\$930,861	\$890,873
Schedule B - Stormwater	107,910	98,405
Schedule C - Streets / Safe Routes to School	183,278	183,278
Schedule D - Streets / Residential Streets	154,565	144,600
Contingency	241,539	3,665
Design/Construction Support Services	215,000	223,740
Project Management/Maintenance Team	108,000	64,188
Inspection	68,000	78,017
Other construction (extra supplies, hauling)		8,888
1% Arts (Street Fund only)		3,378
<b>Total Project Budget and Cost</b>	<b>\$ 2,009,153</b>	<b>\$ 1,699,033</b>

## RECOMMENDATION

*Utilities Engineer*

MOVE TO: Accept the completed Madrona Crest West project and authorize staff to close out the contract.



## BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND, WA

AB 5348  
October 17, 2017  
Regular Business

### CODE AMENDMENT TO PROHIBIT ANIMALS ON SYNTHETIC TURF FIELDS (1<sup>ST</sup> READING)

#### Proposed Council Action:

Conduct first reading of Ordinance No. 17C-25, prohibiting animals on synthetic turf fields.

DEPARTMENT OF	Parks and Recreation (Paul West)
COUNCIL LIAISON	n/a
EXHIBITS	1. Ordinance No. 17C-25
2017-2018 CITY COUNCIL GOAL	n/a
APPROVED BY CITY MANAGER	

AMOUNT OF EXPENDITURE	\$	n/a
AMOUNT BUDGETED	\$	n/a
APPROPRIATION REQUIRED	\$	n/a

### SUMMARY

MICC Chapter 7.04 currently prohibits animals, with the exception of cats, to enter or remain upon any sports field when practices, games or other organized activities are in progress. At other times, an animal must be under control when on a sports field. Animals are prohibited on all public school grounds.

Mercer Island Parks and Recreation is completing the Island Crest Park Sportsfield Improvement Project, which will result in a 2.3-acre synthetic turf field. This will be the first synthetic turf field that is not on school property. Proposed Ordinance No. 17C-25, would amend Chapter 7.04 to protect this new facility and any similar facility in the future from pets.

Pet feces and urine on synthetic turf affects public health and safety. The plastic, sand and cork surface is not a biological system, so the waste does not readily break down. It is not realistic for park maintenance staff to routinely clean the field of pet waste and repair pet damage within the current personnel budget. Prohibiting pets would help protect the field. The Ordinance also creates an exception for service animals, which brings it into compliance with anti-discrimination laws.

### RECOMMENDATION

#### *Parks Operations Superintendent*

- MOVE TO
1. Suspend City Council Rules of Procedure 6.3 requiring a second reading of an ordinance.
  2. Adopt Ordinance No. 17C-25 amending chapter 7.04 of the Mercer Island City Code to add "turf fields" as an unlawful place for a domestic animal, with the exception of cats or service animals, to enter or remain upon.

Or, alternatively:

MOVE TO: Set Ordinance No. 17C-25 to November 21, 2017 for second reading and adoption.

**CITY OF MERCER ISLAND  
ORDINANCE NO. 17C-25**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND AMENDING CHAPTER 7.04 OF THE MERCER ISLAND CITY CODE TO PROHIBIT CERTAIN ANIMALS ON SPORT FIELDS WITH SYNTHETIC TURF SURFACE; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, Chapter 7.04 of the Mercer Island City Code (MICC) was enacted to regulate the keeping of animals within the city; and

WHEREAS, Chapter 7.04 MICC currently prohibits domestic animals, with the exception of cats, to enter or remain upon any sports field when practices, games or other organized activities are in progress. At other times, the animal must be under control when on a sports field. Certain animals are prohibited on all public school grounds; and

WHEREAS, in addition to cats, the exception should include service animals that are trained for the purpose of assisting or accommodating a sensory, mental, or physical disability of a person with a disability; and

WHEREAS, Mercer Island Parks and Recreation is completing the Island Crest Park Sportsfield Improvement Project which will result in a 2.3-acre synthetic turf field; and

WHEREAS, the plastic, sand and cork surface of a synthetic turf field is not a biological system and pet feces and urine is not readily broken down which could create a public health and safety issue; and

WHEREAS, to clean and repair synthetic turf fields from pet waste and damage would burden parks maintenance and create avoidable expense; and

WHEREAS, an amendment to Chapter 7.04 MICC to prohibit certain animals on synthetic turf fields is in the best interest of the health and safety of the citizens of Mercer Island;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1:**      **Chapter 7.04 MICC Amended.** Chapter 7.04 of the Mercer Island City Code is hereby amended as follows:

**7.04.020 Definitions.**

...

29. “Synthetic Turf” means any manufactured surface used to cover a field, playground, or other recreational facility.

30. ~~29.~~ “Sports field or sports court” means a portion of public land where a play surface is designed or prepared for practicing or playing a game, including but not limited to soccer fields, baseball fields, football fields, tennis courts or basketball courts.



31. ~~30.~~ “Under control” means the animal is on a leash or under voice and/or signal control so as to be thereby restrained from approaching any bystander or other animal or from causing or being the cause of physical or property damage when off a leash or off the premises of the owner. The animal is not under control if it charges, chases, jumps on, or displays aggression toward other people or animals, or behaves in a way that any reasonable person would find disturbing.

32. ~~31.~~ “Under voice and/or signal control” means the immediate recall of an animal to the person in control of the animal when signaled or called. To be under effective voice and/or signal control, the animal must be within the sight of the person in control.

33. ~~32.~~ “Veterinary hospital” includes any establishment maintained and operated by a licensed veterinarian for the diagnosis, treatment and care of diseased or injured animals and for their care and training.

#### **7.04.110 Unlawful conduct – Owner responsible for violations.**

The owner of an animal is responsible for, and may be charged with and held liable for, violations committed by his or her animal. It is unlawful as follows:

A. For a domestic animal, with the exception of cats and service animals as defined in RCW 49.60.040, to enter or remain upon:

1. Any public school ground, or associated school facilities,
2. Any playground,
3. Any sports court,
4. Any sports field with a synthetic turf surface,

~~54.~~ Any sports field without a synthetic turf surface when practices, games, or other organized activities are in progress; otherwise, an animal must be under control when at ~~a~~the sports field,

~~65.~~ From May 1 to September 30, any public swimming area as designated by sign,

~~76.~~ From October 1 to April 30, any public swimming area as designated by sign, except when on a leash,

~~87.~~ The northeast quadrant of Pioneer Park, Deane’s Children’s Park (“Dragon Park”) or Luther Burbank park property unless such animal is restrained by a leash or in a designated off-leash area on Luther Burbank park property, or

~~98.~~ Any other public park property not referred to in subsections (A)(1) through (8) ~~(7)~~ of this section, unless such animal is under control.

...

**Section 2:**     **Severability.** If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect

the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

**Section 3:**     **Publication and Effective Date.** A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five days after the date of publication.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2017 and signed in authentication of its passage.

CITY OF MERCER ISLAND

\_\_\_\_\_  
Bruce Bassett, Mayor

Approved as to Form:

ATTEST:

\_\_\_\_\_  
Kari Sand, City Attorney

\_\_\_\_\_  
Allison Spietz, City Clerk

Date of Publication: \_\_\_\_\_



**BUSINESS OF THE CITY COUNCIL  
CITY OF MERCER ISLAND, WA**

**AB 5349  
October 17, 2017  
Regular Business**

**CODE AMENDMENTS REGARDING ESSENTIAL  
PUBLIC FACILITIES (2ND READING &  
ADOPTION)**

**Proposed Council Action:**

Adopt Ordinance No. 17C-20 regulating essential public facilities.

<b>DEPARTMENT OF</b>	Development Services Group (Scott Greenberg)
<b>COUNCIL LIAISON</b>	n/a
<b>EXHIBITS</b>	1. Proposed Ordinance No. 17C-20
<b>2017-2018 CITY COUNCIL GOAL</b>	6. Address Outdated City Codes and Practices
<b>APPROVED BY CITY MANAGER</b>	

<b>AMOUNT OF EXPENDITURE</b>	\$	n/a
<b>AMOUNT BUDGETED</b>	\$	n/a
<b>APPROPRIATION REQUIRED</b>	\$	n/a

**SUMMARY**

**BACKGROUND**

On October 3, 2017, the Mercer Island City Council considered the Planning Commission's recommendations regarding new regulations for the review of essential public facilities (see AB 5330). The City Council discussed the recommendations, provided direction to staff and advanced draft Ordinance 17C-20 for second reading on October 17, 2017.

**WHAT ARE ESSENTIAL PUBLIC FACILITIES?**

The following description of essential public facilities (EPFs) is adapted from the Municipal Research and Services Center website (mrsc.org):

*RCW 36.70A.200 defines essential public facilities as "...those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020."*

*Both cities and counties must develop criteria for the siting of EPFs as per RCW 36.70A.200, WAC 365-196-550, WAC 365-196-560, and WAC 365-196-570. RCW 36.70A.103 requires that "state agencies shall comply with the local comprehensive plans and development regulations and amendments thereto adopted pursuant to this chapter." On the other hand, RCW 36.70A.200 states that "no local plan or development regulation may preclude the siting of essential public facilities."*

*A city does have zoning control over EPFs, but may not, through zoning, prevent siting of facilities that meet the definition of "essential public facilities." Some zoning restrictions are possible, but not if the effect of these restrictions is to preclude any EPFs from locating within the city.*

## **SUMMARY OF PROPOSED CODE TEXT AMENDMENT**

The proposed code text amendment:

- Provides a definition of essential public facility. Excludes “special needs group housing,” public schools operated by the Mercer Island School District and City facilities.
- Requires a pre-application meeting, including public participation plan.
- Requires a conditional use permit decision by the Hearing Examiner. The applicant must document:
  - Facility need,
  - Consistency with sponsor’s long-range plans and City Comprehensive Plan,
  - Minimum siting requirements for proposed type of facility,
  - Investigation of alternative sites, and
  - Proposed impact mitigation.
- Includes possible design review requirement for an EPF (if the EPF is defined as a regulated improvement).
- Allows City to require independent consultant review.

## **CHANGES SINCE FIRST READING**

Per City Council direction on October 3, 2017, the following changes have been made to the draft Ordinance:

1. City projects have been excluded from the definition of essential public facilities, except for specific uses that are listed as essential public facilities in RCW 36.70A.200 and WAC 365-196-550. See page 6 of Exhibit 1.
2. “Project sponsor” and “sponsor” have been changed to “applicant” for consistency throughout the ordinance.

## **RECOMMENDATION**

*Development Services Director*

MOVE TO: Adopt Ordinance No. 17C-20, amending Chapters 19.06 and 19.16 of the Mercer Island City Code to provide for and regulate the siting of essential public facilities as required by the Growth Management Act.

**CITY OF MERCER ISLAND  
ORDINANCE NO. 17C-20**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND AMENDING  
CHAPTERS 19.06 AND 19.16 OF THE MERCER ISLAND CITY CODE TO  
PROVIDE FOR AND REGULATE THE SITING OF ESSENTIAL PUBLIC  
FACILITIES AS REQUIRED BY THE GROWTH MANAGEMENT ACT,  
PROVIDING FOR SEVERABILITY AND RATIFICATION, AND  
ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, the Mercer Island City Code (MICC) contains Title 19, the Unified Land Development Code; and

WHEREAS, the Growth Management Act (chapter 36.70A RCW) (GMA) requires cities and counties planning under the GMA to adopt a process for identifying and siting essential public facilities; and

WHEREAS, staff sent notice of Mercer Island's proposed zoning code text amendment to the Washington State Department of Commerce for review as required by the GMA on May 22, 2017; and

WHEREAS, on May 22, 2017, after review of an environmental checklist, a Determination of Non-Significance was issued pursuant to the State Environmental Policy Act (chapter 43.21C RCW and MICC 19.07.120); and

WHEREAS, on May 22, 2017, a Public Notice of Application and Public Hearing was published in the City of Mercer Island Permit Bulletin regarding the zoning code text amendment proposal to give public notice of the open record hearing in front of the Planning Commission and to encourage public participation; and

WHEREAS, on May 24, 2017, a Public Notice of Application and Public Hearing was published in the Mercer Island Reporter, giving public notice of the open record hearing in front of the Planning Commission and encouraging public participation; and

WHEREAS, a public comment period was provided from May 22, 2017 through June 21, 2017 to obtain public comments regarding the proposed zoning code text amendment; and

WHEREAS, the Mercer Island Planning Commission held a public hearing on June 21, 2017, and recommended approval of the proposed zoning code text amendment; and

WHEREAS, the City Council held the first reading of the proposed zoning code text amendment on October 3, 2017 and the second reading on October 17, 2017 during the Council's regular public meetings;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND,  
WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1. Amendments to Chapter 19.06 MICC, General Regulations.** Chapter 19.06 MICC “GENERAL REGULATIONS” is hereby amended to include the following:

**19.06.100 Essential public facilities.**

**A. Purpose and applicability.**

1. This chapter establishes a process for identifying, siting and regulating essential public facilities (EPFs).

2. Nothing in this chapter shall be construed as precluding the siting of new EPFs, or the expansion or modification of existing EPFs, in contravention of applicable state law. This chapter shall be interpreted in a manner consistent with the requirements of the Growth Management Act, chapter 36.70A RCW, as now enacted or hereafter amended, and other applicable statutes and regulations.

3. This chapter is intended to:

a. Ensure that EPFs, as needed to support orderly growth and delivery of public services, are identified, sited and regulated for the public health, safety and welfare in a timely and efficient manner.

b. Ensure that public services are available and accessible to Mercer Island and that the facilities are sited and constructed to provide those services in a timely manner.

c. Provide the City with additional regulatory authority to require mitigation of impacts that may occur because of siting, operating, modifying, or expanding an EPF.

d. Promote enhanced public participation that will produce EPF decisions consistent with community goals and the comprehensive plan.

**B. Preapplication meeting required.** Prior to submitting a conditional use permit application, an EPF applicant is required to attend a preapplication meeting consistent with the preapplication provisions of Chapters 19.09 and 19.15 MICC. The preapplication meeting is required as a means for applicants to present facility and siting proposals, seek information about potential sites, and propose possible mitigation measures.

**C. Public Participation.** The applicant shall present a public participation plan for City review and comment as part of the preapplication meeting. Applicants shall conduct local outreach efforts with early notification to prospective neighbors to inform them about the project and to engage residents in the development of the proposal, site planning and mitigation design prior to submittal of a conditional use permit application.

**D. Conditional use permit required.** An EPF shall require a conditional use permit in all zones.

Outside of the Town Center zone, an application for a conditional use permit shall follow the procedure and meet the criteria in Chapter 19.15 MICC. Within the Town Center zone, an application for a conditional use permit shall follow the procedure and meet the criteria in Chapter 19.15 MICC and MICC 19.11.150(B). In addition, regardless of the proposed location of the EPF, materials showing compliance with the following items must be submitted:

1. Documentation of Need. The applicant must demonstrate the need for the proposed EPF. Included in the analysis of need should be the projected service population, an inventory of existing and planned comparable facilities and projected demand for this type of essential public facility.

2. Consistency with Applicant's Plans. The proposal shall be consistent with the applicant's own long-range plans for facilities and operations.

3. Consistency with Mercer Island Comprehensive Plan. The proposal shall be consistent with the Mercer Island Comprehensive Plan.

4. Minimum Site Requirements. The applicant shall submit documentation showing the minimum siting requirements for the proposed facility. Site requirements may be determined by the following factors: minimum size of the facility, access, support facilities, topography, geology, and mitigation needs. The applicant shall also identify future expansion needs of the facility.

5. Alternative Site Selection. The applicant shall search for and investigate alternative sites before submitting a proposal for conditional use permit approval. The proposal shall indicate whether any alternative sites have been identified that meet the minimum site requirements of the facility.

6. Proposed Impact Mitigation. The proposal must include adequate, appropriate and reasonable mitigation measures for the impacted area(s) and community. Mitigation measures may include, but are not limited to, natural features that will be preserved or created to serve as buffers, other site design elements used in the development plan, and/or operational or other programmatic measures contained in the proposal. The proposed measures shall be adequate to substantially reduce or compensate for anticipated adverse impacts created by the proposed facility.

E. Design Review Required. In addition to conditional use permit approval, design review pursuant to Chapter 19.15 MICC is required for any regulated improvements. Design review may be consolidated with the conditional use permit review pursuant to Chapter 19.15 MICC.

F. Independent Consultant Review. The code official may require independent consultant review of the proposal to assess its compliance with the criteria contained in this chapter, as well as the conditional use permit criteria. If independent consultant review is required, the applicant shall make a deposit with the city sufficient to defray the cost of such review. Unexpended funds, if any, will be returned to the applicant following the final decision on the application.

**Section 2.**     **Amendments to Chapter 19.16 MICC, Definitions.** Chapter 19.16 MICC “DEFINITIONS” is hereby amended to include the following:

Essential Public Facility: Any public facility or facilities owned or operated by a unit of local or state government, public or private utility, transportation company, or any other entity that provides a public service as its primary mission, and is difficult to site. Essential public facilities include those facilities listed in RCW 36.70A.200, and any facility that appears on the list maintained by the state office of financial management under RCW 36.70A.200(4). Essential public facilities does not include special needs group housing as provided in MICC 19.06.080; public schools under the administration of Mercer Island School District No. 400; or City of Mercer Island facilities, except those facilities specifically listed in RCW 36.70A.200 or WAC 365-196-550.

**Section 3.**     **Severability.** If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

**Section 4.**     **Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

**Section 5.**     **Effective Date.** This Ordinance shall take effect and be in force on 5 days after its passage and publication.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on the 17<sup>th</sup> day of October 2017 and signed in authentication of its passage.

CITY OF MERCER ISLAND

\_\_\_\_\_  
Bruce Bassett, Mayor

Approved as to Form:

ATTEST:

\_\_\_\_\_  
Kari Sand, City Attorney

\_\_\_\_\_  
Allison Spietz, City Clerk

Date of Publication: \_\_\_\_\_





**BUSINESS OF THE CITY COUNCIL  
CITY OF MERCER ISLAND, WA**

**AB 5352  
October 17, 2017  
Regular Business**

**2017 COMPREHENSIVE PLAN AMENDMENTS  
AND ACCOMPANYING ZONING CODE  
AMENDMENTS**

**Proposed Council Action:**

Conduct first reading of Ordinance No. 17-23 and Ordinance No. 17C-24, provide staff with any requested changes, and advance Ordinance Nos. 17-23 and 17C-24 to second reading on December 5, 2017.

**DEPARTMENT OF**

Development Services Group (Evan Maxim)

**COUNCIL LIAISON**

n/a

**EXHIBITS**

1. Resolution No. 1526
2. Ordinance No. 17-23 with Attachment "A"
3. Ordinance No. 17C-24 with Attachment "A"
4. Staff Report and Recommendation

**2017-2018 CITY COUNCIL GOAL**

n/a

**APPROVED BY CITY MANAGER**

<b>AMOUNT OF EXPENDITURE</b>	\$	n/a
<b>AMOUNT BUDGETED</b>	\$	n/a
<b>APPROPRIATION REQUIRED</b>	\$	n/a

**SUMMARY**

**BACKGROUND**

In November 2016, the City Council adopted Resolution No. 1526 (see Exhibit 1), which established the 2017 Comprehensive Plan Amendment docket for review and recommendation by the Planning Commission. The Planning Commission initiated their review of the 2017 Comprehensive Plan Amendments on August 16, 2017, conducted a study session on September 27, 2017, and held a public hearing, deliberated, and made their recommendation to the City Council on October 4, 2017.

Since the passage of Resolution No. 1526, three docket items were eliminated as proposed Comprehensive Plan Amendments. Specifically, the "placeholder" docket items for the residential development standards code amendment and the Mercer Island Center for the Arts ("MICA") have been withdrawn. The third docket item, the update to Appendix C to reflect the Mercer Island School District Capital Facilities Plan ("MISD CFP"), is not necessary, as the Comprehensive Plan already adopts the MISD CFP as amended yearly.

## **2017 COMPREHENSIVE PLAN AMENDMENTS**

The proposed 2017 Comprehensive Plan amendments (see Exhibit 2) include the following items:

- The proposed amendments to the text of the Comprehensive Plan include:
  - A) An update to the “Introduction” to update language regarding the Comprehensive Plan amendment process;
  - B) Delete Appendix B, which contained redundant and out of date language; and
  - C) Adopt a new policy supporting a trail from the south end of Luther Burbank park to the I-90 Lid Connector trail.
- The proposed land use map amendments include:
  - A) A change to the land use designation from “Public Facility” to “Park” for a portion of property located to the west of the Mercer Island Community and Event Center known as Kite Hill; and,
  - B) The proposed Cohen amendment to change the land use designation from “Linear Park (I-90)” to “Town Center” for a portion of City-controlled property located on the southwest corner of the intersection of 76<sup>th</sup> Avenue SE and SE 24<sup>th</sup> Street.

## **REZONE AND ZONING CODE AMENDMENTS**

The proposed Cohen amendment to the land use map in the Comprehensive Plan, is accompanied by a request to rezone the City-controlled property located on the southwest corner of the intersection of 76th Avenue SE and SE 24th Street from “P - Public Institution” to “TC – Town Center” and update related maps and figures within Chapter 19.11 Mercer Island City Code (see Exhibit 3).

