



## LAKWOOD CITY COUNCIL AGENDA

Monday, September 21, 2015

7:00 P.M.

City of Lakewood

City Council Chambers

6000 Main Street SW

Lakewood, WA 98499

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Page No.

### CALL TO ORDER

### ROLL CALL

### PLEDGE OF ALLEGIANCE

### PROCLAMATIONS AND PRESENTATIONS

1. Recognition of Tillicum McDonald's.
2. Proclamation declaring September 2015 as National Preparedness Month.  
– *Ms. Christine Badger, Emergency Management Coordinator*
- ( 5) 3. Presentation on gathering places at Ft. Steilacoom Park.

### PUBLIC COMMENTS

## C O N S E N T A G E N D A

- (24) A. Approval of the minutes of the City Council meeting of September 8, 2015.
- (32) B. Approval of the minutes of the City Council Retreat of September 12, 2015.
- (37) C. Approval of the minutes of the City Council Tour of September 14, 2015.
- (38) D. Approval of the minutes of the City Council Study Session of September 14, 2015

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<http://www.cityoflakewood.us>

*City Hall will be closed 15 minutes after adjournment of the meeting.*

- (45) E. Items Filed in the Office of the City Clerk:
1. Planning Commission meeting minutes of August 19, 2015.
  2. Lakewood's Promise Advisory Board meeting minutes of June 11, 2015.
  3. Lakewood Arts Commission meeting minutes of August 3, 2015.

(52) F. Motion No. 2015-48

Reappointing Councilmember Mike Brandstetter to serve as Lakewood's representative and Councilmember Paul Bocchi, as alternate, on the Greater Tacoma Regional Convention Center Public Facilities District Board for a four-year term through December 31, 2019.

(61) G. Motion No. 2015-49

Authorizing the execution of an agreement with KPG, Inc., in the amount of \$60,000, for preparing the Motor Avenue urban design street improvement plan.

## R E G U L A R   A G E N D A

### **PUBLIC HEARING AND APPEALS**

- (82) This is the date set for a public hearing on the City of Tacoma's Proposition 3, 1.5% utility company earning tax for Tacoma street improvements.

### **ORDINANCE**

(104) Ordinance No. 619

Amending Chapter 2.38 of the Lakewood Municipal Code relative to the Lakewood's Promise Advisory Board. – *City Attorney*

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**RESOLUTIONS**(116) Resolution No. 2015-25

Designating Fort Steilacoom building as a community landmark. – *Assistant City Manager for Development Services*

(120) Resolution No. 2015-26

Establishing procedures for noticing of preliminary agendas, special meetings and hearings of the City Council in accordance with State law. – *City Attorney*

(123) Resolution No. 2015-27

Accepting a Pierce County Conservation Futures grant, in the amount of \$275,000 and authorizing the City Manager to execute a purchase and sale agreement of real property at 4713 127<sup>th</sup> Street SW for expansion of Springbrook Park. – *City Attorney*

**UNFINISHED BUSINESS**(140) Motion No. 2015-31 – (continued from the meeting of August 3, 2015)

Authorizing the execution of an interlocal agreement with Pierce College, Clover Park School District, Clover Park Technical College, Boys and Girls Club of South Puget Sound, YMCA of Pierce and Kitsap Counties, St. Clare Hospital, Communities in Schools of Lakewood, Pierce County Library, JBLM and others relative to the Lakewood's Promise Program. – *City Attorney*

(146) Motion No. 2015-50

Authorizing the execution of a memorandum of agreement with Pierce College, Clover Park School District, Clover Park Technical College, Boys and Girls Club of South Puget Sound, YMCA of Pierce and Kitsap Counties, St. Clare Hospital, Communities in Schools of Lakewood, Pierce County Library, JBLM and others relative to the Lakewood's Promise Program. – *City Attorney*

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**NEW BUSINESS**(154) Motion No. 2015-51

Authorizing the execution of an agreement with Puget Sound Energy, in an amount not to exceed \$335,009.85, relative to the LED streetlighting project. – *Public Works Director*

(157) Motion No. 2015-52

Authorizing the execution of an agreement with Sharp Electronics for replacement copiers. – *Assistant City Manager for Administrative Services*

(160) Motion No. 2015-53

Authorizing the execution of an agreement with Horwath Law PLLC for public defender services from February 1, 2016 through December 31, 2018. – *Management Analyst*

(177) Motion No. 2015-54

Authorizing the execution of an agreement with J&S Law Group, PLLC for backup public defender services from January 1, 2016 through December 31, 2018. – *Management Analyst*

(193) Motion No. 2015-55

Approving the revised Lodging Tax Funding Guidelines. – *City Attorney*

**REPORTS BY THE CITY MANAGER**

- (195) Report on Lakewood Municipal Code Title 5 business license implementation.

**CITY COUNCIL COMMENTS****ADJOURNMENT**

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To: Mayor and City Councilmembers

From: Mary Dodsworth, Parks, Recreation & Community Services Director

Through: John J. Caulfield, City Manager *John J. Caulfield*

Date: September 14, 2015

Subject: Fort Steilacoom Park Gathering Spaces Update

Attachments: A: Gathering Places Issue Matrix  
B: Preferred Design Options  
C: Preferred Location Map

**Summary:** Council directed the Parks and Recreation Advisory Board (PRAB) to review the topic of community gathering spaces and to assess Fort Steilacoom Park (FSP) as a site to host this use. The topic has been called the amphitheater, an acre for the arts, gathering places and gathering spaces. The park serves hundreds of thousands of visitors each year and provides space for a variety of active and passive uses and user groups. Even though the park is currently used for gatherings of all kinds, Council asked for feedback on creating a more formal gathering space.

The PRAB facilitated a five month community planning process which included six public meetings. A lot of information was shared and feedback was received. Everyone attending the meetings believes that FSP is a special place and wants to preserve and protect it. How that is done varies from person to person. There are many in the community who do not want to see any changes at the park that would take away from the natural environment or their personal use. Others are open to improvements and changes as long as thoughtful planning is used regarding where the improvements are made, who uses the site and when and how it is used. Based on Council direction and information gathered the Board has selected two potential design options and a preferred location for gathering space improvements. The PRAB approved a motion at their July 21, 2015 meeting to forward their recommendations to Council for review.

**Public Process Summary:** Because of previous discussions regarding amphitheaters, community stages and gathering places, the PRAB facilitated a lengthy discussion to ensure information was shared and community input was received. Following is a summary of the meetings:

February 24, 2015: PRAB reviews Council request, discussed the history of this topic and develops a meeting process to gather and review information.

March 24, 2015: The discussion continued where the “amphitheater” meeting ended the previous year. A matrix was developed to look at previous and current issues, impacts and solutions (attached A) and was updated throughout the process. An overview of park use was provided, including current uses by active and passive groups for large and small events. Information and ideas from the FSP economic feasibility study which included creating a farm community theme was shared. The community planning process was presented and the next four meeting dates were identified. A cut and paste activity was facilitated to see what an acre of use would support and how various events impact the park (space, parking, restrooms, access, etc...). An e-mail list was developed so updates regarding this topic could be sent out electronically with links to agendas and presentations.

April 28, 2015: Reviewed previous meeting topics, added to matrix list and evaluated over 60 gathering spaces to determine what people liked/disliked about each one. Themes included using natural materials for construction and current views and native vegetation as backdrops. Adding a roof or cover will support northwest weather and it should look like it fits in a park setting. Since musical events were mentioned many times, designing with acoustics in mind was emphasized. Most didn't want a modern looking structure.

May 27, 2015: Reviewed information from previous meetings including issues, impacts, solutions and what we liked/disliked about various structures. Three potential locations at the park were identified along with five preliminary facility designs. Meeting guests were divided into five groups where each had an opportunity to share their thoughts regarding design elements and site locations. After everyone rotated to each station a leader from each group shared the general consensus about each design and various locations. Everyone was given six dots and asked to vote on the design or design elements they liked most.

June 23, 2015: Reviewed typical uses for a gathering space in a park. Two of the options received a similar number of votes so both were considered as preferred options. Designs were selected because they fit aesthetically in the park, were constructed out of natural and durable materials and used current vegetation as backdrops. A 40 x 60 foot stage footprint was used for presentation purposes. It was noted that Option A would be more feasible for single day use while Option B provided storage, could be used over a longer period of time since it could be closed and secured, created more shelter from northwest seasons and would support different types of uses. Site locations were selected because they were in open spaces currently used for similar types of activities and close to power, water, parking, permanent restrooms and roadways. No trees or structures would need to be removed to support any improvements in these areas and new events in the proposed locations would not interrupt currently scheduled activities (5K's, bike races, walk a thons, sports leagues and tournaments) at the park. Cost estimates for construction or operations and maintenance were not provided at this time.

**PRAB Recommendation:** The PRAB considered a variety of recommendations at their July 21, 2015 meeting including the “do nothing” option. Because the community was split between option A and B, the PRAB is forwarding both design options for Council consideration with option B (the barn structure) as their preferred option. They are recommending location #2 (behind the maintenance shop) as the preferred location since this area can support small or large groups with minimal impacts. They noted that a structure with a 40 x 60 foot stage area is about the right size for this location at the park. The PRAB believes it provided Council with the information requested. The PRAB did note that additional information regarding construction costs (w/phased plan) and a business plan is needed before improvements are made.

**Next Steps:** The City Council may need additional information prior to making a decision regarding a gathering space at Fort Steilacoom Park. A cost estimate of \$750,000 is being used for planning purposes. Staff is working with the Rotary Club of Lakewood and other community partners to help develop a true cost estimate for construction along with potential funding options and ways to reduce costs. Council may also request a business plan to determine impact to City operations.

A business plan may be developed which will look at Council's vision and intent for the space and include a description of uses and target markets. This will help determine what services can initially be provided and by whom (city staff or potential contractors) and potential revenue sources along with the costs for marketing, maintenance, management and operations.

Construction costs would be estimated and, if needed, development of a phased plan. When the idea for a gathering space was first presented, members of the community offered to provide donations and in-kind support. To take advantage of community contributions and to reduce overall project costs, a variety of options could be considered.

1. Accept community donations for the project. The City would take the lead in design, permitting and construction, but the donations of cash or services would offset the costs associated with the construction. Examples include donated services (architectural design work), specific equipment (a sound system) or building supplies (concrete). Public bidding processes and prevailing wage would be required for non-donated materials and services. This is similar to how we built the restrooms at FSP.
2. Public Private Partnership – The City could design the structure to meet site and community needs. The City could sub-lease the land to a third party who would meet bonding and insurance requirements and had the expertise to build the structure to IBC codes and City standards with local support and resources. When the lease expires, they could donate the structure back to the city. State approval for a sub-lease and project development would be required. This would be a new option for the City.
3. Private Contract – the City could sub-lease the land to a third party who develops the property and then manages and operates the structure based on a public/private contract for a determined period of time and cost. This is similar to the Commencement Bay Rowing Clubhouse agreement at Harry Todd Park.

**Attachment A - FSP Gathering Space Matrix**

<b>Issues / Concerns</b>		<b>Ideas and Solutions</b>
Historic Preservation – protect the prairie, cemetery and connect to the past		Don't put in special places. Be aware of location. Add education and signage so new visitors know that certain areas are special. Be aware of traffic and pedestrian flow so they don't trample special areas.
Impact to open space and wildlife areas		Don't locate in natural areas. Place active improvements in active areas. Education/signage of natural areas. Restrict size / control parking / don't remove natural buffers (trees and vegetation. They provide habitat
Impact to Pierce College or Western State Hosp.		Information communication with these agencies.
Neighborhood Impact	Noise	Don't want to hear music 1.5 miles away / limit event/use during certain hours and on certain days. Measure decibel levels. Design to direct noise away from houses. Design to push noise towards Steilacoom Blvd. Trees are natural buffers. Have an on-site monitor to supervise events. Who do we call if noise is too loud – 911 (non-emergency #).
	Parking	Need better parking at (Angle & Elwood) entrance. There is a path/shortcut at the end of Wauna Street. Need enforcement. Encourage use of Pierce College. Design off-street parking in adjacent areas.
	Crime	Add late night patrols if activity is in the park after hours. Create neighborhood block watch programs. Be aware of audience you are inviting to the park. Anticipate increased drug use at concerts (maybe not at the symphony☺).
	Property Values	Houses near well maintained parks have higher values. If you don't maintain or start removing vegetation – that could reduce values.
Vandalism and Graffiti		We deal with graffiti every day. Certain materials are easier to clean off or can be repainted. Some can be coated / treated in advance to make easier to clean off. Vandalism happens after hours so new events won't create vandalism. A new facility would just be a new place to tag. Lock Sanicans at night
It's a done deal? Who decides?		No, we're just planning. PRAB will make a recommendation to Council based on information they gather. Council decides next steps. No design has been done, no specific site has been determined. No city funds have been allocated. Lakewood Rotary is still interested in investing in a community project. Do nothing should be an option.
Revenue vs Expenditures Manage / maintain / fees Cost recovery		Create a business plan so you know what you plan to do, how much it costs to maintain and how much revenue you might generate. We charge fees for private use of site (special events, shelter use, tournaments, races, concerts, movies, walk-a-thons, etc...). Use a portion of the fees you charge to create a depreciation account to fix current and future deferred maintenance issues.
Temporary vs Permanent Structures		Create a pit stage so musicians are below ground. People would be up higher. That would reduce noise. Create a bowl / natural amphitheater. Pierce College used their

