

City of Redmond



Agenda

Tuesday, October 12, 2021

4:30 PM

City Hall: 15670 NE 85th Street; Remote: Facebook (@CityofRedmond),
Redmond.gov/rctlive, Comcast Ch. 21, Ziply Ch. 34, or 510-335-7371

Committee of the Whole - Planning and Public Works

Committee Members

David Carson, Presiding Officer

Jeralae Anderson

Steve Fields

Jessica Forsythe

Varisha Khan

Vanessa Kritzer

Tanika Kumar Padhye

AGENDA

1. Affordable Housing and 2022 ARCH (A Regional Coalition for Housing) Work Program and Budget

[Attachment A: ARCH Memo to Councils - 2022 Budget and Work Program](#)

[Attachment B: ARCH Assessment Cedar River Final Report 2021](#)

Department: Planning and Community Development, 10 min.

Requested Action: Consent, October 19th

2. Review of the 2021 and 2022 Tourism Fund Allocation for Matching Grants

[Attachment A: 2021 Tourism Outline and FAQ](#)

[Attachment B: Grant Application Matrix](#)

[Attachment C: Slides](#)

Department: Planning and Community Development, 10 min.

Requested Action: Staff Report, October 19th

3. 2021-22 Annual ORCA Contract Renewal

[Attachment A: ORCA Business Passport Agreement](#)

Department: Planning and Community Development, 5 min.

Requested Action: Consent, November 1st

4. CIP Project Approval - Electrical Service Upgrades and Electric Vehicle Charging Infrastructure

[Attachment A: CIP Business Case and Cost Estimate](#)

Department: Parks and Recreation, 10 min.

Requested Action: Consent, November 1st

5. Leary Way Bridge Easement Agreement Renewal

[Attachment A: Leary Way Bridge Vicinity Map](#)

[Attachment B: DNR Easement Agreement](#)

Department: Public Works, 5 min.

Requested Action: Consent, November 1st

6. Temporary Construction Dewatering (TCD) Staff Report

Department: Public Works and Planning and Community Development, 5 min.

Requested Action: Staff Report, November 1st



Memorandum

Date: 10/12/2021

Meeting of: Committee of the Whole - Planning and Public Works

File No. CM 21-505

Type: Committee Memo

TO: Committee of the Whole - Planning and Public Works

FROM: Mayor Angela Birney

DEPARTMENT DIRECTOR CONTACT(S):

Planning and Community Development	Carol Helland	425-556-2107
------------------------------------	---------------	--------------

DEPARTMENT STAFF:

Planning and Community Development	Ian Lefcourte, AICP	Planner
------------------------------------	---------------------	---------

TITLE:

Affordable Housing and 2022 ARCH (A Regional Coalition for Housing) Work Program and Budget

OVERVIEW STATEMENT:

A Regional Coalition for Housing (ARCH) was created in 1992 through an interlocal agreement of several Eastside cities and King County. ARCH assists member governments in developing housing policies, strategies, programs, and development regulations; coordinates the cities' financial support to groups creating affordable housing for low- and moderate-income households; and assists people looking for affordable rental and ownership housing. Each year, the City of Redmond reviews ARCH's annual budget and work program. The 2022 ARCH Work Program and Budget are required to be approved by each of the 16 member councils that are party to the Interlocal Agreement.

The proposed 2022 administrative budget request to Redmond is \$156,381, which represents a 27 percent (\$33,277) increase from the 2021 budget of \$123,104. The increase reflects the addition of two staff positions that will focus on local incentive program administration, portfolio monitoring, and administering new funding sources that were identified as necessary during a recent ARCH staffing capacity review effort.

The 2022 Work Program and Budget details are more fully provided for in **Attachment A**. The assessment of ARCH staffing capacity prepared by the Cedar River Group is included as **Attachment B**.

☒ **Additional Background Information/Description of Proposal Attached**

REQUESTED ACTION:

☐ **Receive Information**

☒ **Provide Direction**

☐ **Approve**

REQUEST RATIONALE:

- **Relevant Plans/Policies:**

Comprehensive Plan Housing Element: Provides a framework for housing goals, policies, and actions to address housing needs that advance the City's vision.

Housing Action Plan: Provides implementation strategies to address housing needs that advance the City's vision.

- **Required:**

The ARCH Interlocal Agreement of 1993 as amended in 2010 requires that the annual ARCH work program and budget be approved by each member council.

- **Council Request:**

N/A

- **Other Key Facts:**

This is an annual process with ARCH and associated member jurisdictions.

OUTCOMES:

ARCH supports housing across East King County communities through a cooperative approach and creates efficiencies in housing planning and affordable housing project development. ARCH collaborates with local members, including Redmond, to:

- Administer the Housing Trust Fund;
- Support proposals to acquire dedicated funding for affordable housing;
- Facilitate production of affordable housing;
- Steward affordable housing assets;
- Analyze affordable housing practices;
- Review legal decisions related to affordable housing;
- Develop measurable goals for production and preservation of affordable housing; and
- Manage select affordable housing programs and projects.

Further information is contained within **Attachment A**.

COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:

- **Timeline (previous or planned):**

Annual process; must be approved before the end of the year.

- **Outreach Methods and Results:**

Opportunity for input through Council review process.

- **Feedback Summary:**

Any feedback provided to staff will be summarized and provided to Council.

BUDGET IMPACT:

Total Cost:

\$156,381 for the City of Redmond contribution to ARCH administrative budget.

Approved in current biennial budget:

☐ Yes

☒ No

☐ N/A

Budget Offer Number:

000248 - Housing and Human Services

Citywide CIP - Housing Trust Fund - ARCH

Citywide CIP - Affordable Housing Alternative Compliance Fee in Lieu

Budget Priority:

Vibrant and Connected

Other budget impacts or additional costs: ☒ Yes ☐ No ☐ N/A

If yes, explain:

Refer to the Budget/Funding Constraints section below for budget balancing details.

Funding source(s):

General Fund

CIP

Budget/Funding Constraints:

The proposed 2022 administrative budget contribution from Redmond is \$156,381. This represents a 27 percent increase over the adopted 2021 administrative budget of \$123,104. The increase reflects the addition of two ARCH staff positions.

There are several factors contributing to the proposed increase.

1. The addition of two full-time employees to the ARCH staff. The quantity of projects with ARCH affordable units has continued to grow. These two new staff members will enable ARCH to more effectively monitor, manage, and report on a growing portfolio. These positions will focus on administering local incentive programs, monitoring the expanding portfolio of Housing Trust Fund investments, and assisting with administration of new funding sources, including new affordable housing sales tax resources. Redmond would benefit greatly from these additions, as Redmond has one of the largest ARCH portfolios. Refer to the assessment of ARCH staffing capacity prepared by the Cedar River Group that is included with this memorandum as **Attachment B**.
 - a. Revenue from new administrative fees is used to free-up funds for one of the new positions. A new tier of member dues is created to cover the second new position. These dues are allocated to the member cities that utilize ARCH for incentive program administration. Redmond, Kirkland, and Bellevue are the member cities that utilize these services the most.
 - b. Historically, staff capacity has not grown sufficiently to keep up with member's needs and requests. New staff capacity is essential to catch up on longstanding shortages and meet member's most pressing existing and near-term needs.
2. There was no budget increase from the 2020 budget to the 2021 budget due to the COVID pandemic. Some increases to the administrative budget that would ordinarily occur in 2021 were deferred to 2022.

The Redmond portion of ARCH administrative budget is funded from the PCD operating budget and the CIP. The money for the increased budget contribution will come from salary savings in the PCD operating budget and CIP Housing Trust Funds allocated to ARCH to support both operational and capital expenses. Affordable Housing Alternative Compliance Fee-in-Lieu funds will be used to replenish the ARCH Housing Trust Fund monies needed to cover this additional budget expense.

☒ **Additional budget details attached**

COUNCIL REVIEW:

Previous Contact(s)

Date	Meeting	Requested Action
	Item has not been presented to Council	N/A

Proposed Upcoming Contact(s)

Date	Meeting	Requested Action
10/19/2021	Business Meeting	Approve

Time Constraints:

ARCH requests the timely approval of the 2022 ARCH work program and budget by the end of 2021.

ANTICIPATED RESULT IF NOT APPROVED:

If not approved, ARCH will not have Redmond funds to contribute to ARCH operations and implementation of its work program, and Redmond would need to create new staff capacity to monitor its growing affordable housing portfolio.

ATTACHMENTS:

Attachment A - ARCH Memo to Councils - 2022 ARCH Budget and Work Program
Attachment B - ARCH Assessment Cedar River Final Report 2021

MEMORANDUM

Date: September 7, 2021

From: Lindsay Masters, ARCH Executive Manager

To: ARCH Member Councils

Subject: ARCH 2022 Budget and Work Program, and Trust Fund Parity Goals

Please find attached the 2022 ARCH Budget and Work Program, which was adopted by a unanimous vote of the ARCH Executive Board in June of 2021. This memo provides an overview of the final budget and work program, including a description of the assessment conducted by Cedar River Group to inform the Board's decision-making. The memo also shares the Board's recent discussion regarding regional Parity Goals for local investment in affordable housing.

Review of ARCH Capacity and Work Program Growth

Early in 2021, ARCH engaged consulting firm Cedar River Group to help the Executive Board through an in-depth assessment of ARCH's current organizational capacity, and growth in the organization's work program over time. This opportunity was made possible through a grant intended to explore options for other north and east King County cities to join ARCH, or form new types of housing partnerships.

Cedar River Group has since prepared a detailed report, which is attached to this memo. Their report offers the following conclusions:

- There is a dramatic need for more housing – specifically affordable housing – and the need is growing.
- ARCH has a proven record of building affordable housing, helping cities implement best policies, and maintaining those assets over time.
- ARCH is well-regarded by member cities, outside stakeholders and developers.
- Staff capacity has not grown sufficiently to keep up with member's needs and requests.
- New staff capacity recommended by the ARCH Board is essential to help catch up with longstanding shortages and meet members' most pressing existing and near-term needs. However, even with this capacity, the need for ARCH's services will likely continue to outstrip capacity, given the anticipated growth in the work program, and potential requests from other north and east King County cities.

ARCH MEMBERS

**BEAUX ARTS VILLAGE ♦ BELLEVUE ♦ BOTHELL ♦ CLYDE HILL ♦
HUNTS POINT ♦ ISSAQUAH ♦ KENMORE ♦ KIRKLAND ♦ MEDINA ♦ MERCER ISLAND
♦ NEWCASTLE ♦ REDMOND ♦ SAMMAMISH ♦ WOODINVILLE ♦ YARROW POINT ♦
KING COUNTY**

Eastside cities are increasingly taking actions to respond to the growing need for affordable housing, and ARCH expects that momentum to continue building. Recent actions taken by ARCH members include: Kirkland's zoning changes to reduce barriers to building ADUs, duplexes and triplexes in single family zones; Bothell's adoption of a Multifamily Tax Exemption (MFTE) program; Bellevue's expansion of its existing MFTE program; thirteen member cities' adoption of a local affordable housing sales tax; and Redmond and Kirkland's use of fee in lieu funds to support major local affordable housing developments. In the next two to three years, cities will also undertake Comprehensive Plan Updates that present pivotal opportunities to accommodate and shape new housing.

2022 Administrative Budget and Work Program

The final recommended 2022 ARCH Administrative Budget and Work Program are shown in **Attachments 1 and 2**. Following are highlights from each document.

Administrative Budget Highlights

- **Two new staff positions** are included to address gaps in current staff capacity. These positions will focus on administration of local incentive programs, monitoring the expanding portfolio of Housing Trust Fund investments, and assisting with administration of a new funding sources, including new affordable housing sales tax resources.
 - Revenue from new administrative fees are used to free up funds for one new position.
 - A **new tier of member dues** is created to cover the second new position. These dues are allocated to the member cities that utilize ARCH for incentive program administration.
- Board members agreed a **third new staff position is warranted**, but given current fiscal constraints, this position will not be included in ARCH's budget until 2023.
- King County will contribute an additional \$50,000 in dues intended to support activities that advance the Regional Affordable Housing Task Force Action Plan.
- The Board will continue to evaluate ARCH's monitoring and stewardship workload to ensure sufficient staff capacity to keep up with growth.

Work Program Highlights

ARCH's Work Program continues to maintain core services in five key areas: affordable housing investment, housing policy and planning, housing program administration, education and outreach, and general administration.

The Board established the following priorities for ARCH's Work Program in 2022:

- **Provide a housing needs analysis** for all member cities in support of Comprehensive Plan Updates
- Report on **measurable goals for production and preservation of affordable housing** in the ARCH region
- Continue to **support proposals for dedicated revenue sources** for affordable housing

- **Expand ARCH's capacity** to accomplish its broader mission
- Continue to **provide excellent stewardship** of affordable housing assets, and develop new compliance tools to meet evolving program, property and tenant needs
- Seek opportunities to **advance projects and programs with high potential impact** and facilitate projects in the pipeline to the greatest extent possible
- Develop a **strategic planning process** to guide the ARCH coalition into 2023 and beyond

While ARCH is continuing to expand its services and capacity to meet members' needs, our organization also remains committed to efficient and effective administration made possible by the pooling of local resources.

Housing Trust Fund Contributions / Parity Goals

Each year, ARCH member cities are encouraged to contribute on a voluntary basis toward the ARCH Housing Trust Fund, a foundational program in East King County that has produced more affordable housing than any other program. ARCH members have utilized "Parity Goals" to establish a set of investment goals for each member cities' voluntary contribution, allocating a total goal across communities based on local population, housing and job targets. The last set of 2020 goals ranged from a collective total of \$1.9 to \$3.9 million.

City	2020 Parity Goals		2020 Contributions			2020 Total	2016 - 2020 Annual Average
	Low Goal	High Goal	CDBG	General Fund	Other*		
Beaux Arts Village	\$53	\$1,816	\$135			\$135	\$137
Bellevue	\$681,807	\$1,054,164		\$413,213	\$603,718	\$1,016,931	\$1,288,273
Bothell	\$173,394	\$314,235	\$34,983	\$78,000	\$31,845	\$144,828	\$93,616
Clyde Hill	\$0	\$18,431	\$826	\$15,000	\$1,977	\$17,803	\$23,521
Hunts Point	\$0	\$2,542	\$197	\$2,500	\$58	\$2,755	\$2,886
Issaquah	\$170,941	\$348,067	\$23,970	\$65,156	\$2,092	\$91,218	\$142,749
Kenmore	\$53,297	\$179,420	\$19,090	\$40,000	\$26,103	\$85,193	\$72,466
Kirkland	\$343,916	\$528,052	\$139,322	\$415,000	\$3,861,072	\$4,415,394	\$2,309,630
Medina	\$0	\$19,642	\$1,349	\$12,340		\$13,689	\$14,650
Mercer Island	\$17,766	\$146,903	\$14,048	\$33,768		\$47,816	\$79,469
Newcastle	\$13,058	\$75,116	\$6,889	\$27,000		\$33,889	\$59,892
Redmond	\$296,200	\$613,357	\$126,244	\$500,000	\$4,256,672	\$4,882,916	\$2,138,603
Sammamish	\$31,978	\$384,176	\$15,559	\$100,000	\$43,186	\$158,745	\$174,212
Woodinville	\$56,589	\$151,633	\$9,163	\$51,500	\$33,263	\$93,926	\$44,948
Yarrow Point	\$0	\$6,446	\$378			\$378	\$5,063
Total	\$1,839,000	\$3,844,000	\$392,153	\$1,753,477	\$8,859,986	\$11,005,616	\$6,450,115

*Includes Fee in Lieu funds, 1406 sales tax funds, loan repayments, etc.

In recent years, ARCH cities have collectively exceeded these goals, with an average annual contribution of \$6.4 million in the last five years. Contributions in 2020 reached an all-time high, with significant one-time funding coming from Kirkland and Redmond. At the same

time, the cost of acquiring land and developing housing in East King County has also increased rapidly, while competition for housing resources at the state and local level has been increasing.

In June, the ARCH Executive Board discussed a potential change in the method of calculating parity goals to reflect the significant real estate appreciation occurring in East King County. This change would have the effect of raising the collective goal closer to recent contribution levels. However, **the Board did not come to a consensus on a final set of parity goals for 2021**, committing to engage ARCH members on the topic more deeply at a later date.

Currently, ARCH is preparing to receive applications for our current \$5 million funding round, which for the first time includes pooled contributions of most members' affordable housing sales tax revenues authorized under HB 1406. In addition, we are assisting the City of Bellevue with a Request for Proposals offering \$6 million in sales tax funds for projects located in Bellevue. We are excited to continue building on our track record of carefully vetting local proposals, leveraging local resources ten to one, and successfully executing on financing that results in meaningful new housing opportunities on the Eastside.

Conclusion

As the disparate impacts of the pandemic continue to ripple deeply through the community, our work to provide safe, decent and affordable housing has become only more urgent. The coming year will be another important step for ARCH to continue growing our capacity to serve the community, and finding ways to magnify our impact. We look forward to opportunities to engage with you, as the ARCH Board prepares for a broader strategic planning process. Thank you for your continued support and commitment to affordable housing.

Attachments:

1. 2022 ARCH Administrative Budget
2. 2022 ARCH Work Program
3. Analysis of ARCH Staff Capacity and Options for Meeting Members Affordable Housing Needs (Cedar River Group, September 2021)

2022 ARCH Administrative Budget

Final Recommended Budget June 2021

	2021 Budget		Final 2022 Recommended Budget
	2021 Approved Budget	2022 Recommended Budget	% Change
I. TOTAL EXPENSES	\$ 1,155,261	\$ 1,490,462	29%
A. Personnel	\$ 1,039,302	\$ 1,307,088	26%
Salary and Benefits - Existing Staff	\$ 1,039,302	\$ 1,047,088	0.7%
Salary and Benefits - Potential New Staff		\$ 260,000	
Incentive Programs Administrator		\$ 130,000	
HTF/Loan Program Officer		\$ 130,000	
B. Operating	\$ 76,456	\$ 86,394	13.0%
Rent & Utilities	\$ 24,780	\$ 24,780	
Telephone	\$ 5,500	\$ 6,145	
Travel/Training	\$ 2,730	\$ 2,600	
Auto Mileage	\$ 3,605	\$ 3,000	
Postage/Printing Costs	\$ 3,468	\$ 2,500	
Office Supplies/Furnishing	\$ 3,255	\$ 4,353	
Internet/Website Fees	\$ 2,326	\$ 3,090	
Periodical/Membership	\$ 4,317	\$ 11,400	
Misc. (events,etc.)	\$ 2,100	\$ 2,000	
Equipment Replacement	\$ 3,000	\$ 7,000	
Database/software licensing	\$ 18,375	\$ 19,526	
Relocation Costs	\$ 3,000	\$ -	
C. In-Kind Admin/Services	\$ 19,503	\$ 26,980	38%
Insurance	\$ 9,660	\$ 15,000	
IT Services	\$ 9,843	\$ 11,980	
D. Grants and Consultant Contracts	\$ 20,000	\$ 70,000	250%
Consultant Contracts	\$ 20,000	\$ 20,000	
Special Projects/Programs - RAHTF Support		\$ 50,000	

	2021 Approved Budget	2022 Recommended Budget			% Change
	City Per Capita \$1.98 KC Per Capita \$0.93		City Per Capita \$2.04 KC Per Capita \$1.70	Add'l \$0.32 Per Capita	
II. TOTAL INCOME	\$ 1,155,261	\$1,490,462			29%
		TOTAL	BASE	ADD'L	
A. Member Contributions	\$ 1,103,897	\$1,334,162	\$1,204,162	\$130,000	21%
Beaux Arts Village	\$ 2,000	\$2,060	\$2,060		3%
Bellevue	\$ 281,876	\$344,457	\$293,949	\$50,508	22%
Bothell	\$ 89,384	\$93,127	\$93,127	\$0	4%
Clyde Hill	\$ 6,551	\$6,777	\$6,777		3%
Hunts Point	\$ 2,000	\$2,060	\$2,060		3%
Issaquah	\$ 72,244	\$90,561	\$77,282	\$13,279	25%
Kenmore	\$ 44,921	\$49,257	\$46,257	\$3,000	10%
Kirkland	\$ 175,946	\$213,344	\$182,061	\$31,283	21%
Medina	\$ 6,523	\$6,650	\$6,650		2%
Mercer Island	\$ 50,222	\$55,264	\$52,264	\$3,000	10%
Newcastle	\$ 23,006	\$26,918	\$23,918	\$3,000	17%
Redmond	\$ 123,104	\$156,381	\$133,451	\$22,930	27%
Sammamish	\$ 127,494	\$134,651	\$131,651	\$3,000	6%
Woodinville	\$ 23,673	\$25,207	\$25,207	\$0	6%
Yarrow Point	\$ 2,401	\$2,447	\$2,447		2%
King County	\$ 75,000	\$125,000	\$125,000		67%
Bellevue Detail	\$ 281,876	\$ 344,457			22%
Cash Contributions	\$ 86,173	\$ 141,353			
In-Kind Contributions	\$ 195,703	\$ 203,103			
Personnel	\$ 176,200	\$ 176,123			
Insurance	\$ 9,660	\$ 15,000			
IT Services	\$ 9,843	\$ 11,980			
B. Other Income	\$ 51,364	\$ 156,300			204%
Homeownership Program Fees	\$ 45,064	\$ 150,000			
Existing Administrative Fees	\$ 4,200	\$ 4,200			
Interest Earned	\$ 2,100	\$ 2,100			
III. RESERVES, CONTINGENT INCOME AND EXPENSES					
Note: This section expresses intended use of any excess revenues above levels needed to cover basic operating costs.					
A. Contingent Expenses					
Replenish operating reserves	\$ -	\$ -			
Staffing/Administrative Expenses	\$ 150,000	\$ 150,000			0%
Other Staffing/Services	\$ 150,000	\$ 150,000			0%
B. Contingent Revenue					
Excess Administrative Fees	\$ 150,000	\$ 150,000			0%
Service Fees	\$ 150,000	\$ 150,000			0%

ARCH WORK PROGRAM: 2022

2022 Priorities

In 2022, ARCH will elevate the following priorities in its Work Program:

- Provide a housing needs analysis for all member cities in support of Comprehensive Plan Updates
- Report on measurable goals for production and preservation of affordable housing in the ARCH region
- Continue to support proposals for dedicated revenue sources for affordable housing
- Expand ARCH's capacity to accomplish its broader mission
- Continue to provide excellent stewardship of affordable housing assets, and develop new compliance tools to meet evolving program, property and tenant needs
- Seek opportunities to advance projects and programs with high potential impact and facilitate projects in the pipeline to the greatest extent possible
- Develop a strategic planning process to guide the ARCH coalition into 2023 and beyond

I. AFFORDABLE HOUSING INVESTMENT

A. ARCH Housing Trust Fund

Parity Goals. Develop updated goals for member investments through the ARCH HTF.

Annual Funding Round. Develop funding priorities and evaluation criteria for the annual funding round. Advertise available funds and manage a competitive process on behalf of member cities. Review funding applications and develop recommendations through the Citizen Advisory Board (CAB), with input from member staff. Develop final recommendations by the ARCH Executive Board and facilitate final funding allocations through member councils.

Public Funding Coordination. Work collaboratively with public funders at the State and local levels to promote shared affordable housing goals and equitable geographic distribution of resources. Review and provide input to other funders for Eastside projects that apply for County (HOF, RAHP, HOME, TOD, etc.) and State (Tax Credit, State Housing Trust Fund) resources. Provide input to the King County Joint Recommendations Committee (JRC) on behalf of participating Eastside jurisdictions. Assist N/E consortium members with evaluating and making a recommendation to the County regarding CDBG allocations to affordable housing.

Private Funding Coordination. Work with private investors and lenders to maximize leverage of public investment into affordable housing. Negotiate maximum public benefits from investment of housing funds into private projects.

Project Pipeline Management. Work with member cities and project sponsors to develop a robust pipeline of projects to be funded over the next five years (see related work on Transit Center sites, below). Actively vet potential HTF projects, and lead funding policy and prioritization discussions with the ARCH Executive Board to facilitate planning and decision-making.

Contract Development and Administration. Prepare contract documents in consultation with legal counsel, and facilitate approval of contracts with the Administering Agency. Review and approve disbursement of funds to awarded projects in accordance with executed contracts.

Centralized Trust Fund Reporting. Work with Administering Agency (Bellevue) to maintain records and produce regular financial reports for the ARCH Trust Fund accounts.

HB 1406 Sales Tax. Develop systems and procedures to manage contributions, commitments and expenditures of pooled sales tax revenue authorized by HB 1406. Work with the Department of Commerce to ensure timely and complete reporting in compliance with state requirements.

B. Special Projects

Transit-Oriented Development Sites. Assist cities with advancing and coordinating affordable housing projects near transit. Partner with Sound Transit, King County Metro and other public agencies to maximize opportunities on public property. Current opportunities include sites in Bel-Red, Overlake, Downtown Redmond, Issaquah, Kirkland, Bothell, and Kenmore.

Surplus Property/Underdeveloped Property. Assist with evaluation of public surplus or underutilized private property (e.g. faith community properties) for suitability of affordable housing. Provide technical assistance to property owners interested in supporting affordable housing. Develop an inventory of promising public and nonprofit property and begin to engage owners to gauge interest in disposition for housing.

Eastside Shelter Capacity. Support efforts by Eastside shelter providers, Eastside Human Services Forum, and member cities to implement an East King County sub-regional strategic approach to shelter and related services for homeless adults and families. Support the construction of a permanent year-round men's shelter, and support efforts by member jurisdictions to fund long-term operations of shelter for men, women, families, youth and young adults.

Preservation of At Risk Affordable Housing. Work with member cities to facilitate acquisitions or other strategies to preserve existing housing where affordability is at risk of being lost, including at-risk manufactured housing communities. As needed, assist with responding to notices of sale of HUD assisted properties received by member cities, or other information indicating an impending loss of existing affordable housing.

Strategic Predevelopment Investment. With approval of the Executive Board, invest in predevelopment studies to investigate feasibility and financial efficiency of special projects.

II. HOUSING POLICY AND PLANNING

A. Local Policy, Planning and Code Development

ARCH provides assistance directly to member cities on a range of local planning efforts. Local planning efforts with individual member cities may be found in *Attachment A*. These efforts may take different forms, such as:

- **Housing Element Updates.** Work with members to update comprehensive plan housing elements.
 - Assist with understanding and complying with new housing-related requirements under the Growth Management Act and Countywide Planning Policies.
 - Prepare an east King County housing needs analysis with focused analyses for each city—including projected affordable housing needs—to fulfill GMA requirements.
 - Coordinate local and ARCH affordable housing goals with King County Affordable Housing Committee and Countywide Planning Policies.
 - Assist with policy writing, outreach, presentations, etc. as needed.
- **Housing Strategy Plans.** Assist members to prepare housing strategies to implement housing elements and create council work plans. Cities with recently completed strategy plans include Bellevue, Issaquah, Kenmore, Bothell, Kirkland, Redmond, and Sammamish.
- **Incentive Program Design.** Provide economic analysis and policy and program development support to design housing incentive programs, including land use, property tax, impact fee waivers and other incentives.
- **Land Use Code Amendments.** Assist city staff on land use and other code amendments in order to implement comprehensive plan policies.
- **Other Support.** Other areas in which ARCH could provide support to member cities include preservation of valuable community housing assets, assistance to households displaced by development activity, or negotiation of agreements for specific development proposals. ARCH views this as a valuable service to its members and will continue to accommodate such requests to the extent they do not jeopardize active work program items.

B. Inter-Local / Eastside Planning Activities

Interlocal planning activities are coordinated by ARCH for the benefit of multiple members.

ARCH Regional Affordable Housing Goals and Reporting. Work with member staff and the ARCH Executive Board to report on adopted goals for production and preservation of affordable housing across ARCH member communities.

Eastside Equitable Transit-Oriented Development Plan. Partner with transit agencies and other stakeholders to plan for equitable transit-oriented development on the Eastside. Define shared policy goals and strategies, establish numerical goals for affordable unit production, advance specific site opportunities and manage the affordable housing funding pipeline.

Long-Term Funding/Dedicated Revenue Strategy. Continue work on a long-term funding strategy for the ARCH Trust Fund. Facilitate conversations with member cities on identifying and exploring dedicated sources of revenue for affordable housing at the local and regional level (e.g., REET, property tax levy, 0.1% sales tax, etc.). Provide relevant data and develop options for joint or individual revenue approaches across ARCH member cities and determine any shared state legislative priorities to authorize local options for funding.

Eastside Housing Data Analysis. On an annual basis, provide local housing and demographic data as available. Make information available to members for planning efforts and incorporate into ARCH educational materials.

Housing Diversity/Accessory Dwelling Units (ADUs). Continue to support a diversity of housing options among member cities:

- “Missing Middle” Housing: Facilitate sharing of best practices for encouraging a greater diversity of housing types in single family/low density neighborhoods, including duplexes, triplexes, etc.
- Accessory Dwelling Units (ADUs): Explore outreach and other ways to promote ADU development (e.g., improve online resources, provide connections to financing options, adopt pre-approved plans, etc.). Explore partnership with eCityGov Alliance to increase accessibility of ADU permitting (e.g., update tip sheets and create streamlined portal through MyBuildingPermit.com). Explore a centralized system for tracking ADU production.
- Help jurisdictions develop strategies and codes to address emerging housing types, like micro-housing, small efficiency dwelling units, and others.

C. State Legislative Activities

The ARCH Executive Board will discuss and explore shared legislative priorities for advancing affordable housing in the region. ARCH staff will track relevant state (and, where feasible, federal) legislation. As needed, staff will report to the Executive Board and members, and coordinate with relevant organizations (e.g., AWC, SCA, WLIHA, HDC) to advance shared legislative priorities.

D. Regional/Countywide Planning Activities

ARCH participates in regional planning efforts to advance Eastside priorities and ensure that perspectives of communities in East King County are voiced in regional housing and homelessness planning.

King County GMPC Affordable Housing Committee / Housing Inter-Jurisdictional Team (HIJT). Support efforts to advance the five-year action plan developed by the Regional Affordable Housing Task Force (RAHTF) in 2018. ARCH will help staff the HIJT, which provides support to the Growth Management Planning Council’s Affordable Housing Committee (AHC).

Regional Affordable Housing Task Force Action Plan. In addition to staffing the GMPC committee, pursue other opportunities to advance strategies called for in the RAHTF Action Plan. Facilitate discussions as needed with members and the Executive Board to consider actions recommended in the five-year plan.

King County Regional Homelessness Authority / Eastside Homeless Advisory Committee (EHAC). Play a role in regional homelessness efforts, as appropriate and as resources allow. Collaborate with KCRHA, EHAC and other relevant organizations and initiatives to advance shared work on homelessness. Coordinate allocation of resources, and work on specific initiatives (e.g., coordinated entry and assessment for all populations).

Explore Collaboration with Cities in North and East King County. As requested, engage cities interested in supporting affordable housing in north and east King County that are not currently members of ARCH. Explore collaboration that provides benefits for additional cities and current ARCH member cities.

III. HOUSING PROGRAM IMPLEMENTATION

A. Administration of Housing Incentive and Inclusionary Programs

ARCH partners with member cities to administer local housing incentive and inclusionary programs, including mandatory inclusionary, voluntary density bonus, multifamily tax exemption (MFTE) and other programs. Specific programs administered by ARCH include:

Jurisdiction	Incentive/Inclusionary Programs
Bellevue	Voluntary density bonuses, MFTE, impact fee waivers.
Bothell	Inclusionary housing.
Issaquah	Development agreements, voluntary and inclusionary programs, impact and permit fee waivers.
Kenmore	Voluntary density bonuses, MFTE, impact fee waivers.
Kirkland	Inclusionary program, MFTE.
Mercer Island	Voluntary density bonus, MFTE.
Newcastle	Inclusionary program, impact fee waivers.
Redmond	Inclusionary program, MFTE.
Sammamish	Inclusionary and voluntary density bonuses, impact fee waivers.
Woodinville	MFTE.
King County	Development agreements.