## **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission completed their review of the proposed 2017 Comprehensive Plan amendments on October 4, 2017; five of the seven Planning Commissioners were present for this review. The Planning Commission recommended against City Council approval of the proposed Cohen Comprehensive Plan and accompanying re-zone and code amendments. There were two motions made regarding the proposed amendments. The first motion was to recommend approval of the proposed Cohen amendments; however the motion was not seconded and there was no further discussion. The second motion was to recommend approval of the proposed Cohen amendments, subject to two conditions that: A) the property be treated as a gateway to Town Center, and B) the property be used for a public benefit. This motion was seconded and discussed by the Planning Commission, but ultimately did not pass.

The Planning Commissioners, in deliberating the second motion, identified several concerns with the proposed Cohen amendments. These concerns were:

- 1) There is not a clear public benefit resulting from the proposed change;
- 2) The development of the corner would eliminate the park-like open space that already functions nicely as a transition to the Town Center;
- 3) Any future development of the site should incorporate gateway elements to emphasize the entrance to the Town Center;
- 4) The subject site and perhaps adjacent parcels should be designated as a “potential opportunity site” for public open space as described in Land Use Policy 12.3 of the Comprehensive Plan, and
- 5) Additional planning and visioning work should be done for that corner of the Town Center before the land use designation is changed.

If the Council desires further review by the Planning Commission, the Planning Commission recommends that the Council return the review back to the Planning Commission with a recommendation for a land use designation and zoning change during a future Comprehensive Plan Amendment cycle, with direction to create a vision for how this parcel could develop as a gateway to the Town Center with a clear public benefit.

## STAFF RECOMMENDATION

The City staff recommended adoption of all of the proposed Comprehensive Plan amendments, including the proposed Cohen amendment. The staff review and analysis is contained in the staff report to the Planning Commission (see Exhibit 4). The Planning Commission has largely concurred with the staff analysis, except as it relates to the proposed Cohen amendment. In preparing the recommendation on the Cohen amendment, staff focused primarily on the adopted criteria for recommending approval of the Comprehensive Plan amendments and concluded:

- A) The proposed Cohen amendment addresses the changing circumstances on Mercer Island. The property was dedicated to the City for “road / street purposes only.” However, the City-controlled property is no longer needed for street purposes, a changed circumstance from its initial dedication to the City.
- B) The proposed Cohen amendment will result in the designation of the City-controlled property as “Town Center” with a zoning of “TC”, which is consistent with the designation and zoning of the abutting properties. The city-controlled property may be used or developed independently, or in conjunction with adjacent sites, consistent with the zoning designation of “TC” and the zoning standards of the Town Center code (Chapter 19.11 MICC).
- C) The city-controlled property is not currently designated as “park” in the adopted Parks and Recreation Plan (2014-2019), which appeared to be a component of the existing public benefit identified by the Planning Commission. The current use of the property for street purposes does not benefit the community as a whole. The proposed Cohen amendment will allow the City Council to evaluate a number of different use alternatives for the subject site, including development of a park or town center gateway improvement, without the constraints associated with the current land use and zoning designation. The City will, by establishing a new designation and zoning for the City-controlled property, allow for development of the property that benefits the whole community.

Staff recommends approval of all of the proposed Comprehensive Plan amendments.

## NEXT STEPS

Following direction on any changes to the Ordinances, staff will bring the Ordinances back for second readings. The Department of Commerce has indicated that they will not shorten their 60-day review required for the 2017 Comprehensive Plan amendments, which means that the City Council cannot take action on the Ordinances until the December 5 Council meeting.

## RECOMMENDATION

*Planning Commission and Planning Manager*

Conduct first reading and provide staff initial direction for any changes to Ordinance Nos.17-23 and 17C-24.

MOVE TO: Set Ordinance Nos.17-23 and 17C-24 for second reading and adoption on December 5, 2017.

**CITY OF MERCER ISLAND  
RESOLUTION NO. 1526**

**A RESOLUTION OF THE CITY OF MERCER ISLAND, WASHINGTON,  
ESTABLISHING THE CITY'S 2017 COMPREHENSIVE PLAN AMENDMENT  
DOCKET**

WHEREAS, the City of Mercer Island is required to plan under the Growth Management Act of 1990, as amended, including adopting and regularly updating and amending its Comprehensive Plan; and

WHEREAS, the Growth Management Act allows the City to amend the Comprehensive Plan on an annual basis; and

WHEREAS, public notice of the opportunity to apply for Comprehensive Plan amendments for 2017 was provided on August 29, 2016; and

WHEREAS, on October 19, 2016, the City of Mercer Island Planning Commission held a public meeting to allow for interested parties to comment on a preliminary docket of amendments and made a recommendation to the Mercer Island City Council on a final docket of amendments to be considered in 2017; and

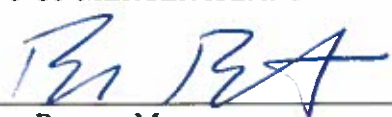
WHEREAS, on November 21, 2016, the Mercer Island City Council held a public meeting to consider the Planning Commission's recommended final docket of amendments to be considered in 2017;

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON AS FOLLOWS:

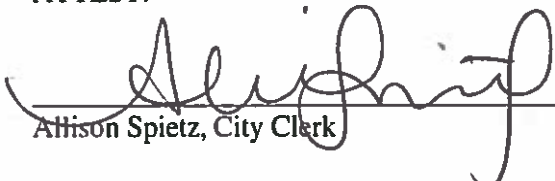
1. The City Council directs City staff and the Planning Commission to analyze, study, and make recommendations to the City Council on the proposed Comprehensive Plan amendments listed on the final docket attached hereto as Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS REGULAR MEETING ON THE 21st DAY OF NOVEMBER 2016.

CITY OF MERCER ISLAND

  
\_\_\_\_\_  
Bruce Bassett, Mayor

ATTEST:

  
\_\_\_\_\_  
Allison Spietz, City Clerk

**RESOLUTION NO. 1526—EXHIBIT A**

<b>Item No.</b>	<b>Proposed By</b>	<b>Potentially Affected Section, Goal or Policy</b>	<b>Summary of proposal</b>
<b>1</b>	<b>Development Services Group</b>	<b>Introduction</b>	<b>Delete “Amending the Comprehensive Plan” and “Process for Amending the Comprehensive Plan”</b>
<b>2</b>	<b>Development Services Group</b>	<b>Appendix B</b>	<b>Update Appendix B</b>
<b>3</b>	<b>Development Services Group</b>	<b>Appendix C</b>	<b>Adopt updated MISD 6-year CFP</b>
<b>4</b>	<b>Parks Department (Paul West)</b>	<b>To be determined. Goal 11 or 19 in the Land Use Element</b>	<b>Add I-90 Lid Connector Trail Lease Agreement with WSDOT to Luther Burbank Park pedestrian connection to Town Center.</b>
<b>5</b>	<b>City Council (9/6/16)</b>	<b>Figure 1-Land Use Map</b>	<b>Change Land Use designation of Kite Hill/West Hill at the Mercer Island Community and Event Center from “Public Facility” to “Park”</b>
<b>6</b>	<b>City Council (9/6/16)</b>	<b>To be determined</b>	<b>Amendments necessary to support future changes to residential development standards to be adopted in 2017</b>
<b>7</b>	<b>Mercer Island Center for the Arts (9/30/16)</b>	<b>To be determined</b>	<b>Amendments necessary to support proposed amendments to the zoning code to be adopted in 2017</b>
<b>8</b>	<b>Leon Cohen (9/30/16)</b>	<b>Figure 1-Land Use Map</b>	<b>Change Land Use designation of city-owned property located at the SW corner of 76<sup>th</sup> Avenue SE and SE 24<sup>th</sup> Street from “Public Facility” to “Town Center 5”</b>

**CITY OF MERCER ISLAND  
ORDINANCE NO. 17-23**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND AMENDING THE  
MERCER ISLAND COMPREHENSIVE PLAN INTRODUCTION, LAND USE  
ELEMENT, APPENDIX B, AND LAND USE MAP DESIGNATION OF CERTAIN  
PROPERTIES WITHIN THE CITY LIMITS OF MERCER ISLAND AS  
SPECIFICALLY DESCRIBED BELOW.**

WHEREAS, in compliance with the Washington State Growth Management Act, Chapter 36.70A RCW, the City of Mercer Island adopted a Comprehensive Plan in 1994 and has amended the plan on several occasions since that time; and

WHEREAS, in accordance with RCW 36.70A.130, an adopted Comprehensive Plan shall be subject to continuing evaluation and review, and the 2017 Mercer Island Citizen Comprehensive Plan Amendment Process is the annual amendment process authorized under RCW 36.70A.130(2)(a); and,

WHEREAS, the City sought community participation in the 2017 Citizen Comprehensive Plan Amendments by placing a series of legal ads in August of 2016 notifying residents, business owners and interested parties of the ability to submit amendments to the Mercer Island Comprehensive Plan; and

WHEREAS, the deadline for submittal was October 3, 2016, and eight Comprehensive Plan amendment requests were submitted; and

WHEREAS, pursuant to RCW 36.70A.120 (2)(b), all proposals that were submitted are being considered concurrently so the cumulative effect of the various proposals can be ascertained, and

WHEREAS, the City has met all applicable public notice requirements for said comprehensive plan amendments according to MICC 19.15;

WHEREAS, state agencies received notice of the City's proposed Comprehensive Plan amendments on October 3, 2017, and no formal comments were received; and

WHEREAS, the City has issued SEPA Threshold Determinations (DNS) for the respective amendments on August 21, 2017; and

WHEREAS, the Planning Commission held the required public hearing on October 4, 2017, and recommended approval of the proposed text and one of the proposed map amendments to the comprehensive plan based on the review criteria of MICC 19.15.020(G)(1); and

WHEREAS, the Planning Commission did not recommend approval of the proposed map amendments to the comprehensive plan related to a City-controlled property on the southwest corner of SE 24<sup>th</sup> Street and 76<sup>th</sup> Avenue SE. The Planning Commission recommended that the Council direct the Commission to continue reviewing this proposed amendment in 2018 and provide additional direction on the goals for future potential uses, including a gateway to Town Center, consistent with the City's Comprehensive Plan; and

WHEREAS, the City Council considered the proposed Comprehensive Plan Amendments on December 5, 2017.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1:**      **Comprehensive Plan Land Use Map Amendments.** The amendments to the Mercer Island Comprehensive Plan Land Use map, as set forth in Attachment “A” to this ordinance, are hereby adopted, as follows:

The westerly portion of 8236 SE 24<sup>th</sup> Street designated in Attachment A shall be designated as “Park”; and

The City of Mercer Island-controlled property located on the southwest corner of the intersection of 76th Avenue SE and SE 24th Street in Attachment A shall be designated as “Town Center.”

**Section 2:**      **Amendments to the Mercer Island Comprehensive Plan Introduction.** The subsections entitled “Amending the Comprehensive Plan” and “Process for Amending the Comprehensive Plan” are hereby amended as follows:

**Amending the Comprehensive Plan**

The Comprehensive Plan is a dynamic document because it is based on community values and an understanding of existing and projected conditions and needs, all of which continually change. The city ~~should plans for change by establishing through the established,~~ formal procedures for regularly monitoring, reviewing and amending the Comprehensive Plan.

The Comprehensive Plan also represents an integrated statement of policies, consistent with regional plans and based on a broad perspective developed over many months of wide spread public involvement. Amendments to the plan should be done carefully with a view toward maintaining the internal consistency and integrity of the document.

The process for amending the Mercer Island Comprehensive Plan is established in Chapter 19.15 of the Mercer Island City Code (MICC), consistent with the provisions of WAC 365-195-630. ~~WAC 365-195-630 requires that each jurisdiction establish a process for amending the Comprehensive Plan. WAC 365-195-630H~~ also states that plan amendments cannot be considered more frequently than once a year except in an emergency, and that all proposed amendments in any year must be considered concurrently so that the cumulative effect of the changes can be considered.

**Process for Amending the Comprehensive Plan:**

- ~~1. In January of each calendar year, the Planning Commission shall prepare an annual report to the City Council on the status of the plan and progress made in implementation.~~
- ~~2. Any requests for a Comprehensive Plan amendment shall be submitted to the Planning Commission by June of each year and action taken by the City Council by the end of the calendar year.~~
- ~~3. Amendments to the Comprehensive Plan shall follow the notice and hearing requirements specified for adoption of the plan.~~

**Section 3:**      **Amendments to the Mercer Island Comprehensive Plan Land Use Element.** The “Parks and Open Space Policies” section is hereby amended as follows:

**GOAL 19** Continue to maintain the Island's unique quality of life through open space preservation, park and trail development and well-designed public facilities.

...

19.13 Pursue a trail lease agreement from the Washington Department of Transportation to allow for the development of an I-90 Connector Trail to allow development of a pedestrian connection between Luther Burbank and Town Center.

**Section 4:** **Amendments to the Mercer Island Comprehensive Plan Appendix B.** Appendix “B” to the Mercer Island Comprehensive Plan is hereby repealed.

**Section 5:** **Severability.** If any section, sentence, clause, or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

**Section 6:** **Publication and Effective Date.** A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five days after the date of publication.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on the 5<sup>th</sup> day of December 2017 and signed in authentication of its passage.

CITY OF MERCER ISLAND

\_\_\_\_\_  
Bruce Bassett, Mayor

Approved as to Form:

ATTEST:

\_\_\_\_\_  
Kari Sand, City Attorney

\_\_\_\_\_  
Allison Spietz, City Clerk

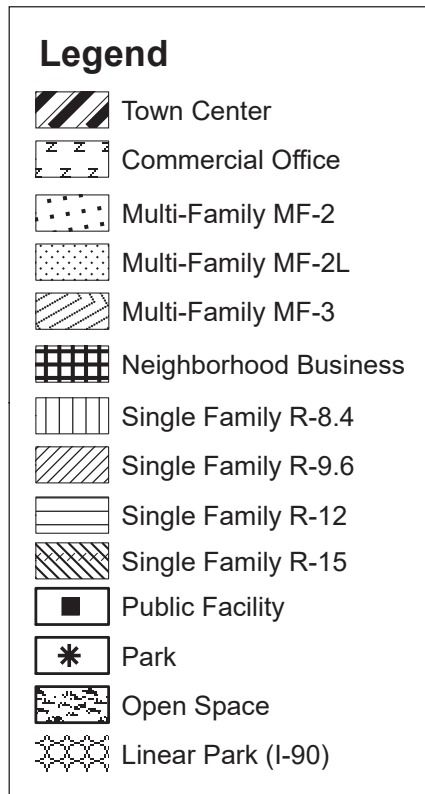
Date of Publication: \_\_\_\_\_



Figure 1- Land Use Map

# Mercer Island Land Use Plan

The Land Use Plan is intended to be a generalized depiction of land uses. The map is not a description of zoning boundaries nor should it be interpreted on a site specific basis.



The Mercer Island City limits delineates the communities' Urban Growth Area. The City limits are contiguous with the Mercer Island Lake Washington Shoreline.

**DRAFT**

0 0.25 0.5 1 Miles

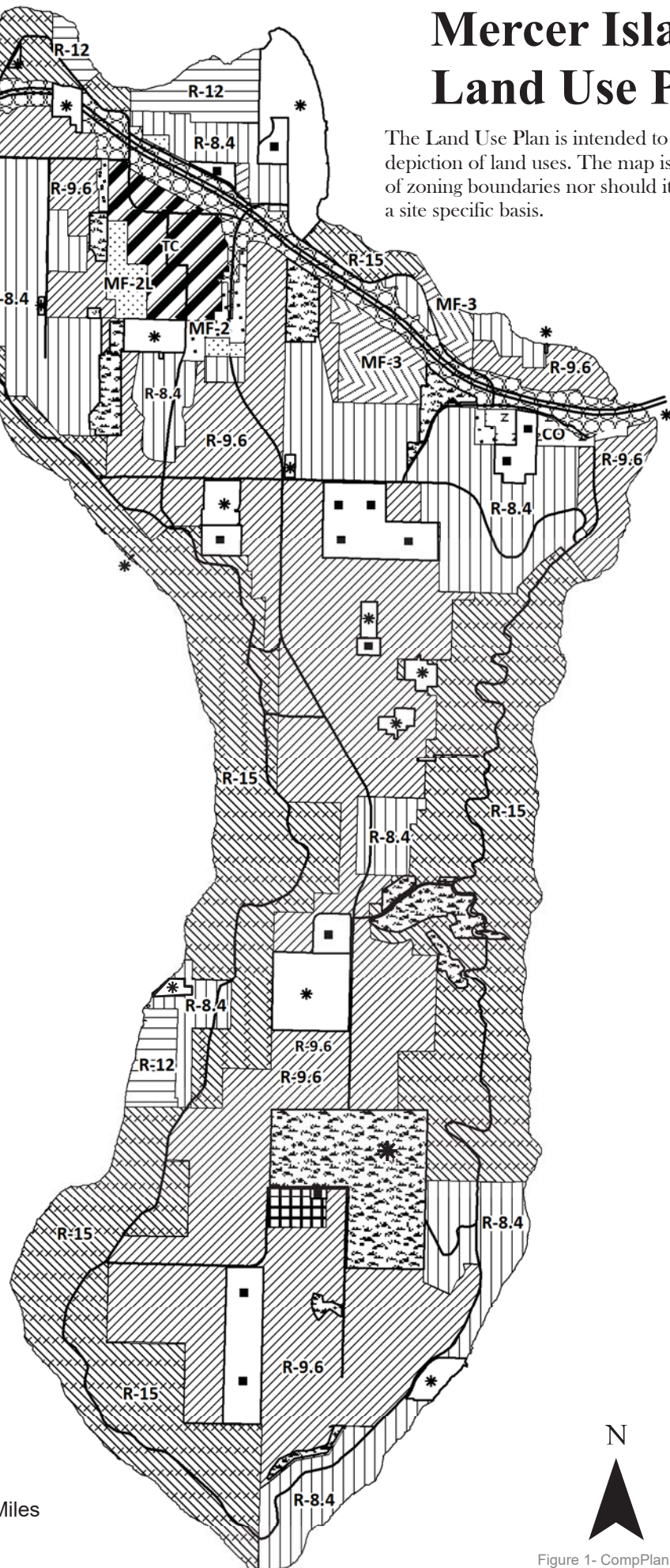
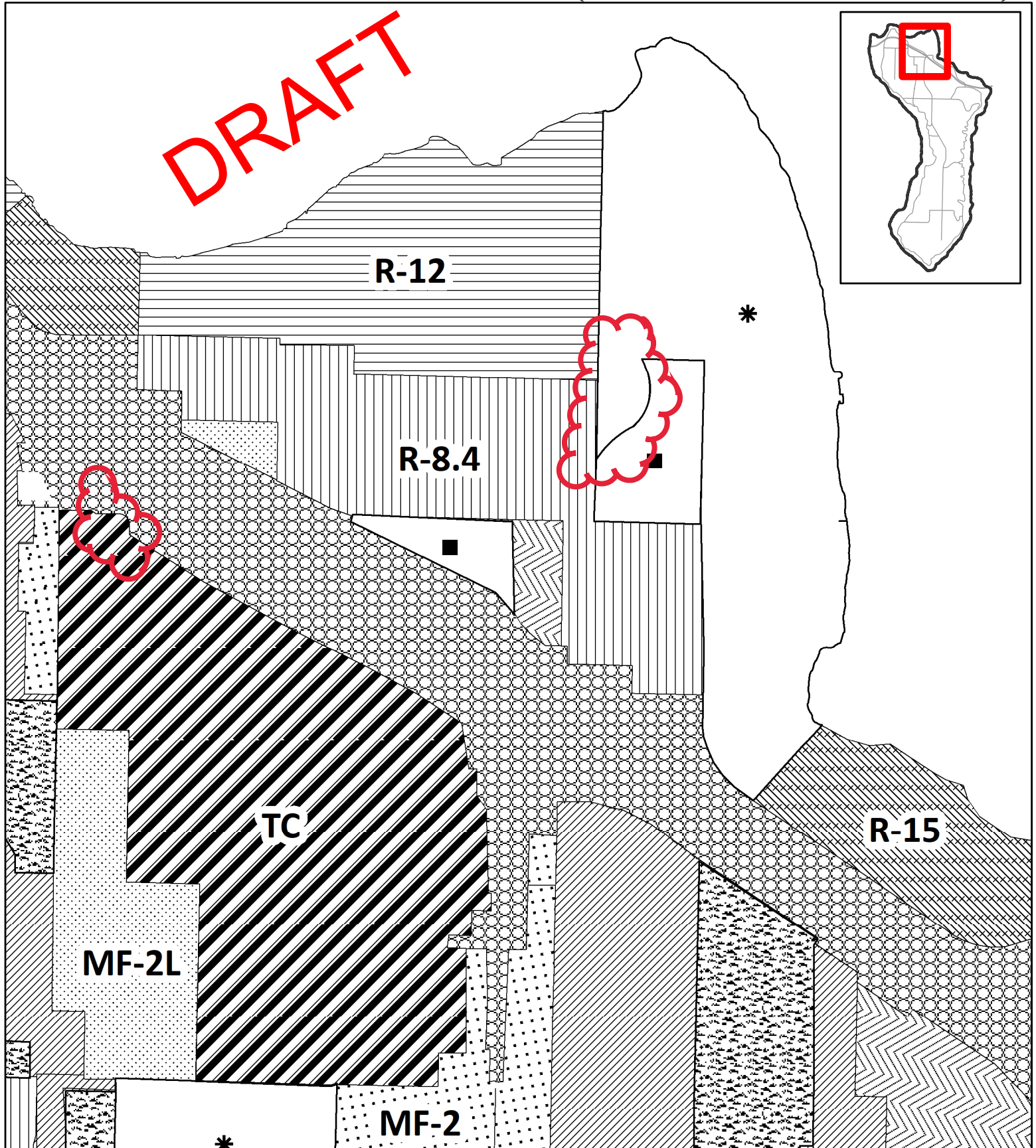


Figure 1- CompPlanLandUseMap2014.mxd  
Map Created 8/25/2014

# Mercer Island Land Use Plan (TC & Luther Burbank)



The Land Use Plan is intended to be a generalized depiction of and uses.  
The map is not a description of zoning boundaries nor should it be interpreted on a site specific basis.