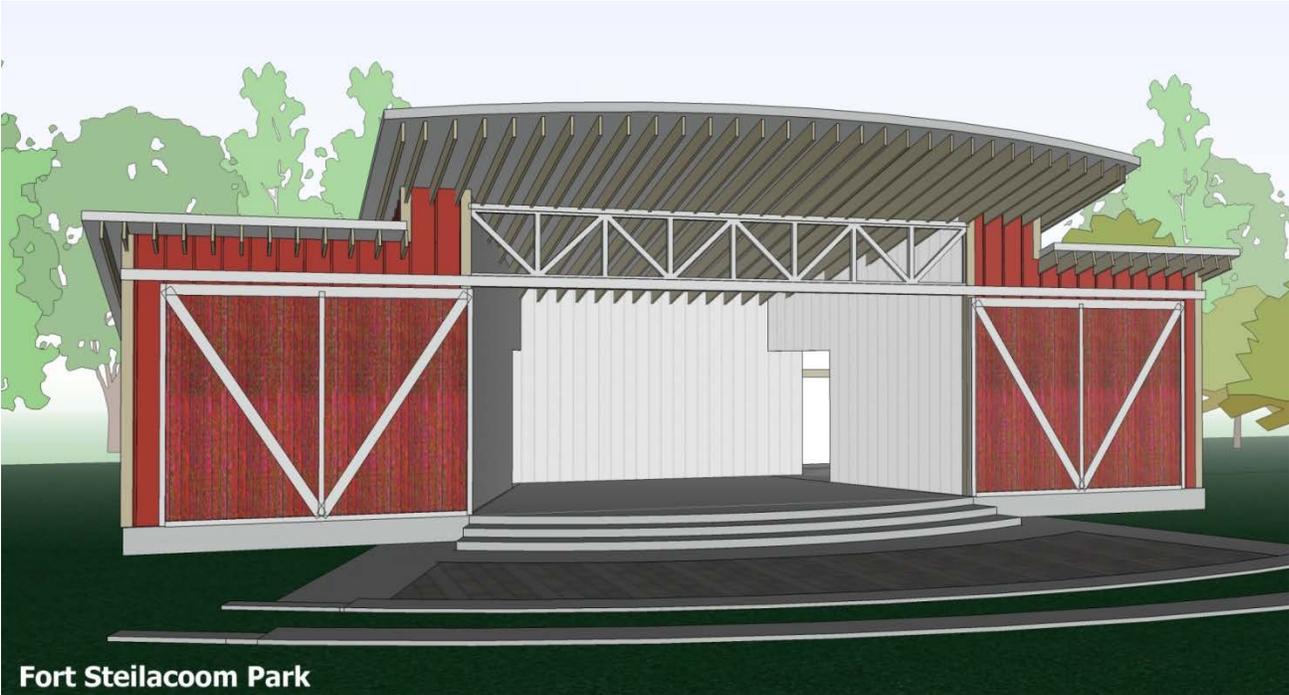
	hillside in previous years for events. People can bring their own chairs and/or sit on grass. Creating tiered seating is good.
Seasonal Use	Design for northwest / add a roof for rain/shade. Seasonal hours / dark earlier in the fall / spring – more light in summer
Safety – lighting at night ADA access	Temporary lighting so it's safe to get to parking areas. Use light shields so it doesn't disturb neighbors or drivers on Steilacoom Blvd. Need access to power for lights.
Alcohol use	Must get a permit for alcohol (from City and State). Non-profits can for events. Private citizens can't. We follow Washington State Liquor Control Board rules. Add police if alcohol is available.
Traffic - impacts roads	Roads are in bad shape. Need infrastructure upgrades. There are lots of overflow parking areas in the park. Control access so people use the areas reserved for them.
Use funds to fix what is already developed or in bad shape at the park.	Historic elements and barns (this would create an indoor space – less impact to park users), fix path around Waughop Lake and roads into the park. Pave parking lot.
Consequences?	Charge deposits. What happens if people don't follow the rules (noise, too many people)? Parks dept. is closed on weekend. Need an on-call phone number for parks staff. We encourage calling police so they can track and respond. They will triage based on what's happening in community. Parks staff can't enforce laws. We can share rules? Can we preview acts so we know if they are park/family friendly?
Sanitation	Need restrooms. What can current facilities support (223 flushes per hour and sanicans hold 125 uses per unit). When do you need extra restroom units? We use a formula based on # of people and # of hours to determine what is needed. Add extra Sani-can at dog park during events. Users also bring in garbage cans for larger events.
Current existing activities	Be sure new things don't conflict with current activities, events, sports leagues, etc... Partner with other venues (Pierce College or UP). Other cities have nice spaces, why can't we?
Other Locations – where else could this project go (besides the park)	Town center (we don't own the land there and owners aren't interested in changing parking/retail space for community space). Pierce College (they have indoor spaces and outdoor areas) In a barn (less impact on park users). Send people to Steilacoom or UP, they have gathering spaces.
Volunteers	We need volunteers at the park. If you want to volunteer go to the city website – go to <i>I WANT TO...</i> Volunteer. You can sign up on-line. This process can be cumbersome. If you want to volunteer, call Parks and Rec and we'll put you to work.

**Attachment B - Preferred Design Options**



**Fort Steilacoom Park**

**OPTION A**



**Fort Steilacoom Park**

**OPTION B - preferred design by PRAB**

**Attachment C - Preferred Location Option with Design “Footprint”**



# Gathering Spaces Fort Steilacoom Park



Lakewood City Council  
September 21, 2015



SE 11TH DR

W 1ST ST

BRANCH ST

SOUTH ST

CLARK GATE DR

SOUTH ST

CLARK GATE DR

1ST ST

COTTAGE ROW

STERACOOM BLVD SW

WATCHTOP LAKE RD SW

1ST ST

DRESBEN SW

DALETON DR SW

HAWLAND AVE SW

NIXON POY SW

WENDE SW

NORTH WY SW

WALTON SW

BURGER DR SW

95TH ST SW

MULFACOM DR SW

WALTON RD SW

WALTON SW

WATCHTOP LAKE

PARAWEST DR SW

98TH ST SW

94TH ST SW

97TH ST SW

100TH ST SW

100TH ST SW

101ST ST SW

101ST ST SW

100TH DR SW

013

NOVA RD SW

# Gathering Spaces

- Theatre in the Parks
- Movie Nights
- Community Meetings
- Fundraisers
- SummerFEST and other Festivals
- Concert Series or Special Events
- Awards Stage (car show, bike races)
- Private Parties (weddings, corporate events)



# Gathering Spaces

Meeting #1 – Council Request - History

Meeting #2 – Issues, Impacts, Solutions - Locations?

Meeting #3 – Lots of Designs – Pros and Cons

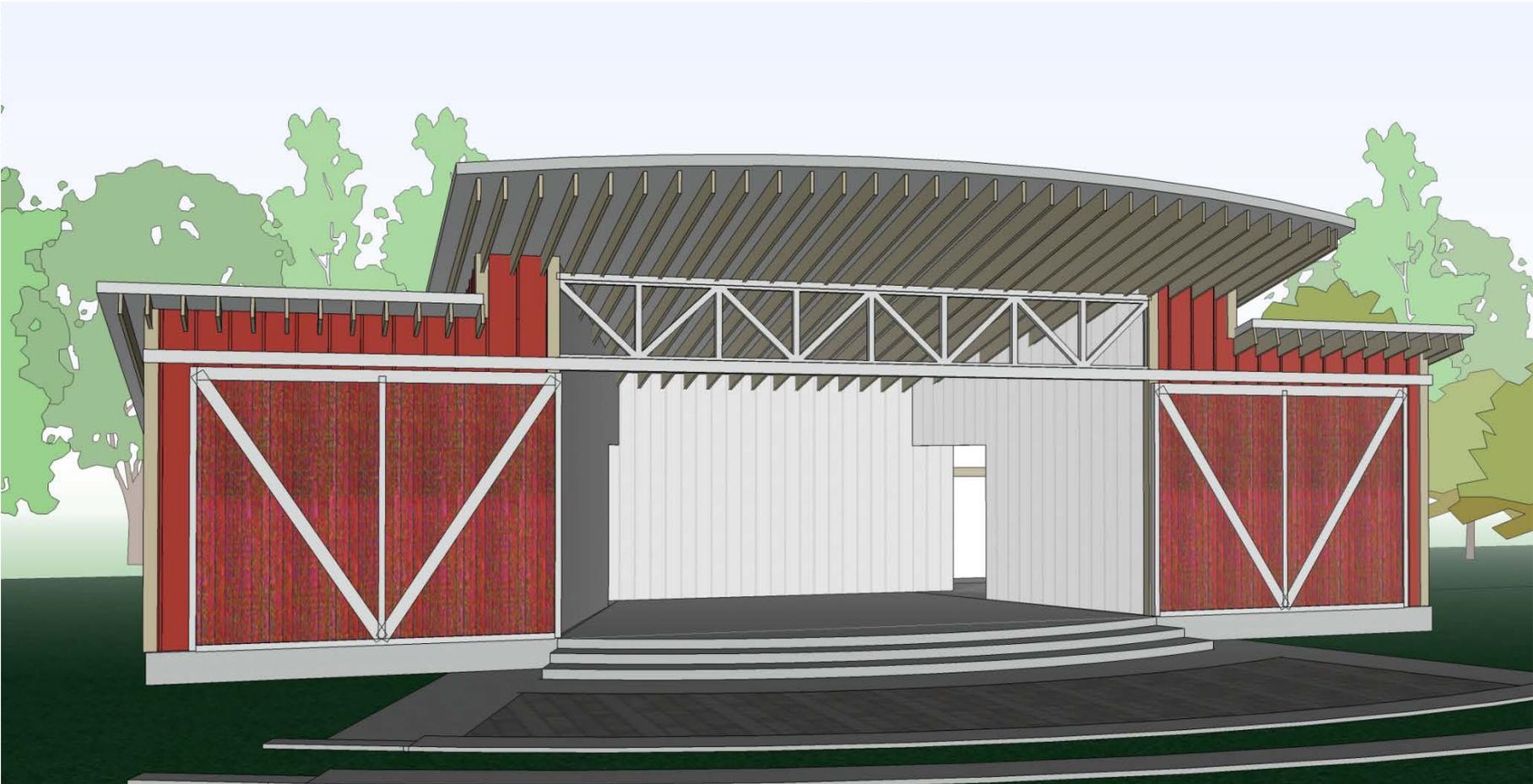
Meeting #4 – Design options / locations / Speed Dating