ARCH roles and responsibilities will typically include:

- Communicate with developers/applicants and city staff to establish applicability of codes and policies to proposed developments
- Review and approve proposed affordable housing (unit count, location/distribution, bedroom mix, and quality)
- Review and recommend approval of MFTE applications.
- Review and recommend approval of alternative compliance proposals
 - For fee in lieu projects, provide invoices and receipts for developer payments
- Develop contracts and covenants containing affordable housing requirements
- Ensure implementation of affordable housing requirements during sale/lease-up
- Register MFTE certificates with County Assessor and file annual MFTE reports with state Commerce.
- On-going compliance monitoring (see Stewardship, below).

Coordinate Shared Policy, Program and Procedure Improvements. Work with member city staff and legal counsel to align incentive and inclusionary programs with a unified set of policies, practices and templates for legal agreements. Coordinate changes across member jurisdictions to adapt programs to new knowledge and best practices (for example, implementing fee strategies to create sustainable revenue for monitoring).

MyBuildingPermit.com. Explore feasibility of using MyBuildingPermit.com to take in, review, and process projects (covenants) using land use and/or MFTE programs.

B. Stewardship of Affordable Housing Assets

ARCH provides long-term oversight of affordable housing created through city policies and investment to ensure stewardship of these critical public assets for residents, owners and the broader community.

ARCH Rental Program (Incentive and Inclusionary Projects). Monitor and enforce compliance in rental housing projects with incentive and inclusionary housing agreements. Administer a robust compliance monitoring program, including:

- Ensure compliance with rent and income restrictions through timely annual report reviews and supplemental on-site file audits
- Provide training and technical assistance for property managers
- Maintain written standards for eligibility, leasing and other program requirements
- Implement standard remedies for non-compliance
- Respond to tenant issues and questions

ARCH Trust Fund Projects. Oversee contracts and regulatory agreements with owners of projects supported through the direct assistance from members, including:

- Monitor project income and expenses to determine cash flow payments
- Conduct long-term sustainability monitoring of projects and owners
- Proactively problem-solve financial and/or organizational challenges in partnership with project owners and other funders
- Work with legal counsel to review and approve requests for contract amendments, subordination and other agreements
- Pursue formal MOUs with other funders to govern shared monitoring responsibilities that streamline processes for owners and funders.
- Collect annual compliance data and evaluate program beneficiaries

ARCH Homeownership Program. Provide effective administration to ensure strong stewardship of resale restricted homes in the ARCH Homeownership Program. Ensure ongoing compliance with affordability and other requirements, including enforcement of resale restrictions, buyer income requirements, and owner occupancy requirements. Implement adopted policies and procedures for monitoring and work with cities to address non-compliance.

Continue to implement long-term recommendations in the 2019 Program Assessment from Street Level Advisors and make other program improvements that support the program objective of creating and preserving long-term affordability, including:

- Work with member planning and legal staff to make improvements to boilerplate legal documents, in consultation with key stakeholders and outside counsel, as needed
- Develop strategies to preserve homes at risk of foreclosure
- Preserve expiring units and pursue strategies to re-capture lost affordability
- Pursue offering brokerage services or developing partnerships with realtors to provide cost-savings to homebuyers and sellers, diversify program revenue, and expand ARCH's marketing reach
- Plan for additional staff capacity as the number of ARCH homes continues to grow.
- Implement program fees to ensure program financial sustainability

Database/Systems Development. Continue to utilize the new ARCH Homeownership Program database to collect critical program data and evaluation, compliance monitoring, communication with program participants, and other key functions. Continue to improve and streamline data systems for ARCH Rental Program and Trust Fund Program.

IV. EDUCATION AND OUTREACH

A. Housing 101/Education Efforts

Housing 101. Develop educational tools and conduct or support events to inform councils, member staff and the broader community of current housing conditions, and of successful housing programs. Build connections with community groups, faith communities, developers, nonprofits and others interested in housing issues. Plan and conduct a Housing 101 event to occur no later than the end of 2021.

Private Sector Engagement. Support efforts by ARCH member cities to engage employers and private sector entities in discussions around the need for more affordable housing and identifying options for public-private partnerships.

~~Share media coverage on topics related to affordable housing in East King County, including work done by cities/ARCH.~~

B. Information and Assistance for the Public

ARCH Website. Update information on the ARCH website on a regular basis, including information related to senior housing opportunities. Maintain the ARCH web site and update the community outreach portion by incorporating information from Housing 101 East King County, as well as updated annual information, and links to other sites with relevant housing information (e.g. All Home, HDC). Add information to the website on ARCH member affordable incentive programs and fair housing.

Assist Community Members Seeking Affordable Housing. Maintain up-to-date information on affordable housing in East King County (rental and ownership) and distribute to people looking for affordable housing. Continue to maintain a list of households interested in affordable ownership and rental housing and advertise newly available housing opportunities.

Work with other community organizations and public agencies to develop appropriate referrals for different types of inquiries received by ARCH (e.g., rapid re-housing, eviction prevention, landlord tenant issues, building code violations, fair housing complaints, etc.).

C. Equitable Access to Affordable Housing in East King County

Collect and analyze data on existing programs to determine potential gaps in access by different populations, such as communities of color, immigrant and refugee communities, homeless individuals and families, and workers in EKC commuting from other communities. Pursue strategies to increase access to affordable housing in EKC by underserved communities. Develop outreach and marketing efforts to maximize awareness of affordable housing opportunities in East King County, and build partnerships with diverse community organizations.

V. ADMINISTRATION

A. Administrative Procedures

Maintain administrative procedures that efficiently and transparently provide services to both members of ARCH and community organizations utilizing programs administered through ARCH. Activities include:

- Prepare the Annual Budget and Work Program and ensure equitable allocation of administrative costs among ARCH members.
- Prepare quarterly budget performance and work program progress reports, Trust Fund monitoring reports, and monitor expenses to stay within budget.
- Manage the ARCH Citizen Advisory Board, including recruiting and maintaining membership that includes broad geographic representation and a wide range of housing and community perspectives.
- Staff the Executive Board.
- Work with Administering Agency to streamline financial systems.
- Review and update bylaws and ensure timely renewal of the ARCH Interlocal Agreement.

B. Organizational Assessment and Planning

The ARCH Executive Board will continue to evaluate ARCH's organizational capacity to accomplish its Work Program and broader mission. The Board will review ARCH's organizational structure, staffing resources, capital resources and other foundational aspects of the organization to determine any gaps, and assess options for expanding organizational capacity. The assessment will inform recommendations for the following year's work program and budget. In 2022, ARCH will outline a strategic planning process to be initiated by 2023 that will establish a shared framework for the organization's mission, values and work program going forward.

Attachment A
Local Planning Efforts by City

ARCH staff will assist members' staff, planning commissions, and elected councils with local policy, planning and special projects and initiatives, as described below. Member city staff may make adjustments to the proposed actions identified below as individual city work plans are updated.

Bellevue

Support 3-4 actions to implement Bellevue's Affordable Housing Strategy, such as:

- Facilitate development on affordable housing on suitable land owned by public agencies, faith-based groups, and non-profits housing entities.
- Analysis of affordable housing density incentives in the Wilburton and East Main neighborhood plans.
- Developing funding strategy for affordable housing on suitable public lands in proximity to transit hubs including 130th TOD parcels.

Provide initial and ongoing support to implement investment of funds authorized by HB 1590, or other city funds as directed.

Implement newly authorized affordable housing incentives; develop boilerplate agreements and procedures for ongoing monitoring.

Provide advice on a Housing Needs Assessment, including coordination on scope/methodology, and potentially provide supplemental data.

Assist City with implementation of affordable housing agreements at the TOD project adjacent to Sound Transit's Operating and Maintenance Facility East (OMFE).

Bothell

Support actions to implement the city's Housing Strategy Plan.

Complete implementation of an MFTE program; develop boilerplate agreements and procedures for ongoing monitoring.

Support affordable housing opportunities in the Downtown/Canyon Park GDC overlay areas, such as any proposals for affordable housing on the Civic Center property or other city-owned property.

Evaluate affordable housing incentives such as parking reductions, and implement those adopted.

Assist with compliance with new requirements under HB 1220.

Support updates to policies and codes for affordable housing options, including ADUs, micro-housing, small efficiency dwelling units, and "missing middle" housing.

Issaquah

Assist with preparing the annual Affordable Housing Report Card/Analysis.

Support updates and consolidation of Title 18 and Central Issaquah Development and Design Standards. Review the affordable housing chapter to evaluate the efficacy of existing policies, and potentially revisit density bonus provisions.

Support reporting on the current Housing Strategy, and potentially further updates to the Housing Strategy.

Help to evaluate and, as needed, implement development standards and regulations related to the housing policies adopted in the Central Issaquah Plan and Central Issaquah Standards, including inclusionary zoning.

Help to evaluate potential projects/opportunities that arise under current or amended Development Agreements.

Coordinate marketing efforts to maximize awareness of affordable housing opportunities in Issaquah.

Support implementation and funding of the city's TOD project.

Kenmore

Assist with implementing a high priority item identified in the Housing Strategy Plan, as requested.

Continue support of the Preservation of Affordable Housing/Mobile Home Park project started in 2018.

Assist with the Comprehensive Plan Housing Element update, including help with a housing assessment/background information and statistics.

Provide technical support, data and best practices to assist with potential code changes, such as for "missing middle" housing.

Advance opportunities to site affordable housing in Kenmore, such as near ST3 transit investments, or on other public, nonprofit and faith-based community property. Help evaluate and identify potential partners and financing strategies.

Evaluate potential expansion of TOD overlay and refinement of affordable housing requirements in the overlay zone.

Kirkland

Continue to support efforts to create affordable housing within a transit-oriented development at the Kingsgate Park and Ride.

Support development of housing policies in connection with the I-405/NE 85th Street Station Area Plan, such as evaluation of a commercial linkage fee, and inclusionary housing requirements.

Assist with scoping and stakeholder discussions of a potential affordable housing levy.

Assist with implementing programs to encourage construction of more ADUs, such as pre-approved ADU plans.

Evaluate housing-related issues in ongoing neighborhood plan updates, such as Moss Bay and Everest.

Help review the effectiveness and value of the current MFTE program.

Mercer Island

Assist with scoping and data collection for an update to the City's Housing Strategy, as requested.

Newcastle

Assist with potential investment of fee-in-lieu payments, first exploring opportunities to site affordable housing within Newcastle.

Assist with updating the City's Housing Strategy Plan.

Redmond

Provide advice and technical support to evaluate and refine existing inclusionary and incentive programs, and impact fee waiver provisions.

Assist with scoping and stakeholder discussions regarding potential opportunities to increase revenue options to support affordable housing, and help with advocacy for expanded funding options.

Help evaluate programmatic approaches to support greater affordable homeownership opportunities.

Support partnerships with transit agencies to advance affordable housing within transit-oriented developments, including at Overlake and Southeast Redmond.

Support City efforts to identify suitable projects for preservation as a mechanism to advance affordable housing objectives.

Sammamish

Assist with data and scoping for a housing needs analysis, and review draft housing policies and goals for the City's Comprehensive Plan Update.

Assist with development of incentives within Phase 3 development regulations to encourage greater housing diversity.

Help explore development of educational or promotional materials to encourage developers and property owners to consider more diverse housing types, such as duplexes.

As opportunities arise, support development of affordable homeownership options like the Sammamish Cottages developed by Habitat for Humanity.

Woodinville

Provide advice on scope and data collection in support of the City's efforts to adopt a Housing Strategy Plan.

King County

Provide monitoring and stewardship services for affordable housing in the Northridge/Blakely Ridge and Redmond Ridge Phase II affordable housing development agreements.

Help advance the King County Regional Affordable Housing Task Force Action Plan.



Analysis of ARCH Staff Capacity and Options for Meeting Members Affordable Housing Needs

September 2, 2021

Prepared by: Cedar River Group

Table of Contents

Executive Summary.....	1
Conclusions and Recommendations	4
Introduction	6
Purpose of Study	6
Landscape Analysis	8
Rapid Regional and Local Growth in Population and Jobs.....	8
Changes in Housing	9
New Growth, New Funds, New Opportunities	10
ARCH Accomplishments	12
Affordable Housing Investment	12
Policy and Planning Support	13
Incentive Program Administration.....	13
Stewardship of Affordable Units.....	14
Outreach and Education	14
Administration	14
Summary of Interviews with ARCH Staff, Members, and Stakeholders	15
Overall Assessment.....	15
Trust Fund Program Opportunities and Challenges.....	15
Work on Policy/Planning/Regulatory Recommendations	16
Additional Staff-Identified Capacity Shortages	16
Internal Organizational Capacities	16
Adding a New ARCH Member	17
Interviews with Eastside Developers for ARCH Capacity Assessment - Spring 2021.....	18
ARCH Work and Staffing Trends	22
History and Background.....	22
Growth in Program Activity	22
Staff Capacity and Staffing Trends	23
What's Not Getting Done.....	24
Conclusions	25
Staff Capacity Options.....	26
Funding Models	26
Other Revenue Factors	26

Staffing/Budget Options	27
Conclusions and Recommendation	29
Overall Assessment.....	29
ARCH Work Plan Needs.....	29
Staff Capacity and Staffing Trends	30
Revenue Opportunities	31
Conclusion.....	34

Executive Summary

Building more housing – and specifically more affordable housing – is an urgent and growing challenge for cities. To address this challenge, East King County cities have worked together for nearly 30 years through A Regional Coalition for Housing (ARCH) and have a proven track record of building and preserving affordable housing across the eastside. Other cities in north and east King County are exploring how to increase affordable housing capacity, including the



possibility of joining ARCH. However, before that option can be evaluated, the ARCH Board wanted to know: ***What is ARCH's existing capacity to meet the current and near-term affordable housing needs of its current members?*** This study provides that analysis by reviewing data and regional growth trends, ARCH's accomplishments, its current work plan, trends in ARCH workload and staffing capacity, and interviewing ARCH members, ARCH staff and housing developers.

The study concludes with options, conclusions and recommendations for ARCH staffing to effectively meet the needs of its current members.

There is a dramatic need for more housing – specifically affordable housing – and the need is growing.

The Puget Sound area has gone through tremendous recent population and economic growth. In the past decade, King County with a net increase of 321,000 people was the third fastest growing county in the country, and jobs – particularly high-paying jobs – have grown even faster. The Puget Sound Regional Council (PSRC) predicts another 1.8 million residents and 1.2 million jobs coming to the Puget Sound region by 2050.

Fundamentally, housing production – especially of affordable housing – has not kept up with the area's growing economy and population. While adding 12 percent more population and 21 percent more jobs, King County has only added 8 percent more houses. In addition, a study found that over the past 10 years, as King County added 67,000 new rental units, it lost more than 112,000 units of housing affordable to those living below 80 percent Area Median Income (AMI).

These factors have combined to leave an estimated 124,000 households severely cost-burdened in King County (paying over 50% of income on housing), with the vast-majority being households at 0 to 30% AMI, and close to 60% renters. Not surprisingly, the burden falls disproportionately upon Black, Indigenous, and People of Color. Households that are American

Indian and Alaskan Native, or Black are roughly twice as likely to be severely cost burdened as White households.

There are new resources and opportunities to face these growing challenges. Local cities have used new authority to create dedicated funding for affordable housing. Local employers have committed new funding resources to affordable housing and local light rail expansion creates new transit-oriented development opportunities. The new State budget includes almost \$300 million for the Housing Trust Fund. And the American Rescue Plan includes billions to help create affordable housing, with more funds possibly available in the pending infrastructure bill.

ARCH has a proven record of building affordable housing, helping cities implement best policies, and maintaining those assets over time.

In the nearly thirty years ARCH has been in existence, its members have achieved a lengthy list of accomplishments. The following provides a brief description of just some of the ARCH's accomplishments:

- Produce or preserve 5,166 units of affordable housing by raising nearly \$80 million for the Housing Trust Fund and leveraging more than \$880 million in other funding.
- Helped ten member cities adopt local incentive or inclusionary programs for developers, including six cities who have offered property tax exemptions. These programs and incentives have yielded more than 2,800 additional affordable units built or in development.
- Established monitoring systems and procedures to ensure continued affordability of units, and compliance with loan terms and conditions.
- Worked on more than 50 policies, plans, code amendments, or regulations for cities, geared toward creating more affordable housing units.
- Created a single point of contact for developers interested in creating affordable units in eastside cities and serves as a central portal for homebuyers and renters looking for affordable homes.
- Supported hundreds of low and moderate income households to achieve homeownership, with ARCH homes creating over \$90 million in appreciation for owners.
- Regularly provides information, education and updates for elected and appointed officials.

ARCH is well-regarded by member cities, outside stakeholders and developers.

In interviews with member cities, stakeholders, and staff, there was widespread agreement that ARCH is doing well at leveraging member resources to achieve results, administering existing programs (with some known gaps), and raising awareness about the need for affordable housing.

Developers echoed these sentiments – viewing ARCH as a good partner that helps developers navigate local processes and work effectively with city staff where projects are located. ARCH was also viewed as an important funder who is comparatively easy to work with and whose initial money helps bring other dollars to projects. Most concerns expressed by developers were structural: ARCH’s limited resources limit their impact, and their governance by multiple cities limits their flexibility and their ability to advocate.

Staff capacity has not grown sufficiently to keep up with member’s needs and requests.

While there has been some recent growth in staff to address the monitoring of affordable units, interviews and analysis of ARCH’s staffing trends and workload show that staff capacity has not grown with the increase in demands from member cities.

Overall staffing: When ARCH was created, 2.5 FTE were hired to provide support to the original 4 member jurisdictions and to manage the Housing Trust Fund. As ARCH membership increased to 16 cities, the number of FTE’s increased to 5 FTE by 2008, where it remained until 2019.

Monitoring & reporting: In 2019, two FTE were added to address the needs of monitoring rental and home ownership units. These hires help meet current obligations for compliance and monitoring, but new units are being added quickly. Keeping a proper staff to unit ratio may ultimately require additional FTE.

Housing Trust Fund: Since 1993 the number of projects funded by the Trust Fund has averaged 4 per year, but the trust fund’s ever-growing portfolio (over 100 contracts) requires more active monitoring than the current one FTE can provide. In addition, the trust fund work is facing increasing demands from both growing opportunity (new funding sources, new TOD sites, more special projects) and growing complexity (higher loan amounts, use of multiple funding sources.)

Planning and programs: In ARCH’s first twenty years (through 2011), ARCH staff completed 26 planning activities for member. There were 91 development projects with city affordable housing incentives or requirements. In the past 9 years, ARCH staff have completed 56 planning activities and there were 111 projects created through local incentives or requirements. Despite this growth, ARCH has not added additional planning capacity since one FTE was created in 2002. Upcoming requested work will place still greater demands on the staff capacity for ARCH.

Additional work items: In conversations with ARCH members and staff and after a review of the ARCH workplan, a number of items were identified that are not getting completed, including:

- Proactive monitoring of project financial sustainability (cash flow, vacancy rates, maintenance needs) for developments created using ARCH funds
- More support implementing cities Housing Strategies / Housing Action Plans
- Providing proactive policy development, planning, research and best practices work

- Conducting Housing 101 and educational/outreach work with elected and appointed officials
- Making affordable housing accessible to diverse communities.
- Updating administration and systems, including implementing new monitoring fees, revising rental covenant documents, and updating internal tracking technology.

Conclusions and Recommendations

Overall Assessment: Member cities clearly value ARCH for the affordable units created and the range of services and supports provided. However, there is demand among ARCH members for creating more affordable units and for additional technical assistance in creating affordable housing policies and programs.

ARCH Work Plan Needs: Based on the interviews with member cities, and discussions with the ARCH Board, the following themes emerged regarding ARCH’s annual work plan, and the needs and interests of members.

- All ARCH cities will rely on ARCH staff for support with Comp Plan Updates and tracking data to comply with Countywide Planning Policies (CPP) reporting requirements.
- Several cities are counting on ARCH support to implement actions from their housing strategy, to facilitate TOD projects or other special projects.
- Some cities had aspirational ideas about expansion of ARCH’s services/role: e.g. facilitating collaboration on homelessness policy/practice, proactive encouragement of best practices.
- In general, smaller jurisdictions with little or no planned growth will not use ARCH for planning services.

Staff Capacity and Staffing Trends: Staff from member cities agreed that ARCH staff are fully utilized and have no additional capacity for new work requests. ARCH staffing has stayed relatively flat, even as the workload has grown.

Revenue Opportunities: There is an opportunity to utilize some existing revenue sources to increase staff capacity. ARCH now has a sustainable source of income from home ownership program fees to support 1 FTE. In addition, King County has expressed a willingness to increase its contribution to ARCH annual operations.

Executive Board Recommendations

Phased Approach to Adding New Staff Capacity: Balancing the different needs expressed by member cities, and the budget challenges facing many cities, the Executive Board recommended a phased approach to increasing staffing.

In 2022, current member dues from all jurisdictions should be used to support the 2021 base staffing level, and new revenue should be used to support two new full time ARCH staff positions:

- A Program Officer working on the Housing Trust fund (paid for from membership dues which would be offset by home ownership fees), and
- An Incentives Program Administrator (paid for by a new tiered-dues structure – see below)

In 2023 one additional position should be added:

- A Housing Programs, Special Projects Manager

Use New Revenues and Create a New Tiered Dues Structure Based on the Level of Program Activity: The Program Officer can be paid for with existing fee revenues that have been collected by ARCH. The Incentive Program Officer presents an opportunity for ARCH to implement a tiered dues structure based on the number of projects each city has in their incentive program. (See Chapter 8 for further details about the tiered structure.)

Conclusion

The changes proposed by the Board are essential actions to help ARCH staff capacity catch-up with long-standing shortages in staffing and meet member's most pressing existing and near-term needs.

This new capacity will make a significant difference, but the need for ARCH's services will likely continue to outstrip capacity, given the anticipated growth of the work program, and potential future requests from other cities in north or east King County to join ARCH.

Finally, there are structural tensions within the organization that were not possible to address in this evaluation (such as the desire from external stakeholders for us to be stronger advocates, or the disparate level of commitment to housing across our member councils). A strategic planning process is needed in 2022 that can address these and other pressing issues outside the normal course of operations and budget cycles.

Introduction



In east King County and across the entire Puget Sound region, building more housing – and specifically more affordable housing – is an urgent and growing challenge for cities. Housing costs in the central Puget Sound region are some of the highest in the country – for both renters and home buyers. Even through the pandemic, housing costs remained at historic highs.

In the face of these challenges, many cities in King County (and elsewhere) have found value in sharing staff and funding resources in an

organized collaboration. For nearly 30 years, East King County cities have worked together through A Regional Coalition for Housing (ARCH) and have a proven track record of building and preserving affordable housing across the eastside. The ARCH model has been so successful that it is now being replicated in South King County and Pierce County.

Over the years, ARCH member cities have found that there are challenges both for developers hoping to construct more affordable homes and for the cities that want more affordable units in their community. In recent years one of the challenges that everyone faces is rapidly escalating costs – the rising costs of land, construction materials, labor, planning. Developers must also navigate the individual zoning restrictions, building codes, permitting processes, and affordable housing incentives or requirements for each city to find a suitable location to efficiently build a project that meets both the future tenants’ needs and is supported by the community. At the same time, cities have been exploring, and adopting, strategies to increase affordable development and preservation, including expedited permitting, local zoning or other land use incentives or requirements, and new funding sources for the ARCH Housing Trust Fund.

To successfully build affordable housing requires willing and supportive elected leadership; a suitable site with the right zoning and location; a variety of funders; and skilled technical knowledge to help cities facilitate both the building and financing of affordable units. This combination asks a lot of local cities and their staff. ARCH staff have provided housing-specific technical assistance and support for its members, that many cities do not have the capacity to create on their own.

Purpose of Study

As the need for more affordable housing increases in every community, those cities that are part of the ARCH collaboration are exploring how they can create more affordable housing, and those cities who are not ARCH members are considering their options for strengthening their work on affordable housing.

In the King County 2019-2020 biennial budget, funding was approved to examine how cities that are not currently ARCH members may collaborate more effectively with one another. There are currently two cities – Shoreline and Lake Forest Park – in north King County that are outside of the ARCH service area (referred to as the “ARCH Sphere of Influence”). There are also several cities in east King County that are located within the ARCH service area that are not ARCH members – Carnation, Duvall, North Bend, and Snoqualmie.

One of the options being considered by several of those cities in north and east King County is the possibility of joining ARCH. However, before that option can be evaluated, the ARCH Board requested an analysis of ARCH’s existing capacity to meet the affordable housing needs of its current members. This study provides that analysis by reviewing data and regional growth trends, ARCH’s accomplishments, its current work plan, trends in ARCH workload and staffing capacity, and interviewing ARCH members, ARCH staff and housing developers.

The study concludes with recommendations for ARCH staffing to effectively meet the needs of its current members.

Landscape Analysis

A number of factors influence both the need and opportunities for affordable housing units in ARCH member cities. The following provides a description of several of the strongest influencing factors.

Rapid Regional and Local Growth in Population and Jobs

Rapid Population Growth: The Puget Sound area has gone through tremendous recent growth. In the past decade (2011- 2020), King County had a net increase of 321,000 people, and was the third fastest growing county in the country – increasing in population by 12 percent.^{1 2} And much of that growth was centered in the Eastside. Looking at either absolute population growth or growth rate, 7 of the top 25 fastest growing cities in the Puget Sound region were Eastside cities (although annexation accounted for some of that growth).³ And with this growth, the Eastside has become more diverse – both Bellevue and Redmond have become over 50% people of color – including significant increase in Asian, Hispanic and multiracial populations.⁴ This growth is projected to continue – with Puget Sound Regional Council (PSRC) predicting another 1.8 million residents coming to the four-county region by 2050.⁵ The population growth has created unprecedented demand for available housing units.



Even Faster Economic Growth: This growth in population has been matched with tremendous economic growth. Large employers, particularly those focused in technology, along with smaller companies, have helped drive the local growing economy, and fueled a growth in high-paying jobs. In fact, jobs grew even faster than population – in the past decade, the number of jobs in King County grew by 21 percent.⁶ The result has been a steady growth in income – from 2000 to 2018, King County’s median household income increased from \$53,157 in 2000 to \$95,009 in 2018, an increase of over 78%.⁷ Some significant portion of that rise in income is driven by the information and technology sector in two ways. First – the new jobs and new households were

¹¹ <https://www.seattletimes.com/seattle-news/data/king-county-had-decades-third-largest-population-growth-among-u-s-counties>

² <https://www.mckinsey.com/industries/public-and-social-sector/our-insights/why-does-prosperous-king-county-have-a-homelessness-crisis#>

³ <https://www.psrc.org/sites/default/files/trend-population-202010.pdf>

⁴ <https://www.heraldnet.com/northwest/decade-in-demographics-top-5-changes-in-the-seattle-area/>

⁵ https://www.psrc.org/sites/default/files/2050_macro_forecast_web.pdf

⁶ <https://www.mckinsey.com/industries/public-and-social-sector/our-insights/why-does-prosperous-king-county-have-a-homelessness-crisis#>

⁷

<https://kingcounty.gov/independent/forecasting/King%20County%20Economic%20Indicators/Household%20Income.aspx>

disproportionately higher-income: “Sixty percent of the new households in King County between 2006 and 2016 earned \$125,000 or more per year, while 18 percent earned less than \$50,000,” Second - the wages for these new information jobs grew at a faster rate: “[between 2005 and 2018], average annual wages for an information worker increased 127%.”⁸ As with population, the growth in jobs is projected to continue – with average annual predicted 1.3 percent growth leading to another 1.2 million jobs coming to the Puget Sound region by 2050.⁹

Changes in Housing

Falling Behind on Housing: Fundamentally, housing production – especially of affordable housing – has not kept up with the area’s growing economy and population. While adding 12 percent more population and 21 percent more jobs, King County has only added 8 percent more houses. Looking at the Puget Sound region: for every 1 new housing unit, the region added 3 new residents (2010 to 2019) and 4 new jobs (2010 to 2016).¹⁰ The types of housing has changed to try and meet the new demands. While production of single-family homes has remained relatively steady at 6,000 – 8,000 per year, multi-family housing has shown tremendous growth in the Puget Sound. In 2010, less than 5,000 homes were in multi-family developments; in 2019, almost 20,000 new homes were built in multi-family developments.¹¹

And in addition to the challenges stemming from new production failing to keep pace with the new demand, the region is also losing previously affordable housing units. McKinsey & Company found that over the past 10 years, as King County added 67,000 new rental units, it lost more than 112,000 units of housing affordable to those living below 80 percent Area Median Income (AMI). The McKinsey study cited the two largest drivers as: rents on units rising faster than incomes and lower-cost units being demolished to make way for more expensive units.¹²

The Net Result – A Squeeze on Housing: As a result of these factors, the cost of homeownership and rental have risen dramatically in the area. Just recently, *the Seattle Times* reported that for November, the year over year price for Seattle-area homes grew by 12.7 percent, the second highest growth in home prices in the nation.¹³ And this is not new – the King County Regional Affordable Housing Task Force Final Report cites that in King County “from 2012 to 2017, median home sale prices increased 53 percent and average rents increased 43 percent.”¹⁴ For east King County, the average cost of either homeownership or renting an apartment now exceeds the cost-burden thresholds for even a family earning 100 percent of area median

8

<https://kingcounty.gov/independent/forecasting/King%20County%20Economic%20Indicators/Household%20Income.aspx>

⁹ https://www.psrc.org/sites/default/files/rhna_early_findings_20201009_stakeholder_event.pdf

¹⁰ https://www.psrc.org/sites/default/files/rhna_early_findings_20201009_stakeholder_event.pdf

¹¹ https://www.psrc.org/sites/default/files/rhna_early_findings_20201009_stakeholder_event.pdf

¹² <https://www.mckinsey.com/industries/public-and-social-sector/our-insights/why-does-prosperous-king-county-have-a-homelessness-crisis#>

¹³ <https://www.seattletimes.com/business/real-estate/seattle-home-prices-still-climbing-at-second-fastest-rate-in-nation/#>

14

https://www.kingcounty.gov/~media/initiatives/affordablehousing/documents/report/RAH_Report_Final.ashx?

income.¹⁵ As of 2018, the median purchase price of a home in East King County was \$813,000,¹⁶ corresponding to an income of over \$125,000 needed. As of October 2020, the average rent for most Eastside cities was over \$2,000 a month, requiring a median income of over \$80,000 to avoid being cost-burdened.¹⁷

A Growing and Inequitable Number of Cost-burdened Families: Households that spend more than 30% of their income on housing are considered “cost-burdened,” and “severely cost-burdened” if spending more than 50% of their income on housing. In King County, it is estimated that over 124,000 households are severely cost-burdened, with the vast-majority focused at 0 to 30% AMI, and close to 60% of those being renters. Not surprisingly, the burden falls disproportionately upon Black, Indigenous, People of Color (BIPOC) communities: households with head of households who are American Indian and Alaskan Native or Black are roughly twice as likely to be severely cost burdened as White households.¹⁸ Across the county (as of 2015), 45% of renters and 29% of homeowners were cost-burdened (including severely-cost burdened). On the Eastside, 36% of renters and 29% of homeowners were cost-burdened or severely cost-burdened.¹⁹

New Growth, New Funds, New Opportunities

The Eastside has new resources and opportunities for Affordable Housing: As the issue of affordable housing has exploded into a local, regional, statewide and even national issue, more resources are emerging to support affordable housing. Two recent state measures (HB 1406 & HB 1590) have created dedicate funding streams for cities and counties to work on affordable housing. Large local employers, most notably Microsoft and Amazon, have both made recent national news with commitments to funding more affordable and middle-income housing. Regionally, the new expansion of light rail to the Eastside creates new, important locations for equitable transit-oriented development. At the State level, the 2021- 2023 budget includes \$175 million for the Housing Trust Fund and an additional \$120.9 million in investments in housing and shelters. And nationally, this spring’s American Rescue Plan includes an allocation of nearly \$5 billion in funds to help communities across the country create affordable housing, and more funds may be available in the pending infrastructure bill.