Town Center	Multi-Family MF-2	Single Family R-8.4	Public Facility
Commercial Office	Multi-Family MF-2L	Single Family R-9.6	Park
Neighborhood Business	Multi-Family MF-3	Single Family R-12	Open Space
		Single Family R-15	Linear Park (I-90)



**CITY OF MERCER ISLAND  
ORDINANCE NO. 17C-24**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,  
AMENDING THE ZONING MAP (MERCER ISLAND CITY CODE, TITLE 19,  
UNIFIED LAND DEVELOPMENT CODE) DESIGNATION OF CERTAIN  
PROPERTIES WITHIN THE CITY LIMITS OF MERCER ISLAND AS  
SPECIFICALLY DESCRIBED BELOW, FROM P, PUBLIC INSTITUTION TO  
TC, TOWN CENTER**

WHEREAS, in compliance with the Washington State Growth Management Act, Chapter 36.70A RCW, the City of Mercer Island adopted a Comprehensive Plan in 1994 and has amended the plan on several occasions since that time; and

WHEREAS, in compliance with the Washington State Growth Management Act, Chapter 36.70A RCW, the City of Mercer Island has adopted a zoning code and map (Mercer Island City Code, Title 19, Unified Land Development Code); and

WHEREAS, the City Council has considered and desires to amend the Comprehensive Plan land use map designation of a certain city-owned property further described below from “Linear Park / I-90” to “Town Center”; and

WHEREAS, 36.70A requires the Comprehensive Plan and Unified Land Development Code to be consistent; and

WHEREAS, the City has met all applicable public notice requirements for said comprehensive plan amendments according to MICC 19.15;

WHEREAS, state agencies received notice of Mercer Island's proposed zoning and development regulation amendments on October 3, 2017, and no formal comments were received; and

WHEREAS, the City of Mercer Island issued SEPA Threshold Determinations (DNS) for the respective amendments on August 21, 2017; and

WHEREAS, the Planning Commission held the required public hearing on October 4, 2017, and did not recommend approval of the proposed zoning map amendments at this time, based on the review criteria of MICC 19.15.020(G)(2). The Planning Commission recommended that the Council direct the Commission to continue reviewing the proposed amendments in 2018 and provide additional direction on the goals for future potential uses, including a gateway to Town Center, consistent with the City’s Comprehensive Plan; and

WHEREAS, the City Council considered the proposed zoning map amendments on December 5<sup>th</sup>, 2017. NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON HEREBY ORDAINS AS FOLLOWS:

**Section 1:**     **Reclassification - Rezone.** The Mercer Island City Council hereby approves the amendment to the City’s zoning map, as shown in Attachment A, by reclassification and rezone, from “P” to “TC-5”, the real property legally described as:

*TBD*

**Section 2:**     **Severability.** If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

**Section 3:**     **Publication and Effective Date.** A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five days after the date of publication.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on the 5<sup>th</sup> day of December 2017 and signed in authentication of its passage.

CITY OF MERCER ISLAND

\_\_\_\_\_  
Bruce Bassett, Mayor

Approved as to Form:

ATTEST:

\_\_\_\_\_  
Kari Sand, City Attorney

\_\_\_\_\_  
Allison Spietz, City Clerk

Date of Publication: \_\_\_\_\_

















**Figure 1- Land Use Map**

# Mercer Island Land Use Plan

The Land Use Plan is intended to be a generalized depiction of land uses. The map is not a description of zoning boundaries nor should it be interpreted on a site specific basis.

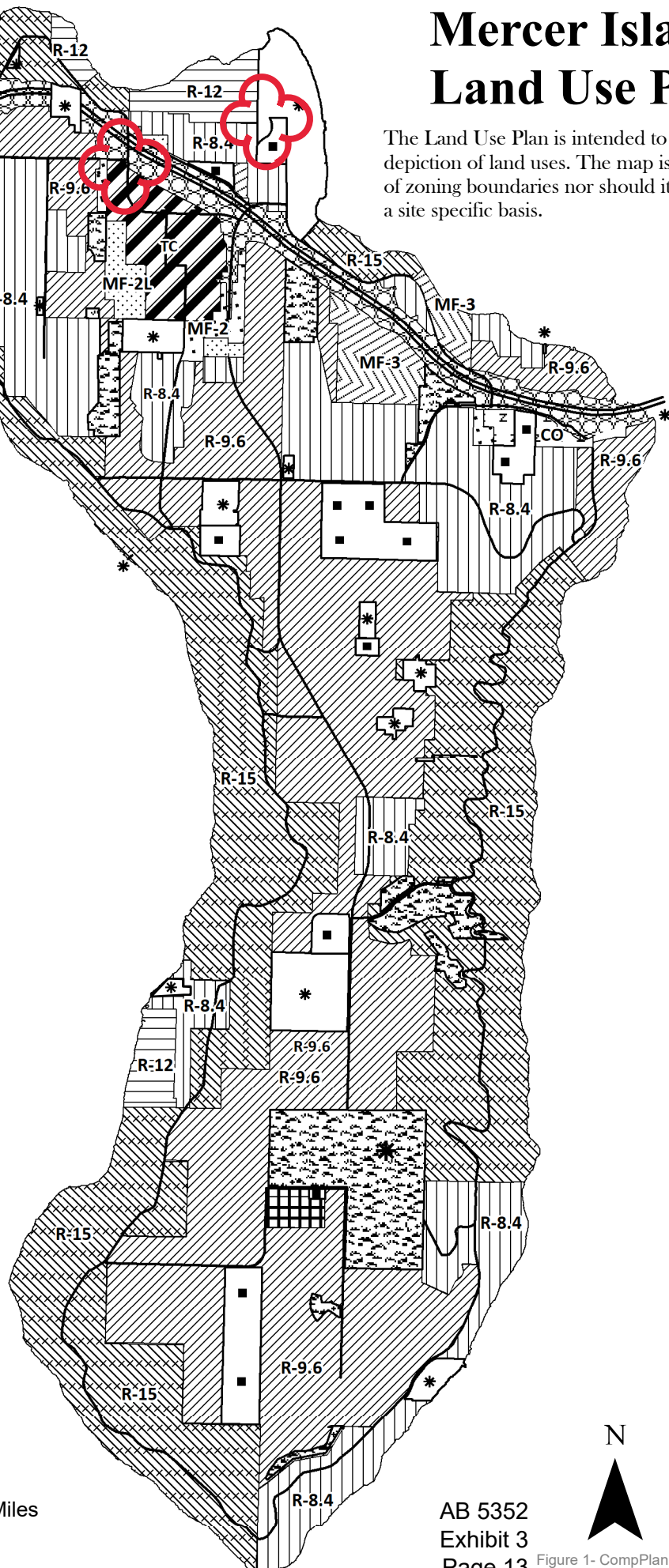
## Legend

-  Town Center
-  Commercial Office
-  Multi-Family MF-2
-  Multi-Family MF-2L
-  Multi-Family MF-3
-  Neighborhood Business
-  Single Family R-8.4
-  Single Family R-9.6
-  Single Family R-12
-  Single Family R-15
-  Public Facility
-  Park
-  Open Space
-  Linear Park (I-90)

The Mercer Island City limits delineates the communities' Urban Growth Area. The City limits are contiguous with the Mercer Island Lake Washington Shoreline.

**DRAFT**

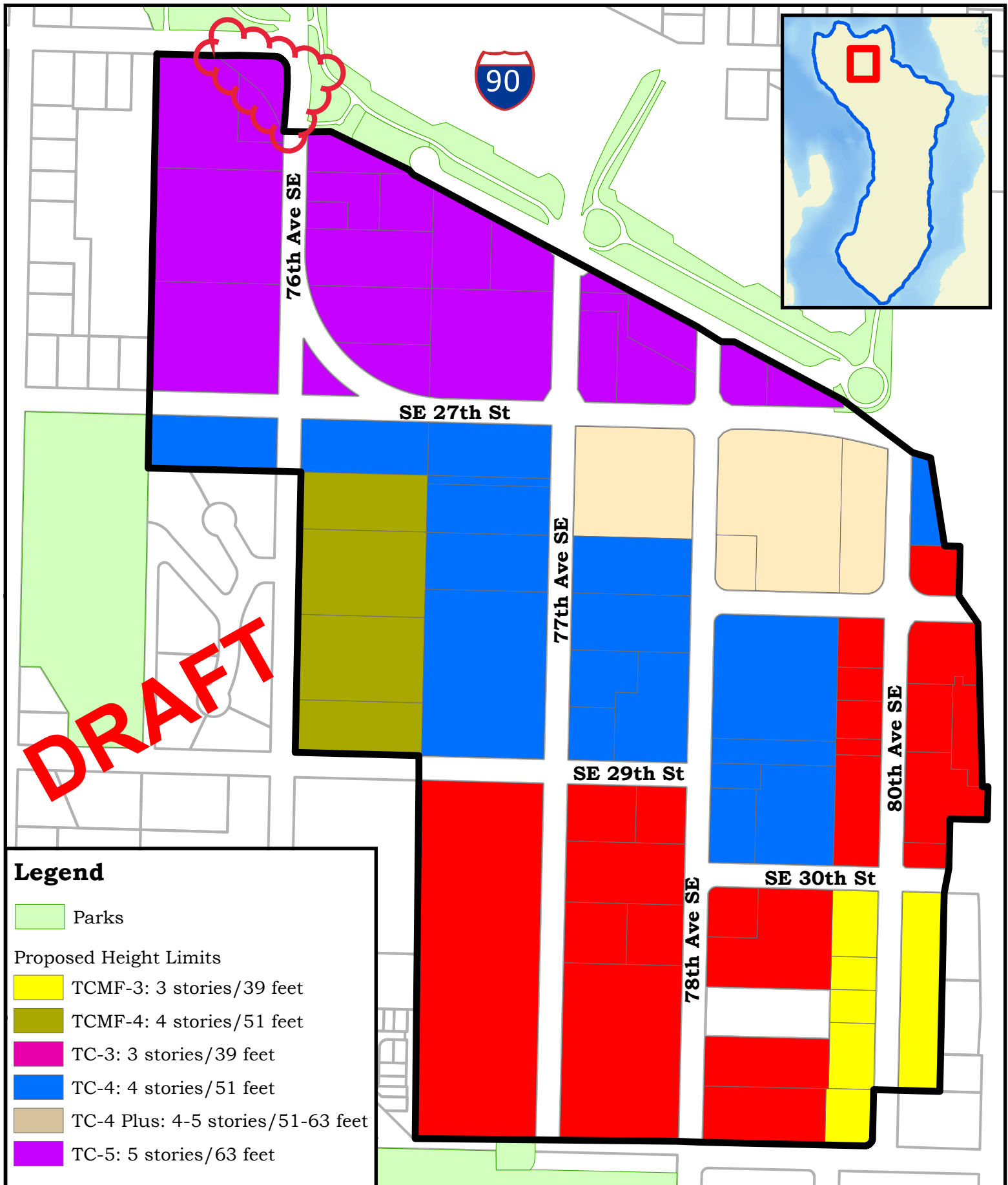
0 0.25 0.5 1 Miles



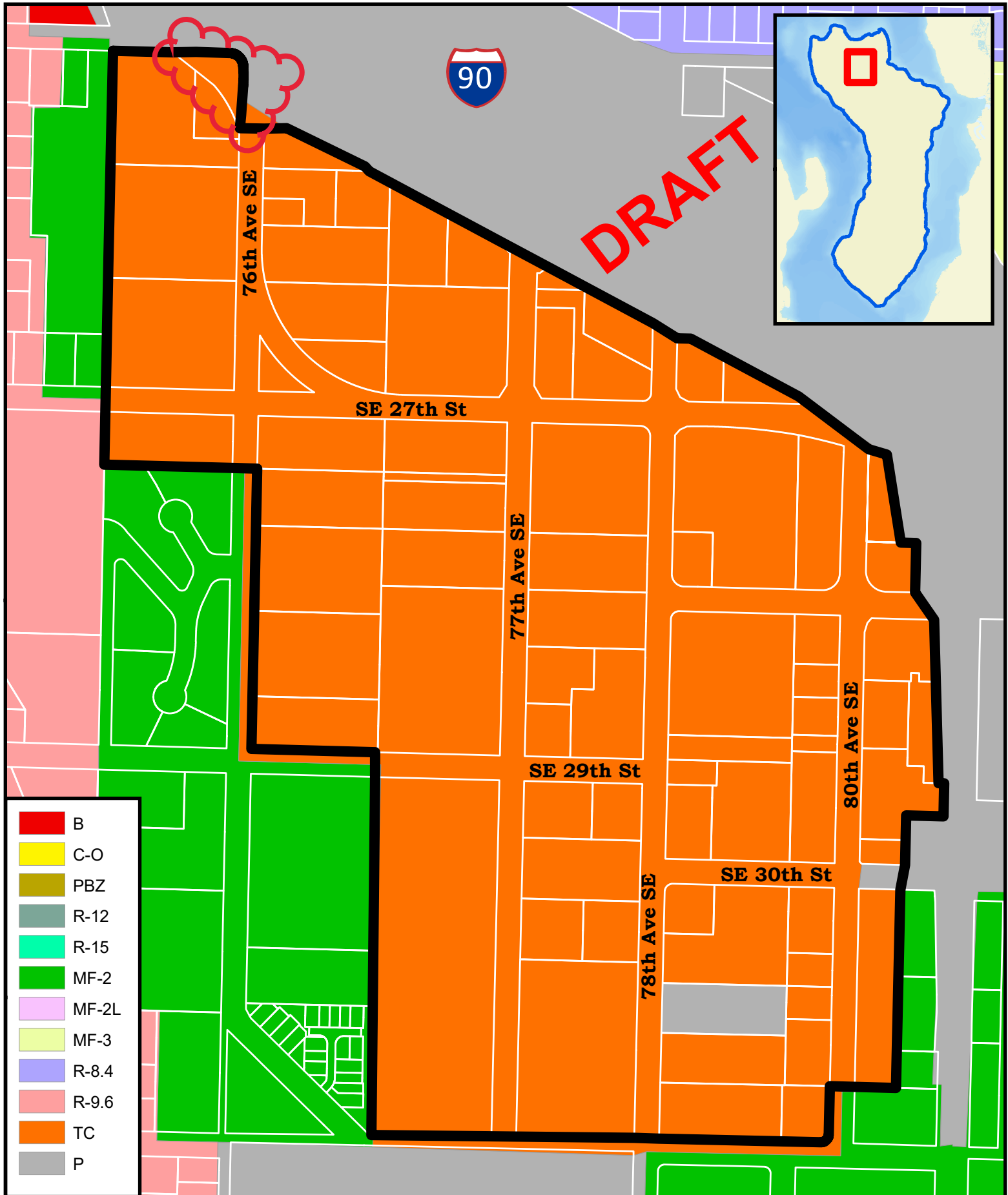
AB 5352  
Exhibit 3  
Page 13

Figure 1- CompPlanLandUseMap2014.mxd  
Map Created 8/25/2014

# Mercer Island Town Center Maximum Building Height

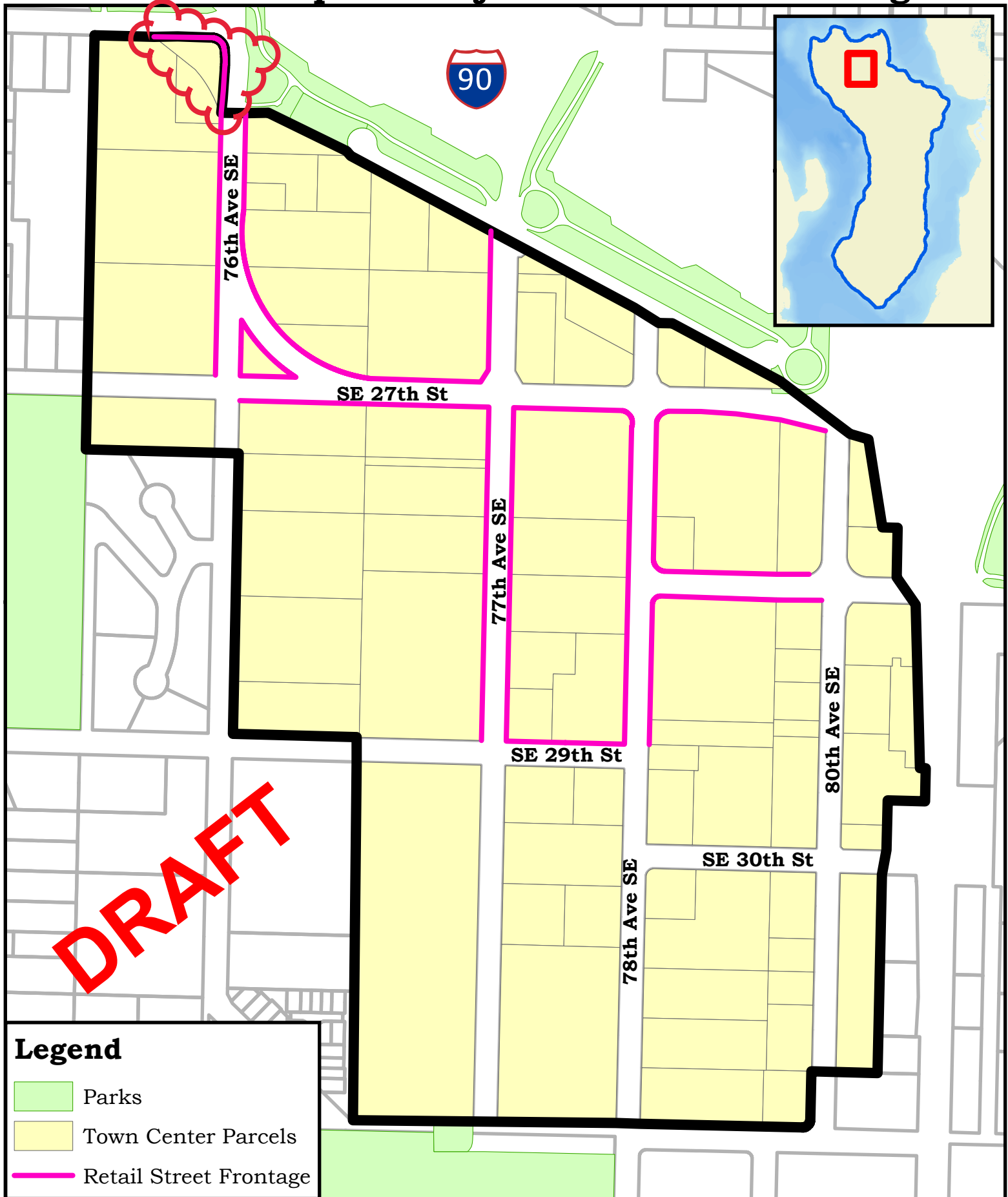


# Zoning Change from P to TC



0 150 300 600 Feet

# Retail Use Required Adjacent to Street Frontages



0 150 300 600 Feet

AB 5352

Exhibit 3

Page 16

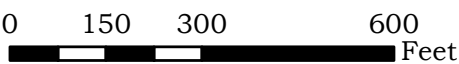
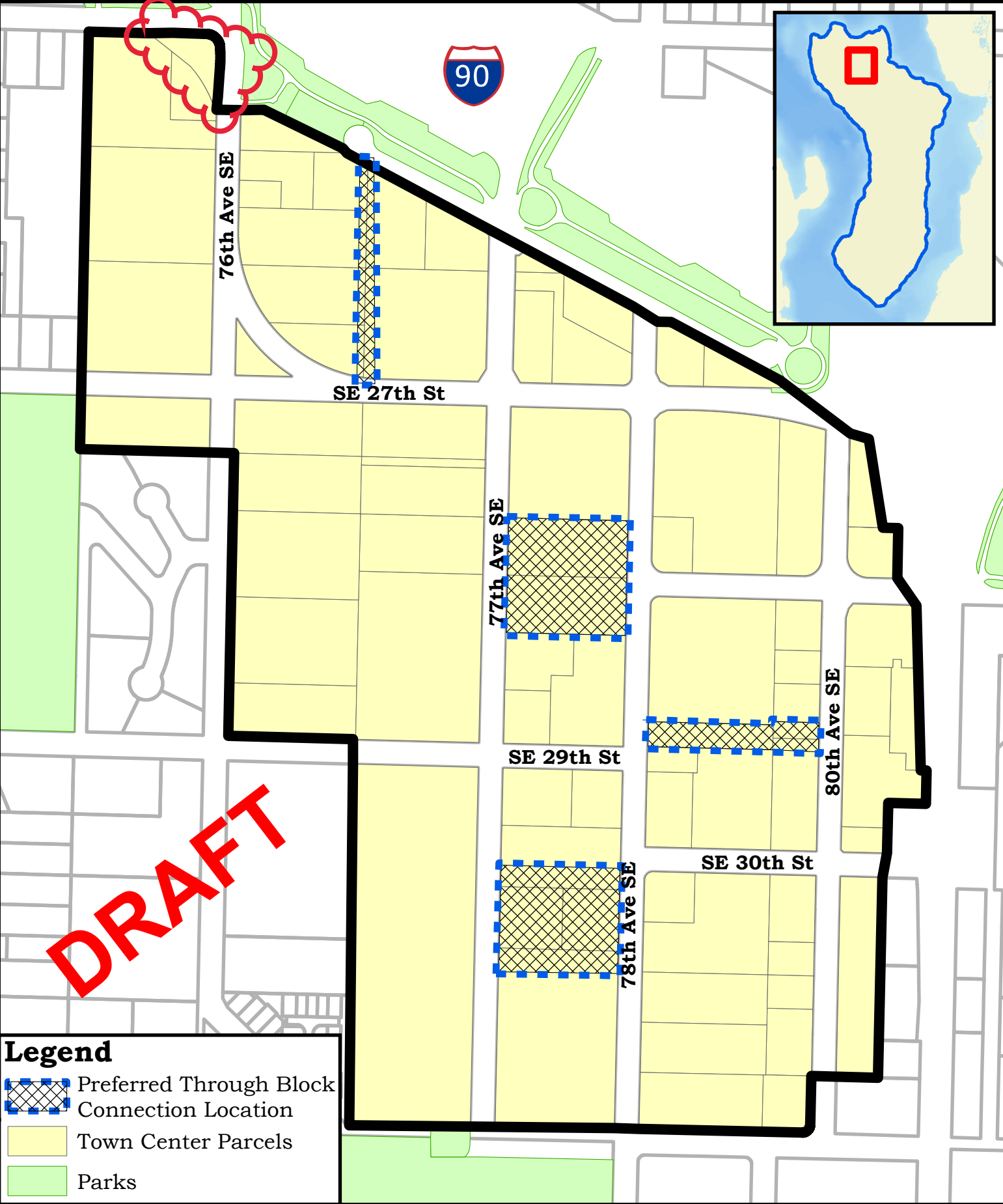
RetailUseAdjacentToStreetFrontage2017.mxd

Map Date: 8/22/2017





# Preferred Through-Block Pedestrian Connection Locations





**CITY OF MERCER ISLAND  
PLANNING COMMISSION  
STAFF REPORT**

**Agenda Item: 1  
October 4, 2017**

**File Numbers:** CPA17-001, CPA16-002, and ZTR17-006

**Description:** The list of proposed 2017 Comprehensive Plan Amendments was adopted by Council Resolution No. 1526 on November 21<sup>st</sup>, 2016 for further review in the calendar year 2017. The proposed amendments are to: 1) Update the Introduction; 2) update Appendix B for consistency with regional planning documents; 3) amend the Land Use Element to allow for a trail from Luther Burbank to Town Center; 4) amend the Land Use Designation map to designate Kite Hill as "Park"; 5) amend the Land Use Designation map of a property located on the southeast corner of 76<sup>th</sup> Avenue SE and SE 24<sup>th</sup> Street from "Public Facility" to "Town Center".