Meeting #5 – Preferred Options

Meeting #6 – Recommendation

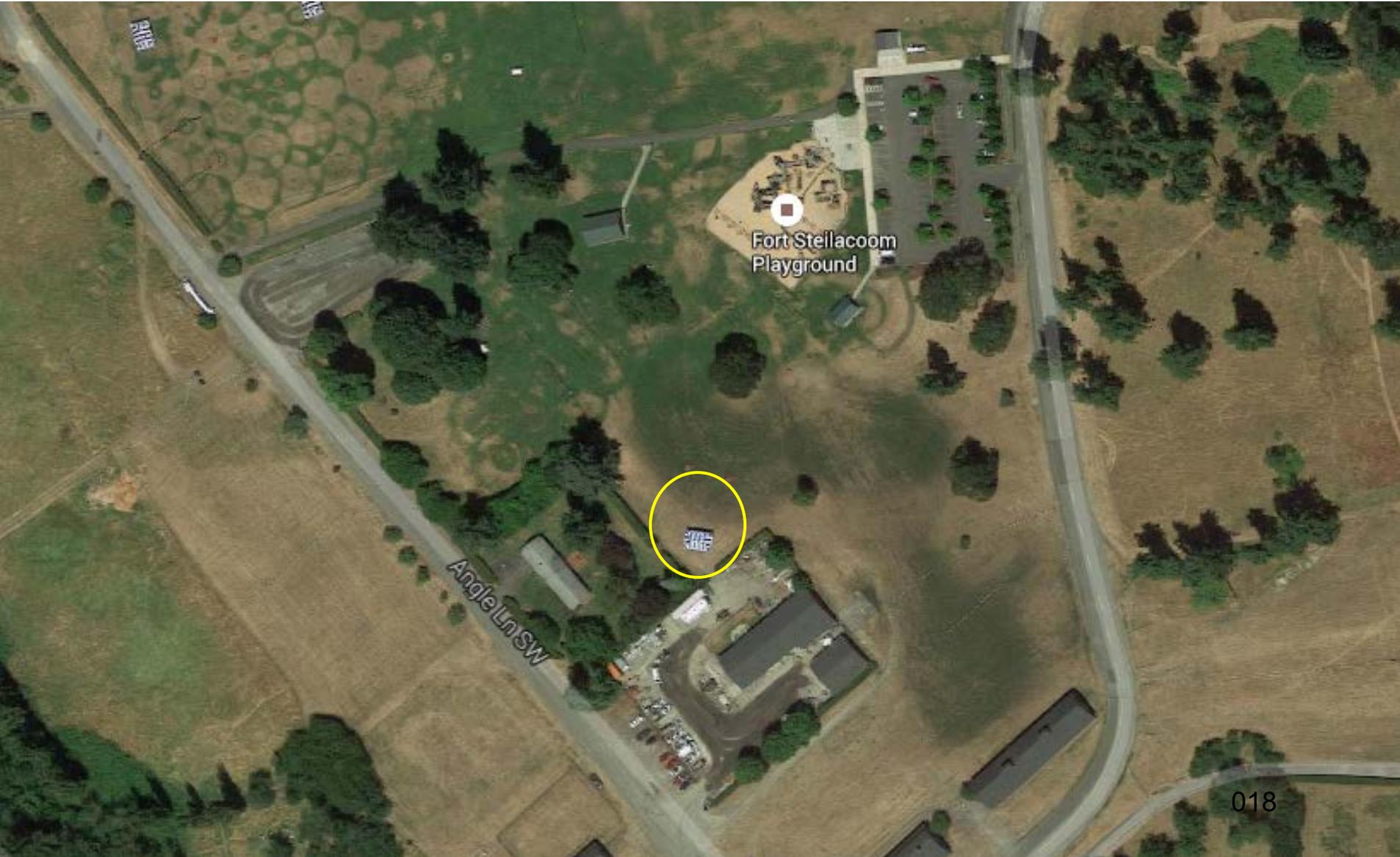


**Fort Steilacoom Park**



**Fort Steilacoom Park**

# Preferred Location



Jake Gailey

J.k.gailey.2009@gmail.com

Jake Gailey  
j.k.gailey.2009@gmail.com



Fort Steilacoom Park  
Gathering Space Studies  
Lakewood, WA

Opt. 2b



019

Fort Steilacoom Park



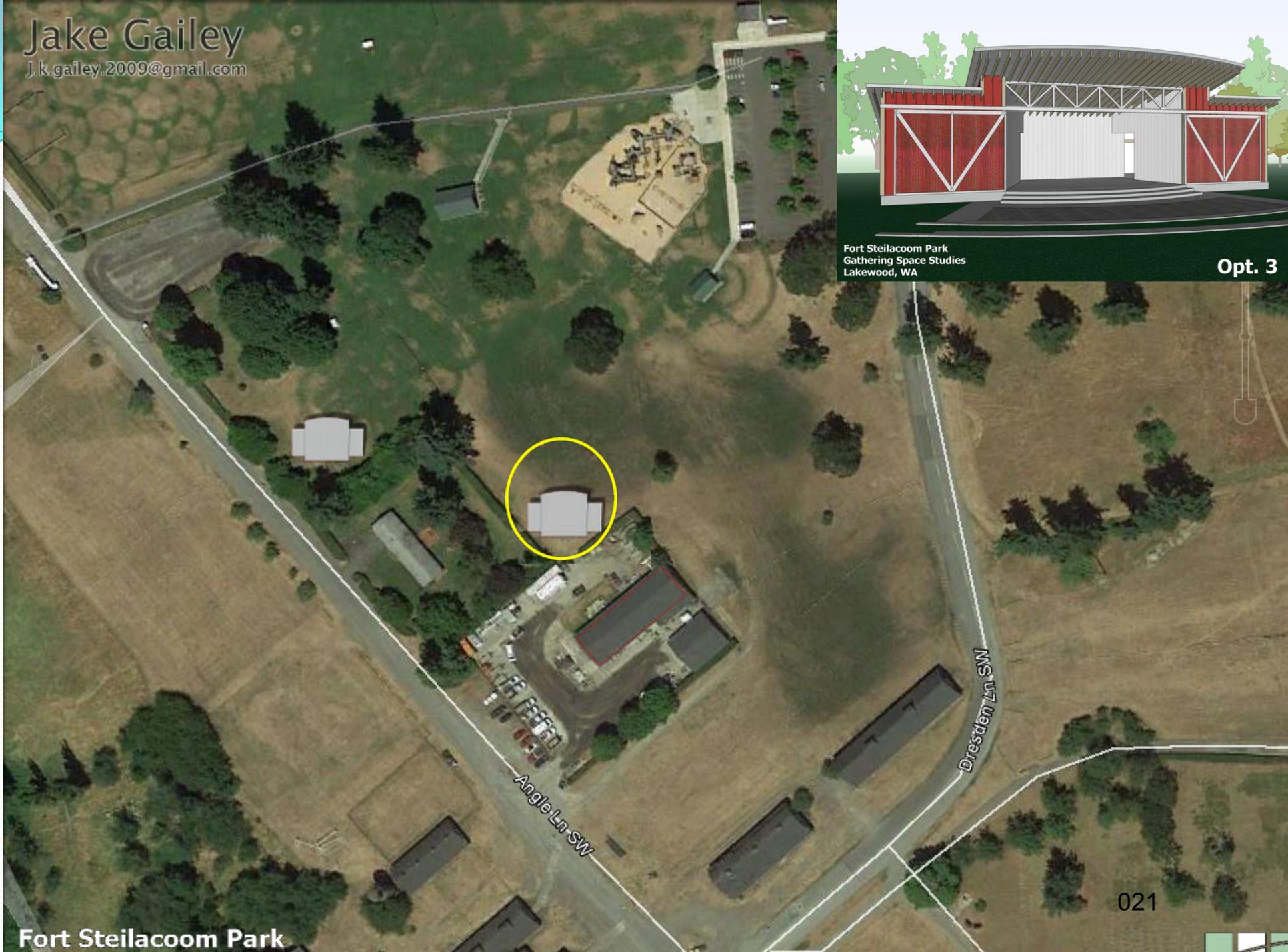
**Fort Steilacoom Park**  
**Gathering Space Studies**  
**Lakewood, WA**

**Opt. 2b**



Fort Steilacoom Park  
Gathering Space Studies  
Lakewood, WA

Opt. 3





**Fort Steilacoom Park**  
**Gathering Space Studies**  
**Lakewood, WA**

**Opt. 3**

# Next Steps?

- Business Plan
- Construction Cost Estimate
- Funding Plan
- Partnerships
- Council Direction





## **LAKWOOD CITY COUNCIL MINUTES**

Tuesday, September 8, 2015

City of Lakewood  
City Council Chambers  
6000 Main Street SW  
Lakewood, WA 98499

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### **CALL TO ORDER**

Mayor Anderson called the meeting to order at 7:01 p.m.

### **ROLL CALL**

Councilmembers Present: 7 – Mayor Don Anderson; Deputy Mayor Jason Whalen; Councilmembers Mary Moss, Mike Brandstetter, John Simpson, Marie Barth and Paul Bocchi.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by request of Mayor Anderson.

### **PROCLAMATIONS AND PRESENTATIONS**

#### **Youth Council Report.**

The Youth Council reported on their first official meeting for the 2015-2016 school year and discussed their duties, responsibilities and participation in upcoming events as a Youth Councilmember.

#### **Proclamation declaring the month of September, 2015 as Prostate Cancer Awareness Month.**

MAYOR ANDERSON PRESENTED A PROCLAMATION DECLARING THE MONTH OF SEPTEMBER, 2015 AS PROSTATE CANCER AWARENESS MONTH TO MR. KERRY KEELY, TACOMA PROSTATE CANCER SUPPORT GROUP.

#### **Proclamation declaring the month of September, 2015 as National Literacy Month.**

DEPUTY MAYOR WHALEN PRESENTED A PROCLAMATION DECLARING THE MONTH OF SEPTEMBER, 2015 AS NATIONAL LITERACY MONTH TO MS. BARBARA VEST, LAKEWOOD ARTS COMMISSION MEMBER.

**Proclamation declaring September 18, 2015 as Lakewood Playhouse Theatre Day.**

COUNCILMEMBER SIMPSON PRESENTED A PROCLAMATION DECLARING SEPTEMBER 18, 2015 AS LAKEWOOD PLAYHOUSE THEATRE DAY TO MR. JOHN MUNN, MANAGING ARTISTIC DIRECTOR, LAKEWOOD PLAYHOUSE.

**Clover Park School District Report.**

Clover Park School District (CPSD) Board Director Wagemann reported that school started on September 2, 2015 with 125 new teachers. The opening of Beachwood Elementary School starts September 22, 2015. Four Heroes Elementary School opening is on September 10, 2015. All day kindergarten is now being offered. He reported on the Title I funding the District has received. He reported that CPSD is conducting a phone community survey. He noted that Evergreen Elementary School has begun construction, Hope Academy will be adding nine classrooms and Southgate Elementary School's demolition has been completed.

**PUBLIC COMMENTS**

Speaking before the Council were:

*Dennis Haugen, Lakewood resident*, showed a video on recruiting businesses.

*Jordan Michelson, Lakewood resident*, spoke about the Ponders Corner decrease in sales tax and how a marijuana retail store could generate more tax revenue.

*Joan Lewis, Tacoma*, spoke about the Starlite swap meet and that people going to the swap meet do so for the people company. She asked the Council to reconsider the City's plans for the swap meet.

*Dale Lucia, Kent resident*, spoke against the changes to the swap meet business licenses and expressed concern that it is unfair.

*Dennis Eros, Tacoma*, commented that he has been selling at the swap meet for the last six years, and is on limited income. He expressed concern that this is the only job he has and that operating only 6 months out the year will be a financial burden on him.

*Steve Burnham, Puyallup*, expressed concern about the intent of the statute passed by the Council to disenfranchise swap meet businesses, and is a violation of their constitutional rights to make a living.

*Becky Huber, Lakewood resident*, spoke about Lakewood's heritage, arts and culture. She announced that on September 12, Mt. View Funeral Home will be celebrating their centennial, and on October 1 and 2, 2015 Allen Realty will be celebrating its 75<sup>th</sup> anniversary.

**C O N S E N T   A G E N D A**

- A. Approval of the minutes of the City Council meeting of August 17, 2015.
- B. Approval of the minutes of the City Council Study Session of August 24, 2015.
- C. Approval of payroll checks, in the amount of \$2,135,848.04, for the period July 16, 2015 through August 15, 2015.
- D. Approval of claim vouchers, in the amount of \$2,942,353.17, for the period July 16, 2015 through August 31, 2015.
- E. Items Filed in the Office of the City Clerk:
1. Planning Commission meeting minutes of July 15, 2015.
  2. Public Safety Advisory Committee meeting minutes of July 1, 2015
  3. Landmarks and Heritage Advisory Board meeting minutes of July 30, 2015.
- F. Motion No. 2015-42
- Setting Monday, September 21, 2015, at approximately 7:00 p.m., as the date for a public hearing by the City Council on the City of Tacoma's Proposition 3, 1.5% utility company earning tax for Tacoma street improvements.
- G. Motion No. 2015-43
- Appointing Alan Billingsley, Susan Dellinger and Vito Iacobazzi to the Parks and Recreation Advisory Board through September 19, 2018.
- H. Motion No. 2015-44
- Authorizing the execution of an amendment to the agreement with Elway Research, Inc., in the amount of \$10,275 for a total of \$69,275, to conduct a business and community survey for the South Sound Military & Community Partnership.

I. Motion No. 2015-45

Awarding a bid to Elcon Corporation, in the amount of \$384,262, relative to the Traffic Signal Upgrade Phase 5 fiber optic interconnect and video system project.

COUNCILMEMBER BOCCHI MOVED TO ADOPT THE CONSENT AGENDA AS PRESENTED. SECONDED BY COUNCILMEMBER SIMPSON. VOICE VOTE WAS TAKEN AND CARRIED UNANIMOUSLY.

**R E G U L A R   A G E N D A****ORDINANCES**

**Ordinance No. 617 granting a franchise to Comcast Cable Communication Management, LLC to construct, operate, maintain, reconstruct, repair and upgrade a system for providing cable services within the city of Lakewood.**

DEPUTY MAYOR WHALEN MOVED TO ADOPT ORDINANCE NO. 617. SECONDED BY COUNCILMEMBER BARTH. VOICE VOTE WAS TAKEN AND CARRIED UNANIMOUSLY.

**Ordinance No. 618 repealing Sections 5.06.030 and 5.06.040 of the Lakewood Municipal Code relative to rental housing.**

COUNCILMEMBER SIMPSON MOVED TO ADOPT ORDINANCE NO. 618. SECONDED BY COUNCILMEMBER MOSS. VOICE VOTE WAS TAKEN AND CARRIED UNANIMOUSLY.

**UNFINISHED BUSINESS**

None.