In the face of all the challenges outlined above, all of these new resources (and more) will be needed., Based on what ARCH has learned administering the Housing Trust Fund, it will take

¹⁵

https://www.kingcounty.gov/~media/initiatives/affordablehousing/documents/report/RAH_Report_Final.ashx?la=en

¹⁶

https://www.kingcounty.gov/~media/initiatives/affordablehousing/documents/report/RAH_Report_Final.ashx?la=en

¹⁷ Source: Rent Café Market Trends, October 2020 (From HDC presentation)

¹⁸ <https://www.kingcounty.gov/~media/initiatives/affordablehousing/documents/Meetings/rah-posters-FINAL-PRINT.ashx?>

¹⁹ <https://www.kingcounty.gov/~media/initiatives/affordablehousing/documents/Meetings/CAI-RAH-Deck1031.ashx?la=en>

dedicated and skilled staff with capacity to help ensure these new resources best meet the ever-growing affordable housing needs.

ARCH Accomplishments

The ARCH collaborative structure was created in 1992, with four initial members. Since that time ARCH has grown to include 16 member jurisdictions. Its staff conduct work in six broad areas:

- Affordable housing investment using the ARCH Housing Trust Fund
- Policy and Planning support for member jurisdictions
- Incentive Program Administration for cities that have adopted affordable housing incentives
- Stewardship of affordable housing units created via new development, rehabilitation
- Outreach and education to member cities and the public
- Program Administration



The following provides a brief summary of ARCH's major accomplishments to date. See Appendix XX for more details.

Affordable Housing Investment

Units Created Using the ARCH Housing Trust Fund

Between 1993 – 2020 the Trust Fund was used to create 5,166 units of affordable housing. The majority of those units were for families (nearly 3500 units), but housing was also created for homeless, seniors and special needs populations. Projects funded with the Trust Fund are located in 10 ARCH-member cities. ARCH staff work with municipal officials, developers and other funders to create these units.

ARCH Funds Raised and Other Sources Leveraged

ARCH members have raised nearly \$80 million for the Housing Trust Fund since its inception. That includes financial contributions from members, land donated and fee waivers for affordable housing projects. Those ARCH funds are used to leverage a variety of other sources to build or preserve affordable units, including:

- Low Income Housing Tax Credits (\$310 million)
- Tax Exempt Bonds (\$244 million)
- State of Washington Funds (\$61 million)

- King County Funds (\$80 million)
- Other Funding (\$186 million)

In total ARCH has leveraged more than \$880 million in other funding sources for affordable housing projects in East King County cities. In other words, for every \$1 dollar contributed by ARCH, more than \$10 is leveraged from other sources for creation of affordable units.

Policy and Planning Support

ARCH staff provide support as requested by member jurisdictions. The level of support varies from member to member. In some cases, the support may include research on best practices, data analysis, financial modeling, and technical advice. For other members it may include drafting policies or code/regulatory proposals. ARCH staff have worked on more than 50 policies, plans, code amendments, or regulations for member cities, geared toward creating more affordable housing units in those local communities.

Between 2015 – 2020 seven cities asked for assistance from ARCH in creating housing elements for their comprehensive plans, and/or local housing action strategies. In addition, three more cities will soon be developing housing action strategies that will utilize some level of assistance from ARCH staff.

Incentive Program Administration

Cities may offer a variety of land use incentives to help reduce the cost of housing development, and in return a developer commits to providing a certain number of units at affordable rates. Incentives could include offering increased height or density in return for including affordable units in a development, zoning that allows for smaller lot sizes, smaller unit sizes, use of alternative housing types, or waiving or reducing permit/impact fees. ARCH staff work with local cities to create the incentive programs.

In addition, ARCH staff have provided technical support and assistance to cities that adopt the Multi-Family Property Tax Exemption (MFTE) program as allowed by state law. Developers can receive a tax exemption in exchange for creation of income- and rent-restricted units. This has become an important tool for many developers building affordable housing.

Between 1992 – 2021 more than 2800 affordable units have been created or are in development. Ten (10) ARCH-member cities now offer different types of incentive programs for developers. Historically incentives have been used by ARCH member cities to create units for moderate income households making 80 – 120% of Area Median Income (AMI). More than half of all incentive units created or in development (1515) are for households making 80% of AMI. In more recent years cities have begun to use the incentives to create units for lower income households, those making between 50 – 70% of AMI.

Stewardship of Affordable Units

There are now nearly 8,000 income- or rent-restricted units created through the Housing Trust Fund and the various incentive programs across ARCH-member jurisdictions. Roughly 7,000 of these are rental units and 1,000 are homeownership units. Once developers commit to creating affordable units, ARCH staff ensure the creation of those units and monitor and report on the continued affordability of those units over time.

Outreach and Education

ARCH staff regularly provide information, education, and updates for elected and appointed officials in member jurisdictions. Staff provide updates about ARCH activities, state and federal program/funding opportunities, information about local and Eastside affordable housing needs, goals and strategies, and generally serve as a resource for City Councils, Planning Commissions, city staff, and local residents interested in affordable housing issues.

Administration

ARCH has done a great deal to share resources across jurisdictions, create consistency in practices and procedures, and create efficient processes. Their work includes:

- Creating a single point of contact for all developers interested in creating affordable units in eastside communities, which greatly increases efficiencies for developers
- Using standard guidelines for income verification for all ARCH-funded projects, across all cities
- Create and use common rent/income/pricing guidelines for all ARCH-funded projects
- Serve as a central portal for homebuyers looking for affordable homes
- Create a centralized affordable housing data base that all member jurisdictions can use
- Conduct routine project audits

Summary of Interviews with ARCH Staff, Members, and Stakeholders



In February and March 2021 ten interviews with ARCH members and outside stakeholders were conducted, along with a group discussion with ARCH staff. The following provides a summary of the discussion about ARCH staff capacity and how ARCH staff are meeting the needs of member jurisdictions.

Overall Assessment

- **There was widespread agreement that ARCH is generally doing well at administering existing programs** (with some known staffing gaps), but that staff seem to be fully utilized.
- **The organization doesn't currently have capacity at the staff or board level to become a driver for more proactive strategies** (increasing funding, advocating for new policies, expanding partnerships, etc.), or to expand its services to new members/geographic areas.
- **There was a sense from outside stakeholders that ARCH should be scaling up its activities** to meet the dramatic growth and need for affordable housing in east King County. It was not clear that member cities feel the same way.

Trust Fund Program Opportunities and Challenges

- **ARCH has been highly successful in administering and leveraging local funds** with minimal staff resources (1 staff position).
- **The trust fund's large portfolio requires active monitoring** to collect loan repayments and restructure agreements as projects age program, as it now encompasses over 100 contracts and tens of millions of dollars in funding – and growing. Other public funder agencies have shifted to creating dedicated asset management staff.
- **Significant opportunities lie ahead** as ARCH members have begun to increase their level of investment and adopt new funding sources, plus new TOD opportunities and other special projects.

Work on Policy/Planning/Regulatory Recommendations

- **Planning activity has been steadily increasing in recent years**, even as ARCH role in policy/planning work varies from year to year and city to city, and a lack of clarity in ARCH's ongoing role makes it difficult to plan for needed capacity/skillsets.
 - Between 1992 – 2014 ARCH staff supported approximately 1.5 housing strategy plans, housing comp plan elements or code amendments per year for member cities.
 - Between 2015 – 2020 ARCH staff completed 8.0 strategies, plans or code amendments per year.
- **ARCH hired one Planner in 2002 and has added no additional planning capacity since.**
- **Some member cities are doing their own work on affordable housing policies or plans**, and ARCH staff have a sense this may be because the members don't believe ARCH has the capacity to complete high priority policy development in a timely manner.
- **ARCH's primary planner is also responsible for administering city incentive programs** (preparing developer agreements and covenants for MFTE, inclusionary and bonus programs). This increasingly competes with ARCH's role in supporting new policy/program development.
- **The upcoming work will place greater demands on the planning staff capacity for ARCH**, including on TOD, station area planning, and comp plan revisions.

Additional Staff-Identified Capacity Shortages

- **Proactive policy development, planning, research and best practices work would require more staff capacity**, to the extent ARCH members would like staff to be more involved.
- **Conducting regular Housing 101 and educational/outreach work is not being done regularly** with members and communities to create and sustain deeper understanding about affordable housing issues and the work ARCH does.
- **Making affordable housing accessible to diverse communities would require additional capacity** for marketing and outreach. This was a recent addition to ARCH's work program, but no new staff capacity was created for this work.

Internal Organizational Capacities

- **The recent addition of 2 FTEs has provided the level of staffing needed to meet current obligations for compliance and monitoring for the Homeownership and Rental programs.**

- **However, new units are being added quickly**, and the organization needs to be mindful of the metrics recommended in 2019 about the number of units per FTE.
- **ARCH staff is getting good utilization from interns, but it is an uncertain source of labor** that comes with the internalized cost of replacing and training. They could be using consultants to meet some of the capacity gaps but there are not resources to hire consultants.
- **ARCH can no longer use some homegrown excel sheet to track 1000s of units.** There is a need to update, but there are not the time, staff or funding resources to do so.

Adding a New ARCH Member

- **Staff believe that adding a new city as an ARCH member would require additional staff capacity in the areas where shortages already exist** (policy, planning and regulatory work, as well as trust fund project-related work).

Interviews with Eastside Developers for ARCH Capacity Assessment - Spring 2021

As part of the process, seven developers were interviewed – they were deliberately chosen to cover a variety of perspectives – smaller and larger, nonprofit vs. for profit, those that had received ARCH funding vs. those that had not yet. Below are some of the highlights from the conversations.

Developers Interviewed:

- **Len Brennan** (Shelter Resources)
- **Allen Dauterman** (Imagine Housing)
- **Kim Faust** (Main St. Property Group)
- **John Fisher** (Inland Group)
- **Kim Loveall Price** (DASH)
- **Emily Thompson** (GMD Development)
- **Kevin Wallace** (Wallace Properties)



1. What has been your past experience with ARCH and how would you describe that experience? What was best about working with ARCH? What was most challenging? If you have not worked with ARCH, why not?

- **ARCH is seen by many as a good partner:** *“They will strategize with developers;” “Under the new leadership the work on compliance is easier and more collaborative”*
- **But there is some concern about flexibility/responsiveness:** *“Process is cumbersome because of the number of councils they have to report to.” “The more flexible ARCH can be the better the chances of getting to their end goal.”*
- **ARCH’s limited resources limit their impact:** *“Their leadership is good, but there is not enough resource available for new development or rehab.” “The amount of money that ARCH has available is not enough to make a big difference in each project.”*
- **Some express concern that ARCH is doing less advocacy for Eastside than in the past:** *“Don’t think ARCH acts as much of an advocate as in the past;”*

- **Some developers want ARCH to be more of a partner:** *“For affordable housing, has to be a collaboration between ARCH and developers.” “Need to be more of an advocate, understanding and supportive of developers.”*

2. In your experience, how does working with ARCH compare to working with other sources of funding for affordable housing? For those working with ARCH on affordable housing incentive programs, how does that work compare with other locations or jurisdictions?

- **Compared to other partners, ARCH is seen as comparatively easy:** *“They are the best of the three (between county, state and ARCH).”; “Conditions in contracts very easy compared to other funders.”;*
- **Developers appreciate their insight:** *“Good feedback quickly on your project,” “They are reasonable and they work in partnership.”*
- **ARCH is helpful navigating cities:** *“Staff typically take the lead in working with local governments. That is helpful – so the developer doesn’t have to work with each individual city.”*

3. Stepping back and thinking regionally - what would you describe as the most important accomplishments for ARCH?

- **Developers value the creation of the coalition and focus on the issue:** *“Getting cities to work together to solve affordable housing was a good one.” “ARCH has done a good job raising visibility with cities on affordable housing.”*
- **ARCH is also an important advocate to cities:** *“They have also helped with advocacy... talking with Mayors and Council members to create support for and action around affordable housing.”*
- **ARCH is a valuable finance partner:** *“They have helped provide small amounts of gap financing for 9% projects that have lower income targeting.”*

4. What do you think of as ARCH’s most important role in helping developers build affordable housing: funder of affordable units, technical assistance on understanding local regulations and ordinances, helping find additional funding, helping find tenants, providing ongoing monitoring?

- **Developers value the funding, especially as an initial money that brings other dollars:** *“As the first funder to commit money they showed local commitment that was important with other funders.” “ARCH is effective at leveraging other funds and bringing other funders along.”*
- **Some smaller developers value their technical assistance:** *“The technical assistance in understanding local development regulations and ordinances.”*

5. What are the primary obstacles to constructing affordable housing in East King County cities?

- **There simply needs to be more dedicated funding:** *“More resources are needed, particularly in the 4% pool of projects.” “There is not enough availability of state and local resources to make projects happen.”*
- **Several developers pointed to costs – particularly of land, but also of permitting:** *“The cost of land is out of reach;” “Permitting is starting to get bad; 1 year process is a bit of overkill.”*
- **There is interest in cities streamlining permitting and easing zoning:** *“All cities have extraordinarily expensive: permitting; regulations; etc. “ARCH could find a way to make zoning/rezoning more achievable and predictable.”*
- **Several also mentioned need to ease parking requirements:** *“Parking ratio reductions would help.” “Parking regulations are an obstacle in some jurisdictions.”*
- **There is also interest in a more unified voice/approach from the Eastside cities:** *“Each city has its own agenda, own strategy.” “What are cities going to do collaboratively?”*
- **There are concerns that requirements and funding for low-income are making middle-income housing unaffordable:** *“Need to kick-in money for nonprofits to produce less than 60% AMI housing, but don’t make it not viable to produce middle income housing to pay for it.” “Putting the full burden on developers is not fair.”*
- **There are few “competitive sites”:** *“If you are not competitive you won’t get a resource allocation from the state.... sites score well that have access to services and transit, but there are minimal transit corridors on the Eastside compared to Seattle.”*

6. What could ARCH do more of, less or, or do differently – either for developers or for member cities – to support the building of more affordable housing on the Eastside? Any other final thoughts?

- **Some want more advocacy within cities for individual projects:** *“Advocating for projects, funding and expending.” Maybe ARCH could hire a planner to work with all cities to interface with cities to make sure projects are going through process efficiently. “ARCH could have a seat at the table on behalf of developers. Lots more they could do to help with zonings and site approvals.”*
- **And some want more advocacy across cities on policy:** *“Build the coalition and advocacy to the cities;” “Unify voices and policy”; “Can HDC provide some capacity to ARCH to do advocacy work?”*
- **A few expressed interest in ARCH using more private/public partnerships:** *“Why not take advantage of profit/nonprofit joint ventures, as for profits have experience, liquidity,*

can bring capital, etc.” “The tax credits were meant to be private/public partnerships...In WA there is a sense that private developers are not as good as nonprofits.”

- **A few had specific ideas:**

- *“ARCH could act as a clearinghouse for surplus properties across cities.”*
- *“Cities that are choosing to do parallel funding paths-- that makes no sense. Give ARCH more money to do more work. The beauty of ARCH is the single point of contact for East King County.”*
- *“The For Sale ARCH program is inequitable and needs to be fixed... [providing a giant benefit to one family, but nothing to others...]*

ARCH Work and Staffing Trends



One of the foundational principles behind ARCH is that member jurisdictions pool resources to build or preserve affordable units across the Eastside, and to create a shared staff resource with specialized expertise in affordable housing that provides support to all members. Many member cities rely on ARCH's expertise to help them analyze and develop projects, interact with developers, draft policies and regulations to promote the development of affordable housing, and monitor affordable units within cities that have been created as a result of city policies and

programs. The history of ARCH has been to apply resources efficiently and to increase the capacity of the organization incrementally as it has grown.

History and Background

ARCH began in 1992 with 4 initial member jurisdictions. Three years later there were 8 members, and by 2008 there were 16 members (which is today's membership). Over time the demands on staff have increased for several reasons:

- 1) As the number of ARCH members increased the requests for staff time and support also increased,
- 2) Both the growing ARCH Housing Trust Fund and new city affordable housing programs (e.g., MFTE and inclusionary zoning) have created an increasing portfolio of units with more work required to create, monitor and report on those units in the expanding portfolio,
- 3) Affordable housing has become a priority issue for many cities and interest in creating developer incentives or new land use policies that promotes affordable housing has increased dramatically, and
- 4) The need for affordable housing across King County and in Eastside cities has increased significantly as housing costs and demand for units have soared.

Growth in Program Activity

Growth of Housing Trust Fund

Since 1993 the number of projects funded by the Trust Fund has averaged 4 per year. Although annual funding (cash contributions and land donations) has fluctuated significantly from year to year, in general the funding provided by members to the Trust Fund has been relatively flat. The highest number of projects in any given year was 9. However, while the annual number of projects has been relatively constant, the projects funded by ARCH have become more complex,

with higher loan amounts and use of multiple funding sources. Many of the projects require specialized staff expertise to analyze and evaluate project proposals.

Growth of Planning Activities

ARCH staff provide a variety of affordable housing planning activities for member jurisdictions, including development of local housing strategy plans, housing elements of comprehensive plans, code amendments, or regulatory proposals. In ARCH's first twenty years (1992 – 2011) ARCH staff completed 26 planning activities for member jurisdictions. In the past 9 years (2012 – 2020) ARCH staff have completed 56 projects for members. There has been a pronounced increase in activity since 2015. This has been due to several factors, including the increase in affordable housing needs across ARCH cities and the county, the heightened interest on the part of many jurisdictions to develop strategies that will address local affordable housing needs, and an increase in requests from member cities to assist in the creation of state-required housing elements in local comprehensive plans. It is anticipated that there will be a number of new requests for support as local comprehensive plans are updated between 2021 – 2024.

Growth in the Number of Affordable Units Monitored

In addition to creating affordable units through use of the Housing Trust Fund, ARCH member cities also use a variety of land use and policy incentives and requirements to create new units. When those units are created, the city's programs typically place a cap on the price of units to be sold or rented (to ensure affordability), and require that the income of renters or buyers cannot exceed certain limits (to make sure only households with limited incomes occupy those units). When the units are initially completed, and over time as they change hands, ARCH staff monitors those units to make sure that the pricing and owner/renter income restrictions are being met.

There has been a considerable increase in the number of incentive programs adopted by ARCH member cities. Ten cities now offer incentives to create more affordable housing. In ARCH's first 20 years there were 91 projects that were required to meet a city's local affordable housing incentive of requirement. In the past 9 years, there have been 111 projects. With each new project the total grows, and there are now more than 2800 units (owner occupied and rental) that ARCH staff monitors to insure they are in compliance with local requirements.

Regional Affordable Housing Need

As mentioned in the Landscape Analysis earlier in this report, across east King County cities 36% of renters and 29% of homeowners were considered either cost burdened (spending more than 30% of their household income on their housing costs) or severely cost burdened (spending more than 50% of their income on housing). Given the trends in increasing rents and home prices, these numbers are not likely to change soon.

Staff Capacity and Staffing Trends

When ARCH was created, 2.5 FTE were hired to provide support to the 4 member jurisdictions and to manage the Housing Trust Fund. As ARCH membership increased the number of FTE's

increased to 5 FTE by 2008. Staff capacity remained at approximately 5 FTE between 2008 – 2019. In 2019 two FTE were added to address the needs of monitoring the rental and home ownership units. At the time, the number of rental and ownership units created by ARCH resulted in their staffing ratios (for the number of units each staff member had to track, monitor and report on) being far below the best practices standards established by other cities around the region and the country. The two additional FTE brought ARCH into compliance with those best practices standards.

What's Not Getting Done

In conversations with ARCH members, ARCH staff and after conducting a review of the annual ARCH workplan, a number of projects and tasks were identified that are not getting completed with the existing staff capacity. The following are some of the topics identified:

Housing Trust Fund

- Funding policy
 - Provide options to ARCH members and conduct analysis on those options for the potential creation of a dedicated funding source for Eastside cities.
 - Revisiting parity goals (work started in 2017-2018)
- Oversight of existing investments:
 - Be more proactive in monitoring project financial sustainability (cash flow, vacancy rates, maintenance needs) for developments created using ARCH funds
 - Loan monitoring (ensuring timely loan repayments)
- Conduct more proactive work and technical support to generate special projects (TOD, preservation, surplus property, faith community property, etc.)

Policy, Planning, Incentive Programs

- Work with cities that have adopted Housing Strategies/Housing Action Plans to implement more of the strategies identified
- Work with cities who have yet to create and adopt Housing Strategies/Housing Action Plans
- Work with ARCH members to establish Eastside housing production and preservation targets
- Do more work to coordinate across cities – sharing best practices, program evaluations
- Streamlining interface for developers who utilize incentive programs

Rental Program Monitoring and Administration

- Work with member cities to establish a monitoring fee that would help defray the cost to monitor ARCH units
- Create new rules for parking charges for ARCH rental units
- Review ARCH Rental Covenant for needed updates
- Explore centralized application portal for all properties with ARCH rental units

Education, Outreach and Administrative Procedures

- Update ARCH bylaws
- Improve and enhance data bases used to monitor ARCH-funded units
- Improve the ARCH website, making it more interactive and useful for all users
- Conduct more Housing 101/outreach events with member cities
- Building partnerships to market new housing to households in need

Conclusions

Based on the interviews with ARCH members, staff and outside partners, and review of workload trends and the annual ARCH work plan, several conclusions were reached regarding ARCH staff capacity.

- The **existing staff are fully utilized** and have no additional capacity for growth. ARCH member cities are reluctant to ask ARCH staff to take on new projects because the staff are fully booked.
- Gaps have begun to emerge, and **elements of the work program are not being accomplished**. Some tasks have been on the work plan for several years because there is not the capacity to move the work forward.
- Trends suggest that **workload will continue to grow**. This applies to the continued growth of the Housing Trust Fund, and the continued demand for planning, research and data analysis services.
- **Deficiencies will grow** as new projects and units come online. As the number of Trust Fund units and incentive units are built, it will be difficult to update practices and policies that are already in need of improvement.
- **Additional staff are needed** to catch up to current demands and to absorb the expected near-term growth in work.

Staff Capacity Options

After conducting the analysis described in the earlier chapters, the ARCH board was presented with three options for different approaches to addressing staff capacity issues. Several conclusions and themes were highlighted to inform the deliberations about the staffing/budget options.



Funding Models

Two funding models were presented to the ARCH Board for consideration:

- Per capita allocation to all members, except King County (same as the existing model)
 - In addition, this model could add optional on-call consulting services paid based on actual services used
- Tiered membership:
 - Base membership: Would include administration of the Housing Trust Fund, program administration/monitoring, and outreach activities, all allocated on a per capita basis
 - Optional tier for policy/planning services, and/or or incentive program support provided by ARCH staff that would only be paid by those cities expecting to utilize those services.

Other Revenue Factors

In addition to the two funding models, there are other revenue sources that were identified for consideration by the board.

Fee Revenue

- Current fee revenue collected by ARCH will cover the cost of at least 1.0 FTE
- Cash reserves up to \$150k as of YE2020, will continue growing as fees accumulate
- Additional revenue could be generated as cities work toward authorizing ARCH to collect administrative fees from rental projects
- Offering fee for services to other cities not currently ARCH members (as is currently being done with the City of Duvall) may be an opportunity in the future, but is not an immediate factor.

King County Revenue

- King County has expressed interest in increasing dues from \$75,000 up to \$125,000.

Staffing/Budget Options

Three staffing options were identified to add new staff capacity to ARCH. The first option would add 1 FTE, the second option 2 FTE, and the third option 3 FTE. In preliminary conversations the Board indicated that doing nothing, not adding any new capacity, was not an option they wanted to consider.

Option 1 – Baseline budget, 1 FTE covered by fees

- Member dues continue to pay for existing staff positions (increase in combined dues no more than 4% increase)
- City member dues are distributed on per capita basis; King County dues remain close to \$75k
- Use fee revenue to add 1.0 FTE:
 - Incentive Program Administrator – This new position would be responsible for working with developers and preparing agreements for projects using land use/tax incentives
- Could use available reserve funds to hire temporary staff position or other support for loan monitoring
- Evaluate areas of the work program that can be reduced in the future

Option 2 – Address Immediate Gaps (Add 2 FTE, 1 with fees, 1 with dues – from some or all members)

- Base member dues continue to pay for existing staffing levels
 - King County dues increase to \$125k
- Fee revenue pays for Homeownership staffing, frees up base member dues to add 1 FTE:
 - Trust Fund Program Officer – This new position would be responsible for managing the ARCH loan portfolio, and would enable ARCH to absorb an increase in transactional work (could include assisting Bellevue with allocation of additional funds).
- Additional services above the base membership could be paid by cities that use ARCH for incentive program administration, or by all cities:
 - Incentive Programs Administrator – This new position would be responsible for working with developers and preparing agreements for projects using land use/tax incentives

- Explore shared contract for on-call consulting services on policy/planning, financial analysis and modeling, special project management and other services.

Options 3 – Plan for Growth (Add 3 FTE, 2 from dues, 1 from fee revenue)

- Base member dues pay for 1 additional FTE:
 - 1 FTE: Trust Fund Program Officer (described in Option 2)
- 1 FTE paid by dues above base member dues – paid by cities actively using ARCH for incentive program administration:
 - 2 FTE: Incentive Program Administrator (described in Options 1 and 2)
- Fee revenue pays for 1 FTE
 - 3 FTE: Housing Programs/Special Projects Manager – This new position would oversee stewardship and monitoring activities, take on special policy/project work
- Explore shared contract for on-call consulting services on policy/planning, financial analysis and modeling, special project management and other services.

Conclusions and Recommendation

Overall Assessment



Member cities clearly value ARCH for the range of services provided: technical and policy support, units created from the pooled resources, addressing the monitoring and reporting requirements on affordable units, and for serving as a single voice and resources on the issue of affordable housing in the eastside. However, given the depth of the affordable housing need in most eastside communities, there is demand among ARCH members for creating more affordable units and for additional technical

assistance and support in creating affordable housing policies and programs.

The level of ARCH support needed or desired varies among member cities and generally depends on two factors:

- The size of the city and their ability to devote internal staff resources to affordable housing issues, and
- The level of commitment on the part of a city's elected leadership to aggressively pursue affordable housing strategies.

It is also important to note that when asked if there is work ARCH staff are doing that could be eliminated in order to create additional capacity, there were no suggestions from members for work that ARCH should do less of or drop entirely.

ARCH Work Plan Needs

Based on the interviews with member cities, and discussions with the ARCH Board, the following themes emerged regarding ARCH's annual work plan, and the needs and interests of members.

- All ARCH cities will rely on some level of ARCH staff for support with Comp Plan Updates (at a minimum - housing needs data, some would benefit from housing element review or drafting). Some had questions/concerns about the impact of HB 1220, and interest in ARCH capacity to assist with new requirements.
- All cities are interested in ARCH tracking data on an ongoing basis to comply with Countywide Planning Policies (CPP) reporting requirements.
- Several cities are counting on ARCH support to implement actions from their housing strategy (Bellevue, Bothell, Kenmore, Kirkland, Issaquah, Redmond)

- Several cities would like help to facilitate TOD projects or other special projects in their jurisdiction, such as finding faith-owned properties for new development.
- Many cities described a distinct set of skills/knowledge that ARCH staff provide to members.
- Some cities had aspirational ideas about an expansion of ARCH's services/role:
 - Facilitating Eastside collaboration on homelessness policy/practice
 - Providing more technical assistance/support to faith-based communities for housing development
 - More proactive steps to encourage best practices on housing policies, for example on ADUs – outreach/marketing, financing, pilot programs, etc.
 - Stronger role in legislative advocacy
- Smaller jurisdictions with little to no planned growth will not use ARCH for planning services.
- There is interest among some members in shifting to a fee for service model when it comes to policy/planning work, and potentially other areas where workload is growing, such as incentive programs.
- King County is interested in investing more in ARCH capacity that will catalyze projects or policies toward the Regional Affordable Housing Task Force Action Plan goal of 44,000 units.

Staff Capacity and Staffing Trends

Staff from member cities agreed that ARCH staff are fully utilized and have no additional capacity for growth. Members also identified gaps that have begun to emerge, and elements of the annual work program that are not being accomplished.

As described earlier in this report, while ARCH staffing capacity has been relatively flat, requests for ARCH staff services have increased. As the Trust Fund loan portfolio has grown, there is a need to increase staff capacity to actively monitor those loans and address the current backlog of loans that have not been actively monitored.

There has also been a significant increase in the requests for planning assistance from cities that want to adopt or amend policies, codes, and local housing programs. Currently, ARCH's planning assistance is provided by the same Senior Planner who also oversees member cities' incentive programs. ARCH will need additional planning/policy staff to continue overseeing the growing portfolio of members incentive programs while helping cities update local comprehensive plan housing elements, respond to the County's Countywide Planning Policies, and respond to the growth in requests for planning and policy assistance.

Two new positions were added in 2019 to monitor the affordability of units created by the ARCH Trust Fund. Those positions increased the level of staffing to industry standards for the size of the portfolio and the number of units that need to be monitored for compliance with affordability requirements.

The growth of ARCH activities also suggests the need to create additional management capacity, to both oversee staff stewarding the growing portfolio of affordable housing created in the Homeownership and Rental Programs, and work on special initiatives – such as expanding marketing efforts to diverse populations or promoting partnerships to develop affordable housing with faith-based communities. The new capacity would both increase management oversight and free capacity for the Executive Director.

Revenue Opportunities

There is an opportunity to utilize some existing revenue sources to increase staff capacity. ARCH has been collecting fees from the homeownership program and now has a sustainable source of income. Those fee revenues would support 1 FTE. In addition, King County has expressed a willingness to increase its contribution to ARCH annual operations. This could be part of the revenues used to increase ARCH staff capacity.

Most cities are facing budget challenges, so even for the larger and mid-sized cities a phased approach to increasing staff capacity should be considered.

Executive Board Recommendations

Based on the review described above, and discussion with the ARCH Executive Board over several months, the Board recommended to their respective Councils the following actions to increase ARCH staff capacity.

Phased Approach to Adding New Staff Capacity

Balancing the different needs expressed by member cities, and the budget challenges facing many cities, ARCH should adopt a phased approach to increasing staffing.

In 2022, current member dues from all jurisdictions should be used to support the 2021 base staffing level, and an additional two new full time ARCH staff positions should be created:

- A Program Officer working on the Housing Trust fund – Paid for using increase in revenues from program fees. No dues increases needed to pay for this position.
- An Incentives Program Administrator – Paid for using a new tiered dues structure (see below)

In 2023 one additional position should be added:

- A Housing Programs, Special Projects Manager

The Board has not decided how to pay for the 2023 staff position. It will likely be some level of new dues, but no pre-commitment was made about how the dues will be allocated.

Create a New Tiered Dues Structure Based on the Level of Program Activity

Revenues for the two new positions can come from several sources. One FTE (the Program Officer) can be paid for using fee revenues to pay for Homeownership staffing, which frees up base member dues to add 1 FTE. The second position, that would focus on the administration of local housing incentive programs, presents an opportunity for ARCH to implement a tiered dues structure, based on the number of projects each city has in their incentive program.

- Cities with active incentive programs (either more than 10 completed projects or 3+ projects in the pipeline) pay on a per capita basis (Bellevue, Issaquah, Kirkland, Redmond)
- Cities with less active programs (fewer than 10 completed projects, and less than 3 projects in the pipeline) pay a minimum contribution of \$3,000 (Kenmore, Newcastle, Sammamish, Mercer Island)
- Cities with adopted programs that do not yet have participating projects do not yet contribute additional dues (Bothell, Woodinville).
- Cities without incentive programs do not contribute additional dues (Beaux Arts, Clyde Hill, Hunts Point, Medina, Yarrow Point).