The proposed 2017 Comprehensive Plan Amendments are accompanied by a zoning text amendment to amend the zoning designation of the property on the southeast corner of 76<sup>th</sup> Avenue SE and SE 24<sup>th</sup> Street to "TC-5" and update related maps within MICC 19.11 – Town Center Development and Design Standards

**Applicant:** City of Mercer Island

**Location:** Applies to all land within the City of Mercer Island

**Exhibits:**

1. Draft Ordinance adopting the 2017 Comprehensive Plan Amendments (together with Attachments "A" to the Ordinance)
2. Draft Ordinance adopting Zoning Text Amendments (together with Attachment "A" to the Ordinance)
3. City Council Resolution No. 1526
4. Revised Public Notice of Application and Notice of Public Meeting Issued on by the City of Mercer Island on August 21, 2017
5. SEPA Determination of Non Significance, dated August 21, 2017

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## **I. SUMMARY**

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This staff reports provides a basis for the staff recommendation that the Planning Commission recommend adoption of the 2017 Comprehensive Plan amendments (Exhibit 1) and accompanying zoning text amendments (Exhibit 2) to the City Council. The staff recommends that the Planning Commission recommend approval of five of the proposed 2017 Comprehensive Plan amendments as further described within this staff report.

On November 21, 2016, the City Council passed Council Resolution No. 1526 (Exhibit 3), which established a docket of 2017 Comprehensive Plan Amendments for further review and action. The original 2017 Comprehensive Plan Amendment Docket included eight items for action; two of the proposed amendments

were initiated by members of the Mercer Island community and the remaining amendments were initiated by the City.

Following further review of the eight proposed amendments, the City has determined that two of the amendments, items 3 and 6, were not necessary. Item 3, an update to the Comprehensive Plan to reflect the annually updated Mercer Island School District (MISD) capital facilities plan, was effectively accomplished by policies 1.18 and 1.19 of the Capital Facilities Element, which references the MISD capital facilities plan “as adopted and periodically amended”. Item 6 was a “placeholder” allowing for the adoption of Comprehensive Plan amendments necessary to support the adoption of the Residential Development Standards zoning text amendment. However, the since adopted zoning text amendment did not require a Comprehensive Plan amendment and is consistent with the currently adopted Comprehensive Plan.

Item 7 an amendment requested by the Mercer Island Center for the Arts (MICA) related to proposed code amendments supporting the project, has been withdrawn by the applicant.

Comprehensive Plan and Zoning Text Amendments are designated as legislative actions, as set forth in MICC 19.15.010(E). Applicable procedural requirements for a legislative action are contained within MICC 19.15.020, including the provision that the Planning Commission conduct an open record public hearing for all legislative actions. On October 4, 2017, the Planning Commission held an open record public hearing on this matter to obtain comments from the public, deliberate on the proposed amendments and forward a recommendation to the City Council for consideration and action. As the final decision making authority for legislative actions, the City Council will consider the matter in public meetings prior to taking final action.

The City issued a Public Notice of Application and Open Record Hearing (Exhibit 4), which was published in the City’s weekly permit bulletin on August 21, 2017 and in the Mercer Island Reporter on August 23, 2017. Public comment has been accepted throughout the review of the proposed amendments. No public comments have been received on the proposed amendments.

The City issued a SEPA Determination of Non Significance (DNS) on August 21, 2017; a copy of the SEPA Determination is attached as Exhibit 5.

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## **II. STAFF FINDINGS, ANALYSIS AND CRITERIA FOR REVIEW**

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- A. **Proposed 2017 Comprehensive Plan Amendments and Zoning Text Amendment.** Please see Exhibit 1, Attachment A for the Comprehensive Plan Amendments, and Exhibit 2, Attachment A for the Zoning Text Amendments.
1. Docket Item 1 – Introduction to the Comprehensive Plan. Staff is proposing that the Introduction to the Comprehensive Plan be amended to remove language describing the process for amending the Comprehensive Plan; this language has been replaced by new language within the Mercer Island City Code. The proposed amendment is to eliminate this duplicative, and out of date language in the Introduction.
  2. Docket Item 2 – Update Appendix B. Appendix B to the Comprehensive Plan describes how the Mercer Island Comprehensive Plan is consistent with other regional planning documents (for example, the King County Comprehensive Plan, the Puget Sound Regional Council plans, etc.), which is a requirement of the Growth Management Act. However, with the adoption of the updated Comprehensive Plan in 2016, Appendix B was not updated to reference the correct version of regional planning documents. Following further review of Appendix B, the relevant regional planning documents, and the remainder of the Mercer Island Comprehensive Plan, it

appears that the documentation of compliance with regional planning documents is already contained in the individual Comprehensive Plan elements. Consequently, in preparing an update to Appendix B, staff concluded that this appendix was redundant and unnecessary.

3. Docket Item 4 – Land Use Element (Trail Easement). The Parks department has requested an update to the Comprehensive Plan to incorporate policy language into either Land Use Goal 11 or 19. The proposed language would support the signing of a Trail Lease Agreement with the Washington State Department of Transportation (WSDOT) to create a trail from Luther Burbank Park to the Town Center. This language is required by WSDOT prior to entering into a lease agreement with the City.
4. Docket Item 5 – Amend the Land Use Designation Map (Kite Hill / West Hill). Kite Hill, which is located immediately to the west of the Mercer Island Community and Event Center (MICEC), is currently designated as “Public Facility” on the Mercer Island Land Use Designation Map. At one time this area was considered for a proposed Park and Ride, however the Council has since determined this is not the appropriate location. The proposed amendment to the map would change the Land Use designation for this area as “Park”, further reducing the potential for non-park uses on this site.
5. Docket Item 8 – Amend the Land Use Designation Map (Cohen Amendment). The City of Mercer Island controls a piece of property located on the southwest corner of the intersection of 76th Avenue SE and SE 24th Street. The property is currently designated on the Land Use Designation map as Linear Park / I-90. Leon Cohen, who is the property owner immediately adjacent (the Freshy’s Restaurant location), has requested that the City re-designate the City property to Town Center. The proposed land use map re-designation could allow for future development opportunities on that corner.

This docket item will also require a rezone from “P” (Public Institution) to “TC” (Town Center) and amendments to the Mercer Island development regulations (i.e. the Mercer Island zoning map and the text and maps in Chapter 19.11 MICC). Pursuant to MICC 19.15.050(F) “In cases where both a comprehensive plan amendment and a rezone are required, both shall be considered together...” Staff will prepare these additional materials for review by the Planning Commission concurrent with review of this proposed Comprehensive Plan amendment.

**B. Criteria for Comprehensive Plan Amendments.** Pursuant to MICC 19.15.020(G)(1), a recommendation should be approved if:

- a. The amendment is consistent with the Growth Management Act, the county-wide planning policies, and the other provisions of the comprehensive plan and city policies; and:*
  - i. There exists obvious technical error in the information contained in the comprehensive plan; or*
  - ii. The amendment addresses changing circumstances of the city as a whole.*
- b. If the amendment is directed at a specific property, the following additional findings shall be determined:*
  - i. The amendment is compatible with the adjacent land use and development pattern;*
  - ii. The property is suitable for development in conformance with the standards under the potential zoning; and*
  - iii. The amendment will benefit the community as a whole and will not adversely affect community facilities or the public health, safety, and general welfare.*

**Staff Findings:**

1. Docket Item 1. As noted above, the City is proposing to eliminate language contained within the Introduction section that is no longer accurate with the passage of Ordinance No. 16C-13. Consequently, this docket item meets criterion “a.i.” above, correcting an obvious technical error.
2. Docket Item 2. As noted above, the City is proposing to repeal Appendix B of the Comprehensive Plan; the recently updated Comprehensive Plan contains language that renders Appendix B redundant. Consequently, this docket item meets criterion “a.i.” above, correcting obvious technical errors.
3. Docket Item 4. The proposed amendment is primarily intended to allow the City to enter into a lease agreement for a trail, with the Washington Department of Transportation. Consequently this docket item meets criterion “a.ii.” above, addressing the changing circumstances of Mercer Island.
4. Docket Item 5. The proposed amendment is to the land use plan, amending the land use designation of a portion of the Mercer Island Community Center property from “Public Facility” to “Park”. The proposed amendment designates an area informally known as “Kite Hill” for “Park” use. No change to the underlying R-15 zoning designation is proposed as part of this amendment. This amendment is primarily intended to clarify the long term anticipated use of this site as a “Park” facility, which would not contemplate other public facility use such as a Park and Ride.
  - i. The proposed amendment meets criterion “a.ii” above, reflecting an intentional response to the changing circumstances on Mercer Island.
  - ii. Development on the subject site would not be affected by the proposed Comprehensive Plan land use map designation. Possible expansion of the Luther Burbank park and Mercer Island Community and Event Center facilities on the subject site would be unaffected by the proposed change to the land use map designation. Consequently, the proposed amendment meets criterion “b.i.” and “b.ii.”
  - iii. The proposed change to the land use map is intended to clarify the City’s intent to develop the subject property in a manner consistent with the current park and community center improvements. No impact to existing community facilities or public health, safety, or welfare have been identified. Consequently, the proposed amendment meets criterion “b.iii.”
5. Docket Item 8. The proposed amendment is to amend the land use map re-designating city property located on the southwest corner of the intersection of 76th Avenue SE and SE 24th Street from “Linear Park” to “Town Center”. This proposed amendment to the Comprehensive Plan is accompanied by a zoning amendment (see below) amending the zoning designation from “P” to “TC”. The proposed land use map re-designation and associated re-zone allows the City to evaluate possible alternatives for future development opportunities on that corner.
  - i. The proposed amendment meets criterion “a.ii” above, reflecting an intentional response to the changing circumstances on Mercer Island.
  - ii. The proposed amendment will result in a land use designation that is compatible with surrounding development within the Town Center – specifically the Town Center land use designation. The subject site immediately abuts the Mercer Island Town Center on the south and west sides; property to the north and east is primarily developed with the I-90 park improvements. The property may be used or developed independently, or in conjunction with adjacent sites, consistent with the zoning designation of “TC-5” and

the zoning standards of the Town Center code (MICC 19.11). Consequently, the proposed amendment meets criterion “b.i.” and “b.ii.”

- iii. The proposed amendment will allow the City to evaluate a number of different alternatives for use and improvement of the subject site, without the constraint associated with the current land use and zoning designation. No impact to existing community facilities or public health, safety, or welfare have been identified. Consequently, the proposed amendment meets criterion “b.iii.”

C. **Criteria For Zoning Text Amendments.** There are no specific criteria listed in the Mercer Island City Code for a code amendment, except as related to the rezoning of property. However, in accordance with RCW 36.70A.040, the proposed amendments shall be consistent with and implement the City’s Comprehensive Plan. The proposed code amendments are contained within Exhibit 2, Attachment A, and reflect amendments to maps and figures contained with the Town Center regulations that ensure consistency with proposed docket item 8, above. Pursuant to MICC 19.15.020(G)(2), rezones should be approved if:

- a. *The proposed reclassification is consistent with the policies and provisions of the Mercer Island comprehensive plan;*
- b. *The proposed reclassification is consistent with the purpose of the Mercer Island development code as set forth in MICC 19.01.010;*
- c. *The proposed reclassification is an extension of an existing zone, or a logical transition between zones;*
- d. *The proposed reclassification does not constitute a “spot” zone;*
- e. *The proposed reclassification is compatible with surrounding zones and land uses; and*
- f. *The proposed reclassification does not adversely affect public health, safety and welfare.*

**Staff findings:**

The proposed rezone is consistent with the proposed amendment to the land use designation map contained within the Mercer Island Comprehensive Plan. The proposed rezone is an extension of the adjacent “TC” zoning designation and does not constitute an isolated “spot” zone. As noted above, no impact to existing community facilities or public health, safety, or welfare have been identified.

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**I. STAFF RECOMMENDATION**

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Based on the analysis and findings included herein, staff recommends to the Planning Commission the following:

**Recommended Motion:** Move to recommend that the City Council approve the proposed Comprehensive Plan amendments, as detailed in Exhibit 1, and further move to recommend that the City Council approve the proposed amendments to the Mercer Island City Code (MICC) Title 19 as detailed in Exhibit 2.

**First Alternative Motion:** Move to recommend that the City Council approve the proposed Comprehensive Plan amendments, as detailed in Exhibit1, and further move to recommend that the City Council approve the proposed amendments to the Mercer Island City Code (MICC) Title 19 as detailed in Exhibit 2, provided that the proposal shall be modified as follows: *[describe modifications]*.

**Second Alternative Motion:** Move to recommend that the City Council deny the proposed Comprehensive Plan amendments, as detailed in Exhibit1, and further move to recommend that the City Council deny the proposed amendments to the Mercer Island City Code (MICC) Title 19 as detailed in Exhibit 2.

*Staff Contact: Evan Maxim, Planning Manager*



## BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND, WA

AB 5346  
October 17, 2017  
Regular Business

### SETTLEMENT AGREEMENT BETWEEN THE CITY OF MERCER ISLAND AND THE CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY (SOUND TRANSIT) FOR THE EAST LINK PROJECT

#### Proposed Council Action:

Adopt Resolution No. 1533 authorizing the City Manager to execute the Settlement Agreement with Sound Transit for the East Link Project.

#### DEPARTMENT OF

City Manager (Julie Underwood)

#### COUNCIL LIAISON

n/a

#### EXHIBITS

1. Resolution No. 1533 and Exhibit A thereto

#### 2017-2018 CITY COUNCIL GOAL

1. I-90 Access and Mobility/Prepare for Light Rail

#### APPROVED BY CITY MANAGER

AMOUNT OF EXPENDITURE	\$	n/a
AMOUNT BUDGETED	\$	n/a
APPROPRIATION REQUIRED	\$	n/a

### SUMMARY

The City Council is being presented for approval the final Settlement Agreement with Sound Transit as mitigation for the East Link Project. The terms of this Settlement Agreement were given tentative approval by the City Council in May 2017 and by the Sound Transit Board in June 2017. City staff was directed to work with Sound Transit staff to finalize the Settlement Agreement and exhibits thereto and return to the Council for final approval.

### BACKGROUND

In June 2017, Sound Transit's East Link Project caused the closure of the I-90 reversible Center Roadway to begin light rail construction. To replace the loss of the I-90 Center Roadway, the I-90 mainline between Mercer Island and Seattle was restriped and lanes narrowed to change the configuration from 3-lanes to 4-lanes in each direction. These new I-90 lanes are referred to as R8A lanes. The traffic analysis for the East Link Project assumed that the R8A lanes would be designated as HOV lanes and that single occupancy vehicles (SOVs) traveling to or from Mercer Island would be allowed to use these lanes.

The City, Washington State Department of Transportation (WSDOT), and Sound Transit have historic agreements dating back to 1976 regarding Mercer Island's SOV use of HOV lanes between Mercer Island and Seattle. Additionally, the Final Environmental Impact Statement (FEIS) for the East Link Project anticipated the continued access for SOVs in the new R8A lanes. The impacts of the closure and the resulting loss of mobility were anticipated and have been the subject of mitigation negotiations with Sound Transit for over two years.

In August 2016, the Federal Highway Administration (FHWA) informed the City of Mercer Island about the restriction of Mercer Island SOVs from the I-90 R8A lanes, leading to the restriction of SOVs using the Island Crest Way on-ramp to westbound I-90, because it is proposed to connect to a HOV lane. The SOV restriction at the Island Crest Way westbound on-ramp resulted in traffic diverting to other I-90 on-ramps, specifically the West Mercer Way on-ramp. This diversion increased traffic volumes on Mercer Island local streets and impacted traffic operations and safety in and around the Town Center, through school zones and along West Mercer Way.

With mitigation negotiations underway between the City and Sound Transit, the community provided input on mitigation and priorities for the loss of mobility during the City's Fall 2015 listening tour. The following guiding principles/goals were developed based on what the Council and staff heard from the community:

1. **Secure access to new R8A lanes** within the context of historic agreements.
2. **Limit and mitigate traffic impacts** in and around Town Center.
3. **Increase commuter parking** options for Mercer Island residents.
4. **Improve "last mile" connections** to light rail through innovative services and on-Island transit options.
5. **Minimize impact of regional bus operations** – no greater than current levels.
6. Require safe, convenient **pedestrian and bicycle access to light rail**.

To achieve the above goals, the City followed a three-pronged strategy: 1) legislative, 2), regional, and 3) legal. Throughout the entire process spanning nearly two years, the Council received mitigation recommendations from Vision Mercer Island and from over 2,600 community petitioners. Additionally, the City Manager convened a group of "advisors" who weighed in on potential mitigation, communications strategies, and negotiations with Sound Transit. This feedback, along with input from hundreds of community members during outreach events and via email, informed and guided the City's overall three-pronged strategy.

The City worked closely with lobbyist Tony Williams of Washington 2 Advocates and the State Delegation to identify possible solutions, including funding and/or legislation. State Representative Judy Clibborn was instrumental in assisting the City with WSDOT. Likewise, Senator Lisa Wellman and Representative Tana Senn were tremendously helpful. The City and its lobbyist also worked closely with members of the federal Congressional Delegation and appreciated Congressman Adam Smith's support and assistance throughout the negotiations and litigation.

In terms of a regional strategy, City leaders met with the leadership of other East Link Project cities, Sound Transit CEO Peter Rogoff and WSDOT Secretary of Transportation Roger Millar to collaboratively determine effective and safe mitigation strategies in the context of the Interstate 90 and Mercer Island Mobility Study (April 2017) and related findings of the City's transportation consultants at the Transpo Group and KPG. The regional strategy resulted in a collective signed letter to the FHWA dated May 10, 2017, which supported the City's efforts to maintain access to Island Crest Way for SOVs. Unfortunately, this access, along with continued access to the R8A lanes, were not realized. While the Council continues to consider this a priority; however, going forward, we will need to evaluate the efforts and costs involved to reverse this outcome.

Through the talent and efforts of outside counsel at the Harrigan, Leyh, Farmer & Thomsen law firm, the City's litigation strategy included extensive motion practice in King County Superior Court, the Central Puget Sound Growth Management Hearings Board, and the Washington State Supreme Court.

## **TERMS OF SETTLEMENT AGREEMENT**

Late into the evening on Wednesday, May 31, 2017, the Council voted 5-1 (1 absent) to accept a package of mitigation measures from Sound Transit, valued at just over \$10 million, to offset the impacts of the East Link light rail project and partially compensate for permanent impacts to local traffic patterns, including the loss of access to westbound I-90 from the Island's only 4-lane arterial (Island Crest Way).