**NEW BUSINESS**

**Motion No. 2015-46 authorizing the execution of an agreement with Lakeview Light & Power, in the amount of \$127,800, relative to the LED streetlighting project.**

DEPUTY MAYOR WHALEN MOVED TO AUTHORIZE THE EXECUTION OF AN AGREEMENT WITH LAKEVIEW LIGHT & POWER, IN THE AMOUNT OF \$127,800, RELATIVE TO THE LED STREETLIGHTING PROJECT. SECONDED BY COUNCILMEMBER MOSS. VOICE VOTE WAS TAKEN AND CARRIED UNANIMOUSLY.

**Motion No. 2015-47 authorizing the execution of an interlocal agreement with West Pierce Fire & Rescue, in the amount of \$202,400 for 2015 plus a Consumer Price Index increase annually thereafter, for Fire Marshal services.**

COUNCILMEMBER MOSS MOVED TO AUTHORIZE THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH WEST PIERCE FIRE & RESCUE, IN THE AMOUNT OF \$202,400 FOR 2015, PLUS A CONSUMER PRICE INDEX INCREASE ANNUALLY THEREAFTER, FOR FIRE MARSHAL SERVICES. SECONDED BY COUNCILMEMBER SIMPSON. VOICE VOTE WAS TAKEN AND CARRIED UNANIMOUSLY.

**REPORTS BY THE CITY MANAGER**

**Review of lodging tax funding methodology.**

City Manager Caulfield called on Assistant City Manager for Administrative Services Kraus who reviewed the ending fund balance for hotel/motel taxes and reserve funding for capital projects. She reviewed the proposed changes to the lodging tax funding guidelines as it related to the 25% reserves.

Discussion ensued on further clarifying the 4% and 3% guidelines for capital projects; what is the state's requirement (3% can only be used for capital); and include "restricted capital funds" to the 3% allocation guideline. It was the consensus of the Council that the lodging tax funding guidelines be revised to provide for 4% guidelines for capital projects and 3% guidelines for restricted capital funds and remove the references for a 25% reserve. The revised guidelines will be scheduled for the Council's September 21, 2015 Consent Agenda.

**Review of public defender and backup public defender contracts.**

Management Analyst Lincoln reviewed the proposed public defender services with Horwath Law, LLC and backup public defender services with J&S Law Group, LLC.

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City Manager Caulfield announced that the new Community Connections magazine has been distributed.

City Manager Caulfield provided a briefing on the recent storm outages and challenges the City faced with the loss of phone services at City Hall and how the City's first responders were able to adapt. He complimented City staff who came together and worked on the storm outages. He noted that the Council will be briefed on snow and ice readiness in October.

City Manager Caulfield announced that on September 11, 2015, the City of Lakewood and West Pierce Fire & Rescue will be holding a 911 ceremony in front of City Hall. He then provided an update on several road construction projects.

He then asked if the Council desired to hold a public hearing on the Comprehensive Plan. It was the consensus of the Council to consider holding a public hearing after the Planning Commission's hearing on September 16, 2015.

With regard to the Pt. Defiance Bypass, City Manager Caulfield explained that WSDOT-Rail was funded to design and make AMTRAK improvements through Lakewood and DuPont which is to be managed by Sound Transit. The work is to begin in September/October and continue through early 2017. He noted that the City's code does not allow for construction noise during the hours of 10 pm – 7 am and Sound Transit has acknowledged this sensitivity and is working with the construction contractors on a communications outreach strategy.

He noted that two of Lakewood's Sound Transit 3 requests are still on the board. BRT Pierce Transit is looking to prepare a large master plan. A meeting is scheduled with CEO Sound Transit to discuss security maintenance at the Lakewood Station. A letter is being prepared by Mayors in the South Sound region about the Sound Transit 3 package.

He then reported that postcards on the City of Tacoma's Proposition 3, utility tax for Tacoma street improvements have been sent out to Lakewood residents.

He then provided an updated on the Golden Lion Inn as it relates to accumulated fines and is being scheduled before the Municipal Court Judge on October 7, 2015.

He reported that business licensing will be done on-line for 2016 licenses.

He announced that three Transportation Improvement Board (TIB) grant applications totaling \$6.7 million have been filed for the Lakewood Drive street improvement project from Steilacoom Boulevard to 74<sup>th</sup> Street, the South Tacoma Way street improvement project from 88<sup>th</sup> St. to South 80<sup>th</sup> Street and the Gravelly Lake Drive sidewalk improvement project from 59<sup>th</sup> Avenue to Steilacoom Boulevard. Public Works staff is of the opinion that the South Tacoma Way project would rank highest according to the TIB scoring criteria.

He reported that the City had been working with MJR, adjacent property owner to City Hall, about the ownership of the property around the City Hall fountain area and a deed for City ownership of this property is forthcoming.

He indicated that the Joint Land Use Study is almost complete and is scheduled to be presented to the Pierce County Regional Council on September 17, 2015, the SSMCP Elected Officials on October 29, 2015 and the SSMCP Annual Forum on November 12, 2015.

He announced that a Council Tour of the Traffic Management Center is scheduled at 6:30 PM on Monday, September 14, 2015 prior to the Council Study Session. The tour will be held on the second floor of City Hall.

After the September 14, 2015 Council Study Session, Council ipads will be collected for maintenance.

He announced that the Four Heroes Elementary School grand opening is scheduled for September 10, 2015 at 6:00 p.m.

### **CITY COUNCIL COMMENTS**

Councilmember Moss thanked Mayor Anderson for testifying before the Sound Transit Board regarding the Sound Transit 3 package. She announced that the search for a Sound Transit CEO has begun and 200 applications have been received so far. She also noted that Sound Transit will not be providing transportation to the Puyallup Fair this year.

Councilmember Brandstetter asked if the Lakewood's Promise agreement that was continued to the September 21, 2015 meeting be sent to the Council.

Councilmember Barth commented on the Public Safety Advisory Committee meeting and the Lakewood Chamber of Commerce luncheon she attended. She noted that Jim Taylor is home from the hospital and suggested that a card be sent to him.

Councilmember Simpson indicated that he will not be attending the September 14, 2015 Council Study Session and noted that the Landmarks & Heritage Advisory Board will be holding a joint meeting with the Council that evening. He reported on the September 1, 2015 WSDOT meeting that was held in Tillicum and the comments made about the Berkley over change, the width of the interconnector road with bicycle lanes and the impacts of that potential take. He then commented on the Lakewood Chamber of Commerce annual event.

Mayor Anderson reported on Pierce Transit fares. He commented on the testimony he provided before the Sound Transit Board. He spoke about the Coffee with the Mayor discussion on homelessness. He commented on the Chamber of Commerce annual meeting he attended.

\* \* \* \* \*

Mayor Anderson announced that Council will recess into Executive Session for approximately 15 minutes to discuss real estate acquisition.

\* \* \* \* \*

Council recessed into Executive Session at 9:15 p.m. and reconvened at 9:30 p.m.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 9:30 p.m.

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DON ANDERSON, MAYOR

ATTEST:

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ALICE M. BUSH, MMC  
CITY CLERK



## LAKWOOD CITY COUNCIL RETREAT MINUTES

September 12, 2015  
City of Lakewood  
City Council Chambers  
6000 Main Street SW  
Lakewood, WA 98499

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### CALL TO ORDER

Mayor Anderson called the meeting to order at 8:30 a.m.

### ATTENANCE

Councilmembers Present: 7 – Mayor Don Anderson; Deputy Mayor Jason Whalen; Councilmembers Mary Moss, Mike Brandstetter, John Simpson, Marie Barth and Paul Bocchi.

### ITEMS FOR DISCUSSION:

#### Review of Community Visioning Plan

Assistant City Manager for Development Services Bugher announced that the purpose of today's retreat is to develop a vision statement for Lakewood.

He summarized what the community identified as Lakewood's vision from the various community visioning public outreach forums. He then reviewed what the respondents said about where they wanted Lakewood to go in the future. He described several styles and formatting options for creating a visioning statement and identified the ingredients of a visioning statement.

The Council engaged in a brainstorming exercise to answer three questions. The Council identified the following:

1. What is our community's potential?

- Unlimited potential for growth
- Strategic location connecting to surrounding cities and JBLM
- Recognized/respected regional voice
- Commercial hub on I-5
- Room to grow commercially
- Potential to become an urban community with strong motorized and non-motorized connectivity
- Redevelopment opportunities
- Get 2/3 of residents living in owner-occupied homes
- Potential of being a high-end residential community for south sound
- Have reasonable priced commuter housing transit center

- Be able to handle GMA-forced urban center
- Be able to model being a defense community
- Be a service center for JBLM and VA given Lakewood's location, (ie. technology, cyber and medical)
- Be the most "complete" community (urban community) in the south sound (commercial, industrial, retail, educational) that draws in vibrant diverse community.
- Focus on greatest educational institutions (CPTC and Pierce College)
- Diversity is a positive aspect of our community

## 2. What would success look like to you?

- How do we put the pieces together to make success (positive increases in statistical measurements/indicators).
- High employment to population ratio
- Strong neighborhoods
- Better balance in housing and income
- Better City revenues
- More parks and open space
- Lower crime
- Better schools
- Start to look and act like a city versus a suburb
- Creating a place to be and where people want to live, work and play
- Known for first class municipal services at reasonable prices
- National recognition for educational opportunities
- Vibrant urban core complete with mixed-use housing, pedestrian walkable interconnected downtown core (landscaping, public art, lighting) creates a livable place to be.
- Be a destination city
- Pervasive non-motorized transportation city.
- Do not like the words "better" or "lower" would like to see ie. K-12 is 10% above...
- Having second and third generations wanting to live in Lakewood
- Having everything available within walking distance
- Needing to have jobs that sustain people
- More living wage jobs and working residents
- A bell curve of family income levels (core in middle)
- Schools out performing their peers
- Vibrant well-utilized public spaces
- Regional recognition that Lakewood is a leader in public services, safety, JBLM
- Provide for youth "cool places" to stay in Lakewood

### 3. What concerns you the most?

- Availability of resources to match desires
- Concerns of death by process to get things done
- Performance of K-12 education system
- Income polarization in the community (stock of mobile homes)
- Lack of manufacturing and professional jobs
- Cooperation from other governmental agencies (Library system, sewers, transit edicts)
- Lack of livable/sustainable jobs
- Reputation/identity
- Education record
- Housing stock
- Lack of housing for aging population
- Vacant storefronts
- Lack of signage
- Lack of gathering places for entertainment and relaxation
- Lack of destination for youths
- Political will to do what needs to be done (ie Colonial Center)
- Variables outside the City's control (Pt Defiance Bypass)
- Try to solve problems rather than ameliorate them
- Outside forces (bad publicity) is a problem
- Radical changes may bring out groups that don't want change ie battle with homeless center (Lakewood needs to be watchful)
- If housing is not changed, schools will not change
- Schools are a direct reflection of the community.
- If GMA starts to break down, housing will break down and people will move away. Making sure the urban growth boundary doesn't increase.
- Quality of schools is related to the quality of the community.
- Having a stable home where one parent works, gets back to having sustainable jobs and housing.
- Preparing for population moving to Lakewood from Tacoma and other cities

Assistant City Manager for Development Services Bugher then asked Council to identify some of the City's accomplishments that the Council is most proud of.

- Beauty of community, potential, transparency, and work among Councilmembers
- Success of the Council under the new City Manager
- Momentum and direction of transportation and restructuring
- Would be proud of making changes in housing
- Continuing public safety enhancement and progress
- City's role internally and externally with respect to transportation. Created a perception that Lakewood does a better job on street improvements and is a leader of its work in the transportation package.

- Moved from Ft Lewis being linked with Tacoma to the perception that Lakewood is the host community to JBLM
- Positive steps taken to enhance parks
- Putting TIB together and working hard on TIP
- Doing much more strategic planning (Comprehensive Plan, Non-Motorized Plan) – now need to execute and implement
- Proud of City staff
- Community showing desire to invest in the community (ie school bonds, sustaining levy for school and fire)
- Proud of transportation improvements
- Proud of staff work on putting City in a good financial standing
- Proud of legislators supporting the Council
- Being proud of oneself as it starts with oneself
- Willing to step outside the box and be innovative
- Scanning for opportunities and seriously consider opportunities

\*\*\*\*\*

Council recessed at 10:35 a.m. and reconvened at 10:45 a.m.

\*\*\*\*\*

Assistant City Manager for Development Services Bugher noted that from the Council's discussion, common vision themes identified were:

- Economic Development
- Education
- Livable neighborhoods/housing
- Connections - roads, sidewalks, trails
- Downtown core
- Vibrant public spaces
- Regional location/regional significance
- Government operations
- Addressing Lakewood's legacy issues
- Leadership
- Growth management/regionalism
- JBLM
- Lakewood's history

Discussion ensued on a common theme of wanting families to be successful.

Council was asked what form of the visioning statement is the Council most comfortable with.

Discussion ensued on a preamble statement on who we are and this is where we want to be (bullets); identify a target date; having a vision statement using action words.