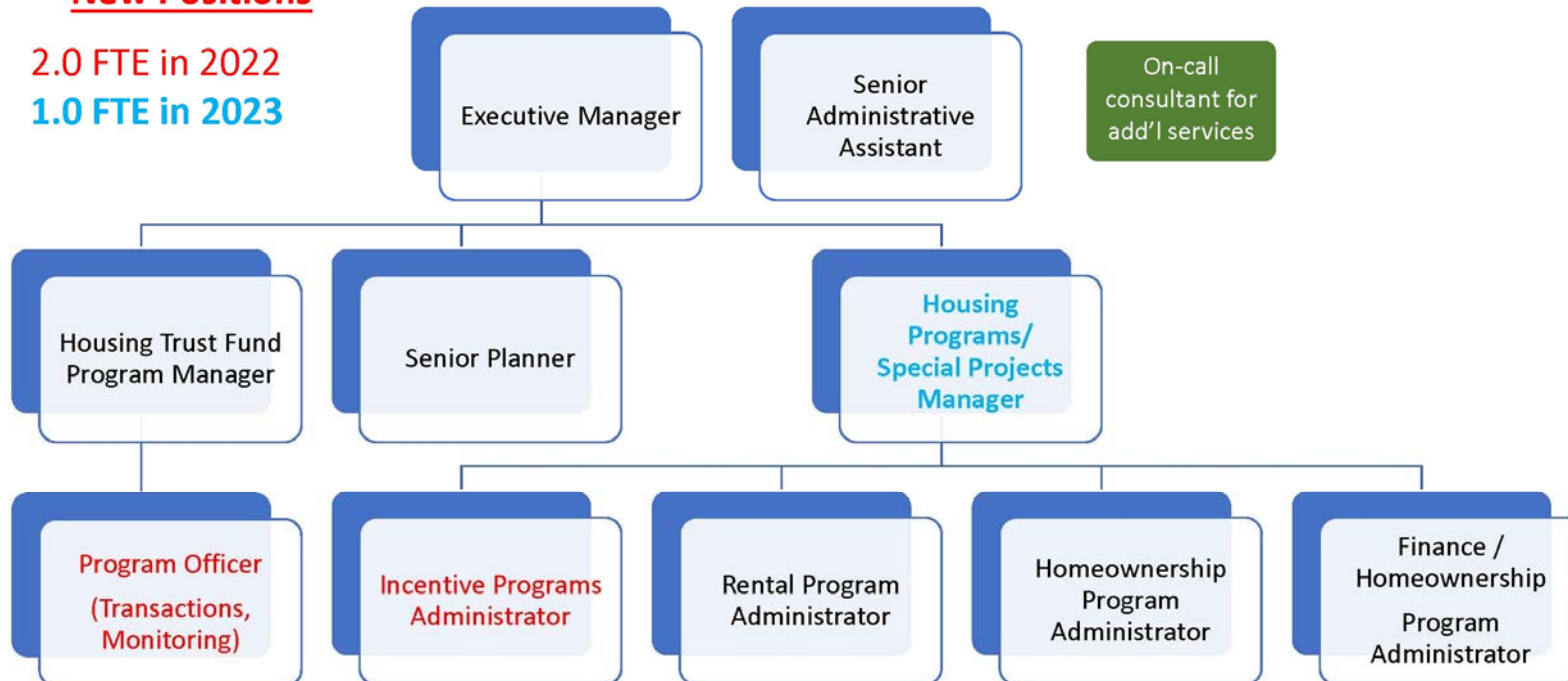
(See next page for graphic summary of Executive Board recommendations.)

Executive Board Recommendations: ARCH Proposed Staff Structure

Address Most Urgent Gaps and Plan for Growth in Next 3-5 Years

New Positions

2.0 FTE in 2022
1.0 FTE in 2023



Implications:

- * Absorbs significant growth from incentive programs, frees up some capacity for Comp Plan and housing strategy support.
- * Catches up to backlog of loan monitoring, creates some capacity to transact more loans.
- * Could add on-call consulting to support other services.
- * Create new tiered dues structure to pay for Incentive Programs Administrator
- * Plans for anticipated growth in member services and supports

Conclusion

Based upon review of the ARCH workplan, discussion with cities about their near-term plans, and assessment of ARCH staff responsibilities and workload, the changes proposed by the ARCH Executive Board are essential actions to help ARCH staff capacity to catch-up with long-standing shortages in staffing and meet member's most pressing existing and near-term needs. The new capacity will be particularly helpful in administering the Trust Fund, helping cities in planning and policy work, and accommodating the growth in special projects.

Nevertheless, ARCH's work is likely to continue to grow, and the board was unable to identify any work that ARCH staff could eliminate. In addition, cities in north and east King County may consider requesting membership in ARCH. In the coming years additional capacity may be needed as the portfolio of projects increases in size and complexity, and the planning and policy work expands.

Finally, there are structural questions and tensions within the organization regarding the capacity, direction and services offered by ARCH that were not possible to address in this evaluation (such as the desire from external stakeholders for ARCH to be stronger advocates, or the disparate level of commitment to housing across member councils). Given these range of questions, ARCH's Executive Board committed to a strategic planning process in 2022 that can address these and other pressing issues outside the normal course of operations and budget cycles.



Memorandum

Date: 10/12/2021

Meeting of: Committee of the Whole - Planning and Public Works

File No. CM 21-511

Type: Committee Memo

TO: Committee of the Whole - Planning and Public Works

FROM: Mayor Angela Birney

DEPARTMENT DIRECTOR CONTACT(S):

Planning and Community Development	Carol Helland	425-556-2107
------------------------------------	---------------	--------------

DEPARTMENT STAFF:

Planning and Community Development	Sarah Pyle	Community Development and Implementation Manager
------------------------------------	------------	--

TITLE:

Review of the 2021 and 2022 Tourism Fund Allocation for Matching Grants

OVERVIEW STATEMENT:

Council is being asked to review the recommendation of the Lodging Tax Advisory Committee (LTAC) for allocation of the 2021 and 2022 matching grants from the Tourism Fund. A staff report will be provided with information on the 2022 Tourism work plan, which includes a plan for updating grant criteria, and information on LTAC's role, limited authority, and recruitment efforts.

☒ **Additional Background Information/Description of Proposal Attached**

REQUESTED ACTION:

☒ **Receive Information**

☐ **Provide Direction**

☐ **Approve**

REQUEST RATIONALE:

- **Relevant Plans/Policies:**
Comprehensive Plan, Long-Term Recovery Plan, RMC Title 4

- **Required:**
N/A

- **Council Request:**
N/A

- **Other Key Facts:**
The City of Redmond collects a lodging tax of one percent on each overnight stay at hotels located within Redmond and allocates these revenues to the Lodging Tax Fund. The purpose of the Lodging Tax Fund ("Tourism Fund") is to increase tourism in Redmond by attracting visitors, especially overnight visitors who stay in Redmond hotels, by funding event marketing, operation of special events, festivals, and/or tournaments.

Applications Received: The City received 16 external grant applications from non-profit and for-profit organizations.

Criteria: Applications are reviewed against the program fund criteria for tourism promotion, which prioritizes:

- Benefit to the community
- Innovation
- Overnight stays
- Community support
- Partnerships
- The scale of the project
- Other funding sources and
- New or ongoing funding

Per Council's feedback from January 2020, the grant application criteria were broken out and application components that support the criteria were assigned points. Each application received a weighted ranking to increase equitable evaluation of the applications. The current criteria have been in place for approximately 10 years, and they lack clarity.

OUTCOMES:

LTAC recommends funding 14 applications that demonstrated alignment with the grant criteria and tourism goals.

Recommended Applications:

2021

1. **Fuel the Dragon**, community activity to support small businesses via in-person passport game. *Non-profit*
2. **Crossfire Selects**, the state's largest soccer tournament. *Non-profit*
3. **Hispanic Heritage Month Celebration**, a month-long art exhibit with two community events. *Non-profit*
4. **Redmond Saturday Market**, a five-month-long farmer's market. *For-profit*
5. **Seattle World Whiskey Day**, a two-day whisky tasting and judging event in downtown Redmond. *Non-profit*

2022

6. **Festival of Color**, the annual celebration of the traditional Indian festival of Holi. *Non-profit*
7. **NAMI Eastside Youth Mental Health Conference**, a conference with youth and providers to support mental health. *Non-profit*
8. **Redmond Saturday Market**, a five-month-long farmers' market. *For-profit*
9. **Ananda Mela**, Joyful Festival of India. *Non-profit*
10. **Cinco de Mayo Family Celebration**, a festival at Redmond Downtown Park with Live Music, Food Trucks, and Vendors. *Non-profit*
11. **Seattle World Whiskey Day**, a whisky tasting and judging event at the Downtown Redmond Park. *Non-profit*
12. **USA Gymnastics Washington State Congress**, a gymnastics training event. *Non-profit*
13. **Vegetarian and Vegan Festival**, a free for the community event that includes talks by eminent speakers on diet and health, food vendors, and multicultural entertainment. *Non-profit*

- 14. International Track Cycling**, largest weekend track bike racing event in North America drawing bicycle racers from across North America, New Zealand, Australia, Great Britain, and beyond. *Non-profit*

Match Requirements: Two of the events recommended for funding did not include a match equivalent to their recommended awards. For these applications, staff is requesting approval of the recommended amount on the condition they submit documentation of matched paid expenses. Otherwise, the award amount shall be reduced to the documented match provided.

Other Grant Requirements: Of the applications received, two did not meet the requirements necessary to be considered.

1. Redmond Children's Business Fair: The event is limited in its audience, did not generate traffic to local businesses or night's stay, did not include a matched revenue source, and the submitted application was incomplete.
2. Redmond Virtual: The application is not for an actual event, but rather a service for digital imagery of the City currently available through other tools. The application was incomplete and did not align with the criteria.

Conflicts of interest can occur due to the board members' requirement stipulating that they must either be an entity for which the tax is charged or an entity that can receive grant dollars. Additionally, it is encouraged that members are active in the community and tourism.

Two of the four members of LTAC have conflicts of interest on six of the grant applications submitted. For the following applications, members with any association exited the meeting during discussions, review or recommendations of the following events:

1. World Whiskey Day 2021
2. Fuel the Dragon 2021
3. Festival of Color 2022
4. Ananda Mela 2022
5. Vegetarian and Vegan Festival 2022
6. World Whiskey Day 2022

COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:

- **Timeline (previous or planned):**
Application window June 15, 2021-August 15, 2021
- **Outreach Methods and Results:**
 - Application notification via e-mail
 - Application window notification via enews
 - Application window messaging from local partners
- **Feedback Summary:**
A few event producers staff spoke with shared that due to COVID-19 much is still unknown about whether 2022 events will be a viable option. They asked if there would be additional opportunities in 2022 for grants. Staff is planning an additional window in late Q1 or early Q2.

BUDGET IMPACT:

Total Cost:

A combined total of \$162,500.

A total of \$137,500 for matching grants as recommended by the Lodging Tax Advisory Committee for City Council's approval and \$25,000 in additional dollars for City produced events.

Approved in current biennial budget: ☒ Yes ☐ No ☐ N/A

Budget Offer Number:

000250 - Community and Economic Development

Budget Priority:

Vibrant and Connected

Other budget impacts or additional costs: ☐ Yes ☐ No ☒ N/A

If yes, explain:

N/A

Funding source(s):

Lodging Tax

Budget/Funding Constraints:

N/A

☐ Additional budget details attached

COUNCIL REVIEW:

Previous Contact(s)

Date	Meeting	Requested Action
	Item has not been presented to Council	

Proposed Upcoming Contact(s)

Date	Meeting	Requested Action
10/19/2021	Business Meeting	Receive Information
11/1/2021	Business Meeting	Approve

Time Constraints:

The 2021 grants need to be closed out by December 15, 2021. If a decision is delayed it may jeopardize the applicant's timely ability to provide all necessary materials required for state reporting and reimbursements.

ANTICIPATED RESULT IF NOT APPROVED:

If the LTAC recommendation is not approved, proposed events would not receive matching grant funds from the City and

may be unable to proceed as planned.

ATTACHMENTS:

- A. 2021 Tourism Outline and FAQ
- B. Grant Application Matrix
- C. Slides

Tourism Council Outline

- **How did the Lodging Tax Advisory Committee begin?**

An advisory committee was assembled in accordance with the State regulations to weigh-in on the creating of a hotel/ motel tax.

- **When was Committee and Tax implemented?**

- 1998 LTAC was formed
- 1999 the Lodging tax was implemented
- Funding for this program is made possible through revenues Redmond collects from a one percent (1%) lodging tax on the rental of hotel/ lodging rooms in Redmond.

- **Where does the funding come from?**

A 1% tax is charged on each overnight stay at Redmond hotels and motels.

- **How is the revenue from the lodging tax used?**

LTAC advised the City Council on a four-way split use of the tax. It was adopted by City Council in 2014.

Use of the revenue is split into the following:

- 2% for administration of the program
- 50% for marketing
- 39% city events and programing
- 9% to event matching grants

- **What are the goals and limitations of the revenue?**

- Must be used to attract visitors external to the city. Due to the funding being generated by our local hotels, grants and uses of the tax revenue often prioritizes efforts that will support hotels night stays, but attraction of external visitors to our small businesses and enrichment of the community is also heavily weighted.
- As an example, events that would likely draw only Redmond residents in majority would not align with the goals of the tax.

- **Who is the Lodging Tax Advisory Committee (LTAC) comprised of?**

Per state regulations, the LTAC is required to be comprised of four hoteliers and three persons who are associated with organizations that could benefit directly from the tax such as, venues or organizational representatives that hold events

- **Are there any conflicts of interests?**

Due to the requirements for holding a seat on the board, there is potential for frequent potential conflicts of interest. In past years several members have had events proposed for grant funding or supported events requesting funding. Their participation does not impact the potential value an event does or does not have. However, when discussion or forwarding recommendations for grants awards those with conflicts are excluded from the review discussions or recommendation decisions.

- **What authority does the committee have?**

- LTAC does not have any assigned authority. Technically speaking their only codified responsibilities are to weigh-in or advise on:
 - Creation of a tax
 - Repeal or modification of the tax
 - How the tax revenue is used (the assigned split).
 - They do not have formal decision or recommendation authority decision on grant applications or any other program level components.
 - Due to the limited authority and role assigned to LTAC, and requirements to be on the board it is often difficult to fill vacancies.
 - This is an area to be revisited as part of the 2022 workplan.
- **When does the board meet?**

Again, due to the limited duties and authority of LTAC they meet in frequently between 2-4 times per year. Their meetings are notices and posted in-advance.
 - **Why are there are no meeting minutes for previous years?**
 - This was a training issue that has been since rectified. The Clerk's office has consolidated oversight of all boards and commissions and are working directly with staff liaisons to create uniformed consistency with both state and local regulations.
 - All future LTAC meetings will have posted agendas and meeting minutes uploaded following adoption of them at next meeting. Staff plans to post draft notes as meetings are typically several months apart.
 - **What are the planned updates to the program for 2021 and 2022?**
 - Staff resources and time have been dedicated to responding to COVID-19 while events were unable to take place. Staff also used the past year to complete an in-depth review and audit of the program.
 - Some updates have been made to the applications to gather more data and ensure increased consistency with performance outcome reporting and alignment with State requirements.
 - An interim weighted ranking for grant applications applied for through October 2022.
 - A larger update to the program will take place next year.
 - **What is on the 2022 workplan?**
 - ☐ Draft formal rules and procedures for the committee
 - When will LTAC meet, setup regular schedule
 - Other guidance or operating procedures
 - ☐ Provide Council an annual update
 - Grant outcomes
 - Workplan
 - Questions or support needed
 - ☐ Review current assigned uses of lodging tax dollars

- ☐ Review and begin revising Tourism Strategic Plan.
 - The Tourism Strategic Plan has not been updated in nearly ten years and is outdated. Staff have requested LTAC's support and feedback in the updating of the plan.
 - While this is not a defined role, LTAC's insight and input would be extremely valuable in defining the goals of tourism programming.
- ☐ Refine grant criteria and present to Council for feedback
 - A few additional areas for related discussion as well include:
 - Consider barriers: Cost of production
 - All forms of accessibility
 - Type organizations or events to be prioritized
 - Collection of data/ survey methods
- ☐ Joint meeting with Council in 2022
- ☐ Consider one to two programs for spring and/or summer

- **Applicable Regulations:**

- Redmond Municipal Code 4.37
- [Revised Code of Washington](#)

Weighted Evaluation
Will the event attract external visitors and not have a primary audience of Redmond residents?
Attendance scale
Will the event build a new audience for the City. Example spectators for a sport not previously held in the City or other activity the City has not previously attracted guests for.
event increases awareness of the City's amenities, history, facilities, and natural environment
does the event include volunteer involvement, inter-jurisdictional, corporate, business and/or civic organization
Project benefits a segment of the community or the overall community
Project has additional funding sources supporting the event?
Is the event innovative or offer something unusual or unique?
is this the event's first year in Redmond?
Has the event taken place for more than three years?
Is the event producer women, veteran or BIPOC ran?
Does this event support awareness of City objectives
Generate nights stays
If event held previously, did it meet or exceed projected attendance?
If event held previously, did it meet or exceed projected nights stay?
Is the event produced by a non-profit or not for profit?
Is the event eligible for other City grants?
Totals
Do they meet minimum criteria?

Amount requested for grant
Additional event revenue
match achieved via proposal?
Maximum Amount that could be granted for match?
LTAC Recommended award amount:
LTAC notes (optional):
LTAC members recused from discussion and recommendation

Scoring Method	Crossfire Select	Hispanic Heritage Month Celebration	Redmond Children's Business Fair
Yes (greater than 40% of attendees)= 3 Somewhat (15-30% of attendees)=2 very small amount (5-10%)=1 No=0 (a No to this question disqualifies the application as it is not a flexible criteria)	3	3	0
1000 or greater =3 500-999 =2 100-499= 1	3	2	1
Yes=3 Somewhat=2 No=0	0	3	0
Yes=3 Somewhat=2 No=1	2	2	2
Yes=3 No=0	0	3	0
Segment=1 Overall=3	1	3	1
Yes=3 No=0	3	3	0
Yes=3 Somewhat=2 No=1	1	3	3
Yes=3 No=0	0	3	1
Yes=3 No=1	3	1	3
Yes=3 No=2	2	3	1
Yes=3 Somewhat=2 No=1	2	3	3
none-0.9%=0 small amount in comparison to attendance (1-3%)=1, medium=3 (4-10%), Large=5 (more than 10% of attendance)	5	1	0
Support= 3 Neither=1 detract=0	3	3	1
Yes=3 N/A=0 No= -1	3	0	0
Yes=3 N/A=0 No= -1	3	0	0
Yes=3 No=0	0	3	0
Yes=0 No=2	2	0	2
total score/ ranking of each application	36	39	18
	yes	yes	No

amount applicant requested	\$ 16,000	\$ 10,000	\$ 2,000
amount of additional funding event will have. This is the amount they are demonstrating they can meet the match with.	\$ 76,000	\$ 3,000	\$ 1,000
Did the application show they can match what they are requesting?	yes	no	no
the total amount that could be award of what the applicant requested based upon the match in funding / expenses they have indicated within their application	\$16,000	\$3,000	\$0
	\$16,000	\$10,000	
		Awarded amount is conditional pending the applicant demonstrates a full match to the award. Otherwise the award amount that is reimbursable shall be reduced to the amount matched.	Event does not meet basic criteria or promote core focuses of Lodging tax dollars. Staff has requested that OneRedmond reach out to event producer on other sponsorship and grant opportunities. The event is valuable to the community.

Redmond Saturday Market	Redmond Virtual	Seattle World Whiskey Day	Fuel the Dragon
0	1	3	1
3	3	2	1
0	0	2	2
1	2	2	1
0	0	3	3
3	3	3	1
3	0	3	3
1	2	1	2
0	3	0	0
3	1	1	1
3	2	3	3
2	2	2	3
0	0	3	1
1	1	3	3
0	0	-1	0
0	0	-1	3
0	0	3	3
2	2	2	0
22	22	34	31
Somewhat	No	Yes	yes

\$ 20,000	\$ 9,975	\$ 10,000	\$ 4,000
\$ 110,000	\$ -	\$ 66,000	\$ 11,800
yes	no	yes	yes
\$20,000	\$0	\$10,000	\$4,000
\$5,000		\$10,000	\$4,000
For future grant participation would like to see applicant planning for location that aligns with tourism goals. Current location does not offer residual support of local businesses, city facilities or amenities. As documented in application event does not have significant external draw or generate stays. B/C of current location the external draw generated is not then likely to use other Redmond businesses as it had before. Portion of quoted expenses appear to be general business operation costs and will limit grant award.	Not an event. Does not have funding sources. Does not provide service beyond what is available on google maps. Appears to be a grant application that is actually a request for payment of a service the City is not seeking at this time. Application not completed in full.		
		Carson	Carson, Sambamurti

Redmond Lights	Cultural Art Connections
2	2
3	3
2	2
3	3
3	3
3	3
3	3
1	2
0	0
3	3
2	2
2	3
1	0
3	3
3	3
3	3
0	0
2	2
39	40
N/A	N/A

\$45,000

\$ 50,000	\$ 25,000
\$ 95,000	\$ 52,580
yes	yes
\$50,000	\$25,000
City Event	City Event

Weighted Evaluation
Will the event attract external visitors and not have a primary audience of Redmond residents?
Attendance scale
Will the event build a new audience for the City. Example spectators for a sport not previously held in the City or other activity the City has not previously attracted guests for.
event increases awareness of the City's amenities, history, facilities, and natural environment
does the event include volunteer involvement, inter-jurisdictional, corporate, business and/or civic organization
Project benefits a segment of the community or the overall community
Project has additional funding sources supporting the event?
Is the event innovative or offer something unusual or unique?
is this the event's first year in Redmond?
Has the event taken place for more than three years?
Is the event producer women, veteran or BIPOC ran?
Does this event support awareness of City objectives
Generate nights stays
Is the event likely to support or detract from local businesses
If event held previously, did it meet or exceed projected attendance?
If event held previously, did it meet or exceed projected nights stay?
Is the event produced by a non-profit or not for profit?
Is the event eligible for other City grants?
Totals
Do they meet minimum criteria?

Amount requested for grant
Additional event revenue
match achieved via proposal?
Maximum Amount that could be granted for match?
LTAC Recommended award amount:
LTAC notes (optional):
LTAC members recused from discussion and recommendation

Scoring Method	Cinco de Mayo	International Track Cycling	NAMI Eastside Youth Mental
Yes (greater than 40% of attendees)= 3 Somewhat (15-39% of attendees)=2 very small amount (5-10%)=1 No=0 (a No to this question disqualifies the application as it is not a flexible criteria)	3	2	3
1000 or greater =3 500-999 =2 100-499= 1	3	3	1
Yes=3 Somewhat=2 No=0	2	0	3
Yes=3 Somewhat=2 No=1	3	2	2
Yes=3 No=0	3	0	3
Segment=1 Overall=3	3	1	1
Yes=3 No=0	3	3	3
Yes=3 Somewhat=2 No=1	2	1	2
Yes=3 No=0	0	0	0
Yes=3 No=1	1	3	1
Yes=3 No=2	3	3	3
Yes=3 Somewhat=2 No=1	3	2	2
none=0.9%=0 small amount in comparison to attendance (1-3%)=1, medium=3 (4-10%), Large=5 (more than 10% of attendance)	0	3	5
Support= 3 Neither=1 detract=0	0	3	3
Yes=3 N/A=0 No= -1	3	0	0
Yes=3 N/A=0 No= -1	3	0	0
Yes=3 No=0	3	3	3
Yes=0 No=2	0	2	2
total score/ ranking of each application	38	31	37
	yes	yes	yes

amount applicant requested	\$ 22,000	\$ 7,500	\$ 10,000
amount of additional funding event will have. This is the amount they are demonstrating they can meet the match with.	\$ 10,000	\$ 18,500	\$ 5,000
Did the application show they can match what they are requesting?	no	yes	no
the total amount that could be award of what the applicant requested based upon the match in funding / expenses they have indicated within their application	\$10,000	\$7,500	\$5,000
	\$22,000	\$7,500	\$5,000
	Awarded amount is conditional pending the applicant demonstrates a full match to the award. Otherwise the award amount that is reimbursable shall be reduced to the amount matched.		

Redmond Saturday Market	USA Gymnastics	Seattle World Whiskey Day	Anada Mela	Festival of Color
0	3	2	3	2
3	2	3	3	3
0	3	0	2	2
1	2	2	2	2
0	3	3	0	3
3	1	3	3	3
3	3	3	3	3
1	1	1	2	2
0	3	0	0	0
3	1	3	3	3
3	3	3	3	3
2	2	2	3	3
0	1	3	0	0
1	3	1	3	0
0	0	-1	-1	0
0	0	-1	-1	0
0	3	3	3	3
2	2	2	0	0
22	36	32	31	32
somewhat	yes	yes	yes	yes

\$ 20,000	\$ 8,000	\$ 15,000	\$ 20,000	\$ 20,000
\$ 131,000	\$ 37,000	\$ 50,000	\$ 100,000	\$ 40,000
yes	yes	yes	yes	yes
\$20,000	\$8,000	\$15,000	\$20,000	\$20,000
\$5,000	\$8,000	\$10,000	\$15,000	\$10,000
For future grant participation would like to see applicant planning for location that aligns with tourism goals. Current location does not offer residual support of local businesses, city facilities or amenities. As documented in application event does not have significant external draw or generate stays. B/C of current location the external draw generated is not then likely to use other Redmond businesses as it had before.				learn more about alignment with goals from event outcomes for next year.
		Carson	Sambamurti	Sambamurti

Vegan Festival
3
3
2
2
0
3
3
1
0
1
3
2
0
0
0
0
0
2
25
yes

Community Events
2
3
2
3
3
3
1
0
3
2
3
0
3
3
3
3
2
42
N/A

Cultural Arts Program

2

3

2

3

3

3

3

2

0

3

2

3

0

3

3

3

3

0

41

N/A

Tourism Matching Event Grants

October 19, 2021

Sarah Pyle, Community Development and Implementation Manager

Purpose

- Provide Council and the community an outline of the tourism program
 - How the program began
 - Revenue split
 - Committee authority
 - Program structure
 - 2022 workplan
- Seek approval of the 2021 and 2022 event matching grants



Project Overview

- The City approves annual grants for locally held events that draw in visitors from outside of the city.
- Events help promote local tourism, overnight stays, local amenities, and support small businesses.



When and why did Lodging Tax and Advisory Committee begin?

- 1998 - Advisory committee was assembled
- 1999 - Council implemented 1% lodging tax on overnight stays at Redmond hotels or motels



How is the Revenue from the Tax Used?

The committee advised, and in 2014 the City Council passed:

- 2% - administration of the program
- 50% - marketing
- 39% - city events and programming
- 9% - event matching grants



What are the Goals and Limitations of the Revenue?

- Attract visitors external to the city
- Prioritizes efforts that will support hotels night stays
- Attract external visitors to small businesses
- Events that only draw residents would not meet funding requirements



Who is the Lodging Tax Advisory Committee (LTAC) Comprised of?

- Three hoteliers
- Three persons associated with organizations that could benefit from tax
- Council Chair



What Authority Does the Committee Have?

LTAC's codified responsibilities are to weigh-in or advise on:

- 1) Creation of a tax
- 2) Repeal or modification of the tax
- 3) How revenue is used (currently four-way split)

(RMC 4.37)



When Does LTAC Meet and How Are Meeting Minutes Managed?

- LTAC meets infrequently between 2-4 times per year
- The Clerk's office has consolidated oversight of all boards and commissions
- Future LTAC meetings will have posted agendas and meeting minutes uploaded
- Meeting minutes are currently posted from the 9/24 meeting



Tourism Plan Updates for 2021 and 2022

- In-depth review and program audit
- Updates to grant application forms and material have been made
- Interim weighted ranking for grant applications applied through October 2022



2022 Workplan

- ☐ Draft formal rules and procedures for the committee
- ☐ Member recruitment
- ☐ Provide Council an annual update
 - Grant outcomes
 - Workplan
 - Questions or support needed
- ☐ Review current assigned uses of lodging tax dollars
- ☐ Review and begin revising Tourism Strategic Plan
- ☐ Refine grant criteria and present to Council for feedback
- ☐ Joint meeting with Council in 2022
- ☐ Consider one to two programs for spring and/or summer



2021 and 2022 Tourism Matching Grants

- 16 Applications received
- 14 Recommended for approval
- 2 Do not support criteria objectives or requirements
- 2 Do not meet complete match

All evaluated against interim weighted ranking system



Recommendation

Event Matching Grants

- Approve the 14 applications recommended for a total amount of \$137,500
 - Conditionally approve the three applications not meeting the match
 - \$121,000 approx from end fund balance for matching event grants



Community Events

- \$25,000 from end fund balance



Thank you

Any Questions?





Memorandum

Date: 10/12/2021

Meeting of: Committee of the Whole - Planning and Public Works

File No. CM 21-514

Type: Committee Memo

TO: Committee of the Whole - Planning and Public Works

FROM: Mayor Angela Birney

DEPARTMENT DIRECTOR CONTACT(S):

Planning and Community Development	Carol Helland	425-556-2107
------------------------------------	---------------	--------------

DEPARTMENT STAFF:

Planning and Community Development	LaNaya Myers	TDM Program Administrator
------------------------------------	--------------	---------------------------

TITLE:

2021-22 Annual ORCA Contract Renewal

OVERVIEW STATEMENT:

Execute a renewal agreement with King County for ORCA Business Passport transit services (ORCA cards) and vanpool services for distribution to City of Redmond employees as an element of the City Employee Commute Trip Reduction (CTR) Program.

☒ **Additional Background Information/Description of Proposal Attached**

REQUESTED ACTION:

☒ **Receive Information**

☐ **Provide Direction**

☐ **Approve**

REQUEST RATIONALE:

- **Relevant Plans/Policies:**
City Employee Commute Trip Reduction Program, Washington Clean Air Act, City Comprehensive Plan, Community Strategic Plan, Transportation Master Plan
- **Required:**
N/A
- **Council Request:**
N/A
- **Other Key Facts:**
 - King County Metro launched the pay-as-you-go payment structure in summer 2020. Fare collection didn't resume until October 2020.
 - The agreement covers the period from August 1, 2021 - July 31, 2022.
 - Monthly payments in 2020-21 are \$4,712.39.
 - Due to King County Metro Staff restructuring, there was a delay in receiving updated contract

information and this item is coming forward later than usual this year.

OUTCOMES:

This agreement allows the City of Redmond to continue to purchase and distribute ORCA cards to City employees for transit services provided by the participating transit agencies, thereby helping reduce traffic congestion, energy consumption, air pollution and vehicle miles traveled. In addition, this 2021-2022 renewal contract includes the piloting of vanpool/vanshare.

There will be no vanpool fares collected during the 2021-22 contract. King County Metro will use this contract renewal period to collect our vanpool usage data. Our usage data will be used to determine our cost for the 2022-23 contract renewal. If we decide to continue with the vanpool program, they will use this same procedure going forward. The landscape needs and demands are ever-evolving right now. This approach will allow more flexibility for us to offer a great range of options to employees.

Some benefits of renewing this contract include:

- Unlimited trips on all services other than Washington State Ferries. Includes transit, rail, and streetcar.
- Guaranteed ride home.
- Pay as we go monthly payment model reducing our annual costs during the continuing pandemic.
- Streamlined process that more easily helps employees use alternatives to driving alone.
- Compliance with both State CTR laws and the city's TMP goals.
- Vanpool fares for employees would be fully covered.
- Vanpools will only require two riders to start a van as opposed to the previous minimum of five persons.