Following extensive negotiations, this package provides mitigation in all the areas the community identified as its top priorities, as set forth in the Settlement Agreement between the City of Mercer Island and the Central Puget Sound Regional Transit Authority (Sound Transit) for the East Link Project (see Exhibit 1, Resolution No. 1533 and Exhibit A thereto):

- Traffic/Safety Enhancements and Last Mile Solutions: \$5.3 million in reimbursable contributions for the actual reasonable costs to fund traffic/safety enhancements related to the effects of the I-90 Center Roadway closure and HOV-only use of the R8A HOV lanes. The traffic/safety enhancements may include temporary and permanent improvements to intersections, traffic signals, traffic signal coordination, roundabouts, new signage, new or improved crosswalks, road widening or restriping, and traffic calming measures. In addition to this traffic/safety mitigation reimbursement, Sound Transit is also obligated to fund and construct all traffic mitigation work identified during the environmental review process for Sound Transit's East Link Project. This category of funding is also intended to improve vehicle, bicycle and pedestrian access to transit, including "last-mile solutions" that enable Islanders to access transit without driving.
- Parking: Commitments to provide approximately 100 additional commuter parking stalls during the East Link construction period (2017-2023) within 1/3<sup>rd</sup> mile of the North Mercer Way bus stop and \$4.41 million to apply towards new, long-term commuter parking.
- Bus-Rail Integration via Roundabout on 77<sup>th</sup> Ave SE: No large bus facility will be built on 80<sup>th</sup> Avenue SE. Instead, all pick-up and drop-off will continue to occur on North Mercer Way, as it does today, and bus volumes will be limited to ensure no greater impact than current operations.
- Aubrey Davis Park: \$50,000 towards the Park Master Plan preparation and implementation.
- Emergency Training for I-90 Response: Up to \$23,100 reimbursement for City police and fire personnel training in response to an East Link safety issue.

Within the above specifically-identified categories of reimbursable expenditures, there is some flexibility to transfer remaining funds, if any, between categories. It is important to note, however, that the settlement funds cannot be used to subsidize the City's day-to-day operating expenses or capital projects other than those expressly contemplated in the Settlement Agreement.

The agreement is not indefinite, and the entire \$10,050,000.00 commitment must be allocated/expended and invoices submitted to Sound Transit by not later than December 31, 2025 to be eligible for reimbursement. Any funds not expended and submitted for reimbursement by that date will be forfeited.

The Settlement Agreement does not address access to I-90 for single occupant vehicles (SOVs) at the Island Crest Way westbound onramp, as this is a federal issue and outside of the City's, Sound Transit's, and WSDOT's legal authority.

## **COMMUNICATION & COMMUNITY ENGAGEMENT**

The City Council is committed to keeping the community informed and seeking input as the City implements the terms of the agreement. Staff envisions using surveys, community forums, and Telephone Town Halls to collect resident input and feedback. In addition, staff will continue to provide communication using the City's weekly e-newsletter, MI Weekly, the City's website and social media platforms, MI Reporter releases, videos, and direct mail (when appropriate).

### **Traffic & Safety Community Input**

After the closure of the I-90 Center Roadway on June 3, the City hosted a Traffic & Safety Community Meeting on June 22 to kick-off an extensive community engagement process in preparation for a Traffic Congestion Mitigation and Safety Improvement Plan. The goals of the initial meeting were to share the most current data that Transpo Group and KPG, the City's traffic consultants, collected before and after the closure of the I-90 Center Roadway. The City would like to again hear from residents, especially those commuting westbound in the morning, about their experiences accessing I-90 (immediately following the Center Roadway closure, the City conducted a survey of westbound commuters and received approximately 300 responses).

The goal is to work with the community to identify projects and related costs that mitigate the community's traffic congestion and bicycle/pedestrian safety concerns, to be included in the City's next six-year Capital Improvement Program (CIP) and Transportation Improvement Plan (TIP). The follow-up community meeting to discuss traffic/congestion hot spots and proposed solutions is tentatively set for late November or early December. This traffic planning work is targeted for completion by spring 2018.

### **Access to Light Rail (First/Last Mile Solutions, Parking)**

Soon the City will be conducting an online survey to learn more about the commuting patterns of our residents. We would like to learn from our bus riders, SOV commuters, and park & ride users, etc. about their interest in various first/last mile solutions. Using this information, we will be able to design solutions that will meet our community's greatest access need.

The City has already begun exploring first/last mile solutions with ridesharing companies Uber and Lyft. In addition, we have spoken with Chariot, owned by Ford Smart Mobility (Ford Motor Company), which provides 14 passenger Ford transit vans, or "microtransit service." We are excited about having funding available to pilot some of these services.

Likewise, many residents have expressed their desire for increased commuter parking. The Mercer Island Park & Ride currently fills up by about 7:00 am with an estimated 50 percent coming from off island. The Sound Transit settlement provides funding that would create "resident-only" parking, and the City looks forward to working with the community to site and construct a parking facility.

Additionally, the City will work with Sound Transit and Metro on how the bus-rail integration will be designed and how it will operate, striving to minimize the impacts to nearby properties.

### **Aubrey Davis Park Master Plan**

At the November 21 Study Session, staff will provide the City Council with an overview of the Aubrey Davis Park Master Plan process, which will kick-off soon. The park is beginning to show its age, and with changing recreational needs, it is time to work with the community to develop a comprehensive vision for this unique park asset.

Overall, this Settlement Agreement addresses the impacts to the I-90 Center Roadway closure and the future light rail station, meeting five of the six guiding principles/goals identified by the community.

## **RECOMMENDATION**

*City Manager*

MOVE TO: Adopt Resolution No. 1533, authorizing the City Manager to execute the "Settlement Agreement between the City of Mercer Island and the Central Puget Sound Regional Transit Authority (Sound Transit) for the East Link Project," in substantially the form attached as Exhibit A to Resolution No. 1533.

**CITY OF MERCER ISLAND, WASHINGTON  
RESOLUTION NO. 1533**

**A RESOLUTION AUTHORIZING A SETTLEMENT AGREEMENT WITH THE  
CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY (SOUND  
TRANSIT) FOR THE EAST LINK PROJECT**

WHEREAS, the City is a non-charter optional municipal code city incorporated under the laws of the State of Washington, with authority to enact laws and enter into agreements to promote the health, safety, and welfare of its citizens and for other lawful purposes; and

WHEREAS, the City's only means for vehicles to enter or exit is via Interstate 90 ("I-90"); and

WHEREAS, Sound Transit is a regional transit authority created pursuant to chapters 81.104 and 81.112 RCW, with all powers necessary to implement a high-capacity transit system within its boundaries in King, Pierce, and Snohomish Counties; and

WHEREAS, on November 4, 2008, Central Puget Sound area voters approved the Sound Transit 2 plan, a package of transit improvements and expansions including: increased bus service, increased commuter rail service, an expansion of link light rail, and improved access to transportation facilities; and

WHEREAS, the East Link Project ("the Project") includes an expansion of light rail from downtown Seattle to Mercer Island, downtown Bellevue, and the Overlake Transit Center with stations serving Mercer Island, South Bellevue, downtown Bellevue, Bel-Red, and Overlake area; Sound Transit is implementing the Project pursuant to its statutory authority described above and the voter approved Sound Transit 2 plan; and

WHEREAS, segments of the Project will be constructed and operated within the City, with associated impacts and benefits for residents, businesses, and visitors to the City; and

WHEREAS, in December 1976, the City, King County, the City of Seattle, the City of Bellevue, Metro and the State Highway Commission entered into a Memorandum Agreement regarding, among other matters, the lane configuration of a reconstructed I-90 ("1976 Agreement"); and

WHEREAS, the 1976 Agreement provided for the construction of a 2-lane Center Roadway ("Center Roadway") on I-90 for transit use, high occupancy vehicles ("HOV"), and also for traffic that had Mercer Island as its origin or destination, including single occupancy vehicles ("SOV"); and

WHEREAS, in 2004, an amendment to the 1976 Agreement was entered into with Sound Transit added as a party (the "2004 Amendment"), providing for the eventual conversion of the Center Roadway exclusively for High Capacity Transit and the construction of an additional lane in each outside roadway ("New R8A Lanes"); and

WHEREAS, in July 2011, Sound Transit, WSDOT, and the Federal Transit Administration issued the East Link Project Final Environmental Impact Statement ("2011 FEIS"), and Sound Transit and WSDOT issued Addenda to the 2011 FEIS under the State Environmental Policy Act (SEPA) in December 2016 ("2016 SEPA Addendum") and in April 2017 ("2017 SEPA Addendum"), which included detailed analysis of potential environmental impacts and identified potential mitigation measures for the Project on Mercer Island; and

WHEREAS, Sound Transit and WSDOT closed the Center Roadway and opened two-way HOV lanes on June 3, 2017, to begin construction of the Project; and

WHEREAS, Sound Transit and the City (collectively, “the Parties”) have a joint interest in serving Mercer Island, the Eastside and the Puget Sound region with high quality, convenient public transit, and the Project is intended to provide a reliable, high frequency transportation option for Mercer Island residents and regional commuters, and to benefit the Eastside and Mercer Island residents and workers by linking to multiple destinations in the region; and

WHEREAS, the Parties have a joint interest in ensuring that the Project incorporates design and mitigation measures appropriate to its impacts and represents a high-quality investment for taxpayers, the City, and Sound Transit; and

WHEREAS, since February 2017, the Parties engaged in extensive litigation and administrative appeal proceedings against each other and following lengthy negotiations, the City Council approved an outline of settlement terms on May 31, 2017, and the Sound Transit Board authorized the Chief Executive Officer to negotiate a settlement agreement on June 22, 2017, as provided in Sound Transit Board Motion No. M2017-96; and

WHEREAS, the Settlement Agreement between the City and Sound Transit for the East Link Project, in substantially the form attached hereto as Exhibit A, is consistent with the Parties’ May 31, 2017 outline of settlement terms and Sound Transit Board Motion No. M2017-96 and effectively resolves the pending litigation and administrative appeal proceedings between the Parties;

NOW, THEREFORE, BE IT RESOLVED that the Mercer Island City Council hereby authorizes the City Manager to execute the Settlement Agreement with Sound Transit for the East Link Project in substantially the form attached hereto as Exhibit A on behalf of the City.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS REGULAR MEETING ON OCTOBER 17, 2017.

CITY OF MERCER ISLAND

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Bruce Bassett, Mayor

ATTEST:

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Allison Spietz, City Clerk

**SETTLEMENT AGREEMENT  
BETWEEN THE CITY OF MERCER ISLAND AND THE  
CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY (SOUND TRANSIT)  
FOR THE EAST LINK PROJECT**

This SETTLEMENT AGREEMENT (“Agreement”), is entered into between the CITY OF MERCER ISLAND, a Washington municipal corporation (“City”), and the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, a regional transit authority (“Sound Transit”), collectively the “Parties” and each a “Party.” For and in consideration of the mutual covenants contained herein, the Parties do hereby agree as follows regarding the Project, as that term is defined below.

**RECITALS**

**WHEREAS**, the City is a non-charter optional municipal code city incorporated under the laws of the State of Washington, with authority to enact laws and enter into agreements to promote the health, safety, and welfare of its citizens and for other lawful purposes;

**WHEREAS**, the City’s only means for vehicles to enter or exit is via Interstate 90 (“I-90”);

**WHEREAS**, Sound Transit is a regional transit authority created pursuant to chapters 81.104 and 81.112 RCW, with all powers necessary to implement a high-capacity transit system within its boundaries in King, Pierce, and Snohomish Counties;

**WHEREAS**, on November 4, 2008, Central Puget Sound area voters approved the Sound Transit 2 plan, a package of transit improvements and expansions including: increased bus service, increased commuter rail service, an expansion of link light rail, and improved access to transportation facilities;

**WHEREAS**, the East Link Project (“the Project”) includes an expansion of light rail from downtown Seattle to Mercer Island, downtown Bellevue, and the Overlake Transit Center with stations serving Mercer Island, South Bellevue, downtown Bellevue, Bel-Red, and Overlake area; Sound Transit is implementing the East Link Project pursuant to its statutory authority described above and the voter approved Sound Transit 2 plan;

**WHEREAS**, segments of the Project will be constructed and operated within the City, with associated impacts and benefits for residents, businesses, and visitors to the City;

**WHEREAS**, in December 1976, the City, King County, the City of Seattle, the City of Bellevue, Metro and the State Highway Commission entered into a Memorandum Agreement regarding, among other matters, the lane configuration of a reconstructed I-90 (“1976 Agreement”);

**WHEREAS**, the 1976 Agreement provided for the construction of a 2-lane Center Roadway (“Center Roadway”) on I-90 for transit use, high occupancy vehicles (“HOV”), and also

for traffic that had Mercer Island as its origin or destination, including single occupancy vehicles (“SOV”);

**WHEREAS**, in 2004, an amendment to the 1976 Agreement was entered into with Sound Transit added as a party (the “2004 Amendment”), providing for the eventual conversion of the Center Roadway exclusively for High Capacity Transit and the construction of an additional lane in each outside roadway (“New R8A Lanes”);

**WHEREAS**, in July 2011, Sound Transit, WSDOT, and the Federal Transit Administration issued the East Link Project Final Environmental Impact Statement (“2011 FEIS”), and Sound Transit and WSDOT issued Addenda to the 2011 FEIS under the State Environmental Policy Act (SEPA) in December 2016 (“2016 SEPA Addendum”) and in April 2017 (“2017 SEPA Addendum”), which included detailed analysis of potential environmental impacts and identified potential mitigation measures for the Project on Mercer Island;

**WHEREAS**, Sound Transit and WSDOT closed the Center Roadway and opened two-way HOV lanes on June 3, 2017, to begin construction of that part of the Project that is within Mercer Island;

**WHEREAS**, the Parties have a joint interest in serving Mercer Island, the Eastside and the Puget Sound region with high quality, convenient public transit, and the Project is intended to provide a reliable, high frequency transportation option for Mercer Island residents and regional commuters, and to benefit the Eastside and Mercer Island residents and workers by linking to multiple destinations in the region;

**WHEREAS**, the Parties have a joint interest in ensuring that the Project incorporates design and mitigation measures appropriate to its impacts and represents a high-quality investment for taxpayers, the City, and Sound Transit; and

**WHEREAS**, since February 2017 the Parties engaged in extensive litigation and administrative appeal proceedings against each other and following lengthy negotiations, the City Council approved an outline of settlement terms on May 31, 2017, and the Sound Transit Board authorized the Chief Executive Officer to negotiate a settlement agreement on June 22, 2017, as provided in Motion No. M2017-96;

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, the Parties hereby agree to the following terms and conditions:

## **SECTION 1      DEFINITIONS**

In addition to those terms defined above and elsewhere in this Agreement, the following terms shall have the meanings given herein where capitalized; words not defined herein shall have their ordinary and common meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and the use of any gender shall be applicable to all genders whenever the context requires. The words “shall” and “will” are mandatory and the word “may” is permissive. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law referred to herein are

renumbered, then the reference shall be read to refer to the renumbered provision. References to laws, ordinances, or regulations shall be interpreted broadly to cover government actions, however nominated, and include laws, ordinances, and regulations now in force or hereinafter enacted or amended.

1.1 Aubrey Davis Park. “Aubrey Davis Park” refers to the City park that runs along and above I-90.

1.2 Mercer Island Station. “Mercer Island Station” means the East Link station being built on Mercer Island as part of the Project.

1.3 Greta Hackett Gallery. “Greta Hackett Gallery” refers to the City’s outdoor sculpture gallery commonly known as the Greta Hackett Outdoor Sculpture Gallery located between Sunset Highway and I-90, including the northwest corner of 80<sup>th</sup> Avenue SE and SE 27<sup>th</sup> Street.

1.4 Last Mile Solutions. “Last Mile Solutions” refers to various measures enabling a person to travel all or part of the way between their home and the Mercer Island Station other than in their own passenger vehicle or a means to enable a passenger vehicle to utilize shared parking in a parking area or facility other than a regular park and ride lot, including, without limitation, ride sharing, carpools, van service, satellite park and ride facilities, shuttles, apps and other technology enhancements.

1.5 Project. “Project” means that part of the East Link work that is described in the 2011 FEIS and the 2016 and 2017 SEPA Addenda that is occurring within the boundaries of the City.

1.6 Third Party. “Third Party” means any person other than a Party or an employee or agent of a Party.

1.7 Work Days. “Work Days” means Monday through Friday, except legal holidays.

## **SECTION 2 COOPERATION AND GOOD FAITH EFFORTS**

2.1 The Parties understand and agree that the process described in this Agreement depends upon timely and open communication and cooperation between the Parties. In this regard, the Parties should communicate issues, changes, or problems that arise with any aspect of the performance of terms of this Agreement as early as possible in the process, and should not wait for explicit due dates or deadlines. Each Party agrees to work cooperatively and in good faith toward resolution of any such issues in a manner that ensures adequate time for each Party to work through issues.

2.2 The Parties contemplate that additional agreements, subsequent to execution of this Agreement, may be necessary to fully implement this Agreement. The Parties agree to work cooperatively to negotiate in good faith to develop the final form and contents of such agreements as needed. In the coming years, it is likely that various challenges and opportunities will develop.

Many of those issues and opportunities have already been discussed, but more time is needed to determine how they should be resolved. Accordingly, the Parties desire to acknowledge that these events may occur and commit to address them at the time.

2.3 The Parties acknowledge that this Agreement contemplates the execution and delivery of a number of future documents, instruments and permits, the final form and contents of which are not presently determined. The Parties agree to provide the necessary resources and to work in good faith to diligently and timely develop the final form and contents of such documents, instruments and permits.

2.4 The Parties may apply for grants to supplement either Party's funds as contemplated by this Agreement. Upon request, each Party will, as appropriate, provide letters of support for, and otherwise cooperate fully in, grant applications made by another Party.

### **SECTION 3 TEMPORARY CONSTRUCTION PARKING**

By January 1, 2018, Sound Transit shall lease from Third Parties parking stalls for transit commuters during the construction period for the South Bellevue park-and-ride garage with a goal of securing one hundred (100) stalls which are either within 1/3<sup>rd</sup> mile of the North Mercer Way bus stop or will be served by local transit or shuttle service. The City acknowledges that Sound Transit will lease parking stalls at rates and on terms consistent with terms and conditions included in parking leases in the cities of Bellevue, Renton and Redmond. Such parking leases shall, to the extent possible, be in effect until the South Bellevue Park and Ride garage is operational. Stalls that cannot be leased for the entire construction period shall be replaced if feasible. The total amount for all expenditures shall not exceed two hundred forty thousand dollars (\$240,000), including any transit/shuttle service. In the event that the total actual cost of the leases in the aggregate is less than \$240,000, the difference shall be added to the Traffic Safety Enhancements fund.

### **SECTION 4 BUS/RAIL INTEGRATION**

4.1 The 2017 SEPA Addendum identifies two configurations for transit integration for when East Link is operational: (i) the 77<sup>th</sup> Avenue SE Configuration; and (ii) the 80<sup>th</sup> Avenue SE Configuration. Pursuant to and as modified by this Agreement, the Parties agree to implement the 77<sup>th</sup> Avenue SE Configuration. To the extent that King County Metro buses are necessary to coordinate service, the Parties agree that the 77<sup>th</sup> Avenue SE Configuration cannot be implemented without King County Metro's agreement. The Parties will work collaboratively with King County Metro to obtain its concurrence where necessary and document such concurrence as appropriate.

4.2 The Parties have agreed on the following modifications to the 77<sup>th</sup> Avenue SE Configuration as otherwise described in the 2017 SEPA Addendum:

- (a) There will be no bus drop-off/pick-up or layover area on 80<sup>th</sup> Avenue SE. Accordingly, all bus drop-off/pick-up and layover areas (other than those for local Mercer Island buses) will be located on the south side of North Mercer Way.
- (b) Routing of buses will keep circulation of all but local (on-island only) buses off SE 27<sup>th</sup> Street, except in emergency or unexpected situations (e.g., to circumvent a traffic accident), consistent with the Parties' intent to limit the routes of non-local buses to North Mercer Way and 77<sup>th</sup> Ave. SE. Prior to East Link becoming operational, Sound Transit shall complete construction of a traffic roundabout at the intersection of North Mercer Way and 77<sup>th</sup> Avenue SE, using a design



substantially similar to one of the designs depicted in the 2017 SEPA Addendum Exhibit 2-4 attached as **Exhibit A**.

- (c) Buses will not be scheduled in a manner that could be expected to result in bus volumes on North Mercer Way, both during peak periods and on a daily basis, that exceed current volumes, excluding for these purposes both current and future Mercer Island-only (local) buses. The current bus volumes at the time of execution of this Agreement are as follows: AM Peak 34, PM Peak 34, and Daily 346.

4.3 The Parties have further agreed on the following additional modifications to the 77<sup>th</sup> Avenue SE Configuration; provided that, the City will not unreasonably withhold its approval to changes in one or more of the below provisions based on Metro operational concerns:

- (a) In order to reduce impacts on traffic flow on North Mercer Way, all pick-up/drop-off of passengers will be on the south side of North Mercer Way.
- (b) Other than in an emergency or due to equipment malfunction, bus layovers are limited to no more than fifteen (15) minutes and then only during the afternoon peak period (3:30pm – 7:00pm). Except as to buses running entirely on electrical (battery) power, there will be no idling of buses other than during actual pick-up and drop-off of passengers or while waiting in traffic.

4.4 Sound Transit is solely responsible for all costs required to implement and operate the systems and facilities required for the 77<sup>th</sup> Avenue SE Configuration as generally described in the 2017 SEPA Addendum, including, without limitation, design and engineering, permitting, property acquisition, signage, landscaping, street improvements, lighting, traffic improvements, paving, other construction costs, and any other costs incurred with respect thereto. All work will be performed in good faith, in close consultation with the City, and in a manner that reduces construction impacts on pedestrians, bicyclists and motorists, as practical.

## **SECTION 5      TRAFFIC/SAFETY ENHANCEMENTS**

5.1 Sound Transit shall complete all traffic mitigation work identified in the 2011 FEIS (updated in the 2017 Addendum) and the 2017 SEPA Addendum and is solely responsible for all costs incurred to complete such work.