Further discussion ensued on developing categorical vision themes by work, live and play; having a thriving commercial center providing employment and investment opportunity; supporting the growth and vitality of the community; having quality housing; establishing a vibrant downtown core; interconnected neighborhoods; having a dynamic symbiotic joint relationship with JBLM and providing quality housing and active support for education.

After much discussion, it was the consensus of the Council that the vision statement include a preamble coupled with underlying themes using action adjectives, and setting a target date (ie 20 years). Council directed staff to develop draft visioning statements for the Council to consider at its October 3, 2015 Council retreat.

Further discussion ensued with regard to the timeline, stating that the target date is from today's generation of what Lakewood's residents would like to see or experience.

## **ADJOURNMENT**

There being no further business, the meeting adjourned at 11:45 a.m.

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DON ANDERSON, MAYOR

ATTEST:

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ALICE M. BUSH, MMC  
CITY CLERK



**LAKWOOD CITY COUNCIL  
TOUR OF TRAFFIC MANAGEMENT CENTER**

September 14, 2015  
City of Lakewood  
2<sup>nd</sup> Floor Traffic Management Center  
6000 Main Street SW  
Lakewood, WA 98499

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**CALL TO ORDER**

Mayor Anderson called the meeting to order at 6:30 p.m.

**ROLL CALL**

Councilmembers Present: 6 – Mayor Don Anderson; Deputy Mayor Jason Whalen; Councilmembers Mary Moss, Mike Brandstetter, Marie Barth and Paul Bocchi.

Councilmember Excused: 1 – Councilmember John Simpson.

**ITEMS FOR DISCUSSION:**

Transportation Division Manager Winkler provided the City Council with a tour of the Traffic Management Center showing displays of major traffic intersections in Lakewood and described how the traffic signalization system worked.

**ADJOURNMENT**

There being no other business, the tour adjourned at 7:00 p.m.

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DON ANDERSON, MAYOR

ATTEST:

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ALICE M. BUSH, MMC  
CITY CLERK



## **LAKWOOD CITY COUNCIL STUDY SESSION MINUTES**

September 14, 2015  
City of Lakewood  
City Council Chambers  
6000 Main Street SW  
Lakewood, WA 98499

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### **CALL TO ORDER**

Mayor Anderson called the meeting to order at 7:00 p.m.

### **ROLL CALL**

Councilmembers Present: 6 – Mayor Don Anderson; Deputy Mayor Jason Whalen; Councilmembers Mary Moss, Mike Brandstetter, Marie Barth and Paul Bocchi.

Councilmember Excused: 1 – Councilmember John Simpson.

Landmarks & Heritage Advisory Board Members Present: 6- Stephanie Walsh, Bob Jones, Beth Campbell, Bill Harrison, Joan Cooley, and Glen Spieth.

### **ITEMS FOR DISCUSSION:**

#### **Joint Landmarks & Heritage Advisory Board meeting.**

Landmarks & Heritage Advisory Board (LHAB) Chair, Stephanie Walsh, provided an overview of the LHAB work plan.

LHAB Member Spieth spoke about the Board's work in designating the Historic Fort Steilacoom as a community landmark.

LHAB Member Campbell spoke about the Woodbrook Hunt Club as a potential historic landmark.

LHAB Member Cooley spoke about the monthly meetings of the Board.

Discussion ensued on developing an outreach program; and providing the Youth Council with a historic tour of Lakewood.

**Review of designating Historic Fort Steilacoom as a community landmark.**

Planning Manager Catron noted that the LHAB is recommending the first community landmark designation of Historic Fort Steilacoom. LHAB Member Spieth spoke about their work with the Department of Social and Health Services on the community landmark designation. He reported that the Lakewood Historical Society will be working with the City on making a joint plaque.

**Economic Development Board for Tacoma-Pierce County *Compete Every Day Forever: 2016-2020 Work Plan***

Mr. Bruce Kendall, CEO provided background information on the EDB Work Plan for 2016-2020 relative to jobs, capital investments, creating acceleration teams in aerospace, health services, trade and logistics, cyber security/information assurance, recruiting companies, marketing and communications, and industrial revenue bond financing.

Mr. Doeve spoke about the data set and economic forecast impacts described in the Work Plan.

Discussion ensued on what can the City do better and if there are themes that are unique to Lakewood (signage getting to and from Lakewood and considering Class A office space availability); what has been the feedback on how housing impacts work force (Pierce County scores well on affordable housing); is there interest developing jobs in the defense industry sector outside of aerospace with the proximity to JBLM; what will the City need to do to make Woodbrook a vibrant industrial park; what does Lakewood need to do to get in front of economic development comparatively to other Pierce County cities (consider what kinds of companies Lakewood would like to come to its community and where will they be located); is there data supporting vehicle traffic traversing near schools that near industrial parks (ie Woodbrook Middle School); could EDB assist with relocating the WSDOT property that fronts I-5 from SR 512 to Bridgeport Way.

**US Open Recap**

Parks and Recreation Director Dodsworth provided a recap of the US Open relative to parking at Ft. Steilacoom Park. Transportation Manager Winkler reviewed the transportation plan and routes used for the US Open which focused on where the bulk of the vehicles would end up. Lt. Unfred spoke about the safety and security support that was provided at the US Open. Economic Development Manager Newton provided an overview on the economic impact of the US Open. Overall businesses felt the US Open was a positive force for the area.

Discussion ensued on a sales tax increase of 6 percent and that lodging tax was double what it was last year; the County Executive interest in having another run for the US Open and asking cities and the State to be a financial participant and possibly getting an LPGA Women's Golf tournament.

\*\*\*\*\*

Council recessed at 8:55 p.m. and reconvened at 9:04 p.m.

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### **Review of Motor Avenue Design.**

Assistant City Manager for Development Services Bugher reviewed the Request for Proposal process for selecting a consultant for the Motor Avenue urban design project. He reviewed the draft agreement with KPG, Inc. to provide professional services for this design project.

Discussion ensued on considering the undergrounding of utilities; and placing this item on the Consent Agenda for the September 21, 2015 Council meeting.

### **Municipal Finance 101.**

Assistant City Manager for Administrative Services Kraus asked if there were any questions on the memo provided.

Discussion ensued to include an explanation in the footer of the report identifying grant and Transportation Improvement Board funding, as appropriate; and how does the \$1.60 property tax limit work.

### **Review of the Six Year Financial Forecast.**

Assistant City Manager for Administrative Services Kraus provided an overview of the six year 2015-2020 financial forecast.

Discussion ensued on what assumptions on salary and benefits were reflected in the forecast; what is the City doing to keep claim losses down.

### **Review of Springbrook Park property acquisition expansion.**

City Attorney Wachter provided a status report on the acquisition of property at 4713 127<sup>th</sup> Street SW for the expansion of Springbrook Park.

**BRIEFING BY THE CITY MANAGER****Lakewood Promise Program Update.**

City Manager Caulfield called on City Attorney Wachter who provided an update on the Lakewood's Promise program and explained that staff is proposing to amend the Municipal Code relative to the composition of the Lakewood's Promise Board.

Discussion ensued on how smoothly will the proposed contract work when a new member is added to the contract; who hires and fires the Promise Coordinator; will WCIA insurance cover this Board and the contents of the agreement.

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City Manager asked that Council leave their ipads tonight with the City Clerk for routine maintenance.

City Manager Caulfield spoke about a news media about shutting down Guantanamo Bay and sending detainees to JBLM. He reported that JBLM indicated that they had not received notice of such.

He noted that the topic of snow and ice storm preparedness is scheduled for the October 5, 2015 Council Agenda.

He reported that the City is looking into conducting a community survey on the delivery of City services and plan to use its results for benchmarking progress and goal setting. This is scheduled to be presented to Council on October 5, 2015.

He reported that Code Enforcement issued 19 citations during its business license sweep.

He announced that the last Farmer's Market is on September 15, 2015. He reported that City staff has followed-up with all the Farmer's Market vendors on the incident that occurred last week.

He announced that on October 29, 2015 Lakewood will be participating in an emergency preparedness functional simulator exercise on a mock train derailment. Similarly, on June 8, 2016, as a region, the State will undertake a Cascadia 9.0 earthquake exercise in which Lakewood will be a participant.

He provided an update on how sewer utility operates in Lakewood and reviewed areas of staff recommendations that will be shared with County Councilmember Doug Richardson and County Executive Pat McCarthy. The recommendations including aligning sewer utility services similar to the City of Tacoma's process, developing food service business (fat, oil and grease interceptors) communication handouts, providing a consistent message from the utility; and notify the City when the sewer utility goes through changes on policies and procedures.

He then announced that on September 18, 2015 from 10:00 AM to 11:00 AM, the Puget Sound Energy Foundation will be dedicating an emergency generator to Emergency Food Network.

**ITEMS TENTATIVELY SCHEDULED FOR THE SEPTEMBER 21, 2015  
REGULAR CITY COUNCIL MEETING:**

1. Designating the Historic Fort Steilacoom as a community landmark.
2. Authorizing the execution of an agreement with KPG, Inc., relative to the Motor Avenue Design.
3. Recognition of Tillicum McDonald's.
4. Proclamation declaring September 2015 as National Preparedness Month.
5. Presentation on gathering places at Ft. Steilacoom Park.
6. Reappointing Councilmember Mike Brandstetter to serve as Lakewood's representative and Councilmember Paul Bocchi, as alternate, on the Greater Tacoma Public Facilities District Board for a four-year term through December 31, 2019.
7. This is the date set for a public hearing by the City Council on the City of Tacoma's Proposition 3, 1.5% utility company earning tax for Tacoma street improvements.)
8. Establishing procedures for notifying the public of the preliminary agendas and special meetings of the City Council.
9. Motion No. 2015-31 – (continued from the meeting of August 3, 2015)  
Authorizing the execution of an agreement with Pierce College, Clover Park School District, Clover Park Technical College, Boys and Girls Club of South Puget Sound, YMCA of Pierce and Kitsap Counties, St. Clare Hospital, Communities in Schools of Lakewood, Pierce County Library, JBLM and others relative to the Lakewood's Promise Program.

- 10. Authorizing the execution of an agreement with Puget Sound Energy relative to the LED streetlighting project.
- 11. Amending the Lodging Tax Funding Guidelines.
- 12. Authorizing the execution of an agreement with Ricoh for copiers.
- 13. Authorizing the execution of an agreement for public defender services.
- 14. Authorizing the execution of an agreement for backup public defender services.

**CITY COUNCIL COMMENTS**

Councilmember Moss commented on the Lakewold Garden ribbon cutting ceremony she attended. She also reported on the Lakewood's Promise Advisory Board meeting discussion. She then commented on the Habitat for Humanity open house ceremony, the Four Heroes Elementary School grand opening and the Lake City Neighborhood Association meeting she attended.

Councilmember Bocchi commented on the CPSD Board meeting report he provided. He announced that the Planning Commission's public hearing on the Comprehensive Plan will be held on September 16, 2015. He noted that the Pacific Neighborhood Association meeting is scheduled for September 17, 2015 and the PCRC meeting is on the same evening.

Councilmember Brandstetter reported that he will be attending a sister cities meeting in Seattle. He commented on the Four Heroes Elementary School grand opening he attended.

Councilmember Barth commented on the Four Heroes Elementary School opening she attended and the 911 ceremony on September 11, 2015.

Deputy Mayor Whalen commented on the Council Retreat. He noted that the PCRC meeting is scheduled for September 17, 2015, and that he will be attending the EFN meeting on September 18, 2015.

Mayor Anderson commented on the Deputy Icorp commander ceremony he attended on Wednesday, September 9, 2015. He commented on the Four Heroes Elementary School opening, the 911 ceremony and the Few Good Men play at the Lakewood Theatre House. He reported on the Pierce Transit meeting he attended and that the closing on the sale of the 96<sup>th</sup> Street property is progressing.

\* \* \* \* \*

**Executive Session**

Mayor Anderson announced that Council will recess into Executive Session for approximately 10 minutes to discuss potential real estate acquisition.

\* \* \* \* \*

Council recessed into Executive Session at 10:30 p.m. and reconvened at 10:40 p.m.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 10:40 p.m.

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DON ANDERSON, MAYOR

ATTEST:

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ALICE M. BUSH, MMC  
CITY CLERK



**PLANNING COMMISSION  
REGULAR MEETING  
WEDNESDAY August 19, 2015  
Council Chambers  
6000 Main Street SW  
Lakewood, WA 98499**

Chairman Mr. Don Daniels called the meeting to order at 6:30 p.m.

### **Roll Call**

Planning Commission Members Present: Don Daniels, Chair; Robert Pourpasand, Vice-Chair; Connie Coleman-Lacadie, Robert Estrada, James Guerrero, Paul Wagemann and Christopher Webber

Planning Commission Members Excused: None

Planning Commission Members Absent: None

Staff Present: Dan Catron, Principal Planner; and Frank Fiori, Planning Manager; Becky Newton, Economic Development Manager; and Karen Devereaux, Recording Secretary

Council Liaison: Councilmember Paul Bocchi

### **Acceptance of Agenda**

No changes were suggested.