This renewal would ensure a transportation benefit for employees commuting to work and other staff members as they return to riding transit.

COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:

- **Timeline (previous or planned):**
N/A
- **Outreach Methods and Results:**
N/A
- **Feedback Summary:**
N/A

BUDGET IMPACT:

Total Cost:

The total cost of services is forecasted not to exceed a maximum of \$18,000. The ORCA contract renewal was included within the adopted budget for \$220,449.

Approved in current biennial budget: ☒ Yes ☐ No ☐ N/A

Budget Offer Number:

000343 - Mobility of People and Goods

Budget Priority:

Vibrant and Connected

Other budget impacts or additional costs: ☐ Yes ☒ No ☐ N/A

If yes, explain:

N/A

Funding source(s):

100 - General Fund

Budget/Funding Constraints:

N/A

☐ Additional budget details attached

COUNCIL REVIEW:

Previous Contact(s)

Date	Meeting	Requested Action
	Item has not been presented to Council	N/A

Proposed Upcoming Contact(s)

Date	Meeting	Requested Action
11/1/2021	Business Meeting	Approve

Time Constraints:

Our current contract expired on July 31, 2021. Due to Covid-19 and King County Metro staff restructuring, there were delays in receiving the updated contract information from King County Metro.

ANTICIPATED RESULT IF NOT APPROVED:

If this agreement is not approved, we would need to seek alternatives to comply with the approved City Commute Trip Reduction Plan and the Transportation Management Plan commitments. With the continued pay-as-you-go model, the City would meet CTR compliance while only paying for the transit rides taken by staff.

ATTACHMENTS:

Attachment A-Orca Business Passport Agreement



AGREEMENT FOR PURCHASE OF ORCA BUSINESS CARDS AND ORCA BUSINESS PASSPORT PRODUCTS

THIS AGREEMENT (hereinafter, "Agreement") is made and entered into by and among **City of Redmond** ("Business Account") and **King County Metro** ("Lead Agency") on behalf of the following agencies, individually referred to as the "Agency" and collectively as the "Agencies" in this Agreement.

The Snohomish County Public Transportation Benefit Area ("Community Transit")
 The City of Everett ("Everett Transit")
 The King County Metro Transit Department ("King County Metro")
 The Kitsap County Public Transportation Benefit Area ("Kitsap Transit")
 Pierce County Public Transportation Benefit Area Corporation ("Pierce Transit")
 The Central Puget Sound Regional Transit Authority ("Sound Transit")
 The Washington State Department of Transportation, Ferries Division ("Washington State Ferries")

IN CONSIDERATION of the mutual covenants contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1.0 PURPOSE

- 1.1 This Agreement establishes the terms under which certain fare payment-related services, referred to herein as "ORCA Services," will be provided to the Business Account, including but not limited to the prices and terms under which the Business Account may purchase and distribute ORCA Business Cards loaded with a Business Passport Product to its Eligible Business Cardholders. Such ORCA Business Cards may be used to access certain Transportation Services of the Agencies. The specific ridership privileges applicable to the Business Passport Product provided under this Agreement are specified in Attachment 1, *Products, Pricing and Terms*, which is incorporated in this Agreement by this reference, and are subject to Sections 6 and 17 below.
- 1.2 Attachment 1 also establishes the terms under which specific optional products and services (e.g. use of an ORCA Business Card on vanpool; a guaranteed ride home program), if any, shall be provided by one or more individual Agencies.
- 1.3 This Agreement also enables the Business Account to purchase Business Choice Products from the Agencies, via the Business Account Website, at the prices and terms in effect at the time of purchase.
- 1.4 The Business Account understands and agrees that this Agreement applies to its use of ORCA Services including, but not limited to, its purchase of ORCA Business Cards and ORCA Products. This Agreement does not constitute a contract for transportation services. The Agencies have no obligation to the Business Account or any other entity or person to provide any particular level, frequency or routing of transportation service.

REVIEW DRAFT-NOT FOR SIGNATURE**2.0 TERM OF AGREEMENT AND CONTACT PERSONS**

- 2.1 This Agreement shall take effect upon the effective date specified in Attachment 1. Unless terminated in accordance with Section 13, this Agreement shall expire on the last day of the Program Term specified in Attachment 1, or an Amended Attachment 1 that has been signed by a person authorized to bind the Business Account.
- 2.2 The Business Account shall designate a Primary Contact Person in Attachment 2, *Designated Representatives*, which is incorporated in this Agreement by this reference. This Primary Contact Person shall be responsible for managing the Business Account's roles and responsibilities under this Agreement. A Secondary Contact Person shall also be designated in Attachment 2. The Lead Agency may communicate with and rely upon either the Primary or Secondary Contact Person on matters relating to this Agreement.

3.0 DEFINITIONS

- 3.1 *Business Account*. The employer, educational or human services institution, government agency or other entity that has entered into this Agreement enabling it to purchase ORCA Business Cards and ORCA Products for distribution to their employees, students, clients or other constituency.
- 3.2 *Business Account Website*. The website used by the Business Account to manage its account, currently at orcacard.biz.
- 3.3 *Business Choice Products*. The ORCA Products that may be purchased at retail prices to supplement the ORCA Business Passport Product for one or more Business Cardholders (e.g. a WSF monthly pass)
- 3.4 *Business Cardholder(s) or Cardholder(s)*. The individual(s) who are eligible to receive an ORCA Business Card from the Business Account. The eligibility requirements for Business Cardholders are more fully defined in Attachment 3, *Eligible Business Cardholders*, which is incorporated in this Agreement by this reference.
- 3.5 *Business Passport Product*. The ORCA Product loaded on the Business Account's ORCA Business Cards under this Agreement that provides the Business Cardholders an unlimited right-to-ride the regularly scheduled Transportation Services of, or operated by, certain Agencies to the extent specified in Attachment 1.
- 3.6 *Card Block*. An ORCA system process that culminates in invalidating an ORCA Business Card.
- 3.7 *Lead Agency*. The Agency that entered into this Agreement on behalf of itself and the other Agencies and that is responsible for administration of this Agreement on behalf of the Agencies, including invoicing, contract modifications and renewals, and ORCA system support.
- 3.8 *ORCA*. The trademarked name of the system that enables use of a common fare card on the public transportation services provided by any of the Agencies.
- 3.9 *ORCA Business Card (or "Business Card")*. An ORCA fare card issued to a Business Account to enable the loading of ORCA Products for use by a Cardholder to whom it was distributed by the Business Account to access Transportation Services as specified in Attachment 1.

REVIEW DRAFT-NOT FOR SIGNATURE

- 3.10 *ORCA Products*. Any transit fare payment mechanism or electronic voucher offered for sale within the ORCA system by any of the Agencies. Examples include, but are not limited to, monthly or period pass, E-purse, and electronic voucher.
- 3.11 *ORCA Services*. The materials and services that may be provided, from time to time, under the ORCA program, including but not limited to the ORCA Business Cards, ORCA Products, ORCA Websites, data, information, and any equipment, systems and services related to the ORCA program.
- 3.12 *Parties*. The Business Account and the Agencies (which include the Lead Agency) may be collectively referred to as "Parties."
- 3.13 *Primary Contact Person*. The individuals identified as the primary contact points for the Lead Agency and the Business Account, as listed in Attachment 2 or as modified from time to time.
- 3.14 *Product Block*. An ORCA system process that culminates in invalidating an ORCA Product without invalidating the card on which it is loaded.
- 3.15 *Transportation Services*. Those public transportation services provided by the Agencies that are specified in Attachment 1.

4.0 PRICES AND PAYMENT TERMS

- 4.1 The prices and payment terms applicable to this Agreement are specified in Attachment 1. Such terms shall include: (a) the amounts due for the Business Cards, Business Passport Product, and any other products, services and fees; (b) the timing of payments, and (c) the acceptable method of payment. Each order submitted by the Business Account for ORCA Business Cards and/or any ORCA Products will be subject to the provisions of this Agreement.
- 4.2 The Business Account's purchase of any Business Choice Products via the Business Account Website will be at the prices and terms in effect at the time of order. The Business Account is responsible for reviewing the prices in effect before submitting each order and shall be deemed to have agreed to the then-applicable prices by submitting the order.
- 4.3 Payment in full is due as specified in Attachment 1.
- 4.4 If for any reason payment in full is not received by the date due, if a payment is not honored due to non-sufficient funds (NSF) or if for any reason a payment is negated or reversed, the Lead Agency will notify the Business Account of the payment problem and, if full and clear payment is not received within ten (10) calendar days of such notification, the Lead Agency may:
 - 4.4.1 refuse to process new orders for ORCA Business Cards and block the loading of new ORCA Products by or for the Business Account;
 - 4.4.2 assess any late payment, NSF and collection fees to the maximum amount permitted by law;
 - 4.4.3 initiate a Card Block or Product Block on the Business Cards issued to the Business Account, rendering them ineffective for use by the Cardholders, until

REVIEW DRAFT-NOT FOR SIGNATURE

- such time as the Business Account pays the full amount due, including any late payment, NSF and fees, in a manner acceptable to the Lead Agency; and
- 4.4.4 suspend or terminate access rights to the Business Account's secured area of the website.
- 4.5 In addition to any other obligations it may have under this Agreement and at law, the Business Account agrees to pay to the Lead Agency any reasonable collection fees incurred in collecting amounts due from the Business Account.
- 5.0 PURCHASE, OWNERSHIP, DISTRIBUTION AND REPLACEMENT OF ORCA BUSINESS CARDS**
- 5.1 *Ordering ORCA Business Cards.* The Business Account shall order ORCA Business Cards via the ORCA Business Accounts Website, in accordance with the directions provided on that website, and shall make payment as provided in Attachment 1. If additional cards are required, the Business Account may be required to pay the standard card fee and other applicable fees as specified in Attachment 1.
- 5.2 *Receipt and Ownership of ORCA Business Cards.* Upon actual or constructive receipt of the ORCA Business Cards it has ordered, the Business Account shall become the owner of the ORCA Business Cards. The Business Account shall be deemed to have constructively received all ordered ORCA Business Cards unless it notifies the Lead Agency of any non-delivery or incorrect delivery within thirty (30) days after the order was placed. If the Business Account notifies the Lead Agency that it has not received the ordered cards, the Lead Agency will ship a replacement order. If the Business Account subsequently receives the cards reported as missing, the Business Account is responsible for returning them to the Lead Agency.
- 5.3 *Storage and Risk of Loss.* The Business Account is responsible for the storage, distribution and use of the ORCA Business Cards issued to it. The Business Account bears the sole risk of any loss, damage, theft or unauthorized use of one of its cards, whether such card is held in its inventory or has been distributed for use. The Business Account is responsible for the cost of any use of its Business Cards until the effective date of a Card Block that may be initiated as provided below.
- 5.4 *Distance Based Transit Fare.* The Business Account is responsible for communicating to Cardholders that "distance based fares" are charged on some systems such as: Link light rail, and Sounder commuter rail systems. On distance based fare modes, when the Cardholder "taps on," the ORCA system will record the trip to the last stop on the line. When the Cardholder "taps off" at the end of the ride, ORCA will record the actual ride. The Business Account then will be charged the correct fare for the actual ride taken. If the Cardholder fails to "tap off", then ORCA will record a ride to the end of the line. The result of not "tapping off" is that the Business Account will be charged the largest fare for the ride even if a shorter ride was taken.
- 5.5 *Distribution of ORCA Business Cards.* The Business Account is responsible for distributing its Business Cards for use by its Eligible Business Cardholders. The Business Account remains the owner of all Business Cards it distributes but a cardholder may also purchase and load individual ORCA products on a Business Card and individually register the card. To enable Cardholders to register Business Cards as provided in Section 6 below, the Business Account may not register, or allow anyone other than the Cardholder to register, the Business Cards that are issued under this Agreement.

REVIEW DRAFT-NOT FOR SIGNATURE

The Business Account shall require that the Cardholder, as a condition of receiving a Business Card, is informed of the Cardholder Rules of Use, incorporated in this Agreement as Attachment 4 *ORCA Business Cardholder Rules of Use*, through your business' standard means of communicating policies.

The Business Account understands and agrees that it is solely responsible for implementation and enforcement of the Cardholder Rules of Use.

- 5.6 *Proof of payment.* The Business Account is responsible for notifying Cardholders that proof of payment must be made by tapping the ORCA Card on the card reader in the manner required by each Agency; otherwise, the Cardholder may be subject to a fine if the ORCA Card is not tapped, and the Cardholder will be personally responsible for any fines that may be imposed.
- 5.7 *Business Account Access to Personally Identifying Information.* If an individual Cardholder opts to register one of the Business Cards issued to the Business Account, any personally identifying information provided to the ORCA System (e.g. name, address, telephone number, and credit card number) will not be accessible by the Business Account. If the Business Account collects any personally identifying information about individuals to whom it has distributed Business Cards, the Business Account is solely responsible for its collection, use, storage and disclosure of such information.
- 5.8 *Card Blocks.* In the event a Business Card is determined to be lost or stolen or if a Cardholder is determined by the Business Account to be no longer eligible to use the card, the Business Account may initiate a Card Block via the Business Account Website to invalidate the subject Business Card. The Lead Agency may also initiate a Card Block or a Product Block as to any of the Business Account's Business Cards at the request of the Business Account, or at the sole discretion of the Lead Agency in accordance with Section 4.4, or if it is suspected that a card has been altered, duplicated, counterfeited, stolen or used by an ineligible Cardholder. Once initiated, a Card Block must be processed in the ORCA system and downloaded to all reader devices throughout the region. Until that occurs, there is the potential that the Business Passport Product and any E-purse value or other ORCA Products on the subject card will continue to be used. The Business Account, not the Agencies, remains responsible for all transactions, and any loss or costs arising there from, for forty-eight (48) hours after the Card Block was initiated.
- 5.9 *Restoration of Value After Card Block.* Following a Card Block, the Business Account may request the Lead Agency to restore value on a replacement of the blocked Business Card. An E-purse on a blocked card will be restored on the replacement card in approximately ten (10) calendar days after the replacement card is issued. The E-purse amount that remained on the lost or stolen card, forty-eight (48) hours after the Card Block was initiated in the ORCA system, will be restored to the replacement card via a remote revalue function. An E-purse on a blocked card will be restored on the replacement card on the eighth day after the card has been issued. The card must then be tapped to activate the E-purse value.
- 5.10 *Card Replacement.* The Business Account is responsible for ordering and paying for any new cards needed to replace Business Cards that for any reason cease to be available or suitable for use by the Cardholders under the program of the Business Account, including but not limited to, if the unavailability or unsuitability is caused by damage, abuse, loss, theft, Card Block, and end of useful life. Provided, however, and notwithstanding the exclusion of warranties in Section 14, if a Business Card malfunctions within twelve (12) months after it was delivered to the Business Account, it shall be replaced by the Lead

REVIEW DRAFT-NOT FOR SIGNATURE

Agency without additional charge to the Business Account if the malfunction was caused by a defect in design, material or workmanship and was not caused by misuse, an intentional act, negligence or damage, reasonable wear and tear excepted. The Business Account understands and agrees that to avoid the disruption and inconvenience caused by sporadic failures as its cards are used, it must plan for replacement of its Business Cards on a regular basis. As a condition of continuing under the Business Passport program, the Business Account agrees that: (a) it will retire all of its ORCA Business Cards at sometime within four years after they are issued by the Lead Agency to the Business Account; and (b) purchase replacement Business Cards at the then-applicable rate.

6.0 CARDHOLDER USE OF ORCA BUSINESS CARDS

Cardholder Privileges. The Business Account understands and agrees that, although it remains the owner of ORCA Business Cards after distribution, the Cardholder has the following privileges in connection with the use of an ORCA Business Card.

- 6.1 The Cardholder may present an ORCA Business Card, loaded with a valid, applicable Business Passport or Business Choice Product, to an ORCA fare transaction processor as proof of payment of all or a portion of a required fare on a regular transportation service operated by one or more of the Agencies. (Provided, however, an ORCA Product that is not sufficient to fully pay a fare will not be accepted as partial payment by the Washington State Ferries.) In all cases, a Cardholder will be required to make other payment to the extent a fare is not covered by an ORCA Product.
- 6.2 The Cardholder may individually purchase ORCA Products and load them on the Business Card in addition to any ORCA Product loaded by the Business Account. Individual ORCA Products may be used to pay all or a portion of a required fare on a transportation service not covered by a Business Passport Product or Business Choice Product. (Provided, however, an ORCA Product that is not sufficient to fully pay a fare will not be accepted as partial payment by the Washington State Ferries.) In all cases, a Cardholder will be required to make other payment to the extent a fare is not covered by an ORCA Product.
- 6.3 The Cardholder may register his/her name and other contact information with the ORCA System and link such personal information to the serial number of the Business Card provided to him/her. Such registration does not give the Cardholder any ownership rights in the card but does give the Cardholder the right to access the ORCA Cardholder Website to view the card's transaction history and current stored value, to modify travel zone preferences, and to add retail products.
- 6.4 The Cardholder's personally identifying information is generally exempt from disclosure under the Washington Public Records Act (Chapter 42.56 RCW) as more specifically outlined in RCW 42.56.330(5).

7.0 NO RETURNS OR REFUNDS

Except as otherwise provided herein or in Section 13.2, the Business Account understands and agrees that its purchases of Business Cards, and Business Passport Products and Business Choice Products purchased for such cards, are final and it is not entitled to any refunds. Provided, however, the Business Account may request a refund of the E-purse value remaining on a Business Card if the card is surrendered by the Business Account to the Lead Agency. Upon surrender of the subject Business Card, the Lead Agency shall initiate a Card Block and the refund processed approximately ten (10) calendar days after the Card Block was initiated. The E-purse

REVIEW DRAFT-NOT FOR SIGNATURE

amount refunded will be that which remained on the surrendered card forty-eight (48) hours after the Card Block was initiated in the ORCA system. A processing fee of ten dollars (\$10) may be payable by the Business Account to the Lead Agency for each refund that is processed, regardless of E-purse value or number of cards refunded. The Business Account, not the Lead Agency, is responsible for the refunding of such E-purse value, if any, to the individual Cardholder to whom the Business Card had been distributed.

8.0 BUSINESS ACCOUNT WEBSITE

- 8.1 The Business Account Website is the primary means by which the Business Account shall purchase ORCA Business Cards, Business Passport and Business Choice Products, manage its Business Cards and obtain information about the use of said cards. As a condition of participation in the Business Passport program, the Business Account agrees that it will use the Business Account Website when it is available and that each access and use of said website shall be subject to the Terms of Use and Privacy Statement that are in effect and posted on the Business Account Website at the time of such access and use.
- 8.2 The Business Account understands and agrees that uninterrupted access to and use of the Business Account Website is not guaranteed and agrees that it will contact its representative at the Lead Agency by email or telephone if the website is not available.
- 8.3 At the time the Business Account enters into the ORCA program, the Lead Agency will provide a single password to the Business Account's Primary Contact, as specified in Attachment 2, to enable user access to the Business Account's secured area of the Business Account Website. The Business Account is required to change the temporary password to one of its own creation. The Business Account shall be solely responsible for the number and identity of those employees with whom the Business Account's password is shared. The Business Account is also solely responsible for complying with the security standards specified in Attachment 5, *ORCA Business Account Security Standards*, which is incorporated in this Agreement by this reference.

9.0 INFORMATION PROVIDED BY THE AGENCIES AND THE ORCA SYSTEM

- 9.1 The Business Account understands and agrees that the data, reports or any information provided to it via the Business Account Website or otherwise, is and remains the sole property of the Agencies and nothing shall be construed as a transfer or grant of any copyright or other property interest in such data, reports or information. The Agencies hereby grant to the Business Account a non-exclusive license to use any data, reports or information provided by the Agencies, via the Business Account Website or otherwise, for any lawful purpose related to the administration of the transportation benefits program of the Business Account.
- 9.2 The ORCA System will record data each time an ORCA Business Card is presented to an ORCA device for fare payment and to load a product. Such transaction data includes, but is not limited to, the date, time, and location (or route) of the transaction. The Business Account may routinely access such transaction data related to its Business Cards to the extent provided via the Business Account Website. Said website and its reports do not provide the Business Account Business Card transaction data linked to card serial numbers.

For the purpose of preventing fraud, the Primary Contact Person of the Business Account may submit a written request to the Lead Agency for transaction data related to a specific

REVIEW DRAFT-NOT FOR SIGNATURE

card number or for a card number linked to a specific transaction. Fraud is defined as intentional deception or misrepresentation by a person with knowledge that it will result in an unauthorized benefit to him, her, or some other person. The submittal is not intended to be used to request data for multiple cards or all cards managed by the Business Account.

The written request shall include the following:

- 9.2.1 Card number or the date, time and other known details about the specific transaction for which a card serial number is being requested;
- 9.2.2 Detailed statement as to why the information is germane to the prevention of fraud; and
- 9.2.3 The signature of the Primary Contact Person.

If the Lead Agency determines that the subject transaction(s) is linked to a Business Card issued to the Business Account, the Lead Agency will provide the Business Account with the card serial number linked to the requested transaction(s). The Business Account agrees that it will use such card serial number information only for purposes of enforcing the Rules of Use, as provided to the Cardholder. The Business Account must maintain its own records if it wishes to identify the card serial number issued to an individual.

10.0 PUBLIC RECORDS

The Business Account understands and agrees that all records related to its participation in the ORCA System are public records under the Washington Public Records Act (Chapter 42.56 RCW) ("Act"), including but not limited to: (a) this Agreement and the sales activity hereunder; (b) the orders, communications, and any other information provided by the Business Account to the Lead Agency, the other Agencies or the ORCA System, whether provided via this website or otherwise and whether provided in hard copy or electronic form; (c) any communications, responses, requests, reports or information of any kind provided to the Business Account from the Lead Agency, the other Agencies or the ORCA System; and (d) all data, reports and information of any kind related to the loading of products on, and the use of, the Business Cards issued to the Business Account. As public records, these records will be made available for public inspection and copying upon request, unless the Lead Agency determines they are exempt from disclosure.

11.0 INDIVIDUAL USE OF BUSINESS CARD AFTER LEAVING A BUSINESS ACCOUNT

The Business Account is encouraged to collect Business Cards from Cardholders who are no longer eligible for the Business Account's transportation benefits program. In any case, the Business Account is solely responsible for initiating a Card Block or Product Block in accordance with this Agreement to prevent any continued use of, and financial liability for, a card that had been distributed to a person who is no longer eligible.

12.0 ORCA SERVICES SUBJECT TO CHANGE

The Agencies seek to continually improve and enhance the ORCA Services. With thousands of employers, schools, and other entities entering into business account agreements at varying dates in the year, the Agencies are unable to guarantee to each business account that the ORCA Services will not change during the term of its agreement. The Business Account understands and agrees that one or more ORCA Services may be changed, suspended or terminated from

REVIEW DRAFT-NOT FOR SIGNATURE

time to time without prior notice to, or agreement by, the Business Account, including but not limited to changes in the look, feel, content and functions of the Business Account Website. If the Business Account is dissatisfied with a change in the ORCA Services, however, it may terminate this Agreement for its convenience in accordance with the provisions of Section 13.2.

13.0 TERMINATION

- 13.1 The Lead Agency may at any time terminate this Agreement if the Business Account fails to make timely and effective payment of all amounts due, or otherwise materially breaches the Agreement, or acts in manner indicating that it intends to not comply, or is unable to comply, with the Agreement. To effect such a termination for cause, the Lead Agency shall send email notice to the last known email address for the last known primary contact person of the Business Account describing the manner in which the Business Account is in default and the effective date of termination. If the basis for termination is a failure to perform that can be cured, the termination shall not take effect so long as the Business Account cures the default within ten (10) calendar days of the sending of the email notice. Upon the effective date of such termination, the Lead Agency may immediately terminate the website access privileges of the Business Account, block the Business Cards issued to the Business Account and decline to accept and fulfill any pending or new orders from the Business Account. In the event of such a termination for cause, the Business Account shall not be entitled to any refund of any amounts paid.
- 13.2 Either the Business Account or the Lead Agency may terminate the Agreement without cause and for its own convenience by sending the other party written or email notice at least thirty (30) days in advance of the effective date of the termination. Upon receipt of a notice of termination for convenience from the Business Account, the Lead Agency may, in its sole discretion, waive the advance notice period and immediately terminate the website access privileges of the Business Account, initiate a Card Block on the Business Cards issued to the Business Account, and decline to accept and fulfill any pending or new orders from the Business Account. In the event of such a termination for convenience and not cause, the amounts due under this Agreement shall be calculated by the Lead Agency. (The amounts due for the ORCA Passport Product and any optional products listed in Attachment 1 shall be the annual amounts due prorated for the number of months during which the Passport Product and optional products were valid for at least one day.) If the Business Account has not paid in full all of the amounts due under this Agreement as of the termination date, the Business Account shall immediately pay the remaining amount due. If the Business Account has paid more than all of the amounts due under this Agreement as of the termination date, the Business Account shall be entitled to a refund of the excess it has paid.
- 13.3 Notwithstanding any termination of the Agreement, the Business Account shall remain liable to satisfy and comply with all of its obligations under this Agreement and at law with regard to, or arising out of, any orders submitted or any of its acts or omissions occurring prior to the effective date of the termination, including but not limited to paying all amounts due or incurred prior to the effective date of the termination and any fees, charges, collection costs or other costs arising from a failure to make timely and effective payment.

14.0 EXCLUSION OF WARRANTIES

- 14.1 ALL ORCA SERVICES PROVIDED ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. ANY USE OF THE ORCA SERVICES IS AT THE BUSINESS ACCOUNT'S SOLE DISCRETION AND RISK.

REVIEW DRAFT-NOT FOR SIGNATURE

14.2 BY WAY OF EXAMPLE, AND NOT LIMITATION, THE LEAD AGENCY AND EACH OF THE OTHER AGENCIES SPECIFICALLY DO NOT REPRESENT AND WARRANT THAT:

- A. THE BUSINESS ACCOUNT'S USE OF THE ORCA SERVICES WILL BE UNINTERRUPTED, TIMELY, FREE FROM ERROR AND OTHERWISE MEETING ITS REQUIREMENTS;
- B. ANY INFORMATION OBTAINED BY THE BUSINESS ACCOUNT AS A RESULT OF USING THE ORCA SERVICES WILL BE ACCURATE AND RELIABLE; AND
- C. ANY USE OF THE ORCA WEBSITES, INCLUDING BUT NOT LIMITED TO THE CONTENT OR MATERIAL DOWNLOADED FROM SAID WEBSITES, WILL BE FREE OF DEFECTS, VIRUSES, MALWARE, HACKS OR POTENTIALLY HARMFUL INTRUSIONS.

14.3 TO THE EXTENT PERMITTED BY LAW, THE LEAD AGENCY AND EACH OF THE OTHER AGENCIES DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO: ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; ANY WARRANTIES OF QUIET ENJOYMENT OR NON-INFRINGEMENT; AND ANY WARRANTIES CREATED BY TRADE USAGE, COURSE OF DEALING, OR COURSE OF PERFORMANCE.

14.4 NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM THE AGENCIES OR THE ORCA SYSTEM SHALL REVISE OR CREATE ANY WARRANTY.

15.0 NOTICES

15.1 Any notice required to be given under the terms of this Agreement shall be directed either by email or regular mail to the Parties' Designated Representatives, as specified in Attachment 2, or to the last person and address provided by a Party in accordance with Section 15.2.

15.2 Each Party shall immediately notify the other Parties of any changes to its Designated Representatives' contact information. The Business Account shall also immediately notify the Lead Agency of any changes in any other information provided in its application.

16.0 FORCE MAJEURE

The Agencies and each of them shall be relieved of any obligations under this Agreement to the extent they are rendered unable to perform, or comply with such obligations as a direct or indirect result of a force majeure event, or any other circumstance not within such party's control, including, but not limited to, acts of nature, acts of civil or military authorities, terrorism, fire or water damage, accidents, labor disputes or actions, shutdowns for purpose of emergency repairs, or industrial, civil or public disturbances.

17.0 APPLICATION OF AGENCY FARES AND OTHER POLICIES

The purchase, distribution and use of Business Cards and ORCA Products by the Business Account and its Cardholders, and access to and use of the ORCA websites, shall be subject to all applicable federal, state and local law, regulations, ordinances, codes and policies, including

REVIEW DRAFT-NOT FOR SIGNATURE

but not limited to the ORCA Terms of Use and Privacy Statement (posted on the ORCA websites and available in printed form upon request to the Lead Agency), and the Agencies' respective fares, transfer rules, codes of conduct and other operating policies and procedures.

18.0 PROHIBITED DISCRIMINATION

The Business Account shall not discriminate on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or presence of any sensory, mental, or physical handicap in the administration of its transportation benefits program, the provision of ORCA Business Cards and ORCA Products, or the performance of any acts under this Agreement. The Business Account shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations which prohibit such discrimination.

19.0 COMPLIANCE WITH APPLICABLE LAW

The Business Account shall be solely responsible for compliance with all applicable federal, state and local laws, regulations, resolutions and ordinances, including, but not limited to, any provisions relating to the Business Account's provision of compensation, benefits or services to employees or others (e.g. including, but not limited to, transportation fringe benefits) and any reporting, tax withholding, or other obligations related thereto. The Business Account expressly acknowledges and agrees that it has not relied on any representations or statements by the Agencies and will not rely on them to provide any legal, accounting, tax or other advice with regard to the Business Account's provision of compensation, benefits or services to employees or others (e.g. including, but not limited to, transportation fringe benefits) and any reporting, withholding or other obligations related thereto.

20.0 LEGAL RELATIONS

20.1 *No Partnership, Agency or Employment Relationship Formed.* The Business Account and the Agencies are independent parties and nothing in this Agreement shall be construed as creating any joint venture, partnership, agency or employment relationship between and among them or their respective employees. Without limiting the foregoing, the Business Account understands and agrees that none of its employees or agents shall be deemed employees or agent, for any purpose, of any of the Agencies and the Business Account is solely responsible for the acts of its agents and employees and their compensation, wages, withholdings and benefits.

20.2 LIMITATION ON LIABILITY

- A. THE LEAD AGENCY AND EACH OF THE OTHER AGENCIES SHALL NOT BE LIABLE FOR, AND THE BUSINESS ACCOUNT HOLDS EACH AGENCY HARMLESS FROM, ANY LOSS OR DAMAGE ARISING OUT OF OR RELATED TO:**
 - 1. ANY RELIANCE PLACED BY THE BUSINESS ACCOUNT ON THE COMPLETENESS, ACCURACY OR EXISTENCE OF ANY INFORMATION PROVIDED TO THE BUSINESS ACCOUNT BY OR THROUGH THE ORCA SERVICES;**
 - 2. ANY CHANGES TO THE ORCA SERVICES OR THE TEMPORARY OR PERMANENT CESSATION OF ANY SUCH SERVICES (OR FEATURES WITHIN A SERVICE);**

REVIEW DRAFT-NOT FOR SIGNATURE

3. THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY INFORMATION MADE AVAILABLE TO THE BUSINESS ACCOUNT, OR GENERATED BY THE USE OF THE ORCA SERVICES UNDER THIS AGREEMENT INCLUDING, BUT NOT LIMITED TO, THE USE OF THE ORCA BUSINESS CARDS ISSUED UNDER THIS AGREEMENT;
 4. THE BUSINESS ACCOUNT'S FAILURE TO PROVIDE THE LEAD AGENCY WITH ACCURATE ACCOUNT INFORMATION; AND
 5. THE BUSINESS ACCOUNT'S FAILURE TO KEEP INFORMATION SECURE AND CONFIDENTIAL.
- B. THE LEAD AGENCY AND EACH OF THE OTHER AGENCIES SHALL NOT BE LIABLE FOR, AND THE BUSINESS ACCOUNT HOLDS EACH AGENCY HARMLESS FROM, ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES INCURRED BY THE BUSINESS ACCOUNT UNDER ANY THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF TIME, LOSS OF PROFITS, LOSS OF PRIVACY, LOSS OF DATA, LOSS OF GOODWILL OR BUSINESS REPUTATION, WHEN SUCH DAMAGES ARISE OUT OF, OR ARE RELATED TO, THIS AGREEMENT OR THE ORCA SERVICES, WHETHER OR NOT ONE OR MORE AGENCIES HAS BEEN ADVISED OF, OR SHOULD HAVE BEEN AWARE OF, THE POSSIBILITY OF ANY SUCH DAMAGES ARISING.
- C TO THE EXTENT ONE OR MORE OF THE AGENCIES INCURS ANY LIABILITY FOR A BREACH OF THIS AGREEMENT, OR ANY DUTY RELATED TO THE ORCA SERVICES, AND SUCH LIABILITY THAT IS NOT EXCLUDED UNDER THE TERMS OF THIS AGREEMENT, THE EXCLUSIVE, AGGREGATE REMEDY AGAINST THE LEAD AGENCY AND EACH OTHER AGENCY WILL BE, AT THE OPTION OF THE APPLICABLE AGENCIES: (A) THE CORRECTION, SUBSTITUTION OR REPLACEMENT OF ALL OR PART OF THE ORCA SERVICES GIVING RISE TO THE BREACH, OR (B) A REFUND OF THE AMOUNT PAID BY THE BUSINESS ACCOUNT FOR THE ORCA SERVICE CAUSING THE DAMAGE, THE AMOUNT OF WHICH WILL NOT EXCEED THE DAMAGES (OTHER THAN THOSE EXCLUDED ABOVE) ACTUALLY INCURRED BY THE BUSINESS ACCOUNT IN REASONABLE RELIANCE.