5.2 Upon payment of the regular permit fees imposed by the City and submittal of the normally required documentation incident to obtaining the permits, the City will expedite the issuance of all required permits to enable the work described in Section 14 (Permits) to proceed as provided in that Section. Sound Transit agrees to expedite the work to the extent feasible if doing so would help reduce traffic congestion and/or improve bicycle circulation on Mercer Island.

5.3 In addition to the traffic mitigation work described above, Sound Transit shall provide the City with reimbursable contributions for the actual reasonable costs to fund traffic safety enhancements related to the effects of the Center Roadway closure and HOV-only use of the R-8A HOV lanes, as reasonably determined by the City, in an amount not to exceed five million one hundred thousand dollars (\$5,100,000), except as this amount may be adjusted as provided in the Temporary Construction Parking and Long-Term Parking sections of this Agreement. Such

traffic/safety enhancements may include, without limitation, temporary and permanent improvements to intersections, traffic signals, traffic signal coordination, roundabouts, new signage, new or improved crosswalks, road widening or restriping, and traffic calming. If the total traffic/safety enhancements identified by the City cost less than the total contribution authorized herein, the remaining funds, if any, may be applied to Last Mile Solutions or Aubrey Davis Park improvements.

5.4 Sound Transit will assist the City-led effort to mutually study and identify traffic safety enhancements and intersection improvements, subject to the total reimbursement contribution described in this Section. The City shall be responsible for all of the requirements related to design, environmental review, permitting, construction, operation and maintenance of the any and all traffic/safety enhancements developed under this Section of the Agreement.

## **SECTION 6 LONG-TERM PARKING**

6.1 Upon completion of the new, expanded South Bellevue Park-and-Ride, Sound Transit will terminate the short-term commuter lot leases referenced in the Temporary Construction Parking section of this Agreement.

6.2 The City will identify one or more City-led transit-oriented development projects and/or structured parking facilities for long-term regional transit commuter parking. The City or its designee shall be entirely responsible for all development and operational matters associated with such long-term regional transit commuter parking including, without limitation, environmental review, property acquisition/control, construction, design, permitting, entitlements, operation and maintenance. The City will fund at least fifty-one percent (51%) of the actual reasonable construction costs per stall, as described in Section 12, Total Authorized Expenditure. It is anticipated that the City may manage and operate these parking stalls to provide parking for local commuters during certain hours of the day.

6.3 Sound Transit shall provide reimbursable contributions to the City for development of such regional transit commuter parking stalls up to forty-nine percent (49%) of the actual reasonable construction costs per stall, as described in Section 12, Total Authorized Expenditure, for up to a maximum of two hundred (200) parking stalls.

6.4 Without regard to the actual reasonable construction cost per parking stall, if Sound Transit's forty-nine percent (49%) maximum contribution per stall exceeds four million four hundred and ten thousand dollars (\$4,410,000), the excess must be deducted from the total authorized amount allocated to fund the Traffic/Safety Enhancements related to the Center Roadway closure and R-8A HOV restriction. This means that notwithstanding the amount Sound Transit provides to fund long-term parking stalls, the maximum total funding provided for all purposes under this Agreement, including inflation, shall not exceed ten million fifty thousand dollars (\$10,050,000).

6.5 At any time, the City may notify Sound Transit that it will not be seeking any further payments under this Section 6; in the event of such notice, if Sound Transit's forty-nine percent (49%) maximum contribution per parking stall is less than four million four hundred and ten thousand dollars (\$4,410,000), the remaining funds may be used to fund Traffic/Safety

Enhancements related to the effects of the Center Roadway closure and HOV-only use of the R-8A HOV lanes.

## **SECTION 7      AUBREY DAVIS PARK**

7.1      Sound Transit shall provide a reimbursable contribution not to exceed fifty thousand dollars (\$50,000) to the City, for actual reasonable costs incurred in preparing the Aubrey Davis Park Master Plan (“Park Master Plan”). To the extent that the total amount authorized herein is not expended on preparing the Park Master Plan, the remaining amounts may be provided to the City to implement elements of the Park Master Plan. In addition, Sound Transit will assign appropriate staff to assist the City in preparing the Park Master Plan.

7.2      In the proximity of 77<sup>th</sup> and 80<sup>th</sup> Avenue SE, Sound Transit will provide safe access to the Mercer Island Station, which will include the re-routing of the I-90 bicycle route in the same proximity to avoid conflicts with the Mercer Island Park-and-Ride on North Mercer Way. Sound Transit’s costs incurred pursuant to this subsection shall not count against Sound Transit’s other funding contributions described in this Agreement.

## **SECTION 8      LAST MILE SOLUTIONS PILOT PROJECT WITH KING COUNTY METRO**

The Parties agree to work collaboratively with King County Metro to develop and launch a pilot project to improve last mile access for City residents that would potentially have regional applicability. Once the Last Mile Solutions pilot project has been designed and planned to the point where it is ready for actual implementation on a pilot basis, Sound Transit shall provide funding in an amount not to exceed two hundred twenty-six thousand nine hundred dollars (\$226,900), except as this amount may be adjusted as provided in the Traffic/Safety Enhancements section of this Agreement.

## **SECTION 9      EMERGENCY TRAINING FOR I-90 RESPONSE**

In order to enable the City to participate in discussions and planning as to East Link safety measures that may be relevant to East Link operations on Mercer Island, Sound Transit agrees to include City personnel in its existing multi-city/multi-agency Fire Life Safety Committee. In addition, Sound Transit agrees to contract with the City of Seattle to provide training for City police and fire personnel who may be needed to respond to an East Link safety issue. In addition to providing training, Sound Transit will reimburse the City a total not to exceed twenty-three thousand one-hundred dollars (\$23,100) in wage costs actually incurred by the City for its personnel while attending the training.

## **SECTION 10      ADDITIONAL SOUND TRANSIT STAFFING THROUGH CONSTRUCTION**

Until such time as the East Link Project becomes operational, Sound Transit will assign a member of its community outreach staff to spend on average at least fifteen (15) hours per week at City-provided work space to work with City staff to develop and implement community outreach and communication measures. Sound Transit staff will serve as a single point of contact for Mercer Island residents, businesses and City staff to answer questions and provide information related to

the Project. These efforts are a City-targeted subset of the larger outreach commitments identified in the 2011 FEIS, the 2016 and 2017 SEPA Addenda, the November 17, 2011 East Link Light Rail Transit Project Record of Decision issued by the FHWA, and the November 16, 2011 East Link Record of Decision issued by the Federal Transit Administration, as well as Sound Transit's external engagement strategy, and the East Link construction outreach plan.

## **SECTION 11 APPLICABLE FEDERAL REQUIREMENTS**

11.1 As provided in Sound Transit Board Motion No. M2017-96, Sound Transit's financial obligations to the City pursuant to this Agreement are funded subject to a financial assistance contract between Sound Transit and the United States Department of Transportation ("USDOT") and the Federal Transit Administration ("FTA").

11.2 The City agrees to comply with the federal funding requirements described in the FTA's Master Agreement and Circular C4220.1F by including the applicable requirements described in **Exhibit B**, incorporated by reference herein, into its contracts with third-party contractors and their subcontractors for services or work funded under the following sections of the Agreement: 5.0 Traffic/Safety Enhancements, 6.0 Long-Term Parking, and 7.0 Aubrey Davis Park.

11.3 The Parties will work cooperatively to determine which federal requirements are applicable to which contracts before the City initiates its procurement process for each contract.

11.4 In addition, both Parties recognize that the FTA may request further changes to this Agreement to comply with its funding requirements and agree to consider any such requests in good faith.

## **SECTION 12 TOTAL AUTHORIZED EXPENDITURE**

12.1 Sound Transit's total financial expenditures authorized pursuant to this Agreement shall not exceed ten million fifty thousand dollars (\$10,050,000) and shall expire on December 31, 2025. Any invoices received by Sound Transit from the City after December 31, 2025 shall not be paid.

12.2 The City shall be responsible for ensuring that any necessary environmental review is accomplished and compliance is demonstrated before Sound Transit's payment of any invoice for reimbursable contributions described herein becomes due.

12.3 The following types of expenditures by the City shall be eligible costs for reimbursement from Sound Transit:

- (a) The direct salary rate and direct overhead including benefits of City staff calculated in the same manner that the City routinely allocates staff and other overhead costs to City capital projects.
- (b) Incidental expenses needed to complete the City tasks described in this Agreement, such as, for example, supplies, meeting expenses, mileage and travel from City offices to Sound Transit meeting locations.

(c) All actual reasonable direct and indirect construction costs such as, for example, property acquisition, architects, engineers, appraisals, permitting, insurance, recording fees, financing, bonding and other construction-related costs commonly referred to as soft costs.

(d) Costs related to implement the Last Mile Solutions.

12.4 The City shall submit invoices and supporting documentation for Sound Transit's reimbursement contribution payments. The invoices must include the appropriate purchase order number, which will be provided by Sound Transit after execution of this Agreement, a cover memo as described in **Exhibit C**, and supporting documentation detailing the work completed and associated costs.

12.5 The City shall submit its invoices with the required documentation via email or mail to AccountsPayable@SoundTransit.org, or Sound Transit, Accounts Payable, 401 S. Jackson St., Seattle, WA 98104-2826. Invoices are payable thirty (30) days upon Sound Transit's receipt of the invoice and acceptable documentation.

12.6 If Sound Transit determines that an invoice lacks sufficient documentation to support payment, Sound Transit will notify the City of its determination and request that the City provide additional documentation. Sound Transit may withhold payment for contested portions of the invoice until supporting documentation for the contested portions are provided; however, such approval shall not be unreasonably withheld.

12.7 During the period of construction of any City-led projects contemplated in this Agreement and for which Sound Transit provides funding and for a period not less than three (3) years, or that period established by the State Archivist, from the date of final payment to the City, records and accounts pertaining to subjects of this Agreement and accounting are to be kept available for inspection and audit by representatives of Sound Transit, the State of Washington, and the federal government. Copies of the records shall be furnished to Sound Transit upon request and shall be maintained in accordance with a work order accounting procedure prescribed by the Division of Municipal Corporations of the State Auditor's Office.

## **SECTION 13 SEPA COMPLIANCE**

13.1 Sound Transit and WSDOT are the “co-lead agencies” for purposes of the Project’s compliance with the State Environmental Policy Act, RCW Chapter 43.21C (“SEPA”) and have issued the following documents in that capacity (collectively, the “Project Environmental Documents”):

- (a) East Link Project Draft Environmental Impact Statement (“DEIS”), dated December 12, 2008;
- (c) East Link Project Supplemental Draft Environmental Impact Statement (“SDEIS”), dated November 12, 2010;
- (d) 2011 FEIS, dated July 2011;

- (e) 2013 SEPA Addendum, dated March 2013;
- (f) 2016 SEPA Addendum, dated December 2016; and
- (g) 2017 SEPA Addendum, dated April 2017.

13.2 The City agrees that the Project has been subject to procedural and substantive SEPA compliance through issuance of the Project Environmental Documents and that no further actions are required by Sound Transit and WSDOT to satisfy their documentation requirements under SEPA. The Parties agree that pursuant to WAC 197-11-600 (adopted by reference in Mercer Island City Code (“MICC”) Section 19.07.120(D) as supplemented by MICC 19.07.120), the Project Environmental Documents will be used by the City, unchanged for its review and decisions on permit applications related to the Project, unless otherwise indicated pursuant to WAC 197-11-600(3) or MICC 19.07.120(H). The City further agrees that it will not exercise any rights it may have under SEPA to conduct its own environmental review as to the Project.

## **SECTION 14 PERMITS**

14.1 Upon Sound Transit’s payment of all applicable fees and providing all documentation required by applicable law, the City agrees to expeditiously screen and process applications for all City permits required for the Project by Sound Transit and its contractors.

14.2 The City agrees that the Project is permitted by Title 19 of the MICC (the “City Land Use Code”) and that no additional land use permits, or other City discretionary permits of any kind, are required for the Project.

14.3 The Parties agree that this Agreement provides all reasonable and appropriate mitigation for the Project, and the City agrees that there is no basis in fact or law for the City to exercise its regulatory authority to impose additional mitigation on the Project. The City will exercise its regulatory authority only to require compliance with specific regulations that apply to the Project, e.g., the City will require that a building permit complies with the building code and that an electrical permit complies with the electrical code.

14.4 The City agrees to issue a final decision on the building permit for the Mercer Island Station no later than 5-days following satisfactory resolution of the City code review comments. As to all other City permits needed for the Project, upon receipt of any permit application, the City agrees to immediately screen and place the application at the top of the City’s review queue and to notify Sound Transit and its contractors within three business days whether an application is complete. If the City notifies Sound Transit and its contractors that an application is incomplete, the City will include with its notice an explanation of the specific additional information that is needed to make the application complete. The City will similarly respond within three business days of submittal of any requested additional information. Once an application is complete, the City will issue a decision on the permit within ten calendar days.

14.5 The City shall not take any further action to rescind, revoke, condition, amend or suspend the Shoreline Permit issued by the City for the Project. In the event that Sound Transit proposes substantive changes to the design, terms, or conditions of the Project from what is approved in the

Project's Shoreline Permit, the City shall promptly and reasonably process an application for a permit revision in accordance with WAC 173-27-100.

14.6 The City shall not hinder Sound Transit's attempts to secure, obtain, and maintain, at Sound Transit's sole cost and expense, any permits, licenses, or approvals of other governmental agencies or authorities, or of any necessary Third Parties, for the use of any structures or facilities required by the Project. Nothing in this Section is intended to prevent the City's participation in the review procedures of such other governmental agencies or authorities to the fullest extent provided by law, including commenting on impacts and mitigation.

14.7 The Parties agree that this Section 14 constitutes a reasonable and informed exercise of the City's regulatory authority.

14.8 If the City has reason to believe that the Project is not in compliance with the terms or conditions of any issued permit, the City will provide written notice to Sound Transit of the reasons for the City's belief, and the Parties will resolve the matter using the Dispute Resolution provisions of Section 17 instead of by means of the City's usual code enforcement procedures, unless an unsafe condition arises during Project construction, in which case the City's building official is authorized to take appropriate action including but not limited to issuance of a stop work order.

## **SECTION 15 DISPOSITION OF LITIGATION**

15.1 Within thirty (30) days after execution of this Agreement or as soon thereafter as is feasible, the City and Sound Transit will take the following actions:

- (a) The City will dismiss King County Superior Court Case No. 17-2-03884-9 with prejudice;
- (b) The City will strike the motions for discretionary review pending before the Washington State Supreme Court that it filed in King County Superior Court Case No. 17-2-05191-8 and Case No. 17-2-05193-4;
- (c) Sound Transit and the City will ask the King County Superior Court to enter agreed orders that continue in effect all orders and rulings granting preliminary injunctive relief and to stay the proceedings in Case No. 17-2-05191-8 and Case No. 17-2-05193-4 until either all required permits for the Project have been issued by the City (estimated June of 2023) or the Parties seek enforcement of the orders granting preliminary injunctions or permanent injunctive relief. The Parties will request that the Court enter a stipulated Final Judgment dismissing both cases after all required permits for the Project to be completed have been issued by the City;
- (d) Sound Transit will voluntarily dismiss the Growth Board Proceedings with prejudice;
- (e) The City will cancel Development Code Interpretation DCI #17-01;
- (f) Sound Transit will withdraw its appeal pending before the City's Planning Commission;

- (g) The City will enact amendments to the 2017 City Ordinances to the extent necessary to make them consistent with the provisions of this Agreement; and
- (h) The City will not commence any further proceedings, new litigation, or new regulatory actions impacting the Project.

15.2 Each Party shall cooperate as necessary and shall bear its own attorneys' fees and costs to complete the actions provided for in this Section 15.

## **SECTION 16 ADDITIONAL COMMITMENTS**

16.1 Sound Transit and the City will coordinate with King County Department of Natural Resources regarding construction work on the Project and the King County (North Mercer Way) Sewer Line Projects on North Mercer Way to minimize Work Day road closures that would cause a material and adverse impact on motorists.

16.2 If the construction of the Project requires work in or impacting any part of the Greta Hackett Outdoor Sculpture Gallery, Sound Transit shall be responsible for the proper and safe removal, storage and reinstallation of any sculptures that need to be moved and shall pay all associated costs.

## **SECTION 17 DISPUTE RESOLUTION**

17.1 The Parties agree that no Party shall take or join any action in any judicial or administrative forum to challenge actions of the other Party associated or arising in connection with this Agreement or the Project, except as set forth in this Agreement.

17.2 Any disputes or questions of interpretation of this Agreement that may arise between the Parties shall be governed under the dispute resolution provisions in this Section. The Parties agree that cooperation and communication are essential to resolving issues efficiently. The Parties agree to exercise their best efforts to resolve any disputes that may arise through this dispute resolution process.

17.3 The Parties agree to use their best efforts to prevent and resolve potential sources of conflict at the lowest level.

17.4 The Parties agree to use their best efforts to resolve disputes arising out of or related to this Agreement using good faith negotiations by engaging in the following dispute escalation process should any such disputes arise:

- (a) Level One: The Designated Representatives of the Parties in dispute shall meet to discuss and attempt to resolve the dispute in good faith and in a timely manner. If they cannot resolve the dispute within fourteen (14) calendar days after referral of that dispute to Level One, any Party to the dispute may refer the dispute to Level Two.
- (b) Level Two: Sound Transit's Executive Director of Design, Engineering and Construction Management or Designee, the City's Development Services Director or Designee, as applicable, shall meet to discuss and attempt to resolve the dispute,



in good faith and in a timely manner. If they cannot resolve the dispute within fourteen (14) business days after referral of that dispute to Level Two, any Party to the dispute may refer the dispute to Level Three.

- (c) Level Three: Sound Transit's Chief Executive Officer or Designee, the City Manager or Designee, as applicable, shall meet to discuss and attempt to resolve the dispute in good faith and in a timely manner.

17.5 Except as otherwise specified in this Agreement, in the event the dispute is not resolved at Level Three within fourteen (14) calendar days after referral of that dispute to Level Three, the Parties to the dispute are free to file suit, seek any available legal remedy, or agree to alternative dispute resolution methods such as mediation, subject to the governing law, venue, and default Sections of this Agreement. At all times prior to resolution of the dispute, the Parties shall continue to perform any undisputed obligations and make any undisputed required payments under this Agreement in the same manner and under the same terms as existed prior to the dispute. Notwithstanding anything in this Agreement to the contrary, no Party has an obligation to agree to refer the dispute to mediation or other form of dispute resolution following completion of Level Three of the process described herein. Such agreement may be withheld for any or no reason.

## **SECTION 18 INSURANCE**

18.1 The City is part of an insurance pool, the Washington Cities Insurance Authority ("WCIA"), and shall maintain, throughout the term of this Agreement and for six (6) years after its termination, appropriate coverage in amounts and types sufficient to satisfy its liabilities. When commercial insurance is utilized, the City shall secure and maintain in effect insurance adequate to protect Sound Transit against claims or lawsuits that may arise as a result of the design, construction, operation, maintenance, repair, removal, occupancy, or use of the facilities to be designed and constructed by the City pursuant to this Agreement, including, without limitation: (i) commercial general liability insurance; (ii) workers' compensation insurance (to the extent required by law); (iii) employer's liability insurance; (iv) auto liability coverage for any auto; (v) environmental liability insurance; and, (vii) during construction, builder's risk.

18.2 The City shall file with Sound Transit's Risk Manager on an annual basis a letter evidencing its WCIA member status, which shall be deemed sufficient coverage by Sound Transit. When commercial insurance is utilized, the City shall provide Sound Transit's Risk Manager with Certificates of Insurance reflecting evidence of the required insurance, naming Sound Transit as an additional insured where appropriate, to evidence continued coverage during the term of this Agreement and for six years after its termination.

18.3 If the City fails to maintain the required insurance, Sound Transit may withhold from the City any payments that may become due hereunder until such time as the required insurance is obtained.

18.4 On City projects impacting the Project, the City shall require any contractors or subcontractors to maintain insurance as required by the City in its standard contracts, and to name Sound Transit as an additional insured on their required insurance. The City shall also either require any professional services consultants, subconsultants, contractors or subcontractors

working on City projects impacting the Project to carry appropriate levels of Professional Liability insurance coverage during the course of design, engineering, and construction or the City may itself acquire such insurance or self-insure the work.

18.5 With respect to any liability imposed against the City arising out of the Emergency Training for I-90 Response as provided for in Section 9 of this Agreement, Sound Transit shall indemnify and hold harmless the City against claims for negligent training and/or injuries to persons, including death, or damage to property which may arise from or in connection with such training for the duration of this Agreement and for six (6) years after its termination.

## **SECTION 19 INDEMNIFICATION**

19.1 To the greatest extent allowed by law, the City agrees to defend, release, indemnify and hold harmless Sound Transit its successors and assigns, and its officers, officials, directors, contractors, and employees from and against any and all claims, suits, actions, causes of actions, losses, costs, penalties, response costs, and damages of whatsoever kind or nature arising out of, in connection with, or incident to the acts, actions or omissions of the City, its employees, consultants, designers contractors or construction managers or agents in any way connected or related to the City's performance or failure to perform the work required or allowed to be performed by the City under this Agreement; provided, however, the City's indemnification in this Section expressly excludes the Bus/Rail Integration work (Section 4) and all SEPA-mandated traffic mitigation work (Section 5.1) that Sound Transit is solely required to perform; provided further, however, that should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the City, its employees, consultants, designers, contractors, construction managers or agents and Sound Transit, the indemnification applies only to the extent of the negligence of the City, its employees, consultants, designers, contractors, construction managers or agents.