### **Approval of Minutes**

Chairman, Mr. Don Daniels, opened the floor for discussion of the draft minutes of the meeting held July 15, 2015.

**Minutes of the meeting held on July 15, 2015, were approved by a unanimous voice vote, M/S/C Guerrero/Estrada.**

### **Public Comments**

None.

### **Public Hearing**

None.

### **Unfinished Business**

None.

### **New Business**

#### *Vice Chair Request to Step Down*

Mr. Robert Pourpasand, Vice-Chair, requested to be allowed to step down from his current position although he intends to continue to serve on the planning commission.

Mr. Don Daniels, Chair, opened the floor for nominations. Mr. Robert Estrada nominated Mr. Paul Wagemann to fill the Vice Chair position.

**The motion to appoint Mr. Paul Wagemann as Vice Chair was made by Mr. Robert Estrada and seconded by Mr. James Guerrero. A voice vote was taken. The motion carried unanimously.**

*Critical Areas and Flood Hazard Areas Ordinance Updates*

Mr. Frank Fiori, Planning Manager, informed the commissioners of updates being prepared by staff to comply with current regulations and legislative changes. As a participating jurisdiction in the National Flood Insurance Program (NFIP) the City of Lakewood is required to maintain a floodplain management program and associated ordinances that meet the requirements of the NFIP as established by the Federal Emergency Management Agency (FEMA). The City is currently in compliance with NFIP requirements, however, two actions since the City last updated the codes associated with their floodplain management program will require the City to review its' codes and make amendments as necessary.

1. The Federal Emergency Management Agency (FEMA) has recently completed a new preliminary Flood Insurance Study and the creation of new Flood Insurance Rate Maps (FIRM) for Pierce County.
2. The National Marine Fisheries Service (NMFS) filed legal action against FEMA over the implementation of the NFIP in the Puget Sound Basin. The NMFS prevailed in the action and as a result a Biological Opinion (BiOp) was prepared that provided guidance to FEMA regarding the implementation of the NFIP.

The proposed updated FIRM will increase the amount of land within the City that is classified as being in a special flood hazard area, in particular lands along Clover Creek in the Racquet Club Estates and Springbrook neighborhoods.

City staff has been preparing amendments to both LMC Title 18A and Title 14A. The draft updates have been forwarded to responsible agencies and the City is awaiting revisions. Those revisions will be shared with the commissioners once received.

*Economic Development Update*

Ms. Becky Newton, Economic Development Manager, presented a slide show of 2015 goals and priorities which covered several topics to include business retention and expansion, strategic focus area development and redevelopment, recruitment of target industries, marketing and promotion, as well as building the JBLM partnership.

A sound bite of a City of Lakewood promotional commercial that will air on Pandora Internet Radio was heard by commissioners and a list of potential businesses seeking locations within the City was shared.

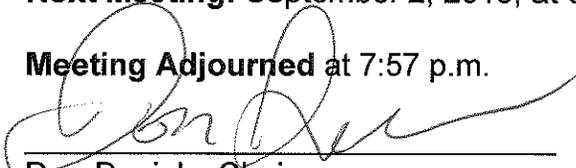
**Reports from Commission Members and Staff**

Mr. Dan Catron reminded commissioners of the public hearing to be held on Wednesday, September 16, 2015. Chairman, Mr. Don Daniels, requested that staff

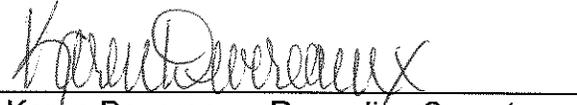
provide a brief protocol on the do's and don'ts of public hearings regarding the commissioners' responsibilities before the September 16th hearings.

**Next Meeting:** September 2, 2015, at 6:30 p.m. in Council Chambers

**Meeting Adjourned** at 7:57 p.m.



Don Daniels, Chair  
Planning Commission      09/02/2015



Karen Devereaux, Recording Secretary  
Planning Commission      09/02/2015



**LAKEWOOD'S PROMISE  
ADVISORY BOARD**

**Thursday June 11, 2015**

**Conference Room 1E – Lakewood  
City Hall, Lakewood, WA 98499**

**7:30 am – 8:30 am Meeting**

**CALL TO ORDER**

Clayton DeNault called the meeting to order at 7:32 a.m.

**ATTENDANCE**

Lakewood's Promise Advisory Board: Debbie LeBeau, Mary Dodsworth, Clayton DeNault, Dr. Michele Johnson, Dr. Lonnie Howard. Council liaison Mary Moss

Staff Excused: Kurt Sample

LPAB members excused: Dr. Claudia Thomas, Kathy Bressler, and Ellie Wilson

**APPROVAL OF MINUTES:** The minutes for May were approved with changes. Motion made by Debbie LeBeau, seconded by Dr. Howard. Motion passed

**PUBLIC COMMENT:** None

**UNFINISHED BUSINESS:** Lakewood's Promise Interlocal Agreement

Mary provided a review of the updated Interlocal Agreement discussed at the May Board meeting. In 2012 the City modified the structure of the Lakewood's Promise program. A three year interlocal agreement (ILA) was developed to provide oversight and support and to outline the responsibilities of the various partners to ensure that the five promises were available to Lakewood youth. At this time the City also created by ordinance an eleven person Lakewood Promise Advisory Board. The ILA expired in May, 2015 and the Advisory Board recommended updating the agreement to be more inclusive and to define, encourage and allow local partners to participate in the Lakewood Promise movement. Council reviewed the document at their June 8, 2015 study session. Additions to the ILA included adding a military partner as well as ensuring an annual work program with performance measures is included. The Lakewood Promise Board suggested using an addendum process when adding new members and reviewing and updating the agreement as needed in three years. Dr. Johnson moved to approve the ILA with changes, seconded by Dr. Howard. Motion passed

**NEW BUSINESS:** Summer Schedule: The Board will not meet in July and August. Next meeting is Sept 10, 2015.

**COORDINATORS REPORT:** No Report

**BOARD COMMENTS:** The Board appreciated the communication panel at the May meeting and brainstormed ways to better communicate the Lakewood Promises / messages. Ideas included: creating a tag line or hashtag that is used whenever we are promoting a program or sharing information. Send a short story (with a photo of short video) to Sub Times each week and note how it meets a promise or use the hash tag to remind people that we are supporting Lakewood's Promise. They enjoy meeting with Council each year to share what's happening for youth in the community. Take stories to where people are or things are being promoted (sub times) rather than trying to get people to come to you (website). Add links on other promise partner's websites. Have Youth Council should note which promise(s) they are meeting when they give their monthly report to Council.

Board also discussed having a consent agenda each month that included the Coordinators work program update as well as other subcommittee reports so we can review in advance and not have to review each meeting (unless something needs to be discussed). This will save time and allow us to focus on our monthly agenda items.

Dr. Johnson said she appreciated having Bianca on the Board and looks forward to a new Youth Council member in the fall.

Debbie LeBeau noted that Lakes High School generated \$1.8 – \$1.9 million in scholarships for outgoing seniors (230+) and Harrison Prep matched that with only 23 seniors.

**ADJOURNMENT:** Mr DeNault adjourned the meeting at 8:15 a.m.



Clayton DeNault, Chairman

Kurt Sample, Program Coordinator



**LAKEWOOD ARTS COMMISSION  
REGULAR MONTHLY MEETING  
MONDAY, August 3, 2015 4:30 PM TO 6:00 PM  
Lakewood City Hall Council Chambers  
6000 Main Street SW  
Lakewood, WA 98499**

**CALL TO ORDER**

Chair Kurt Erickson called the meeting to order at 4:35 pm.

**ATTENDANCE:**

**Arts Commission Members Present:** Susan Coulter, Kurtiss Erickson, Kathy Flores, Retha Hayward, Marquita Hunt, Connie Perra, Phillip Raschke, Barbara Vest, Jean Witte

**Council Liaison:** Marie Barth

**Arts Commission Member Excused:** Robert Lawrence, Peggy Leach

**Arts Commission Members Absent:** Sandra Cavillo, Jeff Greenwell

**APPROVAL OF MINUTES:** Retha Hayward moved and Connie Perra seconded a motion to approve the minutes of the May 4, 2015, meeting. The motion passed.

**PUBLIC COMMENT:** None

**UNFINISHED BUSINESS:**

**Recruitment:** We still have two positions open on the Commission. Louis Pedraza was recommended by Councilmember Barth. Staff member Dennis Higashiyama has made contact with Mr. Pedraza and will follow-up by providing more information.

**Public Art**

**City Hall Art Exhibit:** The exhibit is being removed on August 4<sup>th</sup> and will be picked up by artist Glory Cancro on the 5<sup>th</sup>. The Commission will need to select a new artist who will have their exhibit displayed through the end of the calendar year.

**Gravelly & Washington site for art:** The search for funding has begun by seeking an area non-profit that could act as the fiscal agent for the project. The advantage of using a non-profit is the donations for the project would be tax deductible for the done. Other issues that were raised regarding fundraising included: creating a diverse group of fundraisers, the timing for grant cycles and identifying people in our community who currently support the arts.

**SummerFEST & Farmers Market stages:** Susan Coulter did an outstanding job booking the Arts Commission stage at SummerFEST and just has two remaining slots to fill for the Farmers Market stage.

**ArtsFest:** Will be held Saturday & Sunday, May 2<sup>nd</sup> & 3<sup>rd</sup> at Pierce College. The next planning meeting will be on Tuesday, April 7<sup>th</sup> at City Hall in room 1E at 10:00am. The event will be held from 11:00am – 6:00pm on Saturday, and 11:00am-4:00pm on Sunday. The awards will be given on Sunday evening from 3:00-4:00pm.

**MayFest:** The event is up and running which included stone sculptures, wooden bowls, ikebana and our juried art show. The reception will be held Thursday, May 7<sup>th</sup>.

**Asian Film Festival:** The Film Festival will be held at the Lakewood Elks Club, 6313 - 75<sup>th</sup> Street West, September 5, 6 & 7 (Labor Day weekend). There was a brief discussion on soliciting donations to offset costs. Jean Witte and Phil Raschke will discuss further.

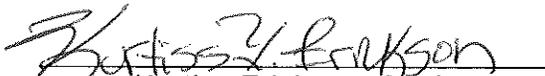
**Literary:** The "evening with the author" for Pierce County Reads "The Boys in the Boat" was held on April 24<sup>th</sup> at the Sharon McGavick Conference Center with approximately 1400 people in attendance. The evening concluded with a brief film clip of the conclusion of the race originally shot as propaganda material for the Nazis.

**Literacy Month Proclamation:** September is National Literacy Month. The Arts Commission would like City Council to do a proclamation to celebrate National Literacy Month in Lakewood.

## NEW BUSINESS

None

**ADJOURNMENT:** The meeting was adjourned at 5:25pm

  
Kurtiss Erickson, Chair

  
Dennis Higashiyama, Staff Liaison

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED:</b> September 21, 2015	<b>TITLE:</b> Reappointing Councilmembers Mike Brandstetter and Paul Bocchi as alternate to serve on the Greater Tacoma Regional Convention Center Public Facilities District Board.	<b>TYPE OF ACTION:</b> — ORDINANCE — RESOLUTION <u>XX</u> MOTION 2015-48 — OTHER
<b>REVIEW:</b>	<b>ATTACHMENTS:</b> 9/1/2015 PFD letter re: Board terms PFD Board Roster PFD Amended Bylaws	

**SUBMITTED BY:** Alice M. Bush, City Clerk on behalf of Mayor Don Anderson.

**RECOMMENDATION:** It is recommended that the Council reappoint Councilmember Mike Brandstetter to serve as Lakewood’s representative and Councilmember Paul Bocchi as alternate on the Greater Tacoma Regional Convention Center Public Facility District Board for a four-year term through December 31, 2019.

**DISCUSSION:** The Greater Tacoma Regional Convention Center Public Facility District was formed in 1999 between the cities of Fife, Lakewood, Tacoma and University Place to facilitate the construction, operation and financing of a regional convention center, the Tacoma Convention Center pursuant to an interlocal agreement. On September 2, 2003 the interlocal agreement was amended to add Pierce County to the the Public Facility District. A seven member Board of Directors from each of the four cities and Pierce County serve on the Board (see attached roster). The Public Facility District is requesting that the Council’s appointment be made by October 15, 2015, the next Public Facility District Board meeting.

**ALTERNATIVE(S):** The Council may choose to appoint another member.

**FISCAL IMPACT:** There is no fiscal impact.

<hr style="border: none; border-top: 1px solid black; margin-bottom: 10px;"/> Prepared by	 <hr style="border: none; border-top: 1px solid black;"/> City Manager Review
<hr style="border: none; border-top: 1px solid black; margin-top: 10px;"/> Department Director	

**Greater Tacoma Regional Convention Center  
Public Facilities District - Board of Directors**

September 1, 2015

To: Participating PFD Jurisdictions of Fife, Lakewood, Tacoma, University Place and Pierce County

Re: Expiring Board Terms on 12/31/15 and updates to PFD Board Bylaws

The Public Facilities District Board of Directors took action in April of 2014 to amend Board Bylaws, changing the term end date for board representatives from October 31 to December 31. Copies of the revised bylaws and resolution authorizing this change are attached.