THE DAMAGE EXCLUSIONS AND LIMITATIONS ON LIABILITY IN THE AGREEMENT SHALL APPLY EVEN IF ANY REMEDY FAILS FOR ITS ESSENTIAL PURPOSE.

- 20.3 *No Waiver.* The Business Account agrees that if the Lead Agency does not exercise or enforce any legal right or remedy which is contained in the Agreement or under applicable law, this will not be taken to be deemed to be a waiver or modification of the Lead Agency's rights and remedies, and that those rights or remedies will still be available to the Lead Agency.
- 20.4 *Governing Law and Forum.* This Agreement and all provisions hereof shall be interpreted and enforced in accordance with, and governed by, the applicable law of the State of Washington and of the United States of America without regard to its conflict of laws provisions. The exclusive jurisdiction and venue for conducting any legal actions arising under this Agreement shall reside in either the Federal District Court or the State of

REVIEW DRAFT-NOT FOR SIGNATURE

Washington Superior Court, as applicable, that is located in the county in which the Lead Agency's primary administrative office is located. The Business Account hereby consents to personal jurisdiction and venue in said courts and waives any right which it might have to conduct legal actions involving the Agencies in other forums.

- 20.5 *Attorneys' Fees and Costs.* In the event of litigation between the parties related to this Agreement, the Court is authorized to award the substantially prevailing party its costs, fees and expenses including reasonable attorney fees to the extent authorized by the Court and permitted by applicable law.
- 20.6 *Survival.* Sections 4, 5, 9, 14 and 20 shall survive and remain effective notwithstanding any termination of this Agreement.
- 20.7 *Use of ORCA name and logos.* The Business Account understands and agrees that the "ORCA" name and logos are trademarked and that it will not copy or use them and any other trade names, trademarks, service marks, logos, domain names, and other distinctive features or intellectual property of the Agencies without written permission. The Agencies understand and agree the Business Account name and logo may be trademarked and that it will not copy or use them and any other trade names, trademarks, service marks, logos, domain names, and other distinctive features or intellectual property of the Business Account without written permission.

21.0 SUCCESSORS AND ASSIGNS

This Agreement and all terms, provisions, conditions and covenants hereof shall be binding upon the parties hereto, and their respective successors and assigns; provided, however, no Party may assign or delegate the duties performed under this Agreement without the written agreement by the Lead Agency, the Business Account and the assignee.

22.0 ENTIRE AGREEMENT AND WRITTEN AMENDMENTS

This Agreement constitutes the entire agreement between the Business Account and the Lead Agency, on behalf of all Agencies, related to the Business Account's use of and access to ORCA Services (but excluding any services which Lead Agency may provide under a separate written agreement), and completely replaces and supersedes any prior oral or written representations or agreements in relation to fare media consignment and sales or to ORCA Services. No oral agreements or modifications will be binding on the parties and any changes shall be effective only upon a written amendment being signed by the parties.

23.0 SEVERABILITY

In the event any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable or invalid, then the meaning of that provision shall be construed, to the extent feasible, to render the provision enforceable, and if no feasible interpretation would save such provision, it shall be severed from the remainder of the Agreement which shall remain in full force and effect unless the provisions that are invalid and unenforceable substantially impair the value of the entire Agreement to any party.

24.0 AUTHORITY TO EXECUTE

Each party to this Agreement represents and warrants that: (i) it has the legal power and authority to execute and perform this Agreement and to grant the rights and assume its obligations herein; and (ii) the person(s) executing this Agreement below on the party's behalf is/are duly authorized

REVIEW DRAFT-NOT FOR SIGNATURE

to do so, and that the signatures of such person(s) is/are legally sufficient to bind the party hereunder.

25.0 COUNTERPARTS

This Agreement may be executed in two (2) counterparts, each one of which shall be regarded for all purposes as one original.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement as of the Effective Date.

BUSINESS ACCOUNT	LEAD TRANSPORTATION AGENCY
BY: _____ Angela Birney	BY: _____ Carol Cooper
Title: _____ Mayor, City of Redmond	Title: _____ Managing Director, Market Innovation
Business Name: _____ City of Redmond	Agency: _____ King County Metro
Date: _____	Date: _____

REVIEW DRAFT-NOT FOR SIGNATURE**ATTACHMENT 1****PRODUCTS, PRICING AND TERMS – BUSINESS PASSPORT Per Trip Rate**

Business Account: City of Redmond
 ORCA Business ID#: 1282
 Federal Tax ID #: 91-6001492
 Agreement Type: Business Passport
 Program Term: August 1, 2021 – July 31, 2022

Business Passport Products

- Valid for full fare and unlimited rides on
 - **Bus:** Community Transit, Everett Transit, King County Metro, Kitsap Transit, Pierce Transit, and Sound Transit.
 - **Ferry:** King County Water Taxi and Kitsap Local Ferries and Fast Ferries
 - **Monorail**
 - **Rail:** Sound Transit Link light rail and Sound Transit Sounder (including Rail Plus partnership with Amtrak *Cascades*).
 - **Streetcar:** Seattle Streetcar
 - **Paratransit Transportation:** King County Metro Access, Kitsap Transit Access, and Pierce Transit SHUTTLE.
- **Vanpool:** 100% fare subsidy on Community Transit, King County Metro, Kitsap Transit, and Pierce Transit vanpool vans.
- **Vanshare:** 100% fare subsidy on Community Transit, King County Metro, Kitsap Transit, and Pierce Transit vanshare vans.
- **ORCA Cards:** Business Account logo printed on ORCA Cards.

Business Passport Pricing

Product	Cost
Transit	E-purse per trip rate
Cards	\$5.00 each
Card Logo Printing	\$0.50 each card
Administrative Fee	\$750
Vanpool/Vanshare—King County Metro	\$0
Vanpool/Vanshare—Community Transit	\$0
Vanpool/Vanshare—Kitsap Transit	\$0
Vanpool/Vanshare—Pierce Transit	\$0

Transit Per Trip Rate

The Transit Per Trip Rate uses ridership data from the ORCA System to calculate costs. The ORCA System calculates the apportioned value for each boarding based on the E-purse equivalent value. The E-purse equivalent value accounts for transfers as shown below.

- Single leg trips are apportioned to the transit agency where the boarding took place at CEFFV (Cash Equivalent Full Fare Value).
- Multi-leg trips are apportioned as follows:
 - $\text{Apportioned Value} = \text{Highest CEFFV among the linked boardings} \times \text{Weight of Linked Trip}$
 - $\text{Weight of Linked Trip} = \text{Agency Trip Rate} / \text{Sum of Trip Rates}$

REVIEW DRAFT-NOT FOR SIGNATURE

- The values are then summed up by Participating Agency and invoiced to the customer.

Card Costs

Card orders can be placed by the customer on the Business Account website.

Cards cost five dollars (\$5) each and will be invoiced per payment terms.

Card logos cost fifty cents (\$0.50) per card and will be invoiced per payment terms.

Card Logo Permission

The Business Account hereby grants permission for the Agencies to print the Business Account's name and logo on the Business Account's ORCA Business Cards and no further permission is required.

Vanpool and Vanshare Service

The vanpool/vanshare subsidy dollar amounts specified above are based on the estimated usage by Eligible Employees of each included Agency's vanpool/vanshare services.

- If the vanpool/vanshare dollar amount specified above is less than the amount due for actual usage by Eligible Employees for any of the included Agency's vanpool/vanshare services under this Agreement, the provider Agency may invoice the Business Account for the additional use.
- If the Business Account enters into a successor agreement to this Agreement, the difference between the specified amount above and the actual amount due to each included Agency under this Agreement will be calculated. An overpayment under this Agreement will be subtracted from the amount specified in the successor agreement. A deficit under this Agreement will be added to the amount specified in the successor agreement, if the provider Agency did not submit a supplemental invoice.
- If this Agreement is terminated or expires without the Business Account entering into a successor agreement, the difference between the specified amount above and the actual amount due each included Agency under this Agreement will be calculated. An overpayment under this Agreement will be credited against any amount still due from the Business Account, or reimbursed by the provider Agency if none is still due. A deficit under this Agreement shall become immediately due and payable by the Business Account to the provider Agency.

Employee Contributions: Employees may contribute up to 50% of the price per eligible employees.

Business Passport Payment Terms

- Transit usage (trips taken on Bus, Ferry, Monorail, Rail, Seattle Streetcar), card orders and card logo fees will be invoiced monthly, due net 30 days from receipt of invoice.
- Administrative fees, and Vanpool/Vanshare costs will be invoiced in full at the start of the Program Term, due net 30 from receipt of invoice.

REVIEW DRAFT-NOT FOR SIGNATURE**ATTACHMENT 2****DESIGNATED REPRESENTATIVES**

	BUSINESS ACCOUNT - Contact 1 and Card Delivery Address	LEAD AGENCY – Contact 1
Name	LaNaya Myers	Cindy Chen
Title	Employee Transportation Coordinator	Customer Relationship Manager
Address	City of Redmond	King County Metro Transit
	15670 N.E. 85th Street	201 South Jackson Street
	P.O. Box 97010	MS: KSC-TR-0326
	Redmond, WA 98073-9710	Seattle, WA 98104
Telephone	425-556-2482	206-263-8952
E-Mail	lmyers@redmond.gov	cchen@kingcounty.gov
	BUSINESS ACCOUNT – Contact 2	BUSINESS ACCOUNT - Billing Address
Name	Sarah Pyle	LaNaya Myers
Title	Planning Manager	Employee Transportation Coordinator
Address	City of Redmond	City of Redmond
	15670 N.E. 85th Street	15670 N.E. 85th Street
	P.O. Box 97010	P.O. Box 97010
	Redmond, WA 98073-9710	Redmond, WA 98073-9710
Telephone	425-556-2426	425-556-2482
E-Mail	spyle@redmond.gov	lmyers@redmond.gov

REVIEW DRAFT-NOT FOR SIGNATURE**ATTACHMENT 3****ELIGIBLE BUSINESS CARDHOLDERS****Definition and Number of Eligible Participants**

Definition of Eligible Participants	All employees who work at the City of Redmond.
Number of Eligible Participants	Number = 500

REVIEW DRAFT-NOT FOR SIGNATURE**ATTACHMENT 4****SAMPLE - ORCA BUSINESS CARDHOLDER RULES OF USE**

(Note: business account can customize content for means of communicating with employees.)

As a Business Account Cardholder, I agree to the following:

1. I understand that the ORCA Business Card is owned by the employer that provided it to me and it has been provided to me for my personal use only. I agree that I will not sell or transfer my assigned ORCA Card to another person. If I violate these terms of use, my ORCA Card may be blocked from further use.
2. I will keep my assigned ORCA Business Card secure and in good condition, and I will immediately report a lost, stolen, or damaged ORCA Business Card to my company's Transportation Coordinator. I understand an ORCA Business Card will be replaced at the fee charged by my company.
3. I will return my assigned ORCA Business Card upon request or when I leave my employment or otherwise do not meet the eligibility requirements of my company. If I do not return my ORCA Business Card, I understand that it may be blocked for further use.
4. I understand that my ORCA Business Card is valid for the following provided by the listed transportation Agencies.
 - a. 100% of fares on regularly scheduled transportation service on Community Transit, Everett Transit, King County Metro, King County Water Taxi, Kitsap Transit and Kitsap Ferries, Monorail, Pierce Transit, Sound Transit, and Seattle Streetcar.
 - b. 100% of vanpool and vanshare fares on vanpool services provided by Community Transit, King County Metro, Kitsap Transit, and Pierce Transit.
5. I understand and will comply with policies of my employer or other institution that provided my ORCA Business Card.
6. I understand that the ORCA Business Card is not valid for fare payment on transportation services not specified in Section 4 and I am responsible for paying any additional fares required for services not covered, or not fully covered, by my assigned ORCA Business Card.
7. I understand that any additional ORCA Products I load onto my assigned ORCA Card will become the property of the company that owns my ORCA Business Card and the refund, if any, of such products will be made by the company according to its refund policy.
8. I understand in the event any ORCA Products I load onto my assigned ORCA Card must be replaced, I am responsible for any fares required during the replacement period.
9. I understand the ORCA system will record data each time I use my assigned ORCA Business Card. Data will include the date, time and location of the card when it is presented. I understand this data is owned by the transit Agencies and is accessible to the company that owns my ORCA Business Card.
10. I understand that the ORCA Card must be "tapped" on a card reader to show proof of fare payment or issuance of a valid fare. Merely showing the ORCA Card on a bus, train, ferry or

REVIEW DRAFT-NOT FOR SIGNATURE

light rail vehicle does not constitute proof of fare payment or issuance of a valid fare. I will be subject to a fine if the ORCA Card is not "tapped," and I understand I will be personally responsible for any fines that may be imposed.

11. I understand that for the correct fare to be recorded, I must "tap" off on a card reader when exiting some transit systems. For example, I must "tap" off when exiting from a Sounder train or Link light rail.

DRAFT

ATTACHMENT 5

ORCA BUSINESS ACCOUNT SECURITY STANDARDS

1.0 Application Security

- 1.1 At the time the Business Account enters into the ORCA program, the Lead Agency will provide a single Business Account user id and temporary password to the Business Account's Primary Contact (as specified in Attachment 2, *Designated Representatives*, to enable access to the Business Account's area of the Business Account Website.
- 1.2 The Business Account shall immediately change the temporary password to a strong password that meets the following criteria:
- a. Length - At least eight (8) characters in length or the maximum length permitted by the ORCA system, whichever is shorter.
 - b. Elements - Contains one each of at least three (3) of the following four (4) elements.
 1. English upper case letters (A, B, C...)
 2. English lower case letters (a, b, c...)
 3. Westernized Arabic numbers: 0, 1, 2...9
 4. Special characters: (@, #, %...)
- 1.3 The Business Account shall restrict access to the ORCA Business Account Website by providing its user id and password to only the employee(s) who have a business "need to know" and who are authorized by the Business Account as "system user(s)".
- 1.4 Access to the ORCA Business Account Website is restricted to the purpose of authorized administrative support for the ORCA Business Account program
- 1.5 The Business Account's password shall be changed at least quarterly but also immediately upon (a) a system user leaving the Business Account's employment or otherwise losing his/her status as an authorized user; and (b) the Business Account learning that the password has been obtained by unauthorized persons or entities.
- 1.6 The Business Account's Primary Contact will review security policies and guidelines with system users at least quarterly.

2.0 Physical Security

- 2.1 The Business Account shall require system users, when not at their workstations, to log off the Business Account Website, or lock their screen using a password protected screen-saver in order to prevent unauthorized access.
- 2.2 ORCA card stock shall be kept in a secure/locked location with access limited to those administering the program.
- 2.3 The Business Account shall require its employees to keep printed reports containing account information in a secure location.

REVIEW DRAFT-NOT FOR SIGNATURE**3.0 Incident Management**

- 3.1 The Business Account shall report any security incident or suspected incident immediately to the Lead Agency. Examples of possible security incidents would be: introduction of computer viruses, unauthorized transactions or blocked cards, or lost or stolen card stock.

DRAFT



Memorandum

Date: 10/12/2021

Meeting of: Committee of the Whole - Planning and Public Works

File No. CM 21-515

Type: Committee Memo

TO: Committee of the Whole - Planning and Public Works

FROM: Mayor Angela Birney

DEPARTMENT DIRECTOR CONTACT(S):

Parks	Carrie Hite	425-556-2326
-------	-------------	--------------

DEPARTMENT STAFF:

Parks	Lee Ann Skipton	Facilities Manager
-------	-----------------	--------------------

TITLE:

CIP Project Approval - Electrical Service Upgrades and Electric Vehicle Charging Infrastructure

OVERVIEW STATEMENT:

Staff are seeking approval to fund a project that includes a one-time upgrade to the electrical services at two City facilities to support increased energy load, as well as the installation of electric vehicle (EV) charging stations to support the City's growing EV fleet.

A similar project was originally proposed for the 2021-2022 CIS but was unfunded when revenue projections were reduced due to Covid-19 impacts. Since then, the scope of the project was refined to only address the power capacity and fleet charging needs.

☒ **Additional Background Information/Description of Proposal Attached**

REQUESTED ACTION:

☐ **Receive Information**

☒ **Provide Direction**

☐ **Approve**

REQUEST RATIONALE:

- **Relevant Plans/Policies:**
 - Climate Emergency Declaration
 - Environmental Sustainability Action Plan
 - Green Fleet (pending)
 - Zero Carbon Strategy (pending)
- **Required:**
N/A
- **Council Request:**
N/A

- **Other Key Facts:**

N/A

OUTCOMES:

This project will upgrade the electrical services at two municipal buildings to support the projected energy load through 2050. The project also includes the addition of 11 new EV charging stations; each charging station can accommodate two vehicles at a time. The proposed infrastructure will support 4 existing EVs and a minimum of 17 planned EV purchases by 2023.

Additional stations will be added in future CIP requests to accommodate the City's growing EV fleet. This strategy will keep charging station installation one year ahead of the City's green fleet goals, while remaining flexible to changes in operations, goals, or market trends. EV charging infrastructure is a foundational action as the City continues to electrify its vehicle fleet.

COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:

- **Timeline (previous or planned):**

2021 Planning, design, and engineering. 2022 Construction and project complete.

- **Outreach Methods and Results:**

N/A

- **Feedback Summary:**

N/A

BUDGET IMPACT:

Total Cost:

\$596,400

Approved in current biennial budget:

☐ Yes

☒ No

☐ N/A

Budget Offer Number:

CIP

Budget Priority:

Healthy and Sustainable

Other budget impacts or additional costs:

☒ Yes

☐ No

☐ N/A

If yes, explain:

This work is essential to support the goals of the Public Works Fleet program. EV purchases are being held awaiting necessary infrastructure.

Funding source(s):

The project is proposed to be funded from a \$40,000 contribution for Microsoft and unallocated REET funds.

Budget/Funding Constraints:

N/A

☒ **Additional budget details attached**

COUNCIL REVIEW:

Previous Contact(s)

Date	Meeting	Requested Action
None	Item has not been presented to Council	N/A

Proposed Upcoming Contact(s)

Date	Meeting	Requested Action
11/1/2021	Special Meeting	Approve

Time Constraints:

Completing this project is critical to continuing electrification of the City fleet.

ANTICIPATED RESULT IF NOT APPROVED:

New fleet vehicle purchases will not be electric.

ATTACHMENTS:

Attachment A: CIP Business Case & Cost Estimate



CIP Business Case Standard Form

Project Name _____

Functional Manager _____ Title _____ Ext. _____

Functional Lead _____ Title _____ Ext. _____

Department _____

Functional Area(s) _____

Location *(enter address or coordinates, if multiple locations, attach list)*

Geographic Area _____

CIP Status _____ Exists on 2019-2024 CIP _____ Proposed in Last CIS (not funded) _____ New

Project Type _____

Description *(1 or 2 sentences)*

Project Scope *(list of what's included)*

Project Management _____ Construction Division _____ Functional Area _____ Other

Is Real Property support needed? _____ Yes _____ No

IS TIS support needed? _____ Yes _____ No

What other Functional Areas could be impacted by this project? *(check all that apply)* _____ None

_____ Facilities _____ Fire _____ Parks _____ Planning _____ Police

_____ Stormwater _____ Transportation _____ Wastewater _____ Water

Project Objectives *(describe qualitative objectives of the project)*

Justification

Why are you proposing this project now?

Why is this project a high priority?

When would you like this project delivered? _____

How are you expecting this project to be funded? *(check all that apply, describe other)*

_____ CIP Fund _____ Grants _____ Partnership _____ Other: _____

How will you measure the quantitative success of the project?

Was this project previously approved in the 2021-2024 CIP? _____ Yes _____ No

If Yes, has it changed? _____ Yes _____ No

Project Readiness

_____ Yes _____ No Do you have staff capacity to support this project?

_____ Yes _____ No Are scope and objectives set?

_____ Yes _____ No Are all external feasibility issues resolved?

_____ Yes _____ No Are other impacted functional areas committed to supporting this project?

If No on any explain.

Only projects with all Yes answers will be considered for the CIP.

Are there any other issues, conditions or requirements that could impact the ability of this project to proceed efficiently through design and construction?

_____ Yes _____ No. If Yes, explain.

I have reviewed and am approving this project for schedule and cost estimate development.

Functional Area Manager

Date

City of Redmond

Planning Level Opinion of Probable Costs

Roadway Cost Estimate



Project Overview

Project Name: Sustainability EV Charging Infrastructure 11 towers

Project ID:

Concept No.:

Created By: LAS

Date: 8/11/2021

Reviewed By:

Date:

Neighborhood: Bear Creek

Primary Street:

Street Class: Major Arterial

Street Limits:

Master Plan:

Document Link:

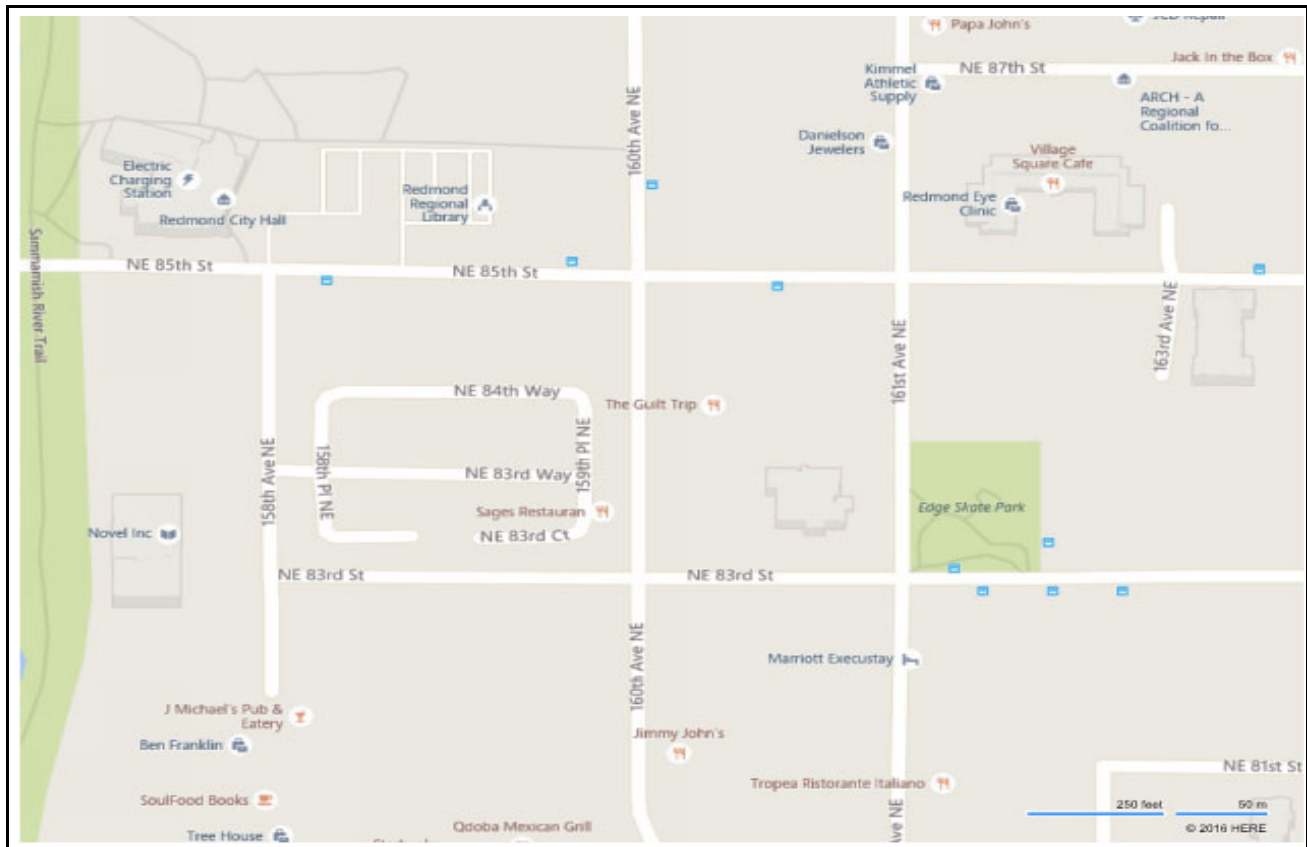
Project Description and Scope:

Work in partnership with PSE to upgrade transformers for the City Hall Parking Garage and MOC and install 11 new EV charging stations to accommodate 20+ EVs. Proposed locations for EV chargers include: 10 in City Hall Garage and 1 at MOC. This is a foundational action as the City begins to electrify the vehicle fleet in support of Environmental Sustainability Action Plan goals and Council's Climate Emergency Declaration.

Estimate of Probable Costs:

\$596,400

Project Map





Memorandum

Date: 10/12/2021

Meeting of: Committee of the Whole - Planning and Public Works

File No. CM 21-516

Type: Committee Memo

TO: Committee of the Whole - Planning and Public Works

FROM: Mayor Angela Birney

DEPARTMENT DIRECTOR CONTACT(S):

Public Works	Dave Juarez	4255562733
--------------	-------------	------------

DEPARTMENT STAFF:

Public Works	Adnan Shabir	Senior Engineer
Public Works	Paul Cho	Engineering Manager

TITLE:

Leary Way Bridge Easement Agreement Renewal

OVERVIEW STATEMENT:

The Leary Way bridge is situated over Washington State Department of Natural Resources (WA DNR) Aquatics Land. In 1991 the City signed an Easement Agreement with WA DNR allowing for the bridge to be constructed and remain over DNR Aquatics land. This Agreement is set to expire in October 1, 2021 and must be renewed by January 1, 2022 for continued use of the bridge. DNR allows a grace period of 90 days from the expiration date to renew.

This request is to renew the Easement Agreement with WA DNR for the bridge to remain over DNR Aquatics Land.

☒ **Additional Background Information/Description of Proposal Attached**

REQUESTED ACTION:

☐ **Receive Information**

☒ **Provide Direction**

☐ **Approve**

REQUEST RATIONALE:

- **Relevant Plans/Policies:**
N/A
- **Required:**
RCW 35A.11.010
- **Council Request:**
N/A
- **Other Key Facts:**

The agreement includes an easement for the use of State land for the Leary Way Bridge over the Sammamish River. The term of the agreement is twelve years, from October 1, 2021-September 30, 2033. The City must apply for a new easement at least one year prior to the end of this term.

The existing agreement and the new agreement are substantially the same, both provide an Easement for the existing Leary Way Bridge to remain over State Aquatics Land. Some notable differences are as follows:

The existing agreement contained a 30-year term; however, the new agreement has a 12-year standard term. The State does not issue 30-year terms any longer.

Under the existing agreement, the State requires a 5-day advanced notice to be given in case of any substantial work activity in the Easement area. The new agreement has increased this notification period to a minimum 60 days.

OUTCOMES:

Renewing the easement agreement allows for the Leary Way Bridge to continue to serve as a critical part of Redmond's transportation infrastructure.

COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:

- **Timeline (previous or planned):**
N/A
- **Outreach Methods and Results:**
N/A
- **Feedback Summary:**
N/A

BUDGET IMPACT:

Total Cost:
\$1600

Approved in current biennial budget: ☐ Yes ☒ No ☐ N/A

Budget Offer Number:
N/A

Budget Priority:
N/A

Other budget impacts or additional costs: ☒ Yes ☐ No ☐ N/A

If yes, explain:

\$1600 Administrative Fee is a new one-time fee to renew the Easement calculated per State law

Funding source(s):

General Fund -Traffic Operations Division Budget

Budget/Funding Constraints:

N/A

☐ **Additional budget details attached**

COUNCIL REVIEW:

Previous Contact(s)

Date	Meeting	Requested Action
N/A	Item has not been presented to Council	N/A

Proposed Upcoming Contact(s)

Date	Meeting	Requested Action
10/12/2021	Committee of the Whole - Planning and Public Works	Approve
11/1/2021	Special Meeting	Approve

Time Constraints:

Easement Agreement must be signed by DNR and the City by January 1, 2022. The Easement Agreement expires on Oct 1, 2021; however, DNR allows a 90-day grace period to renew the Agreement by January 1, 2022.

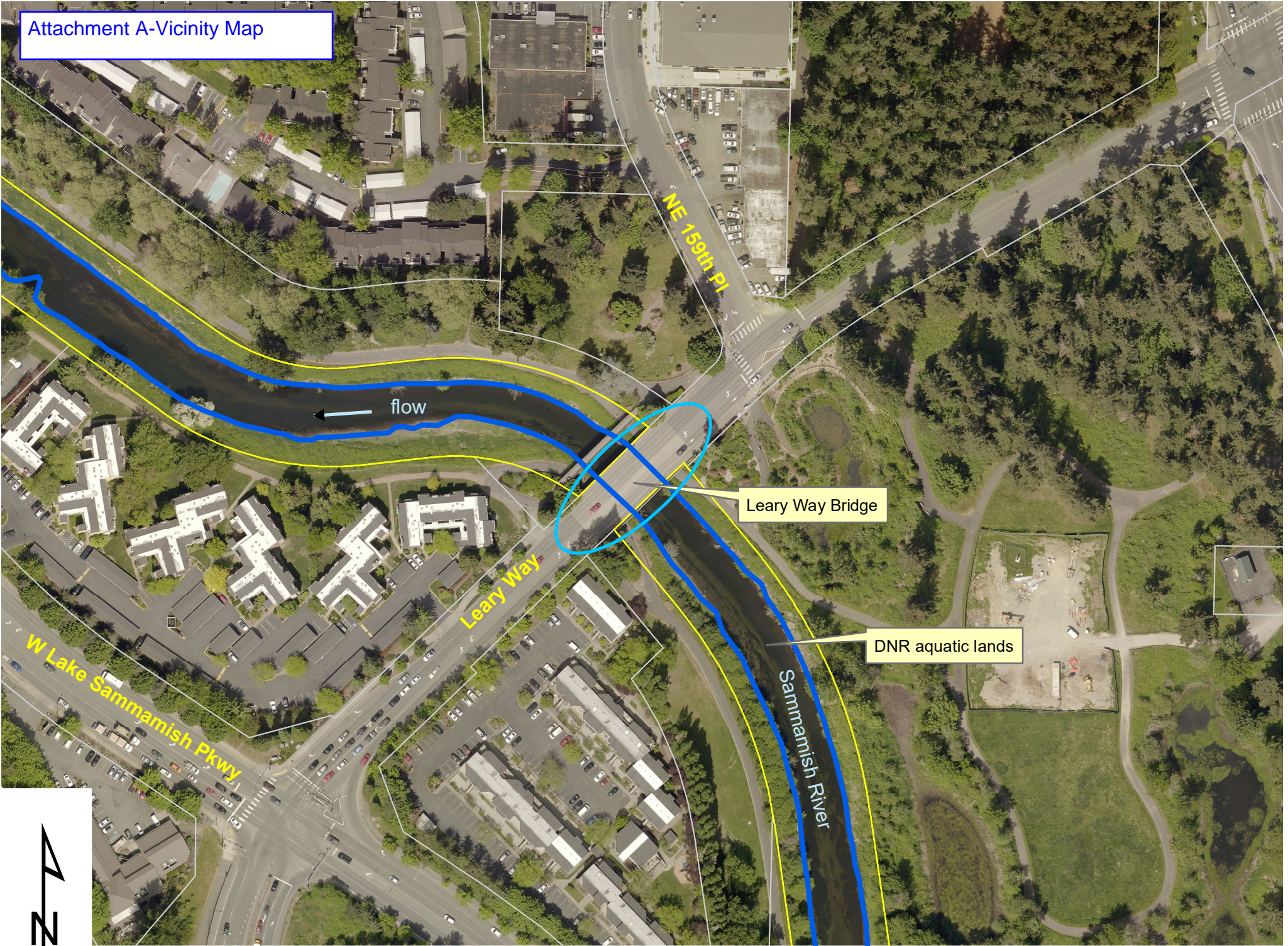
ANTICIPATED RESULT IF NOT APPROVED:

Washington State Department of Natural Resources has authority to ask the City to remove the bridge or stop use of the bridge. This would cause a significant transportation impact to the City as the bridge serves as a crucial transportation corridor into Downtown Redmond.