**THE CITY SPECIFICALLY ASSUMES POTENTIAL LIABILITY FOR ACTIONS BROUGHT BY THE CITY'S OWN EMPLOYEES OR FORMER EMPLOYEES AGAINST SOUND TRANSIT, AND FOR THAT PURPOSE THE CITY SPECIFICALLY WAIVES ALL IMMUNITY AND LIMITATIONS ON LIABILITY UNDER THE WORKERS COMPENSATION ACT, RCW TITLE 51, OR ANY INDUSTRIAL INSURANCE ACT, DISABILITY BENEFIT ACT OR OTHER EMPLOYEE BENEFIT ACT OF ANY JURISDICTION THAT WOULD OTHERWISE BE APPLICABLE IN THE CASE OF SUCH CLAIM. THIS INDEMNITY OBLIGATION SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR OR A SUBCONTRACTOR UNDER WORKERS' COMPENSATION, DISABILITY BENEFIT OR OTHER EMPLOYEE BENEFITS LAWS. THE CITY RECOGNIZES THAT THIS WAIVER WAS SPECIFICALLY ENTERED INTO AND WAS THE SUBJECT OF MUTUAL NEGOTIATION. PROVIDED, HOWEVER, THE CITY'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS PARAGRAPH EXTENDS ONLY TO CLAIMS AGAINST SOUND TRANSIT, AND DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CITY'S EMPLOYEE DIRECTLY AGAINST THE CITY.**

19.2 The City further agrees to assume the defense of Sound Transit with legal counsel acceptable to Sound Transit, whose acceptance shall not be unreasonably withheld, in all legal or claim proceedings arising out of, in connection with, or incidental to the performance of this Agreement or the work by or for the City and expressly excluding the work identified in Section 19.1 that Sound Transit is solely required to perform. The City shall pay all defense expenses, including attorneys' fees, expert fees, and costs (collectively "defense costs") incurred directly or indirectly on account of such litigation or claims, and the City shall satisfy any judgment rendered in connection therewith. In the event that any lien is placed upon any of Sound Transit's property as a result of such suits or legal proceedings, the City agrees to immediately cause the same to be dissolved and discharged by giving bond or otherwise. The City may settle any suit, claim, action, loss, cost, penalty, or damages, subject to Sound Transit's approval, which approval shall not be unreasonably withheld, if such settlement completely and forever extinguishes any and all liability of Sound Transit. In the event of litigation between the Parties to enforce the rights under this Section, reasonable attorney fees shall be allowed to the prevailing party.

19.3 The City further agrees that any review, approval or acceptance by Sound Transit and/or others hereunder shall not relieve the City of any of its obligations to defend, indemnify and hold harmless Sound Transit as required in this Section, nor shall such review, approval or acceptance relieve the City of the obligation to ensure the work by the City under this Agreement be performed in accordance with all governing statutes, regulations and codes and to generally accepted professional standards applicable to the types of services and work performed by the City and/or its contractors, agents, etc. or in any way diminish its liability for the performance of such obligations or its obligations to provide the indemnities hereunder.

19.4 The foregoing indemnities and duties to defend shall survive the termination of this Agreement and final payment hereunder, and are in addition to any other rights or remedies that Sound Transit may have by law or under this Agreement. In the event of any claim or demand made Sound Transit, Sound Transit may, in its sole discretion, reserve, retain or apply any monies due to the City under this Agreement for the purpose of resolving such claims; provided, however, that Sound Transit may release such funds if the City provides Sound Transit with adequate assurance of the protection of Sound Transit's interests.

19.5 The City shall comply, and require its contractors, agents, etc. to comply, with all Sound Transit resolutions, motions and federal, state, and local laws, regulations, and ordinances applicable to the work and services to be performed by the City under this Agreement.

19.6 Insurance Coverage, or the lack of same, shall not relieve the City of its responsibility for liability or damages to Sound Transit under this Agreement.

## **SECTION 20     DEFAULT**

20.1 No Party shall be in default under this Agreement unless it has failed to perform under this Agreement for a period of thirty (30) calendar days after written notice of default from another Party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the 30-day period, then commencement of the cure within such

time period and the diligent prosecution to completion of the cure shall be deemed a cure; provided, however, that in no event shall a cure take longer than ninety (90) days to complete without mutual written consent to an extension for a definite period. Any dispute regarding the existence of a default or appropriate cure shall be handled through dispute resolution consistent with Section 17.

20.2 The Parties shall not be liable or deemed in breach or default of this Agreement if and to the extent its performance under the Agreement is prevented by reason of force majeure. The term “force majeure” means an occurrence that is beyond the control of the Parties and could not have been avoided by exercising due care. Force majeure shall include but not be limited to acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, or other similar occurrences.

## **SECTION 21 REMEDIES; ENFORCEMENT**

21.1 The Parties reserve the right to exercise any and all of the following remedies, singly or in combination, and consistent with the dispute resolution, governing law, venue, and default Sections of this Agreement, in the event another Party violates any provision of this Agreement:

- (a) Commencing an action at law for monetary damages;
- (b) Commencing an action for equitable or other relief;
- (c) Seeking specific performance of any provision that reasonably lends itself to such remedy; and
- (d) The prevailing Party (or substantially prevailing Party if no one Party prevails entirely) shall be entitled to reasonable attorney fees and costs.

21.2 Remedies are cumulative; the exercise of one shall not foreclose the exercise of others.

21.3 A Party shall not be relieved of any of its obligations to comply promptly with any provision of this Agreement by reason of any failure by another Party to enforce prompt compliance, and such failure to enforce shall not constitute a waiver of rights or acquiescence in the other Party’s conduct.

## **SECTION 22 TERM; TERMINATION**

This Agreement shall be effective as of the date the last Party signs and shall remain in effect until terminated by mutual written agreement of the Parties.

## **SECTION 23 COVENANTS AND WARRANTIES**

By execution of this Agreement, each Party covenants and warrants as follows:

- (a) That it has the full right and authority to enter into and perform this Agreement, and that by entering into and performing this Agreement, it is not knowingly in violation of any law, regulation or agreement by which it is bound or to which it is bound or to which it is subject; and

- (b) That its execution, delivery, and performance of this Agreement has been duly authorized by all requisite corporate action, that the signatories for it are authorized to sign this Agreement, and that, upon approval by it, the joinder or consent of any other Party, including a court or trustee or referee, is not necessary to make valid and effective the execution, delivery and performance of this Agreement.

## **SECTION 24      ASSIGNMENT**

24.1 This Agreement shall be binding upon and inure solely to the benefit of the Parties hereto and their respective successors or assignees. No assignment hereof or sublease shall be valid for any purpose without the prior written consent of every other Party. The above requirement for consent shall not apply to (i) any disposition of all or substantially all of the assets of a Party, (ii) any governmental entity merger, consolidation, or reorganization, whether voluntary or involuntary, or (iii) a sublease or assignment of this Agreement (in whole or in part) to a governmental entity; provided, however, that no unconsented assignment shall relieve a Party of its obligations and liabilities under this Agreement.

24.2 Any Party hereto may assign any monetary receivables due them under this Agreement; provided, however, such assignment shall not relieve the assignor of any of its rights or obligations under this Agreement.

24.3 Neither this Agreement nor any term or provision hereof, or any inclusion by reference, shall be construed as being for the benefit of any Third Party not a signatory hereto.

## **SECTION 25      DESIGNATED REPRESENTATIVES**

25.1 To promote effective intergovernmental cooperation and efficiencies, each Party shall designate a representative (“Designated Representative”) who shall be responsible for coordinating communications between the Parties and shall act as the point of contact for each Party. The Designated Representatives shall communicate regularly to discuss the status of the tasks to be performed, identify upcoming Project decisions and any information or input necessary to inform those decisions, and to resolve any issues or disputes related to the Project, consistent with Section 17.

25.2 Communication of issues, changes, or problems that may arise with any aspect of the Project should occur in good faith and as early as possible in the process, and not wait for specific due dates or deadlines. The Designated Representatives shall use reasonable best efforts to provide up-to-date and best available information to the other Party promptly after such information is obtained or developed.

25.3 Each Designated Representative is also responsible for coordinating the input and work of its agency, consultants, and staff as it relates to the objectives of this Agreement. The Parties reserve the right to change Designated Representatives, by written notice to the other Parties during the term of this Agreement. Each Party’s initial Designated Representative is identified in the attached **Exhibit D**.

## **SECTION 26 NOTICE**

26.1 Unless otherwise provided herein, all notices and communications concerning this Agreement shall be in writing and addressed to the applicable Designated Representative(s).

26.2 Unless otherwise provided herein, all notices shall be either: (i) delivered in person, (ii) deposited postage prepaid in the certified mails of the United States, return receipt requested, (iii) delivered by a nationally recognized overnight or same-day courier service that obtains receipts, or (iv) delivered electronically to the other Party's Designated Representative as listed in the attached **Exhibit D**.

## **SECTION 27 GENERAL PROVISIONS**

27.1 The Parties shall not unreasonably withhold or delay requests for information, approvals or consents provided for in this Agreement; provided, however, that approvals or consents required to be given by vote of the Sound Transit Board or the Mercer Island City Council are recognized to be legislative actions. The Parties agree to take further actions and execute further documents, either jointly or within their respective powers and authority, to implement the intent of this Agreement; provided, however, that where such actions or documents required must be first approved by vote of the Sound Transit Board or the Mercer Island City Council, such actions are recognized to be legislative actions. The Parties agree to work cooperatively with each other to achieve the mutually agreeable goals as set forth in this Agreement.

27.2 This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Washington. Venue for any action under this Agreement shall be King County, Washington.

27.3 If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

27.4 Time is of the essence in every provision of this Agreement. Unless otherwise set forth in this Agreement, the reference to "days" shall mean calendar days. If any time for action occurs on a weekend or legal holiday, then the time period shall be extended automatically to the next business day.

27.5 This Agreement is made and entered into for the sole protection and benefit of the Parties hereto and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

27.6 No joint venture or partnership is formed as a result of this Agreement. No employees, agents or subcontractors of one Party shall be deemed, or represent themselves to be, employees of any other Party.

27.7 This Agreement has been reviewed and revised by legal counsel for all Parties 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. The Parties intend this Agreement to be interpreted to the full extent authorized by applicable law.

27.8 Each Party shall be responsible for its own costs, including legal fees, incurred in negotiating or finalizing this Agreement, unless otherwise agreed in writing by the Parties.

27.9 This Agreement, including its exhibits, may be amended only by a written instrument executed by all of the Parties hereto.

27.10 This Agreement constitutes the entire agreement of the Parties with respect to the subject matters of this Agreement, and supersedes any and all prior negotiations (oral and written), understandings and agreements with respect hereto.

27.11 Section headings are intended as information only, and shall not be construed with the substance of the section they caption.

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

**IN WITNESS WHEREOF**, each of the Parties has executed this Agreement by having its authorized representative affix his/her name in the appropriate space below:

**CENTRAL PUGET SOUND  
REGIONAL TRANSIT AUTHORITY  
(SOUND TRANSIT)**

**CITY OF MERCER ISLAND**

By: \_\_\_\_\_  
Peter M. Rogoff, Chief Executive Officer

By: \_\_\_\_\_  
Julie Underwood, City Manager

Date: \_\_\_\_\_, 2017

Date: \_\_\_\_\_, 2017

Authorized by Motion No. M2017-96

Authorized by Resolution No. \_\_\_\_\_

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
Stephen G. Sheehy, Senior Legal Counsel

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

### **Exhibit List**

Exhibit A – 2017 SEPA Addendum Ex 2-4

Exhibit B – Federal Requirements

Exhibit C – Sound Transit Invoice Form

Exhibit D – Designated Representatives



**EXHIBIT A**  
**2017 SEPA ADDENDUM EXHIBIT 2-4**

**LEGEND**

BUS DROP-OFF AREA

BUS LAYOVER AREA

BUS PICK UP

MERCER ISLAND EAST LINK  
STATION

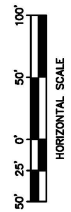
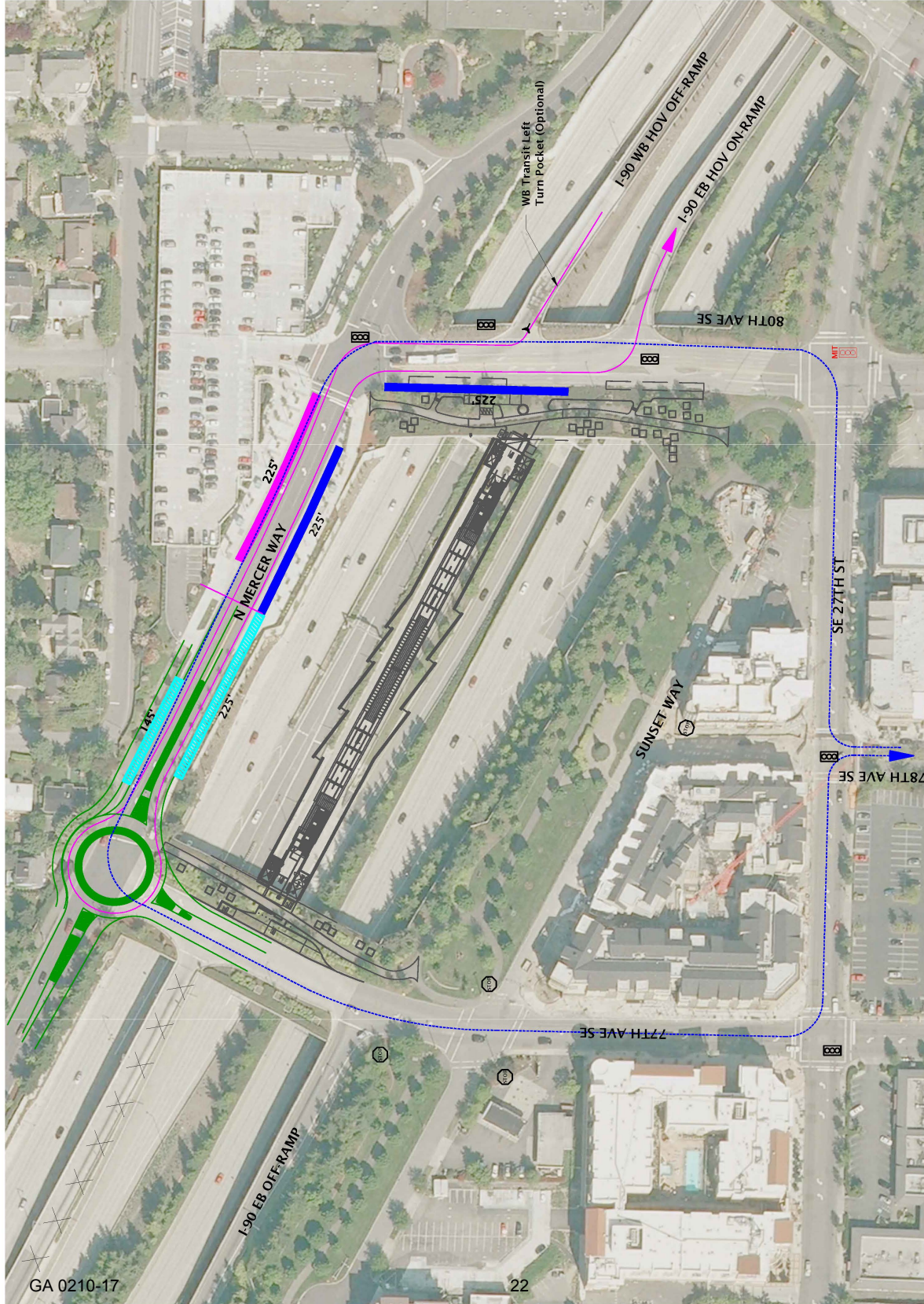
MERCER ISLAND ROUTES

TRANSIT CENTER ROUTES

EAST LINK FEIS  
PROPOSED MITIGATION

EXISTING SIGNAL CONTROL

EXISTING STOP CONTROL



**MERCER ISLAND BUS TRANSIT INTEGRATION**  
**Exhibit 2-4 - 77th Avenue SE Configuration**



**EXHIBIT B**

**FEDERAL REQUIREMENTS**

## **Mercer Island Settlement Agreement**

### **EXHIBIT B**

#### **FEDERAL REQUIREMENTS**

##### **Federally Required and Other Model Contract Clauses**

1. Fly America Requirements
2. Buy America Requirements
3. Cargo Preference Requirements
4. Energy Conservation Requirements
5. Clean Water Requirements
6. Pre-Award and Post-Delivery Audit Requirements
7. Lobbying
8. Access to Records and Reports
9. Federal Changes
10. Clean Air
11. Recycled Products
12. No Government Obligation to Third Parties
13. Program Fraud and False or Fraudulent Statements and Related Acts
14. Termination
15. Government-wide Debarment and Suspension (Nonprocurement)
16. Privacy Act
17. Civil Rights Requirements
18. Breaches and Dispute Resolution
19. Disadvantaged Business Enterprises (DBE)
20. Incorporation of Federal Transit Administration (FTA) Terms
21. Safe Operation of Motor Vehicles
22. Bonding Requirements

## **1. FLY AMERICA REQUIREMENTS [49 U.S.C. § 40118, 41 CFR Part 301-10]**

### **Applicability to Contracts**

The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the Federal Trade Administration (“FTA”) will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier’s designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the Federal Department of Transportation (“FDOT”) has determined meets the requirements of the Fly America Act.

### **Flow Down Requirements**

The Fly America requirements flow down from FTA recipients and subrecipients to first-tier contractors, who are responsible for ensuring that lower-tier contractors and subcontractors are in compliance.

### **Model Clause/Language**

The relevant statutes and regulations do not mandate any specified clause or language. FTA proposes the following language.

### **Fly America Requirements**

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

## **2. BUY AMERICA REQUIREMENTS [49 U.S.C. 5323(j), 49 CFR Part 661]**

### **Applicability to Contracts**

The Buy America requirements apply to the following types of contracts: Construction Contracts and Acquisition of Goods or Rolling Stock valued at more than one hundred thousand dollars (\$100,000).

### **Flow Down**

The Buy America requirements flow down from FTA recipients and subrecipients to first-tier contractors, who are responsible for ensuring that lower-tier contractors and subcontractors are in compliance. The one hundred thousand dollars (\$100,000) threshold applies only to the grantee contract, subcontracts under that amount are subject to Buy America.

### **Mandatory Clause/Language**

The Buy America regulation, at 49 CFR 661.13, requires notification of the Buy America requirements in FTA-funded contracts, but does not specify the language to be used. The following language has been developed by FTA.

**Buy America** - The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for fifteen (15) passenger vans and fifteen (15) passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a sixty percent (60%) percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

### **Certification requirement for procurement of steel, iron, or manufactured products.**

#### *Certificate of Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 C.F.R. Part 661.5.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

#### *Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C.

5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

**Certification requirement for procurement of buses, other rolling stock and associated equipment.**

*Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C).*

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 CFR 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

**3. CARGO PREFERENCE REQUIREMENTS [46 U.S.C. 1241, 46 CFR Part 381]**

### **Applicability to Contracts**

The Cargo Preference requirements apply to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

### **Flow Down**

The Cargo Preference requirements apply to all subcontracts when the subcontract may be involved with the transport of equipment, material, or commodities by ocean vessel.

### **Model Clause/Language**

The MARAD regulations at 46 CFR 381.7 contain suggested contract clauses. The following language is proffered by FTA.

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

## **4. ENERGY CONSERVATION REQUIREMENTS [42 U.S.C. 6321 *et seq.*, 49 CFR Part 18]**

### **Applicability to Contracts**

The Energy Conservation requirements are applicable to all contracts.

### **Flow Down**

The Energy Conservation requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subagreements at every tier.

### **Model Clause/Language**

No specific clause is recommended in the regulations because the Energy Conservation requirements are so dependent on the state energy conservation plan. The following language has been developed by FTA:

**Energy Conservation** - The contractor agrees to comply with mandatory standards and policies



relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

## **5. CLEAN WATER REQUIREMENTS [33 U.S.C. 1251]**

### **Applicability to Contracts**

The Clean Water requirements apply to each contract and subcontract which exceeds one hundred thousand dollars (\$100,000).

### **Flow Down**

The Clean Water requirements flow down to FTA recipients and subrecipients at every tier.

### **Model Clause/Language**

While no mandatory clause is contained in the Federal Water Pollution Control Act, as amended, the following language developed by FTA contains all the mandatory requirements:

**Clean Water** - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.* The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding one hundred thousand dollars (\$100,000) financed in whole or in part with Federal assistance provided by FTA.

## **6. PRE-AWARD AND POST-DELIVERY AUDITS REQUIREMENTS [49 U.S.C. 5323 49 CFR Part 663]**

### **Applicability to Contracts**

These requirements apply only to the acquisition of Rolling Stock/Turnkey.

### **Flow Down**

These requirements should not flow down, except to the Turnkey contractor as stated in Master Agreement.

### **Model Clause/Language**

Clause and language therein are merely suggested. 49 C.F.R. Part 663 does not contain specific language to be included in third-party contracts but does contain requirements applicable to subrecipients and third-party contractors.

- Buy America certification is mandated under FTA regulation, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. 663.13.

-- Specific language for the Buy America certification is mandated by FTA regulation,

"Buy America Requirements--Surface Transportation Assistance Act of 1982, as amended,"

49 C.F.R. 661.12, but has been modified to include FTA's Buy America requirements codified at 49 U.S.C. A 5323(j).

**Pre-Award and Post-Delivery Audit Requirements** - The Contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

(1) Buy America Requirements: The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists a) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and b) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

(2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the bid specifications.