Pursuant to the term limits ending this December 31<sup>st</sup>, Fife, Lakewood, and Pierce County are required to appoint (or reappoint) their representative for a 4-year term expiring on December 31, 2019. We would like to request action on this appointment by your municipality prior to October 15<sup>th</sup> (the date of the next PFD board meeting). If the slate of board members can be determined by that date, it will enable the Board of Directors in place next year to set dates for its quarterly meetings in 2016. Please respond to Joni Dalin ([jdalin@gtctc.org](mailto:jdalin@gtctc.org) or via mail at 1500 Broadway, Tacoma, WA 98402) with the name of your appointee or reappointment at your earliest opportunity.

An additional change to the bylaws authorized by the Board combined the positions of secretary and treasurer into one position.

Thank you for your attention to these items.

Sincerely,



Kim Bedier  
Director of Public Assembly Facilities  
City of Tacoma

Enc.

**Greater Tacoma Regional Convention Center  
Public Facilities District - Board of Directors  
2015**

- |  |                                 |                              |
|--|---------------------------------|------------------------------|
| <p>1. <b>Connie Ladenburg</b><br/>President<br/><a href="mailto:cladenb@co.pierce.wa.us">cladenb@co.pierce.wa.us</a><br/>Pierce County Council<br/>County-City Building, Rm 1046<br/>930 Tacoma Ave S.<br/>Tacoma, WA 98402<br/>(253)-798-7590</p>   | <p>Pierce County Council</p>    | <p>Expires Dec. 31, 2015</p> |
| <p>2. <b>Steve Victor</b><br/><br/><a href="mailto:SVictor@cityofup.com">SVictor@cityofup.com</a><br/>Office of the City Attorney<br/>City of University Place<br/>3715 Bridgeport Way West<br/>University Place, WA 98466<br/>(253)-460-5426</p>  | <p>City of University Place</p> | <p>Expires Dec. 31, 2018</p> |
| <p>3. <b>Mike Brandstetter</b><br/>Secretary<br/><a href="mailto:mbrandstetter@cityoflakewood.us">mbrandstetter@cityoflakewood.us</a><br/>City of Lakewood<br/>6000 Main Street SW<br/>Lakewood, WA 98499<br/>(253) 589-3055<br/>Paul Bocchi (Alternate)<br/><a href="mailto:pbocchi@cityoflakewood.us">pbocchi@cityoflakewood.us</a><br/>City of Lakewood<br/>6000 Main Street SW<br/>Lakewood, WA 98499<br/>(253) 589-2489</p> | <p>City of Lakewood</p>         | <p>Expires Dec. 31, 2015</p> |
| <p>4. <b>Philip Waldner</b><br/><a href="mailto:philwald@yahoo.com">philwald@yahoo.com</a><br/>(private citizen)<br/>1313-34th Avenue East<br/>Tacoma, WA 98424<br/>(253) 922-8784</p>   | <p>City of Fife</p>             | <p>Expires Dec. 31, 2015</p> |
| <p>5. <b>Bennish Brown</b><br/><a href="mailto:bennish@traveltacoma.com">bennish@traveltacoma.com</a><br/>Tacoma Regional Convention + Visitor Bureau<br/>1119 Pacific Avenue, 14<sup>th</sup> Floor<br/>Tacoma, WA 98402<br/>253-284-3250</p>   | <p>City of Tacoma</p>           | <p>Expires Dec. 31, 2016</p> |
| <p>6. <b>Susan Warner</b><br/><a href="mailto:swarner@museumofglass.org">swarner@museumofglass.org</a><br/>Museum of Glass<br/>1801 Dock Street<br/>Tacoma, WA 98402<br/>(253) 284-2128</p>  | <p>City of Tacoma</p>           | <p>Expires Dec. 31, 2016</p> |
| <p>7. <b>Tom Pierson</b><br/><a href="mailto:tomp@tacomachamber.org">tomp@tacomachamber.org</a><br/>Tacoma Pierce County Chamber<br/>950 Pacific Avenue, Ste 300<br/>Tacoma, WA 98402<br/>(253) 627-2175, ext *136</p>   | <p>City of Tacoma</p>           | <p>Expires Dec. 31, 2017</p> |

**RESOLUTION NO. 2015002**

**WHEREAS** the Greater Tacoma Regional Convention Center Public Facilities District Board of Directors ("Board") approved its bylaws by Resolution No. 99002 on November 1, 2009; and

**WHEREAS**, by unanimous vote of the quorum of Directors present on April 16, 2014, the Board amended its bylaws to align Board member term expiration dates to expire on December 31 following the completion of the then existing term; and

**WHEREAS** a member of the Board has recommended that the Bylaws be amended in acknowledgement of the Greater Tacoma Regional Convention Center Public Facilities District Charter's delegation of the duties of Treasurer to the City of Tacoma; and

**WHEREAS** a member of the Board has recommended that the Bylaws be amended for the purpose of simplifying the process for future Bylaw amendments; and

**WHEREAS** Article IV of the Bylaws sets forth the procedure for amendment to the Bylaws; and

**WHEREAS** the Bylaws may be amended by resolution of the Board.

Now Therefore,

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE GREATER TACOMA REGIONAL CONVENTION CENTER PUBLIC FACILITIES DISTRICT THAT:**

1. That the Bylaws are hereby amended as shown on Exhibit A to this Resolution No. 2015002
2. Any prior amendments to the Bylaws are hereby ratified by this Resolution No. 2015002.

**BE IT FURTHER RESOLVED THAT:**

The amended Bylaws shall be filed with the City of Tacoma on behalf of the Board as a public record.

Adopted   
District President

Date: July 16, 2015

**BYLAWS  
OF  
TACOMA CONVENTION CENTER PUBLIC FACILITIES DISTRICT**

**ARTICLE I**

**MEMBERSHIP**

Section 1.1 Board Tenure. Board member terms shall expire on December 31<sup>st</sup> of the applicable term period for each appointed representative.

Section 1.2 Vacancies. A vacancy or vacancies on the Board shall be deemed to exist in the case of the death, disability, resignation or removal of any Board member as provided in the District's Charter.

**ARTICLE II**

**OFFICERS AND COMMITTEES**

Section 2.1 Officers Designated. The officers of the Board shall be a President and a Secretary/Treasurer (hereinafter "Secretary/Treasurer", "Secretary" or "Treasurer"), each of whom shall be elected by the Board. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board. No person may simultaneously hold more than one office. In addition to the powers and duties specified below, the officers shall have such powers and perform such duties as the Board may prescribe.

Section 2.2 Election, Qualification and Term of Office. Each of the officers shall be elected by the Board from among its members. The officers shall be elected by the Board at the first regular meeting after the term of new or reappointed Board members commences each year, for a one-year term, and each officer shall hold office during said one-year term and until his or her successor is elected. The first officers of the Board shall be elected by the Board at its original meeting.

Section 2.3 Powers and Duties. The officers of the Tacoma Convention Center Public Facilities District (the "District") shall have the following duties:

(a) President. Subject to the control of the District Board of Directors, the President shall have general supervision, direction and control of the business and affairs of the District. On matters decided by the District, unless otherwise required under the PFD Agreement or by this Charter, the signature of the President alone is sufficient to bind the corporation.

(b) Treasurer. Except as otherwise delegated to the City of Tacoma by Charter of Greater Tacoma Regional Convention Center Public Facilities District, the Treasurer shall receive and faithfully keep all funds of the District and deposit same in such bank or banks as may be designated by the District Board of Directors. The Treasurer shall discharge such other duties as prescribed by the District Board of Directors. Before taking office, the Treasurer

shall file a bond in an amount determined by the District with the Secretary of the District and shall continue in office only so long as such bond continues in effect.

(c) Secretary. The Secretary shall keep or authorize others to keep a full and complete record of the meetings of the District Board of Directors, committees, when acting on behalf of the Board, and to the extent they are separate, the meetings of the officers with appropriate minutes; shall keep the seal of the District and affix the same to such papers and such instruments as may be required in the regular course of business, shall make service of such notices as may be necessary or proper, shall supervise the keeping of the books and other records and ledgers and other written documents comprising the business and purpose of the District, and shall discharge such other duties as pertain to the office as prescribed by the District Board of Directors.

Section 2.4 Removal From Office. Upon reasonable prior notice to all Board members of the alleged reasons for dismissal, the Board by an affirmative vote of the majority of the Board members may remove any officer of the Board from his or her office whenever in its judgment the best interests of the District will be served thereby.

Section 2.5 Vacancies. The Board shall fill any office which becomes vacant with a successor who shall hold office for the unexpired term and until his or her successor shall have been duly appointed and qualified.

### **ARTICLE III**

#### **MEETINGS**

Section 3.1 Regular Board Meetings. Subject to Article XIII, Section 3 of the Charter, regular meetings of the Board shall be held at least annually at a time and place to be determined by the Board by resolution.

Section 3.2 Special Board Meetings. Subject to Article XIII, Section 3 of the Charter, special meetings of the Board may be held at any place at any time whenever called by the President or a majority of the members of the Board.

Section 3.3 Notice of Regular Board Meetings. Except as provided in Article XIII, Section 3 of the Charter, no notice of the regular meeting shall be required, except of the first regular meeting after any change in the time or place of such meeting adopted by resolution of the Board as above provided. Notice of such changed regular meeting shall be given by personal communication over the telephone to each Board member at least twenty-four (24) hours prior to the time of the meeting or by at least three (3) days' notice by mail, telegram or written communication. If mailed, notice shall be mailed by United States mail, postage prepaid, to the last known address of each Board member. In addition, the District shall routinely provide reasonable notice of meetings to any individual specifically requesting it in writing. At any

regular meeting of the Board, any business may be transacted and the Board may exercise all of its powers.

Section 3.4 Notice of Special Board Meetings. Notice of all special meetings of the Board shall be given by the Secretary or by the person or persons calling the special meeting by delivering personally or by mail written notice at least twenty-four (24) hours prior to the time of the meeting to each Board member, to the Administrator of PFD or his or her designee, and to each local newspaper of general circulation and to each radio or television station that has requested notice as provided in RCW 42.30.080. In addition, the District shall provide notice of special meetings to any individual specifically requesting it in writing.

The time and place of the special meeting and the business to be transacted must be specified in the notice. Final disposition shall not be taken on any other matter at such meetings.

Section 3.5 Waiver of Notice. Notice as provided in Sections 3.3 and 3.4 hereof may be dispensed with as to any member of the Board who at or prior to the time the meeting convenes files with the Board of the District a written waiver of notice or who is actually present at the meeting at the time it convenes. Such notice may also be dispensed with as to special meetings called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, where time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage. Notice, as provided in Article XII of the Charter concerning proposed amendments to Bylaws and votes on such amendments, may not be waived.

Section 3.6 Notice to Administrator of the PFD Agreement. Notice of all meetings and proposed agendas and minutes of all meetings of the Board shall be given to the Administrator of the PFD Agreement or his or her designee, and filed with the Administrator of the PFD Agreement.

## **ARTICLE IV**

### **AMENDMENTS TO BYLAWS**

Section 4.1 Proposals to Amend Bylaws.

(a) Proposals to amend the Bylaws shall be presented in a format which strikes over material to be deleted and underlines new material.

(b) Any Board member may introduce a proposed amendment to the Bylaws (which may consist of new Bylaws) at any regular meeting or at any special meeting of which thirty (30) days' advance notice has been given.

Section 4.2 Board Consideration of Proposed Amendments. If notice of a proposed amendment to the Bylaws, and information including the text of the proposed amendment and a

statement of its purpose and effect, is provided to members of the Board fifteen (15) days prior to any regular Board meeting or any special meeting of which thirty (30) days' advance notice has been given, then the Board may vote on the proposed amendment at the same meeting as the one at which the amendment is introduced. If such notice and information is not so provided, the Board may not vote on the proposed amendment until the next regular Board meeting or special meeting of which thirty (30) days' advance notice has been given and at least fifteen (15) days prior to which meeting such notice and information is provided to Board members. Germane amendments to the proposed amendment within the scope of the original amendment will be permitted at the meeting at which the vote is taken.

Section 4.3 Board Approval of Amendments to Bylaws. Amendments to the Bylaws will be approved by unanimous vote and will be implemented without further board action. Amendments to the Bylaws shall be filed with the Administrator of PFD as a public record.

## **ARTICLE V**

### **ADMINISTRATIVE PROVISIONS**

Section 5.1 Books and Records. The District shall keep current and complete books and records of account and shall keep minutes of the proceedings of its Board and its committees having any of the District of the Board.

Section 5.2 Indemnification of Board Members. The District elects to defend and indemnify its present and former Board members and officers and their successors, spouses and marital communities to the full extent authorized by law and the Charter. In addition, the right of indemnification shall inure to each Board member or officer and his or her spouses and marital communities upon his or her appointment to the Board and in the event of his or her death shall extend to his or her heirs, legal representatives and estate. Each person who shall act as Board member or officer of the District shall be deemed to do so in reliance upon such indemnification and such rights shall not be exclusive of any other right which he or she may have.