ATTACHMENTS:

Attachment A: Leary Way Bridge Vicinity Map

Attachment B: DNR Easement Agreement



Leary Way Bridge

DNR aquatic lands

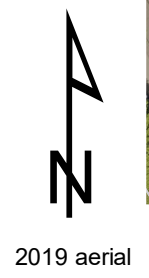
Sammamish River

flow

NE 159th Pl

Leary Way

W Lake Sammamish Pkwy



Leary Way Bridge Vicinity Map

When recorded, return to:
City of Redmond
15670 NE 85th Street
Redmond, Washington 98052



AQUATIC LANDS EASEMENT

Easement No. 51-A51893

Grantor: Washington State Department of Natural Resources
Grantee(s): City of Redmond
Abbreviated Legal Description: SE ¼ NE ¼, Section 11, Township 25 North, Range 5 East, W.M.
Complete Legal Description on Page 28
Assessor's Property Tax Parcel or Account Number: Not Applicable
Assessor's Property Tax Parcel or Account Number for Upland parcel used in conjunction with this Easement: Not Applicable

THIS EASEMENT is made by and between the STATE OF WASHINGTON, acting through the Department of Natural Resources ("State"), and the CITY OF REDMOND, a government agency ("Grantee"). State has authority to enter into this Easement under Chapter 43.12 RCW, Chapter 43.30 RCW, and Title 79 of the Revised Code of Washington (RCW).

THEREFORE, the Parties agree as follows:

SECTION 1 GRANT OF EASEMENT

1.1 Easement Defined.

- (a) State grants and conveys to Grantee a nonexclusive in gross easement, subject to the terms and conditions of this agreement, over, upon, and under those bedlands legally described in Exhibit A (“Easement Property”). In this agreement, the term “Easement” means this agreement and the rights granted.
- (b) This Easement is subject to all valid interests of third parties noted in the records of King, County, or on file in the Office of the Commissioner of Public Lands, Olympia, Washington; rights of the public under the Public Trust Doctrine or federal navigation servitude; and treaty rights of Indian Tribes.
- (c) This Easement does not include any right to harvest, collect or damage any natural resources, including, but not limited to, aquatic life or living plants; any water rights; any mineral rights; or any right to excavate or withdraw sand, gravel, or other valuable materials.
- (d) This Easement is not exclusive. State may enter and use the Easement Property for any purpose or permit others to enter and use the Easement Property for any purpose so long as such use does not unreasonably interfere with the rights granted herein.

1.2 Survey and Easement Property Descriptions.

- (a) Grantee’s obligation to provide a true and accurate description of the Easement Property and the location of the Improvements existing on the Easement Property is a material term of this Easement. Grantee warrants that the record of survey referenced in Exhibit A includes a true and accurate description of the Easement Property, and the location of the Improvements existing on the Easement Property.
- (b) Unless State has given Grantee written authorization to use such lands, Grantee’s use of any state-owned aquatic lands outside the Easement Property boundaries is a material breach of this Easement and State may seek remedies under Section 14 of this Easement in addition to any other remedies afforded by law or equity or otherwise.

1.3 Condition of Easement Property. State makes no representation regarding the condition of the Easement Property, Improvements located on the Easement Property, the suitability of the Easement Property for Grantee’s Permitted Use, compliance with governmental laws and regulations, availability of utility rights, access to the Easement Property, or the existence of hazardous substances on the Easement Property.

SECTION 2 USE

2.1 Permitted Use. This Easement is granted for the purpose of and is limited to:

Existing four lane traffic bridge (Leary Way NE) (the “Permitted Use”).

Exhibit B includes additional details about the Permitted Use, the Easement Property, and the Improvements. The Permitted Use is subject to the restrictions and additional obligations set forth in this Easement. The Permitted Use of this Easement shall not be changed or modified without the written consent of State, which shall be at State's sole discretion.

2.2 Restrictions on Permitted Use and Operations.

- (a) Grantee shall not cause or permit:
 - (1) Damage to land or natural resources on the Easement Property or adjacent state-owned aquatic lands, regardless of whether the damages are a direct or indirect result of the Permitted Use.
 - (2) Waste on the Easement Property or adjacent state-owned aquatic lands; or
 - (3) Deposit of material or filling activity on the Easement Property or adjacent state-owned aquatic lands, unless approved by State in writing. This prohibition includes, without limitation, any deposit of fill, rock, earth, ballast, wood waste, hydrocarbons, refuse, garbage, waste matter (including, but not limited to, chemical, biological, or toxic wastes), pollutants, or other matter.
- (b) Nothing in this Easement shall be interpreted as an authorization to dredge the Easement Property.
- (c) Grantee shall immediately notify State if Grantee breaches any of the terms and conditions of this Easement.
- (d) State's failure to notify Grantee of Grantee's failure to comply with all or any of the restrictions set out in this Paragraph 2.2 does not constitute a waiver of any remedies available to State.
- (e) Grantee's compliance with the restrictions in this Paragraph 2.2 does not limit Grantee's liability under any other provision of this Easement or the law.

2.3 Conformance with Laws. Grantee shall keep current and comply with all conditions and terms of any permits, licenses, certificates, regulations, ordinances, statutes, and other government rules and regulations regarding Grantee's use of the Easement Property.

2.4 Liens and Encumbrances. Unless expressly authorized by State in writing, Grantee shall keep the Easement Property free and clear of any liens and encumbrances arising out of or relating to the Permitted Use or Grantee's use of the Easement Property.

2.5 Interference with Other Uses.

- (a) Grantee shall exercise Grantee's rights under this Easement in a manner that minimizes or avoids interference with the rights of State, the public, or others with valid rights to use or occupy the Easement Property or surrounding lands and water.
- (b) To the fullest extent reasonably possible, Grantee shall place and construct Improvements in a manner that allows unobstructed movement in and on the waters above and around the Easement Property.
- (c) Except in an emergency, Grantee shall provide State with written notice regarding the start of construction or other significant activity on Easement Property at least sixty (60) days in advance. "Significant Activity" means any activity that may

- affect the use or enjoyment of the Easement Property or adjacent state-owned aquatic lands by the State of Washington, public, or others with valid rights to use or occupy the Easement Property or adjacent state-owned aquatic lands.
- (d) Grantee shall mark the location of any hazards associated with the Permitted Use and any hazards associated with the Improvements in a manner that ensures reasonable notice to the public, including, but not limited to, boaters, kayakers, swimmers, and divers.

SECTION 3 TERM

3.1 Term Defined. The term of this Easement is twelve (12) years (the “Term”), beginning on the first day of October, 2021 (the “Commencement Date”), and ending on the thirtieth day of September, 2033 (the “Termination Date”), unless terminated sooner under the terms of this Easement. Whenever the phrase “termination of this Easement” or “termination of the Easement” is used in this Easement, it shall refer to the ending, termination, cancellation, or expiration of the Easement.

3.2 Renewal of Easement and/or Application for New Easement.

This Easement does not provide a right of renewal. Grantee may apply for a new Easement, which State has discretion to grant. Grantee must apply for a new Easement at least one (1) year prior to Termination Date.

3.3 End of Term.

- (a) Removal of Improvements: Prior to the termination of this Easement, Grantee shall remove Improvements in accordance with Section 7.
- (b) Restoration of the Easement Property:
- (1) Prior to the termination of this Easement, Grantee shall restore the Easement Property to its condition prior to Grantee’s Use of the Easement Property.
 - (2) Restoration of the Easement Property is to be done at Grantee’s expense and to the satisfaction of State. Restoration of the Easement Property is considered to be Work, as described in Section 7 of the Easement. Grantee’s plans for restoring the Easement Property shall be submitted to State for prior approval in accordance with Section 7 of this Easement.
 - (3) If Permittee fails to restore the condition of the Easement Property as required by this Paragraph, State may take steps reasonably necessary to remedy Permittee’s failure. Upon demand by State, Permittee shall pay all costs of State’s remedy, lost revenue resulting from the condition of the Easement Property, and administrative costs associated with State’s remedy.
- (c) Vacation of Property: Upon the termination of this Easement, Grantee shall cease all operations on and use of the Easement Property.

SECTION 4 FEES

4.1 Fee. For the Term, Grantee shall pay to State an administrative fee calculated in accordance with RCW 79.110.120. Grantee's payment is due thirty (30) days after Grantee receives State's invoice. State's invoice is a "notice" under Section 15 of this Easement; and the invoice shall be deemed received by Grantee when the notice is effective under Section 15.

4.2 Payment Place. Grantee shall make payment to Financial Management Division, 1111 Washington St SE, PO Box 47041, Olympia, WA 98504-7041.

SECTION 5 OTHER EXPENSES

5.1 Utilities. Grantee shall pay all fees charged for utilities required or needed by the Permitted Use.

5.2 Taxes and Assessments. Grantee shall pay all taxes, assessments, and other governmental charges applicable or attributable to the Easement, the Grantee-Owned Improvements, or the Permitted Use.

5.3 Proof of Payment. If required by State, Grantee shall furnish to State receipts or other appropriate evidence establishing the payment of amounts this Easement requires Grantee to pay.

SECTION 6 LATE PAYMENTS AND OTHER CHARGES

6.1 Failure to Pay. Failure to pay any fees or other expenses due under this Easement is a breach by Grantee. State may seek remedies in Section 14 as well as late charges and interest as provided in this Section 6. In addition, if Grantee fails to pay any amounts due to third parties under this Easement, State may pay the amount due, and recover its cost in accordance with this Section 6.

6.2 Late Charge. If State does not receive any payment within ten (10) days of the date due, Grantee shall pay to State a late charge equal to four percent (4%) of the unpaid amount or Fifty Dollars (\$50), whichever is greater, to defray the overhead expenses of State incident to the delay.

6.3 Interest Penalty for Past Due Fees and Other Sums Owed.

- (a) Grantee shall pay interest on the past due fees at the rate of one percent (1%) per month until paid, in addition to paying the late charges determined under Paragraph 6.2. Fees not paid by the close of business on the due date will begin accruing interest the day after the due date.
- (b) If State pays or advances any amounts for or on behalf of Grantee, Grantee shall reimburse State for the amount paid or advanced and shall pay interest on that amount at the rate of one percent (1%) per month from the date State notifies Grantee of the payment or advance. This includes, but is not limited to State's

payment of taxes, assessments, insurance premiums, costs of removal and disposal of unauthorized materials, costs of removal and disposal of Improvements under any provision of this Easement, or other amounts not paid when due.

6.4 Referral to Collection Agency and Collection Agency Fees. If State does not receive full payment within thirty (30) days of the due date, State may refer the unpaid amount to a collection agency as provided by RCW 19.16.500 or other applicable law. Upon referral, Grantee shall pay collection agency fees in addition to the unpaid amount.

6.5 No Accord and Satisfaction. If Grantee pays, or State otherwise receives, an amount less than the full amount then due, State may apply such payment as it elects. State may accept payment in any amount without prejudice to State's right to recover the balance or pursue any other right or remedy. No endorsement or statement on any check, any payment, or any letter accompanying any check or payment constitutes accord and satisfaction.

SECTION 7 IMPROVEMENTS, PERSONAL PROPERTY, AND WORK

7.1 Improvements and Personal Property Defined.

- (a) "Improvements," consistent with RCW 79.105 through 79.140, are additions within, upon, or attached to the Easement Property. Improvements include, but are not limited to, fill, structures and fixtures.
- (b) "Personal Property" means items that can be removed from the Easement Property without (1) injury to the Easement Property, adjacent state-owned lands or Improvements or (2) diminishing the value or utility of the Easement Property, adjacent state-owned lands or Improvements.
- (c) "State-Owned Improvements" are Improvements made or owned by the State of Washington. State-Owned Improvements include any construction, alteration, or addition to State-Owned Improvements made by Grantee.
- (d) "Grantee-Owned Improvements" are (1) Improvements owned by Grantee that are existing on the Easement Property on the Commencement Date or (2) Improvements made by Grantee with State's consent.
- (e) "Unauthorized Improvements" are Improvements made on the Easement Property during the Term of the Easement without State's prior consent or Improvements made by Grantee that do not conform with plans submitted to and approved by State.
- (f) "Improvements Owned by Others" are Improvements made by others with a right to occupy or use the Easement Property or adjacent state-owned lands.

7.2 Existing Improvements. On the Commencement Date, the following Grantee-Owned Improvements are located on the Easement Property: Four lane traffic bridge (Leary Way NE).

7.3 Construction, Major Repair, Modification, and Other Work.

- (a) This Paragraph 7.3 governs construction, alteration, replacement, major repair, modification, and removal of Improvements (collectively "Work").

- (b) Except in an emergency, Grantee shall not conduct any Work without State's prior written consent. Grantee shall obtain State's prior written consent as follows:
 - (1) Grantee shall submit to State plans and specifications describing the proposed Work at least sixty (60) days before submitting permit applications to regulatory authorities, unless Grantee and State otherwise agree to coordinate permit applications. At a minimum, or if no permits are necessary, Grantee shall submit plans and specifications to State at least ninety (90) days before commencement of Work.
 - (2) State may deny consent if State determines that denial is in the best interests of the State of Washington or if the proposed Work does not comply with Paragraph 7.4. State may impose additional conditions intended to protect and preserve the Easement Property or adjacent state-owned aquatic lands.
 - (3) State will not approve plans to construct new Improvements or expand existing Improvements in or over habitats designated by State as important habitat, including, but not limited to: native aquatic vegetation, commercial geoduck tracts, forage fish spawning areas, and salmon critical habitat. Grantee shall confirm location of important habitat on Property, if any, with State before submitting plans and specifications in accordance with Paragraph 7.3.
- (c) Grantee shall immediately notify State of emergency Work. Upon State's request, Grantee shall provide State with as-built plans and specifications of emergency Work.
- (d) Grantee shall not commence Work until Grantee or Grantee's contractor has:
 - (1) Obtained a performance and payment bond in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of construction. Grantee or Grantee's contractor shall maintain the performance and payment bond until the costs of the Work, including all laborers and material persons, are paid in full.
 - (2) Obtained all required permits.
 - (3) Provided notice of Significant Activity in accordance with Paragraph 2.5(c).
- (e) Grantee shall preserve and protect Improvements Owned by Others, if any.
- (f) Grantee shall preserve all legal land subdivision survey markers and witness objects ("Markers"). If disturbance of a Marker will be a necessary consequence of Grantee's construction, Grantee shall reference and/or replace the Marker in accordance with all applicable laws and regulations current at the time, including, but not limited to Chapter 58.24 RCW. At Grantee's expense, Grantee shall retain a registered professional engineer or licensed land surveyor to reestablish destroyed or disturbed Markers in accordance with U.S. General Land Office standards.
- (g) Before completing Work, Grantee shall remove all debris and restore the Easement Property, as nearly as possible, to its natural condition before the Work began. If Work is intended for removal of Improvements at End of Term, Grantee

shall restore the Easement Property in accordance with Paragraph 3.3, End of Term.

- (h) Upon completing Work, Grantee shall promptly provide State with as-built plans and specifications. State may also require Grantee to obtain an updated record of survey showing the Easement Property boundaries and the as-built location of all Improvements on the Easement Property.
- (i) State shall not charge additional fees for authorized Improvements installed by Grantee on the Easement Property during this Term of this Easement, but State may charge additional fees for such Improvements if and when the Grantee or successor obtains a subsequent use authorization for the Easement Property and State has waived the requirement for removal of Improvements as provided in Paragraph 7.5.

7.4 Standards for Work. Grantee shall comply with State's standards for Work current at the time Grantee submits plans and specifications for State's approval. Grantee may ascertain State's current standards for Work as follows:

- (a) Before submitting plans and specifications for State's approval as required by Paragraph 7.3 of the Easement, Grantee shall request State to provide Grantee with State's current standards for Work on state-owned aquatic lands.
- (b) Within thirty (30) days of receiving Grantee request, State shall provide Grantee with State's current standards for Work, which will be effective for the purpose of State's approval of Grantee's proposed Work, provided Grantee submits plans and specifications for State's approval within two (2) years of Grantee's request for State's current standards for Work.
- (c) If Grantee fails to (1) make a request for State's current standards for Work or (2) timely submit plans and specifications to State after receiving State's current standards for Work, Grantee shall, at Grantee's sole expense, make changes in plans or Work necessary to conform to State's current standards for Work upon State's demand.

7.5 Grantee-Owned Improvements at End of Easement.

- (a) Disposition.
 - (1) Grantee shall remove Grantee-Owned Improvements in accordance with Paragraph 7.3 upon the termination of the Easement unless State waives the requirement for removal.
 - (2) Grantee-Owned Improvements remaining on the Easement Property on the termination of the Easement shall become State-Owned Improvements without payment by State, unless State elects otherwise. State may refuse or waive ownership.
 - (3) If Grantee-Owned Improvements remain on the Easement Property after the termination of the Easement without State's consent, State may remove all Improvements and Grantee shall pay State's costs of removal and disposal.
- (b) Conditions Under Which State May Waive Removal of Grantee-Owned Improvements.

- (1) State may waive removal of any Grantee-Owned Improvements whenever State determines that it is in the best interests of the State of Washington.
- (2) If Grantee enters into a new Easement, State may waive requirement to remove Grantee-Owned Improvements. State also may consent to Grantee's continued ownership of Grantee-Owned Improvements.
- (3) State may waive requirement to remove Grantee-Owned Improvements upon consideration of a timely request from Grantee, as follows:
 - (i) Grantee shall submit its request to leave Grantee-Owned Improvements to State at least one (1) year before the Termination Date.
 - (ii) State, within ninety (90) days of receiving Grantee's request, will notify Grantee whether State consents to any Grantee-Owned Improvements remaining. State has no obligation to grant consent.
 - (iii) State's failure to respond to Grantee's request to leave Improvements within ninety (90) days is a denial of the request.
- (c) Grantee's Obligations if State Waives Removal.
 - (1) Grantee shall not remove a Grantee-Owned Improvement if State waives the requirement for removal of that Grantee-Owned Improvement.
 - (2) Grantee shall maintain such Grantee-Owned Improvements in accordance with this Easement until the termination of this Easement. State may require Grantee to take appropriate steps to decommission the structure. Grantee is liable to State for cost of repair if Grantee causes or allows damage to Grantee-Owned Improvements State has designated to remain.
 - (3) State may condition its waiver of removal on Grantee entering into a new Easement for the Grantee-Owned Improvements.

7.6 Unauthorized Improvements.

- (a) Unauthorized Improvements belong to State, unless State elects otherwise.
- (b) The placement of Unauthorized Improvements on the Easement Property is a breach of this Easement and State may require removal of any or all Unauthorized Improvements. If State requires removal of Unauthorized Improvements and if Grantee fails to remove the Unauthorized Improvements, State may remove the Unauthorized Improvements and Grantee shall pay for the cost of removal and disposal.
- (c) In addition to requiring removal of Unauthorized Improvements, State may charge Grantee a use fee that is sixty percent (60%) higher than the full market value of the use of the land for the Unauthorized Improvements from the time of installation or construction until the time the Unauthorized Improvements are removed.
- (d) If State consents to Unauthorized Improvements remaining on the Easement Property, upon State's consent, the Unauthorized Improvements will be treated as Grantee-Owned Improvements and the removal and ownership of such Improvements shall be governed by Paragraph 7.5. If State consents to the Unauthorized Improvements remaining on the Easement Property, State may charge a use fee that is sixty percent (60%) higher than the full market value of

the use of the land for the Unauthorized Improvements from the time of installation or construction until State consents.

7.7 Personal Property.

- (a) Grantee retains ownership of Personal Property unless Grantee and State agree otherwise in writing.
- (b) Grantee shall remove Personal Property from the Easement Property by the termination of the Easement. Grantee is liable for damage to the Easement Property and to any Improvements that may result from removal of Personal Property.
- (c) State may remove, sell, or dispose of all Personal Property left on the Easement Property after the termination of the Easement.
 - (1) If State conducts a sale of Personal Property, State shall first apply proceeds to State's costs of removing the Personal Property, State's costs in conducting the sale, and any other payment due from the Grantee to State. State shall pay the remainder, if any, to the Grantee. Grantee shall be liable for any costs of removing the Personal Property and conducting the sale that exceed the proceeds received by State.
 - (2) If State disposes of Personal Property, Grantee shall pay for the cost of removal and disposal.

SECTION 8 ENVIRONMENTAL LIABILITY/RISK ALLOCATION

8.1 Definitions.

- (a) "Hazardous Substance" means any substance that now or in the future becomes regulated or defined under any federal, state, or local statute, ordinance, rule, regulation, or other law relating to human health, environmental protection, contamination, pollution, or cleanup.
- (b) "Release or threatened release of Hazardous Substance" means a release or threatened release as defined under any law described in Paragraph 8.1(a).
- (c) "Utmost care" means such a degree of care as would be exercised by a very careful, prudent, and competent person under the same or similar circumstances; the standard of care established under the Washington State Model Toxics Control Act ("MTCA"), Chapter 70A.305 RCW.
- (d) "Grantee and affiliates" when used in this Section 8 means Grantee or Grantee's subgrantees, contractors, agents, employees, guests, invitees, licensees, affiliates, or any person on the Easement Property with the Grantee's permission.
- (e) "Liabilities" as used in this Section 8 means any claims, demands, proceedings, lawsuits, damages, costs, expenses, fees (including attorneys' fees and disbursements), penalties, or judgments.

8.2 General Conditions.

- (a) Grantee's obligations under this Section 8 extend to the area in, on, under, or above:
 - (1) The Easement Property and

- (2) Adjacent state-owned aquatic lands if affected by a release of Hazardous Substances that occurs as a result of the Permitted Use.
- (b) Standard of Care.
 - (1) Grantee shall exercise the utmost care with respect to Hazardous Substances.
 - (2) As relates to the Permitted Use, Grantee shall exercise utmost care for the foreseeable acts or omissions of third parties with respect to Hazardous Substances, and the foreseeable consequences of those acts or omissions, to the extent required to establish a viable, third-party defense under the law.

8.3 Current Conditions and Duty to Investigate.

- (a) State makes no representation about the condition of the Easement Property or adjacent state-owned aquatic lands. Hazardous Substances may exist in, on, under, or above the Easement Property or adjacent state-owned aquatic lands.
- (b) This Easement does not impose a duty on State to conduct investigations or supply information to Grantee about Hazardous Substances.
- (c) Grantee is responsible for conducting all appropriate inquiry and gathering sufficient information concerning the Easement Property and the existence, scope, and location of Hazardous Substances on or near the Easement Property necessary for Grantee to meet Grantee's obligations under this Easement and utilize the Easement Property for the Permitted Use.

8.4 Use of Hazardous Substances.

- (a) Grantee and affiliates shall not use, store, generate, process, transport, handle, release, or dispose of Hazardous Substances, except in accordance with all applicable laws.
- (b) Grantee shall not undertake, or allow others to undertake by Grantee's permission, acquiescence, or failure to act, activities that result in a release or threatened release of Hazardous Substances.
- (c) If use of Hazardous Substances related to the Permitted Use results in a violation of law:
 - (1) Grantee shall submit to State any plans for remedying the violation, and
 - (2) Grantee shall implement any measures to restore the Easement Property or natural resources that State may require in addition to remedial measures required by regulatory authorities.

8.5 Management of Contamination.

- (a) Grantee and affiliates shall not undertake activities that:
 - (1) Damage or interfere with the operation of remedial or restoration activities, if any;
 - (2) Result in human or environmental exposure to contaminated sediments, if any;
 - (3) Result in the mechanical or chemical disturbance of on-site habitat mitigation, if any.

- (b) If requested, Grantee shall allow reasonable access to:
 - (1) Employees and authorized agents of the United States Environmental Protection Agency (EPA), the Washington State Department of Ecology, health department, or other similar environmental agencies; and
 - (2) Potentially liable or responsible parties who are the subject of an order or consent decree that requires access to the Easement Property. Grantee may negotiate an access agreement with such parties, but Grantee may not unreasonably withhold such agreement.

8.6 Notification and Reporting.

- (a) Grantee shall immediately notify State if Grantee becomes aware of any of the following:
 - (1) A release or threatened release of Hazardous Substances;
 - (2) Any new discovery of or new information about a problem or liability related to, or derived from, the presence of Hazardous Substances;
 - (3) Any lien or action arising from Hazardous Substances;
 - (4) Any actual or alleged violation of any federal, state, or local statute, ordinance, rule, regulation, or other law pertaining to Hazardous Substances;
 - (5) Any notification from the EPA or the Washington State Department of Ecology that remediation or removal of Hazardous Substances is or may be required at the Easement Property.
- (b) Grantee's duty to report under Paragraph 8.6(a) extends to lands described in Paragraph 8.2(a), and to any other property used by Grantee in conjunction with the Easement Property if a release of Hazardous Substances on the other property could affect the Easement Property.
- (c) Grantee shall provide State with copies of all documents Grantee submits to any federal, state, or local authorities concerning environmental impacts or proposals relative to the Easement Property. Documents subject to this requirement include, but are not limited to, applications, reports, studies, or audits for National Pollutant Discharge Elimination System permits (NPDES); U.S. Army Corps of Engineers permits; State Hydraulic Project Approvals (HPA); State Water Quality Certifications; Substantial Shoreline Development permits; and any reporting necessary for the existence, location, and storage of Hazardous Substances on the Easement Property.

8.7 Indemnification.

- (a) Grantee shall fully indemnify, defend, and hold harmless State from and against any Liabilities that arise out of, or relate to:
 - (1) The use, storage, generation, processing, transportation, handling, or disposal of any Hazardous Substance by Grantee and affiliates occurring whenever Grantee uses or has used the Easement Property;
 - (2) The release or threatened release of any Hazardous Substance resulting from any act or omission of Grantee and affiliates occurring whenever Grantee uses or has used the Easement Property.

- (b) Grantee shall fully indemnify, defend, and hold harmless State for any Liabilities that arise out of or relate to Grantee's breach of obligations under Paragraph 8.5.
- (c) If Grantee fails to exercise care as described in Paragraph 8.2(b)(2), Grantee shall fully indemnify, defend, and hold harmless State from and against Liabilities arising from the acts or omissions of third parties in relation to the release or threatened release of Hazardous Substances.

8.8 Reservation of Rights.

- (a) For Liabilities not covered by the indemnification provisions of Paragraph 8.7, the Parties expressly reserve and do not waive any rights, claims, immunities, causes of action, or defenses relating to Hazardous Substances that either Party may have against the other under law.
- (b) The Parties expressly reserve all such rights, claims, immunities, and defenses that either Party may have against third parties. Nothing in this Section 8 benefits or creates rights for third parties.
- (c) The allocations of risks, Liabilities, and responsibilities set forth in this Section 8 do not release either Party from or affect the liability of either Party for Hazardous Substances claims or actions by regulatory agencies.

8.9 Cleanup.

- (a) If Grantee's act, omission, or breach of obligation under Paragraph 8.4 results in a release of Hazardous Substances that exceeds the threshold limits of any applicable regulatory standards, Grantee shall, at Grantee's sole expense, promptly take all actions necessary or advisable to clean up the Hazardous Substances in accordance with applicable law.
- (b) Grantee may undertake a cleanup of the Easement Property pursuant to the Washington State Department of Ecology's Voluntary Cleanup Program, provided that Grantee cooperates with the Department of Natural Resources in development of cleanup plans. Grantee shall not proceed with Voluntary Cleanup without the Department of Natural Resources' approval of final plans. Nothing in the operation of this provision is an agreement by the Department of Natural Resources that the Voluntary Cleanup complies with any laws or with the provisions of this Easement. Grantee's completion of a Voluntary Cleanup is not a release from or waiver of any obligation for Hazardous Substances under this Easement.

8.10 Sampling by State, Reimbursement, and Split Samples.

- (a) State may conduct sampling, tests, audits, surveys, or investigations ("Tests") of the Easement Property at any time to determine the existence, scope, or effects of Hazardous Substances.
- (b) If such Tests, along with any other information, demonstrate a breach of Grantee's obligations regarding Hazardous Substances under this Easement, Grantee shall promptly reimburse State for all costs associated with such Tests, provided State gave Grantee thirty (30) days' advance notice in nonemergencies, and reasonably practical notice in emergencies.

- (c) In nonemergencies, Grantee is entitled to obtain split samples of Test samples, provided Grantee gives State written notice requesting split samples at least ten (10) days before State conducts Tests. Upon demand, Grantee shall promptly reimburse State for additional cost, if any, of split samples.
- (d) If either Party conducts Tests on the Easement Property, the conducting Party shall provide the other Party with validated final data and quality assurance/quality control/chain of custody information about the Tests within sixty (60) days of a written request by the other party, unless Tests are part of a submittal under Paragraph 8.6(c) in which case Grantee shall submit data and information to State without written request by State. Neither party is obligated to provide any analytical summaries or the work product of experts.

SECTION 9 NATURE OF ESTATE AND ASSIGNMENT

This Easement shall be in gross for the sole benefit of Grantee's use associated with the Permitted Use. This Easement shall not run with the land. This Easement is indivisible. Grantee shall not sell, convey, mortgage, assign, pledge, grant franchises for, or otherwise transfer or encumber any part of Grantee's interest in this Easement or any part of Grantee's interest in the Easement Property without State's prior written consent, which shall be at State's sole discretion. State reserves the right to reasonably change the terms and conditions of this Easement upon State's consent to requests made under this Section 9.

SECTION 10 INDEMNITY, FINANCIAL SECURITY, INSURANCE

10.1 Indemnity.

- (a) Grantee shall indemnify, defend, and hold harmless State, its employees, officials, officers, and agents from any Claim arising out of the Permitted Use, any Claim arising out of activities related to the Permitted Use, or any Claim arising out of the use of the Easement Property by Grantee, its contractors, agents, invitees, guests, employees, affiliates, licensees, or permittees to the fullest extent permitted by law and subject to the limitations provided below.
- (b) "Claim" as used in this Paragraph 10.1 means any financial loss, claim, suit, action, damages, expenses, costs, fees (including attorneys' fees), fines, penalties, or judgments attributable to bodily injury; sickness; disease; death; damages to tangible property, including, but not limited to, land, aquatic life, and other natural resources; and loss of natural resource values. "Damages to tangible property" includes, but is not limited to, physical injury to the Easement Property diminution in value, and/or damages resulting from loss of use of the Easement Property.
- (c) State shall not require Grantee to indemnify, defend, and hold harmless State, its employees, officials, officers, and agents for a Claim caused solely by or resulting solely from the negligence or willful act of State or State's employees, officials, officers, or agents.