(3) Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS, or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

#### BUY AMERICA CERTIFICATE OF COMPLIANCE WITH FTA REQUIREMENTS FOR BUSES, OTHER ROLLING STOCK, OR ASSOCIATED EQUIPMENT

*(To be submitted with a bid or offer exceeding the small purchase threshold for Federal assistance programs, currently set at \$100,000.)*

##### Certificate of Compliance

The bidder hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 C.F.R. 661.11:

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

Signature: \_\_\_\_\_

Company Name: \_\_\_\_\_

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

### Certificate of Non-Compliance

The bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C) and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 C.F.R. 661.7.

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

Signature: \_\_\_\_\_

Company Name: \_\_\_\_\_

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

## **7. LOBBYING [31 U.S.C. 1352, 49 CFR Part 19, 20]**

### **Applicability to Contracts**

The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

### **Flow Down**

The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7.

### **Mandatory Clause/Language**

Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A.

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]:

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

- Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995:

- Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

**Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]** - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

#### APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

##### Certification for Contracts, Grants, Loans, and Cooperative Agreements

*(To be submitted with each bid or offer exceeding one hundred thousand dollars (\$100,000).)*

The undersigned [Contractor] 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 an 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 making lobbying contacts to an officer or employee of any 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 Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all 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 is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

## **8. ACCESS TO RECORDS AND REPORTS [49 U.S.C. 5325, 18 CFR 18.36 (i), 49 CFR 633.17]**

### **Applicability to Contracts**

Reference Chart "Requirements for Access to Records and Reports by Type of Contracts"

### **Flow Down**

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

### **Model Clause/Language**

The specified language is not mandated by the statutes or regulations referenced, but the language provided paraphrases the statutory or regulatory language.

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

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits,

examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at one hundred thousand dollars (\$100,000).

3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

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

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

6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

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

## Requirements for Access to Records and Reports by Types of Contract

Contract Characteristics	Operational Service Contract	Turnkey	Construction	Architectural Engineering	Acquisition of Rolling Stock	Professional Services
<u>I State Grantees</u>						
a. Contracts below SAT (\$100,000)	None	Those imposed on state pass thru to Contractor	None	None	None	None
b. Contracts above \$100,000/Capital Projects	None unless <sup>1</sup> non-competitive award		Yes, if non-competitive award or if funded thru <sup>2</sup> 5307/5309/5311	None unless non-competitive award	None unless non-competitive award	None unless non-competitive award
<u>II Non State Grantees</u>						
a. Contracts below SAT (\$100,000)	Yes <sup>3</sup>	Those imposed on non-state Grantee pass thru to Contractor	Yes	Yes	Yes	Yes
b. Contracts above \$100,000/Capital Projects	Yes <sup>3</sup>		Yes	Yes	Yes	Yes

Sources of Authority:

<sup>1</sup> 49 USC 5325 (a)

<sup>2</sup> 49 CFR 633.17

<sup>3</sup> 18 CFR 18.36 (i)

## 9. FEDERAL CHANGES [49 CFR Part 18]

### Applicability to Contracts

The Federal Changes requirement applies to all contracts.

### Flow Down

The Federal Changes requirement flows down appropriately to each applicable changed requirement.

### Model Clause/Language

No specific language is mandated. The following language has been developed by FTA.

**Federal Changes** - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures, and directives, including without limitation, those listed directly or by

reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

#### **10. CLEAN AIR [42 U.S.C. 7401 *et seq.*, 40 CFR 15.61, 49 CFR Part 18]**

##### **Applicability to Contracts**

The Clean Air requirements apply to all contracts exceeding one hundred thousand dollars (\$100,000), including indefinite quantities where the amount is expected to exceed one hundred thousand dollars (\$100,000) in any year.

##### **Flow Down**

The Clean Air requirements flow down to all subcontracts which exceed one hundred thousand dollars (\$100,000).

##### **Model Clauses/Language**

No specific language is required. FTA has proposed the following language.

**Clean Air** - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding one hundred thousand dollars (\$100,000) financed in whole or in part with Federal assistance provided by FTA.

#### **11. RECYCLED PRODUCTS [42 U.S.C. 6962, 40 CFR Part 247, Executive Order 12873]**

##### **Applicability to Contracts**

The Recycled Products requirements apply to all contracts for items designated by the EPA, when the purchaser or contractor procures ten thousand dollars (\$10,000) or more of one of these items during the fiscal year, or has procured ten thousand dollars (\$10,000) or more of such items in the previous fiscal year, using Federal funds. New requirements for "recovered materials" will become effective May 1, 1996. These new regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases ten thousand dollars (\$10,000) or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was ten thousand dollars (\$10,000).

##### **Flow Down**

These requirements flow down to all to all contractor and subcontractor tiers.



### **Model Clause/Language**

No specific clause is mandated, but FTA has developed the following language.

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

## **12. NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

### **Applicability to Contracts**

Applicable to all contracts.

### **Flow Down**

Not required by statute or regulation for either primary contractors or subcontractors, this concept should flow down to all levels to clarify, to all parties to the contract, that the Federal Government does not have contractual liability to third parties, absent specific written consent.

### **Model Clause/Language**

While no specific language is required, FTA has developed the following language.

### **No Obligation by the Federal Government.**

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

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

## **13. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS [31 U.S.C. 3801 *et seq.*, 49 CFR Part 31 18 U.S.C. 1001, 49 U.S.C. 5307]**

### **Applicability to Contracts**

These requirements are applicable to all contracts.

### **Flow Down**

These requirements flow down to contractors and subcontractors who make, present, or submit

covered claims and statements.

### **Model Clause/Language**

These requirements have no specified language, so FTA proffers the following language.

### **Program Fraud and False or Fraudulent Statements or Related Acts.**

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

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

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

## **14. TERMINATION [49 U.S.C. Part 18, FTA Circular 4220.1E]**

### **Applicability to Contracts**

All contracts (with the exception of contracts with nonprofit organizations and institutions of higher education,) in excess of ten thousand dollars (\$10,000) shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. (For contracts with nonprofit organizations and institutions of higher education the threshold is one hundred thousand dollars (\$100,000).) In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

### **Flow Down**

The termination requirements flow down to all contracts in excess of ten thousand dollars (\$10,000), with the exception of contracts with nonprofit organizations and institutions of higher

learning.

### **Model Clause/Language**

FTA does not prescribe the form or content of such clauses. The following are suggestions of clauses to be used in different types of contracts:

**a. Termination for Convenience (General Provision)** The (Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.

**b. Termination for Default [Breach or Cause] (General Provision)** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the (Recipient) may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the (Recipient) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

**c. Opportunity to Cure (General Provision)** The (Recipient) in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor of written notice from (Recipient) setting forth the nature of said breach or default, (Recipient) shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude (Recipient) from also pursuing all available remedies against Contractor and its sureties for said breach or default.

**d. Waiver of Remedies for any Breach** In the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s remedies for any succeeding breach of that or

of any other term, covenant, or condition of this Contract.

**e. Termination for Convenience (Professional or Transit Service Contracts)** The (Recipient), by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

**f. Termination for Default (Supplies and Service)** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

**g. Termination for Default (Transportation Services)** If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the (Recipient), protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and (Recipient) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Recipient).

**h. Termination for Default (Construction)** If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the

Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if the following conditions exist:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The contractor, within ten (10) days from the beginning of any delay, notifies the (Recipient) in writing of the causes of delay. If in the judgment of the (Recipient), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Recipient) shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

**i. Termination for Convenience or Default (Architect and Engineering)** The (Recipient) may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected, unless the notice directs otherwise, and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination

had been issued for the convenience of the Recipient.

**j. Termination for Convenience of Default (Cost-Type Contracts)** The (Recipient) may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of the (Recipient) or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the (Recipient), or property supplied to the Contractor by the (Recipient). If the termination is for default, the (Recipient) may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the (Recipient) and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the (Recipient), the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the (Recipient) determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the (Recipient), after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

## **15. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)**

### **Background and Applicability**

In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published an update to 49 CFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, *Debarment and Suspension*, Executive Order 12689, *Debarment and Suspension*, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed twenty-five thousand dollars (\$25,000) as well as any contract or subcontract, at any level, for federally required auditing services. 49 CFR 29.220(b). This represents a change from prior practice in that the dollar threshold for application of these rules has been lowered from one hundred thousand dollars (\$100,000) to twenty-five thousand dollars (\$25,000). These are contracts and subcontracts referred to in the regulation as “covered transactions.”

Grantees, contractors, and subcontractors, at any level, that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) checking the Excluded

Parties List System, (b) collecting a certification from that person, or (c) adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required. 49 CFR 29.300.

Grantees, contractors, and subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

### **Clause Language**

The following clause language is suggested, not mandatory. It incorporates the optional method of verifying that contractors are not excluded or disqualified by certification.

### **Suspension and Debarment**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by **{insert agency name}**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **{insert agency name}**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## **16. PRIVACY ACT [5 U.S.C. 552]**

### **Applicability to Contracts**

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts.

### **Flow Down**

The Federal Privacy Act requirements flow down to each third party contractor and their contracts at every tier.

### **Model Clause/Language**

The text of the following clause has not been mandated by statute or specific regulation, but has been developed by FTA.

**Contracts Involving Federal Privacy Act Requirements** The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

**17. CIVIL RIGHTS REQUIREMENTS [29 U.S.C. § 623, 42 U.S.C. § 2000, 42 U.S.C. § 6102, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49 U.S.C. § 5332, 29 CFR Part 1630, 41 CFR Parts 60 *et seq.***

### **Applicability to Contracts**

The Civil Rights Requirements apply to all contracts.

### **Flow Down**

The Civil Rights requirements flow down to all third party contractors and their contracts at every tier.

### **Model Clause/Language**

The following clause was predicated on language contained at 49 CFR Part 19, Appendix A, but FTA has shortened the lengthy text.

**Civil Rights** - The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against



any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

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

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

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

## **18. BREACHES AND DISPUTE RESOLUTION [49 CFR Part 18, FTA Circular 4220.1E]**

### **Applicability to Contracts**

All contracts in excess of one hundred thousand dollars (\$100,000) shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where

contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages, or other appropriate measures.

### **Flow Down**

The Breaches and Dispute Resolutions requirements flow down to all tiers.

### **Model Clauses/Language**

FTA does not prescribe the form or content of such provisions. What provisions are developed will depend on the circumstances and the type of contract. Recipients should consult legal counsel in developing appropriate clauses. The following clauses are examples of provisions from various FTA third party contracts.

**Disputes** - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Recipient)'s [title of employee]. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.

**Performance During Dispute** - Unless otherwise directed by (Recipient), Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Claims for Damages** - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

**Remedies** - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the (Recipient) and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the (Recipient) is located.

**Rights and Remedies** - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

## **19. DISADVANTAGED BUSINESS ENTERPRISES (“DBE”) [49 CFR Part 26]**

### **Background and Applicability**

The newest version on the Department of Transportation's Disadvantaged Business Enterprise ("DBE") program became effective July 16, 2003. The rule provides guidance to grantees on the use of overall and contract goals, requirement to include DBE provisions in subcontracts, evaluating DBE participation where specific contract goals have been set, reporting requirements, and replacement of DBE subcontractors. Additionally, the DBE program dictates payment terms and conditions (including limitations on retainage) applicable to all subcontractors regardless of whether they are DBE firms or not.

The DBE program applies to all DOT-assisted contracting activities. A formal clause such as that below must be included in all contracts above the micro-purchase level. The requirements of clause subsection b flow down to subcontracts.

A substantial change to the payment provisions in this newest version of Part 26 concerns retainage (*see* section 26.29). Grantee choices concerning retainage should be reflected in the language choices in clause subsection d.

### **Clause Language**

The following clause language is suggested, not mandatory. It incorporates the payment terms and conditions applicable to all subcontractors based in Part 26 as well as those related only to DBE subcontractors. The suggested language allows for the options available to grantees concerning retainage, specific contract goals, and evaluation of DBE subcontracting participation when specific contract goals have been established.

### **Disadvantaged Business Enterprises**

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is \_\_ %. A separate contract goal **[of \_\_ % DBE participation has] [has not]** been established for this procurement.
- b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as **{insert agency name}** deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).
- c. **{If a separate contract goal has been established, use the following}** Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following **[concurrent with and accompanying sealed bid] [concurrent with and accompanying an initial proposal] [prior to award]**:

1. The names and addresses of DBE firms that will participate in this contract;
2. A description of the work each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts to do so.

**[Bidders][Offerors]** must present the information required above **[as a matter of responsiveness] [with initial proposals] [prior to contract award]** (*see* 49 CFR 26.53(3)).

*{If no separate contract goal has been established, use the following}* The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the {insert agency name}. In addition, **[the contractor may not hold retainage from its subcontractors.] [is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.] [is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the {insert agency name} and contractor's receipt of the partial retainage payment related to the subcontractor's work.]**

e. The contractor must promptly notify {insert agency name}, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of {insert agency name}.

## **20. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION ("FTA") TERMS [FTA Circular 4220.1E]**

### **Applicability to Contracts**

The incorporation of FTA terms applies to all contracts.

### **Flow Down**

The incorporation of FTA terms has unlimited flow down.

### **Model Clause/Language**

FTA has developed the following incorporation of terms language:

**Incorporation of Federal Transit Administration Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

## **21. SAFE OPERATION OF MOTOR VEHICLES [23 U.S.C. part 402, Executive Order No. 13043, Executive Order No. 13513, U.S. DOT Order No. 3902.10]**

### **Applicability to Contracts**

The Safe Operation of Motor Vehicles requirements apply to all federally funded third party contracts. In compliance with Federal Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. Section 402 note, FTA encourages each third party contractor to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third party subcontract involving the project. Additionally, recipients are required by FTA to include a Distracted Driving clause that addresses distracted driving, including text messaging in each of its third party agreements supported with Federal assistance.

### **Flow Down Requirements**

The Safe Operation of Motor Vehicles requirements flow down to all third party contractors at every tier.

### **Model Clause/Language**

There is no required language for the Safe Operation of Motor Vehicles clause. Recipients can draw on the following language for inclusion in their federally funded procurements.

## **Safe Operation of Motor Vehicles**

### **Seat Belt Use**

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel who operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or AGENCY.

### Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

## **22. BONDING REQUIREMENTS [2 C.F.R. § 200.325, 31 C.F.R. part 223]**

### Applicability to Contracts

a. Bonds are required for all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. FTA may accept the bonding policy and requirements of the recipient if FTA has determined that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements apply:

b. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

c. A performance bond on the part of the contractor for one hundred percent (100%) of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

A payment bond on the part of the contractor for one hundred percent (100%) of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

### Flow Down

These requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier that exceed the simplified acquisition threshold.

### Model Clauses/Language

There is no required language for bonding requirements.

**EXHIBIT C**  
**SOUND TRANSIT INVOICE FORM**

**EXHIBIT C**

**SOUND TRANSIT INVOICE FORM**

Invoice No. \_\_\_\_\_ Dated: \_\_\_\_\_

TO: Sound Transit  
Accounts Payable  
401 S Jackson Street  
Seattle, WA 98104

accountspayable@soundtransit.org

Attention: Accounts Payable and [Sound Transit's Designated Representative]

Re: \_\_\_\_\_

The City's authorized representative certifies that the amount of \$\_\_\_\_\_ is due and payable to the City in accordance with the provisions of the Agreement, as supported by the attached invoice and supporting documentation.

*[Identify the phase(s), and the amounts by phase, for which the amount due applies]*

The City makes the following representations and warranties to Sound Transit in connection with the Invoice:

- All work performed to date has been, unless otherwise specifically stated by the City, performed in accordance with the terms and conditions of this Agreement.
- The amount specified above has been computed in accordance with, and is due and payable under, the terms and conditions of the Agreement, has not been the subject of any previous invoice (unless disputed or rejected for payment) and is not the subject of any pending invoice from the City.

Any liability of Sound Transit arising from these representations and warranties are governed by the terms and conditions of the Agreement.

**City of Mercer Island**

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

*[Name, Position]*



**EXHIBIT D**

**DESIGNATED REPRESENTATIVES**

## **EXHIBIT D**

### **DESIGNATED REPRESENTATIVES**

#### **SOUND TRANSIT:**

Eric Beckman  
Deputy Executive Director  
401 South Jackson  
Seattle, WA 98104  
(206) 398-5251  
Eric.beckman@soundtransit.org

#### **CITY OF MERCER ISLAND:**

Julie T. Underwood  
City Manager (or designee)  
9611 SE 36<sup>th</sup> Street  
Mercer Island, WA 98040  
(206) 275-7665  
Julie.Underwood@mergergov.org



# PLANNING SCHEDULE

Please email the City Manager & City Clerk when an agenda item is added, moved or removed.

Special Meetings and Study Sessions begin at 6:00 pm. Regular Meetings begin at 7:00 pm.  
Items are not listed in any particular order. Agenda items & meeting dates are subject to change.

OCTOBER 17		DUE TO:	10/06 D/P	10/09 FN	10/09 CA	10/10 Clerk
ITEM TYPE   TIME   TOPIC				STAFF		SIGNER
EXECUTIVE SESSION (6:00-7:00 pm)						
60	Executive Session to discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for one hour					
SPECIAL BUSINESS (7:00 pm)						
10	MIFD Citizen Recognition			Steve Heitman		--
CONSENT CALENDAR						
--	Freeman Avenue Roadway Repair Contract Award			Jason Kintner		Chip
--	Madrona Crest West Project Close-out			Rona Lin		Chip
REGULAR BUSINESS						
10	Code Amendment to Prohibit Animals on Synthetic Turf Fields (1 <sup>st</sup> Reading)			Paul West		Kirsten
30	Essential Public Facilities Code Amendment (2 <sup>nd</sup> Reading and Adoption)			Scott Greenberg		Julie
60	2017 Comprehensive Plan Amendments & Accompanying Zoning Code Amendments (1st Reading)			Evan Maxim		Julie
30	Approval of City of Mercer Island and Sound Transit Settlement Agreement			Julie Underwood		Kirsten

OCTOBER 26 – 5:00-6:45 PM (SPECIAL MEETING)						
	Special Joint Meeting with MISD Board					

NOVEMBER 7			DUE TO:	10/27 D/P	10/30 FN	10/30 CA	10/31 Clerk
ITEM TYPE   TIME   TOPIC					STAFF		SIGNER
STUDY SESSION (6:00-7:00 pm)							
60	Last/First Mile Solutions				Julie Underwood		Kirsten
SPECIAL BUSINESS (7:00 pm)							
CONSENT CALENDAR							
--	Boat Launch Sublease with Sound Transit and Amendment to Airspace Lease with WSDOT				Kari Sand		Julie
REGULAR BUSINESS							
30	2018 Comprehensive Plan Amendment Docket				Evan Maxim		Julie
EXECUTIVE SESSION							

NOVEMBER 21				DUE TO:	11/09 D/P	11/13 FN	11/13 CA	11/14 Clerk
ITEM TYPE   TIME   TOPIC						STAFF		SIGNER
STUDY SESSION (6:00-7:00 pm)								
60	Aubrey Davis Park Master Plan					Paul West		Julie
SPECIAL BUSINESS (7:00 pm)								
CONSENT CALENDAR								
PUBLIC HEARING								
REGULAR BUSINESS								
60	2017-2018 Mid-Biennial Budget Review (Third Quarter 2017 Financial Status Report & Budget Adjustments, 2018 Utility Rates, and 2018 Property Tax Levy)					Chip Corder		
60	Pratt Subdivision Preliminary Approval (SUB16-007)					Nicole Gaudette		
15	Town Center Banner Project Presentation					Kai Fulginiti		
EXECUTIVE SESSION								

NOVEMBER 28 – 6:00-7:30 PM (SPECIAL MEETING)							
	Special Meeting - Legislative Priorities						

DECEMBER 5				DUE TO:	11/22 D/P	11/27 FN	11/27 CA	11/28 Clerk
ITEM TYPE   TIME   TOPIC						STAFF		SIGNER
STUDY SESSION (6:00-7:00 pm)								
60	General Sewer Plan Update					A. Tonella-Howe		
SPECIAL BUSINESS (7:00 pm)								
CONSENT CALENDAR								
PUBLIC HEARING								
REGULAR BUSINESS								
30	2018 Legislative Priorities					Kirsten Taylor		Julie
30	2017 Comprehensive Plan Amendments (2nd Reading & Adoption)					Evan Maxim		
EXECUTIVE SESSION								

**OTHER ITEMS TO BE SCHEDULED:**

- Code Enforcement Ordinance Update – A. Van Gorp (Q4 2017)
- Light Rail Station Design Oversight – J. Underwood
- Mercer Island Center for the Arts (MICA) Lease – K. Sand
- PSE Electric Franchise – K. Sand
- Zayo Telecom Franchise – K. Sand
- Parks Waterfront Structures Long-Term Planning – P. West
- Land Conservation Work Plan Update – A. Sommargren
- Sound Transit/WSDOT Settlement Agreement – K. Sand
- Interlocal Agreement for Fire, Rescue and Emergency Medical Services (Heitman)
- Critical Areas Scope of Work – S. Greenberg
- Open Space Vegetation Management – A. Sommargren
- ARCH Parity Goals – S. Greenberg
- Transportation Concurrency Code Amendment – S. Greenberg

**COUNCILMEMBER ABSENCES:**

- Bassett: October 17 & October 26

**MISD BOARD JOINT MEETING DATES:**

- Thursday, October 26, 2017, 5:00-6:45 pm
- Thursday, April 26, 2018, 5:00-6:45 pm