- (d) Grantee specifically and expressly waives any immunity that may be granted under the Washington State Industrial Insurance Act, Title 51 RCW in connection with its obligation to indemnify, defend, and hold harmless State and its employees, officials, officers, and agents. Further, Grantee's obligation under this Easement to indemnify, defend, and hold harmless State and its employees, officials, officers, and agents shall not be limited in any way by any limitation on amount or type of damages, compensation, or benefits payable to or for any third party under the workers' compensation acts.
- (e) Only to the extent RCW 4.24.115 applies and requires such a limitation, if a Claim, is caused by or results from the concurrent negligence of (a) State or State's employees, officials, officers, or agents and (b) the Grantee or Grantee's agents or employees, these indemnity provisions shall be valid and enforceable only to the extent of the negligence of the Grantee and those acting on its behalf.
- (f) Section 8, Environmental Liability/Risk Allocation, exclusively shall govern Grantee's liability to State for Hazardous Substances and its obligation to indemnify, defend, and hold harmless State for Hazardous Substances.

10.2 Insurance Terms.

- (a) Insurance Required.
 - (1) At its own expense, Grantee shall procure and maintain during the Term, the insurance coverages and limits described in this Paragraph 10.2 and in Paragraph 10.3, Insurance Types and Limits. State may terminate this Easement if Grantee fails to maintain required insurance.
 - (2) Unless State agrees to an exception, Grantee shall provide insurance issued by an insurance company or companies admitted to do business in the State of Washington and have a rating of A- or better by the most recently published edition of A.M. Best's Insurance Reports. Grantee may submit a request to the risk manager for the Department of Natural Resources to approve an exception to this requirement. If an insurer is not admitted, the insurance policies and procedures for issuing the insurance policies shall comply with Chapter 48.15 RCW and 284-15 WAC.
 - (3) All general liability, excess, umbrella, and pollution legal liability insurance policies must name the State of Washington, the Department of Natural Resources, its elected and appointed officials, officers, agents, and employees as an additional insured by way of endorsement.
 - (4) All property, builder's risk, and equipment breakdown insurance must name the State of Washington, the Department of Natural Resources, its elected and appointed officials, officers, agents, and employees as loss payees.
 - (5) All insurance provided in compliance with this Easement must be primary as to any other insurance or self-insurance programs afforded to or maintained by State.
- (b) Waiver.
 - (1) Grantee waives all rights against State for recovery of damages to the extent insurance maintained pursuant to this Easement covers these damages.

- (2) Except as prohibited by law, Grantee waives all rights of subrogation against State for recovery of damages to the extent that they are covered by insurance maintained pursuant to this Easement.
- (c) Proof of Insurance.
 - (1) Grantee shall provide State with a certificate(s) and endorsement(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with insurance requirements specified in this Easement and, if requested, copies of policies to State.
 - (2) The certificate(s) of insurance must reference the Easement number.
 - (3) Receipt of such certificates, endorsements, or policies by State does not constitute approval by State of the terms of such policies.
- (d) State must receive written notice before cancellation or non-renewal of any insurance required by this Easement, as follows:
 - (1) Insurers subject to RCW 48.18 (admitted and regulated by the Insurance Commissioner): If cancellation is due to non-payment of premium, provide State ten (10) days' advance notice of cancellation; otherwise, provide State forty-five (45) days' advance notice of cancellation or non-renewal.
 - (2) Insurers subject to RCW 48.15 (surplus lines): If cancellation is due to non-payment of premium, provide State ten (10) days' advance notice of cancellation; otherwise, provide State twenty (20) days' advance notice of cancellation or non-renewal.
- (e) Adjustments in Insurance Coverage.
 - (1) State may impose changes in the limits of liability for all types of insurance as State deems necessary.
 - (2) Grantee shall secure new or modified insurance coverage within thirty (30) days after State requires changes in the limits of liability.
- (f) If Grantee fails to procure and maintain the insurance described above within fifteen (15) days after Grantee receives a notice to comply from State, State may either:
 - (1) Terminate this Easement, or
 - (2) Procure and maintain comparable substitute insurance and pay the premiums. Upon demand, Grantee shall pay to State the full amount paid by State, together with interest at the rate provided in Paragraph 6.3 from the date of State's notice of the expenditure until Grantee's repayment.
- (g) General Terms.
 - (1) State does not represent that coverage and limits required under this Easement are adequate to protect Grantee.
 - (2) Coverage and limits do not limit Grantee's liability for indemnification and reimbursements granted to State under this Easement.
 - (3) The Parties shall use any insurance proceeds payable by reason of damage or destruction to Easement Property first to restore the Easement Property, then to pay the cost of the reconstruction, then to pay State any sums in arrears, and then to Grantee.

10.3 Insurance Types and Limits.

- (a) General Liability Insurance.
 - (1) Grantee shall maintain commercial general liability insurance (CGL) or marine general liability (MGL) covering claims for bodily injury, personal injury, or property damage arising on the Easement Property and/or arising out of the Permitted Use and, if necessary, commercial umbrella insurance with a limit of not less than One Million Dollars (\$1,000,000) per each occurrence. If such CGL or MGL insurance contains aggregate limits, the general aggregate limit must be at least twice the “each occurrence” limit. CGL or MGL insurance must have products-completed operations aggregate limit of at least two times the “each occurrence” limit.
 - (2) CGL insurance must be written on Insurance Services Office (ISO) Occurrence Form CG 00 01 (or a substitute form providing equivalent coverage). All insurance must cover liability arising out of premises, operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another party assumed in a business contract) and contain separation of insured (cross-liability) condition.
 - (3) MGL insurance must have no exclusions for non-owned watercraft.
- (b) Workers’ Compensation.
 - (1) State of Washington Workers’ Compensation.
 - (i) Grantee shall comply with all State of Washington workers’ compensation statutes and regulations. Grantee shall provide workers’ compensation coverage for all employees of Grantee. Coverage must include bodily injury (including death) by accident or disease, which arises out of or in connection with the Permitted Use or related activities.
 - (ii) If Grantee fails to comply with all State of Washington workers’ compensation statutes and regulations and State incurs fines or is required by law to provide benefits to or obtain coverage for such employees, Grantee shall indemnify State. Indemnity shall include all fines; payment of benefits to Grantee, employees, or their heirs or legal representatives; and the cost of effecting coverage on behalf of such employees.
 - (2) Longshore and Harbor Workers’ and Jones Acts. The Longshore and Harbor Workers’ Act (33 U.S.C. Section 901 *et seq.*) and/or the Jones Act (46 U.S.C. Section 30104) may require Grantee to provide insurance coverage in some circumstances. Grantee shall ascertain if such insurance is required and, if required, shall maintain insurance in compliance with the law. Grantee is responsible for all civil and criminal liability arising from failure to maintain such coverage.
- (c) Employers’ Liability Insurance. Grantee shall procure employers’ liability insurance, and, if necessary, commercial umbrella liability insurance with limits not less than One Million Dollars (\$1,000,000) each accident for bodily injury by

accident and One Million Dollars (\$1,000,000) each employee for bodily injury by disease.

(d) **Property Insurance.**

- (1) Grantee shall buy and maintain property insurance covering all real property and fixtures, equipment, Improvements and betterments (regardless of whether owned by Grantee or State). Such insurance must be written on an all risks basis and, at minimum, cover the perils insured under ISO Special Causes of Loss Form CP 10 30, and cover the full replacement cost of the property insured. Such insurance may have commercially reasonable deductibles. Any coinsurance requirement in the policy must be waived. The policy must include State as a loss payee.
- (2) Grantee shall buy and maintain equipment breakdown insurance covering all real property and fixtures, equipment, Improvements and betterments (regardless of whether owned by Grantee or State) from loss or damage caused by the explosion of equipment, fired or unfired vessels, electric or steam generators, electrical arcing, or pipes.
- (3) In the event of any loss, damage, or casualty that is covered by one or more of the types of insurance described above, the Parties shall proceed cooperatively to settle the loss and collect the proceeds of such insurance, which State shall hold in trust, including interest earned on such proceeds, for use according to the terms of this Easement. The Parties shall use insurance proceeds in accordance with Paragraph 10.2(g)(3).
- (4) When sufficient funds are available, using insurance proceeds described above, the Parties shall continue with reasonable diligence to prepare plans and specifications for, and thereafter carry out, all work necessary to:
 - (i) Repair and restore damaged Improvements to their former condition, or
 - (ii) Replace and restore damaged Improvements with new Improvements on the Easement Property of a quality and usefulness at least equivalent to, or more suitable than, damaged Improvements.

10.4 Financial Security.

- (a) On the Commencement Date of this Easement, Grantee is not required to procure and maintain a corporate security bond or other financial security ("Security"). During the Term of this Easement, State may require Grantee to procure and maintain Security upon any of the events listed in Paragraph 10.4(c)(1).
- (b) All Security must be in a form acceptable to State.
 - (1) Bonds must be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports, unless State approves an exception in writing. Grantee may submit a request to the Risk Manager for the Department of Natural Resources for an exception to this requirement.

- (2) Letters of credit, if approved by State, must be irrevocable, allow State to draw funds at will, provide for automatic renewal, and comply with RCW 62A.5-101, *et. seq.*
 - (3) Savings account assignments, if approved by State, must allow State to draw funds at will.
- (c) Adjustment in Amount of Security.
 - (1) State may require an adjustment in the Security amount:
 - (i) As a condition of approval of assignment of this Easement,
 - (ii) Upon a material change in the condition or disposition of any Improvements, or
 - (iii) Upon a change in the Permitted Use.
 - (2) Grantee shall deliver a new or modified form of Security to State within thirty (30) days after State has required adjustment of the amount of the Security.
- (d) Upon any breach by Grantee in its obligations under this Easement, State may collect on the Security to offset the liability of Grantee to State. Collection on the Security does not (1) relieve Grantee of liability, (2) limit any of State's other remedies, (3) reinstate the Easement or cure the breach or (4) prevent termination of the Easement because of the breach.

SECTION 11 MAINTENANCE AND REPAIR

11.1 State's Repairs. State shall not be required to make any alterations, maintenance, replacements, or repairs in, on, or about the Easement Property, or any part thereof, during the Term.

11.2 Grantee's Repairs and Maintenance.

- (a) Grantee shall, at its sole cost and expense, keep and maintain the Easement Property and all Grantee-Owned Improvements in good order and repair, in a clean, attractive, and safe condition. Grantee shall repair all damage caused or permitted by Grantee to Improvements Owned by Others on the Easement Property.
- (b) Grantee shall, at its sole cost and expense, make any and all additions, repairs, alterations, maintenance, replacements, or changes to the Easement Property or to any Grantee-Owned Improvements on the Easement Property that may be required by any public authority having jurisdiction over the Easement Property and requiring it for public health, safety and welfare purposes.
- (c) Except as provided in Paragraph 11.2(d), all additions, repairs, alterations, maintenance, replacements or changes to the Easement Property and to any Grantee-Owned Improvements on the Easement Property shall be made in accordance with, and ownership shall be governed by, Section 7 above.
- (d) Routine maintenance and repair are acts intended to prevent a decline, lapse, or cessation of the Permitted Use and associated Grantee-Owned Improvements.

Routine maintenance or repair that does not require regulatory permits does not require authorization from State pursuant to Section 7.

- (e) Upon completion of maintenance activities, Grantee shall remove all debris and restore the Easement Property to the condition prior to the commencement of Work.

SECTION 12 DAMAGE OR DESTRUCTION

12.1 Damage to Improvements.

- (a) In the event of any damage to or destruction of any Improvements on the Easement Property, Grantee shall immediately notify State, with subsequent written notice to State within five (5) days.
- (b) Grantee shall be solely responsible for any reconstruction, repair, or replacement of any Grantee-Owned Improvements. If Grantee elects not to reconstruct, repair, or replace all or a portion of any damaged Improvements, Grantee shall promptly remove any damaged or destroyed Improvements and restore the Easement Property. Any reconstruction, repair, or replacement of Improvements is governed by Section 7 Improvements, Personal Property, and Work, and Section 11, Maintenance and Repair, and any Additional Obligations in Exhibit A.
- (c) If Grantee is in breach of this Easement at the time damage or destruction occurs to Grantee-Owned Improvements, State may elect to terminate the Easement without giving Grantee an opportunity to cure, and State may retain any insurance proceeds payable as a result of the damage or destruction.

12.2 Damage to Land or Natural Resources

- (a) In the event of any damage to or destruction to the land or natural resources on the Easement Property, Grantee shall immediately notify State, with subsequent written notice to State within five (5) days. In the event of any damage or destruction to land or natural resources on adjacent state-owned aquatic lands that is attributable to Grantee's use of the Property, to the Permitted Use, or to related activities, Grantee shall immediately notify State, with subsequent written notice to State within five (5) days.
- (b) Grantee, at Grantee's sole cost, shall remedy any damages to land or natural resources on the Easement Property and adjacent state-owned aquatic lands that are attributable to Grantee's use of the Property, the Permitted Use, or related activities, in accordance with a plan approved by State. Grantee shall also compensate State for any lost or damaged natural resource values in accordance with Paragraph 12.2(c).
- (c) Compensation for lost resource values:
 - (1) If damages to the land or natural resources result in lost or damaged natural resource values, Grantee shall compensate State with (1) monetary compensation; (2) the completion of a project approved by State that includes replacing, enhancing, or otherwise providing in-kind habitats, resources, or environments on other state-owned aquatic lands in order to

offset the damage and impacts; or (3) a mixture of both monetary compensation and a project. State shall have the discretion to determine if Grantee will compensate with monetary compensation, a project, or both. If State requires monetary compensation, the value of damages shall be determined in accordance with Paragraph 12.2(c)(2).

- (2) If State requires monetary compensation under Paragraph 12.2(c)(1), unless the Parties otherwise agree on the value, a three-member panel of professional appraisers or resource economists will determine the measure of lost resource values, and issue a written decision. The appraisers or resource economists shall be qualified to assess economic value of natural resources. State and Grantee each shall appoint and compensate one member of the panel. By consensus, the two appointed members shall select the third member, who will be compensated by State and Grantee equally. The panel shall base the calculation of compensation on generally accepted valuation principles. The written decision of the majority of the panel shall bind the Parties.
- (d) If damage to land or natural resources on the Easement Property or adjacent state-owned aquatic lands are attributable to Grantee's use of the Property, to the Permitted Use, or to related activities, or if such damage occurs when Grantee is in breach of the Easement, State may elect to terminate the Easement in accordance with Section 14. If State elects to terminate the Easement, Grantee is still responsible for restoring any damages to land or natural resources on the Easement Property and adjacent state-owned aquatic lands, and for compensating State for any lost resource values in accordance with Paragraph 12.2(c). State may retain any insurance proceeds payable as a result of the damage or destruction.
- (e) State may, with or without terminating the Easement, at the sole expense of Grantee, remedy any damages and complete a project that offsets lost or damaged natural resource values. If State takes any such actions, upon demand by State, Grantee shall pay all costs incurred by State.

12.3 State's Waiver of Claim. State does not waive any claims for damage or destruction of the Easement Property or adjacent state-owned aquatic lands unless State provides written notice to Grantee of each specific claim waived.

12.4 Insurance Proceeds. Grantee's duties under Paragraphs 12.1 and 12.2 are not conditioned upon the availability of any insurance proceeds to Grantee from which the cost of repairs may be paid. The Parties shall use insurance proceeds in accordance with Paragraph 10.2(g)(3).

SECTION 13 CONDEMNATION

In the event of condemnation, the Parties shall allocate the condemnation award between State and Grantee based upon the ratio of the fair market value of (1) Grantee's rights in the Easement Property and Grantee-Owned Improvements and (2) State's interest in the Easement Property; the reversionary interest in Grantee-Owned Improvements, if any; and State-Owned

Improvements, if any. In the event of a partial taking, the Parties shall compute the ratio based on the portion of Easement Property or Improvements taken. If Grantee and State are unable to agree on the allocation, the Parties shall submit the dispute to binding arbitration in accordance with the rules of the American Arbitration Association.

SECTION 14 REMEDIES AND TERMINATION

14.1 Termination by Breach. State may terminate this Easement upon Grantee's failure to cure a breach of the terms and conditions of this Easement. Unless otherwise stated in this Easement, State shall provide Grantee written notice of breach, and Grantee shall have sixty (60) days after receiving the notice to cure the breach. State may extend the cure period if breach is not reasonably capable of cure within sixty (60) days. This sixty (60) day cure period does not apply where State terminates this Easement under Paragraph 10.2(f) or Paragraph 12.1(c).

14.2 Termination by Nonuse. If Grantee does not use the Easement Property for a period of three (3) successive years, this Easement terminates without further action by State and Grantee's rights revert to State. Grantee shall still be responsible for complying with all end of Term requirements.

14.3 Termination by Grantee. Grantee may terminate this Easement upon providing State with sixty (60) days written notice of intent to terminate. If Grantee terminates under this Paragraph, the date of Grantee's termination shall be deemed the Termination Date and Grantee shall comply with all end of Term requirements. Grantee is not entitled to any refunds of Easement fees already paid to State.

14.4 Remedies Not Exclusive. The remedies specified under this Section 14 are not exclusive of any other remedies or means of redress to which State is lawfully entitled for Grantee's breach or threatened breach of any provision of this Easement.

SECTION 15 NOTICE AND SUBMITTALS

15.1 Notice. Following are the locations for delivery of notice and submittals required or permitted under this Easement. Any Party may change the place of delivery upon ten (10) days' written notice to the other.

State: Department of Natural Resources
950 Farman Ave North
Enumclaw, WA 98022
aquaticleasing.shoreline@dnr.wa.gov

Grantee: City of Redmond
15670 NE 85th Street
Redmond, Washington 98052
abirney@redmond.gov

The Parties may deliver any notice in person, by facsimile machine, or by certified mail. Depending on the method of delivery, notice is effective upon personal delivery, upon receipt of a confirmation report if delivered by facsimile machine, or three (3) days after mailing. All notices must identify the Easement number. On notices transmitted by facsimile machine, the Parties shall state the number of pages contained in the notice, including the transmittal page, if any.

15.2 Contact Persons. On the Commencement Date, the following persons are designated day-to-day contact persons. Any Party may change the Contact Person upon reasonable notice to the other.

State: DEPARTMENT OF NATURAL RESOURCES
Shoreline District
950 Farman Ave North
Enumclaw, WA 98022
aquaticleasing.shoreline@dnr.wa.gov

Grantee: Adnan Shabir, Bridge Program Manager
(425) 556-2776
(425) 556-2820 Fax
ashabir@redmond.gov

SECTION 16 MISCELLANEOUS

16.1 Authority. Grantee and the person or persons executing this Easement on behalf of Grantee represent that Grantee is qualified to do business in the State of Washington, that Grantee has full right and authority to enter into this Easement, and that each and every person signing on behalf of Grantee is authorized to do so. Upon State's request, Grantee shall provide evidence satisfactory to State confirming these representations.

16.2 Successors and Assigns. Subject to the limitations set forth in Section 9, this Easement binds and inures to the benefit of the Parties, their successors, and assigns.

16.3 Headings. The headings used in this Easement are for convenience only and in no way define, limit, or extend the scope of this Easement or the intent of any provision.

16.4 Entire Agreement. This Easement, including the exhibits, attachments, and addenda, if any, contains the entire agreement of the Parties. This Easement merges all prior and contemporaneous agreements, promises, representations, and statements relating to this transaction or to the Easement Property.

16.5 Waiver.

- (a) The waiver of any breach or default of any term, covenant, or condition of this Easement is not a waiver of such term, covenant, or condition; of any subsequent breach or default of the same; or of any other term, covenant, or condition of this

Easement. State's acceptance of a payment is not a waiver of any preceding or existing breach other than the failure to pay the particular payment that was accepted.

- (b) The renewal of the Easement, extension of the Easement, or the issuance of a new Easement to Grantee, does not waive State's ability to pursue any rights or remedies under the Easement.

16.6 Cumulative Remedies. The rights and remedies of State under this Easement are cumulative and in addition to all other rights and remedies afforded by law or equity or otherwise.

16.7 Time is of the Essence. TIME IS OF THE ESSENCE as to each and every provision of this Easement.

16.8 Language. The word "Grantee" as used in this Easement applies to one or more persons and regardless of gender, as the case may be. The singular includes the plural, and the neuter includes the masculine and feminine. If there is more than one Grantee, their obligations are joint and several. The word "persons," whenever used, shall include individuals, firms, associations, and corporations. The word "Parties" means State and Grantee in the collective. The word "Party" means either or both State and Grantee, depending on the context.

16.9 Invalidity. The invalidity, voidness, or illegality of any provision of this Easement does not affect, impair, or invalidate any other provision of this Easement.

16.10 Applicable Law and Venue. This Easement is to be interpreted and construed in accordance with the laws of the State of Washington. Venue for any action arising out of or in connection with this Easement is in the Superior Court for Thurston County, Washington.

16.11 Statutory Reference. Any reference to a statute or rule means that statute or rule as presently enacted or hereafter amended or superseded.

16.12 Recordation. At Grantee's expense and no later than thirty (30) days after receiving the fully-executed Easement, Grantee shall record this Easement in the county in which the Easement Property is located. Grantee shall include the parcel number of the upland property used in conjunction with the Easement Property, if any. Grantee shall provide State with recording information, including the date of recordation and file number. If Grantee fails to record this Easement, State may record this Easement and Grantee shall pay the costs of recording upon State's demand.

16.13 Modification. No modification of this Easement is effective unless in writing and signed by both Parties. Oral representations or statements do not bind either Party.

16.14 Survival. Any obligations of Grantee not fully performed upon termination of this Easement do not cease, but continue as obligations of the Grantee until fully performed.

16.15 Exhibits and Attachments. All referenced exhibits and attachments are incorporated in this Easement unless expressly identified as unincorporated.

THIS AGREEMENT requires the signature of all Parties and is effective on the date of the last signature below.

CITY OF REDMOND

Dated: _____, 20__

By: _____
Angela Birney
Title: Mayor
Address: 15670 NE 85th Street
3rd Floor
Redmond, WA 98052
Phone: (425) 556-2101

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated: _____, 20__

By: _____
Katrina Lassiter
Title: Acting Deputy Supervisor for
Aquatics Division
Address: 950 Farman Ave North
Enumclaw, WA 98022

Aquatic Lands Easement
Template approved as to form this
24th day of March 2021
Jennifer Clements, Assistant Attorney General
Aquatic Lands Easement (3/24/2021)

REPRESENTATIVE ACKNOWLEDGMENT

Notarized online using audio-video communication

STATE OF)
) ss
County of)

I certify that I know or have satisfactory evidence that ANGELA BIRNEY is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Mayor of the City of Redmond to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

This notarial act involved the use of communication technology.

Dated: _____, 20__

(Seal or stamp)

(Signature)

(Print Name)

Notary Public in and for the State of
Washington, residing at

My appointment expires _____

STATE ACKNOWLEDGMENT

Notarized online using audio-video communication

STATE OF WASHINGTON)

) ss.

County of

)

I certify that I know or have satisfactory evidence that KATRINA LASSITER is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Acting Deputy Supervisor of Aquatic Resources for the Department of Natural Resources, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

This notarial act involved the use of communication technology.

Dated: _____, 20__

(Seal or stamp)

(Signature)

(Print Name)

Notary Public in and for the State of
Washington, residing at

My appointment expires _____

EXHIBIT A

Agreement Number 51-A51893

Legal description of the Property:

That real property legally described and shown as Easement No. 51-A51893 in that Record of Survey recorded in King County, Washington on August 24, 2021 under Auditor's File Number 20210824900020 and in Book 453 of Surveys at Page 84-85.

Square Footage of Easement:

Total Shorelands: 1,389

Total Bedlands: 3,759

Total Square Feet: 5,148

EXHIBIT B

1. DESCRIPTION OF PERMITTED USE

A. Existing Facilities.

Continued use of an existing four lane traffic bridge (Leary Way NE) located over the Sammamish River within the City of Redmond located in King County.

B. Proposed Work.

Grantee proposes no new facilities or Work.

2. ADDITIONAL OBLIGATIONS

None



Memorandum

Date: 10/12/2021

Meeting of: Committee of the Whole - Planning and Public Works

File No. CM 21-491

Type: Committee Memo

TO: Committee of the Whole - Planning and Public Works

FROM: Mayor Angela Birney

DEPARTMENT DIRECTOR CONTACT(S):

Public Works	Dave Juarez	425-556-2733
Planning and Community Development	Carol Helland	425-556-2107

DEPARTMENT STAFF:

Public Works	Jessica Atlakson	Environmental Geologist
Public Works	Amanda Balzer	Science and Data Analytics Supervisor

TITLE:

Temporary Construction Dewatering (TCD) Staff Report

OVERVIEW STATEMENT:

Council will be provided the results of the TCD project policy analysis and will be asked to provide direction on the proposed policy and code amendment strategy to address the continued tensions between subterranean development for new dense development patterns (typically parking) and drinking water resource management policies.

☐ **Additional Background Information/Description of Proposal Attached**

REQUESTED ACTION:

☐ **Receive Information**

☒ **Provide Direction**

☐ **Approve**

REQUEST RATIONALE:

- **Relevant Plans/Policies:**
Community Strategic Plan, Comprehensive Plan, Environmental Sustainability Action Plan
- **Required:**
Redmond Municipal Code 13.25
- **Council Request:**
March 9, 2021 Council Study Session
- **Other Key Facts:**
This project is being implemented in three phases:

- Phase I - Analyze and identify policy tension by conducting a triple bottom line analysis to determine the economic, social, and environmental costs and benefits of TCD in Redmond (completed).
- Phase II - Analyze policy options and determine path forward for irreconcilable tensions.
- Phase III - Implement recommendations for policy and code amendments.

The three Scenarios approved by Council on March 9, 2021 to be included in Phase II (policy analysis) include:

- Scenario 1: Minimizes impacts to the environment with lower parking ratios and limited dewatering.
- Scenario 2: Promotes 'small town feeling' with current building heights and ample parking hidden underground.
- Scenario 4: Concentrates population and job growth to Redmond's urban and local centers with increased building heights and lower parking ratios.

Council directed staff to analyze the following during policy analysis:

- Limit TCD to elevator pit and footing construction only within Critical Aquifer Recharge Area (CARA)
- Decrease residential parking ratio within transit-oriented development
- Remove density bonus for subterranean parking
- Increased building heights within transit-oriented development
- Innovative parking solutions

OUTCOMES:

The November 1, 2021 Staff Report will review the results of the policy analysis. The desired outcome of this Staff Report is feedback from Council on the proposed policy and code amendment strategy.

Subterranean parking was identified as a tension point between dense development and drinking water resource management policies in Phase I of this study. A policy analysis was conducted by staff from Public Works, Planning, Fire, and Finance to identify areas of Redmond policy or code that could lead to subterranean parking within the CARA. The analysis identified the following policy adjustments to address the tension:

- Modify incentives for subterranean parking
- Reduce parking ratio requirements
- Building height adjustments
- Innovative parking
- Comprehensive Plan updates within the Land Use and Urban Centers elements

Based on the policy analysis, staff recommend a phased approach to implementation. The policy and code amendments will be phased in three groups: bridge changes (2022), midterm changes (2023), and long-term changes (2024).

Bridge Changes (2022)

Staff are working on policy amendments that begin to address parking ratios and building heights within the Redmond Zoning Code ReWrite process. This is scheduled to be presented to Council in 2022Q1.

Midterm Changes (2023)

Staff are working on code amendments that address:

- Subterranean parking density bonus within Downtown
- Restaurant parking waivers within Downtown and Marymoor
- Innovative parking within Downtown and Marymoor
- Interim limitations to TCD duration

The midterm changes will be part of the Redmond Zoning Code ReWrite process. This is scheduled to be presented to

Council in 2023Q1.

Long Term Changes (2024)

The following items are planned to be ready for Council final action in 2024Q2:

- Staff are coordinating with the Urban Centers Off-Street Parking Team to help inform reductions to parking ratios. This will be part of Phase II of the Redmond 2050 process.
- Staff are coordinating with the Redmond 2050 team to incorporate language within the Comprehensive Plan that details the importance of avoiding subterranean parking within the critical aquifer recharge area (CARA) for clarification and consider building height incentives to avoid TCD for parking structures.
- Staff will update RMC 13.25 (TCD) to set limitations of depth and duration of TCD within the CARA.

Development projects that have already been approved to move forward with TCD for subterranean parking within the CARA prior to adoption of the TCD depth and duration limitation in 2024Q2 will still be allowed to proceed. Based on the timeline of typical projects, it is estimated that there will be an approximately two-year lag time from adoption to when TCD will no longer be used for subterranean parking within the CARA.

COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:

- **Timeline (previous or planned):**
During Phase I of this project, staff convened a stakeholder group to represent the social, economic, and environmental aspects of the Triple Bottom Line analysis. The stakeholder group provided community input on the development of the Triple Bottom Line goals, scenarios, and evaluation criteria. They also provided feedback on the results of the analysis.
- **Outreach Methods and Results:**
 - Stakeholders participated in person (prior to COVID-19 restrictions) and virtual meetings (during the pandemic).
 - Let's Connect was used to conduct surveys for the broader community and share information.
 - Staff will distribute a summary to the stakeholder group in September that contains proposed policy and code amendments and how they were shaped by comments from the stakeholder group.
 - Outreach for each specific code or policy amendment will occur within the Redmond Zoning Code ReWrite or Redmond 2050 outreach processes.
- **Feedback Summary:**
 - Triple Bottom Line Analysis goals, scenarios, and evaluation criteria reflect stakeholder feedback as presented at the September 8, 2020 Study Session.
 - Results of the Triple Bottom Line Analysis reflect stakeholder feedback as presented at the March 9, 2021 Study Session.

BUDGET IMPACT:

Total Cost:

Total costs for Phase I of the Temporary Construction Dewatering Policy Analysis was \$90,000. Phase I has been completed and was funded in the 2019-2020 biennium.

Phase II and III of this project will be completed with in-house staff funded in the 2021-2022 Budget.

Approved in current biennial budget: ☒ Yes ☐ No ☐ N/A

Budget Offer Number:
000215

Budget Priority:
Healthy and Sustainable

Other budget impacts or additional costs: ☒ Yes ☐ No ☐ N/A

If yes, explain:

- Temporary Construction Dewatering can have impacts on water revenues due to increase in Cascade Water Alliance purchases to supplement loss of well production due to drinking water aquifer quality impacts.

Funding source(s):
Water Utility

Budget/Funding Constraints:
N/A

☐ Additional budget details attached

COUNCIL REVIEW:

Previous Contact(s)

Date	Meeting	Requested Action
4/14/2020	Committee of the Whole - Planning and Public Works	Receive Information
7/14/2020	Committee of the Whole - Planning and Public Works	Receive Information
9/8/2020	Study Session	Receive Information
2/9/2021	Committee of the Whole - Planning and Public Works	Provide Direction
3/9/2021	Study Session	Approve

Proposed Upcoming Contact(s)

Date	Meeting	Requested Action
11/01/2021	Special Meeting	Provide Direction

Time Constraints:

Staff is coordinating with the Redmond 2050 effort. Policy evaluation based on the results of Phase I will inform the Comprehensive Plan update. Delays in moving forward with this project may impact Comprehensive Plan data submittal as well as prolong tensions between compact development and water management policies.

ANTICIPATED RESULT IF NOT APPROVED:

Tensions between new compact development patterns and water management policies will continue.

ATTACHMENTS:

NA