Section 5.3 Principal Office. The principal office of the Tacoma Convention Center Public Facilities District shall be located in Tacoma, Washington, as specified by resolution.

Section 5.4 Fiscal Year. The Fiscal Year of the District shall begin January 1 and end December 31 of each year, except the first fiscal year which shall run from the date the Charter was issued to December 31, 1999.

## **ARTICLE VI**

## **APPROVAL OF BYLAWS**

Approved by Resolution No. 99002 adopted by the Public Facilities District Board of Directors on November 1, 1999.

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED:</b> September 21, 2015	<b>TITLE:</b> Approve a contract for services in the amount of \$60,000 with the firm of KPG, Incorporated, for the purposes of developing a new urban design/street corridor plan for Motor Avenue SW	<b>TYPE OF ACTION:</b> — ORDINANCE — RESOLUTION ✓ MOTION NO. 2015-49 — OTHER
<b>REVIEW:</b> September 14, 2015 August 17, 2015 March 9, 2015	<b>ATTACHMENTS:</b> August 17, 2015 City Council Memorandum Draft Contract Motor Avenue Scope of Work	

**SUBMITTED BY:** David Bugher, Assistant City Manager for Development Services/Community Development Director

**RECOMMENDATION:** By minute motion, under the City Council Consent Agenda,

- 1) Approve a contract for services in the amount of \$60,100 with the firm of KPG, Incorporated, for the purposes of developing a new urban design/street corridor plan for Motor Avenue SW between Whitman Avenue SW and the intersection of Gravelly Lake Drive SW and Bridgeport Way SW.
- 2) Appoint an Advisory Group consisting of two members of the Planning Commission, two members from the Landmarks & Historical Advisory Board, and two members from the Parks and Recreation Advisory Board. The Advisory Group would also be composed of city staff members representing the community & economic development, public works, and parks and recreation departments.

**DISCUSSION:** On or about June 25, 2015, the community and economic development department released a Request for Proposal (RFP) seeking bids from professional consulting firms to assist in developing an urban design plan for the Motor Avenue SW right-of-way. The response due date was August 7, 2015. A legal notice was published in the City’s newspaper of record. The RFP was also advertised in the Seattle Daily Journal of Commerce. Architects and engineering firms doing business in the greater Tacoma area received written notice of the availability of the RFP.

*(Continued to page 2.)*

**ALTERNATIVE(S):** Deny the proposed contract for services.

**FISCAL IMPACT:** The approved budget is \$48,000. The proposed contract amount is \$60,100. Approval of the proposed contract for service will require the City Council to adopt a budget amendment later this year in the amount of \$12,100.

Prepared by	 _____ City Manager Review
Department Director	

**DISCUSSION, CONTINUED:** Four firms responded to the request:

- Crea Affiliates (Seattle)
- MacLeod Reckkord, PLLC (Seattle)
- Studio KPG (Tacoma)
- SvR Design Company (Seattle)

An internal staff team reviewed the proposals. Two firms were selected for interviews, Crea Affiliates and Studio KPG. The interview team was composed of four members from community & economic development and the parks, recreation, and community services departments. Upon completion of the interviews, the team unanimously selected Studio KPG. Thereafter a contract for service and Scope of Work were finalized; these documents are attached to this memorandum.

**Scope of Work:** The project is to take five months (October 2014 through February 2016). The deliverables are broken up into four tasks:

Task 1 - Project Planning, Coordination, & Management:

- a. Consultant attends Kickoff Meeting.
- b. Consultant shall assist the City in identifying stakeholders and assemble charrette team.
- c. Consultant shall coordinate with the City the charrette schedule.
- d. Consultant shall collect and prepare local information and prepare base map information.
- e. Consultant shall participate in a one-day pre-charrette visit to coincide with first Advisory Group meeting.
- f. Consultant shall coordinate with City and prepare base map information.
- g. Consultant shall project ongoing coordination and project management.
- h. Consultant shall prepare monthly progress reports and invoices identifying work in progress, upcoming work elements, and reporting of any delays, problems, or additional information needs. The monthly progress reports shall be submitted with invoices. Monthly invoices for work completed to date shall be submitted to the City. The invoices shall summarize budget, expenditures and percent expended for deliverable tasks during the billing period, and percent expended of overall project elements.

Task 2 – Public Outreach

- a. Consultant shall meet with Advisory Group (1 meeting).
- b. Consultant shall produce media pieces in consultation with City.

Task 3 – Charrette Events

- a. Two or three, one-hour stakeholder focus meetings;

- b. One evening opening community presentation with input activities (approximately 2 hours);
- c. One Saturday community workshop with facilitated site walks, training presentation and small group table map activity (4 to 6 hours);
- d. Two days of on-site production with open studio hours in work space provided by the City;
- e. One evening closing presentation of preliminary recommendations and design concepts (approximately 2 hours);
- f. Consultant will participate in all events and develop recommendations and design concepts during the production days for presentation at the closing evening community meeting.

#### Task 4 – Final Report

- a. Consultant shall prepare Draft and Final Reports for Motor Avenue Urban Design. Approximately two weeks after the charrette, the Consultant will prepare an outline of the report and questions, concerns or critical or controversial issues that might have emerged during or post charrette for direction/guidance in advance of preparing the draft document. The outline will be circulated to the City and the Advisory Group for comment.
- b. Consultant shall meet with the City and Advisory Group, after circulating the outline and list of pending issues, to discuss the outline, resolve any issues that might still be pending and review proposed concepts developed during and after the charrette.
- c. Consultant shall prepare and circulate an administrative draft report and conceptual plans for review by the City and members of the Advisory Group. The report will include recommendations to make Motor Avenue SW more complete, that is; roadways that better accommodate all users including pedestrians, bicyclists, and motor vehicles. Further details of the final report are outlined in the scope of work.
- d. Consultant team will present the report at a City Council study session and regular meeting to consider for adoption by reference or amendment to other policy documents, land use or transportation regulations, and for incorporation into work programs.

**Immediate Tasks:** Working backwards, the most important task is to conduct the design charrette before Thanksgiving.



To: Mayor and City Councilmembers

From: David Bugher, Assistant City Manager, Development Services

Through: John J. Caulfield, City Manager

Date: August 17, 2015

Subject: Status Report Motor Avenue Request for Proposal

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**Background:** On or about June 25, 2015, the community and economic development department released a Request for Proposal (RFP) seeking bids from professional consulting firms to assist in developing an urban design plan for the Motor Avenue SW right-of-way. The response due date was August 7, 2015. A legal notice was published in the City's newspaper of record. The RFP was also advertised in the *Seattle Daily Journal of Commerce*. Architects and engineering firms doing business in the greater Tacoma area received written notice of the availability of the RFP.

**Problems with Budget:** After the release of the RFP, city staff received initial comments from one well-known architectural firm that while the project was of great interest, the amount of the bid was too low. Respectfully, they declined to submit a proposal. At this point, staff had serious concerns that the City may not receive any RFPs. About one week later, City staff was contacted by a Seattle firm who again confirmed that the dollar amount was low, but intended to submit an RFP anyway. This firm had worked on similar projects where money was tight. Their experience was that often the scope of work would renegotiated for the selected firm. Thereafter, if the end-product had merit, work would continue on a phased basis.

**RFP Outcome:** Staff decided to leave the RFP "as is," and review the project a second time after the August 7<sup>th</sup> response date. Upon the due date, the City had received four RFPs:

- Crea Affiliates (Seattle)
- MacLeod Reckkord, PLLC (Seattle)
- Studio KPG (Tacoma)
- SvR Design Company (Seattle)

**Current Status:** An internal staff team is currently reviewing the RFPs. One of the firms listed above has already spoken to surrounding property owners seeking early input. This same firm included a new conceptual design for the redevelopment “old” QFC property.

All four firms possess the knowledge and type of experience the City is seeking. Project length varies from four to six months.

As predicted, project budget is clearly an issue. All four firms provided information on project schedule, methodology and approach, and level of effort. Initial review of the submitted documents indicates that the firm chosen to perform the work will want to renegotiate budget terms. Project costs in other nearby communities for similar projects range from \$50,000 to \$90,000.

Staff will conduct interviews, and provide a recommendation to the city manager. Afterwards, a contract will be forwarded to the City Council for authorization.

**CITY OF LAKEWOOD AGREEMENT  
FOR CONSULTING SERVICES**

**THIS CONTRACT**, made and entered into on this 21<sup>st</sup> day of September 2015, by and between the City of Lakewood, Washington, a municipal corporation of the State of Washington, hereinafter referred to as "City", and KPG, Inc., hereinafter referred to as the "Consultant."

**WITNESSETH:**

**WHEREAS**, the City is in need of services of individuals, employees or firms for financial, damages, accounting analysis, as well as general business and management consulting; and,

**WHEREAS**, the City desires to retain the Consultant to provide certain services in connection with the City's work on Motor Avenue Urban Design Project; and,

**WHEREAS**, the Consultant is qualified and able to provide consulting services in connection with the City's needs for the above described work, and is willing and agreeable to provide such services upon the terms and conditions herein contained.

**NOW, THEREFORE**, the parties hereto agree as follows:

- 1. SCOPE OF SERVICES:** The Consultant agrees to perform in a good and professional manner the tasks described on Exhibit "A" attached hereto and incorporated herein by this reference. (The tasks described on Exhibit "A" shall be individually referred to as a "task", and collectively referred to as the "services".) The Consultant shall perform the services as an independent contractor and shall not be deemed, by virtue of this Agreement and the performance thereof, to have entered into any partnership, joint venture, employment or other relationship with the City.
  
- 2. ADDITIONAL SERVICES:** From time to time hereafter, the parties hereto may agree to the performance by the Consultant of additional services with respect to related work or projects. Any such agreement(s) shall be set forth in writing and shall be executed by the respective parties prior to the Consultant's performance of the services thereunder, except as may be provided to the contrary in Section 3 of this Agreement. Upon proper completion and execution of an addendum (agreement for additional services), such addendum shall be incorporated into this Agreement and shall have the same force and effect as if the terms of such addendum were a part of this Agreement as originally executed. The performance of services pursuant to an addendum shall be subject to the terms and conditions of this Agreement except where the addendum provides to the contrary, in which case the terms and conditions of any such addendum shall control. In all other respects, any addendum shall supplement and be construed in accordance with the terms and conditions of this Agreement.

3. **PERFORMANCE OF ADDITIONAL SERVICES PRIOR TO EXECUTION OF AN ADDENDUM:** The parties hereby agree that situations may arise in which services other than those described on Exhibit "A" are desired by the City and the time period for the completion of such services makes the execution of addendum impractical prior to the commencement of the Consultant's performance of the requested services. The Consultant hereby agrees that it shall perform such services upon the oral request of an authorized representative of the City pending execution of an addendum, at a rate of compensation to be agreed to in connection therewith. The invoice procedure for any such additional services shall be as described in Section 7 of this Agreement.
4. **CONSULTANT'S REPRESENTATIONS:** The Consultant hereby represents and warrants that he has all necessary licenses and certifications to perform the services provided for herein, and is qualified to perform such services.
5. **CITY'S RESPONSIBILITIES:** The City shall do the following in a timely manner so as not to delay the services of the Consultant:
  - A. Designate in writing a person to act as the City's representative with respect to the services. The City's designee shall have complete authority to transmit instructions, receive information, interpret and define the City's policies and decisions with respect to the services.
  - B. Furnish the Consultant with all information, criteria, objectives, schedules and standards for the project and the services provided for herein.
  - C. Arrange for access to the property or facilities as required for the Consultant to perform the services provided for herein.
  - D. Examine and evaluate all studies, reports, memoranda, plans, sketches, and other documents prepared by the Consultant and render decisions regarding such documents in a timely manner to prevent delay of the services.
6. **ACCEPTABLE STANDARDS:** The Consultant shall be responsible to provide, in connection with the services contemplated in this Agreement, work product and services of a quality and professional standard acceptable to the City.
7. **COMPENSATION:** As compensation for the Consultant's performance of the services provided for herein, the City shall pay the Consultant the fees and costs specified on Exhibit "B" attached hereto and made a part hereof (or as specified in an addendum) but in an amount not to exceed \$60,100. The Consultant shall submit to the City an invoice or statement of time spent on tasks included in the scope of work provided herein, and the City shall process the invoice or statement in the next billing/claim cycle following receipt of the invoice or statement, and shall remit payment to the Consultant thereafter in the normal course, subject to any conditions or provisions in this Agreement or addendum.

8. **TIME FOR PERFORMANCE:** The Consultant shall perform the services provided for herein in accordance with the direction and scheduling provided by the City Manager. Services provided for under this contract shall commence no later than September 25, 2015, and shall be completed no later than February 27, 2016.
9. **OWNERSHIP AND USE OF DOCUMENTS:** All documents, reports, memoranda, diagrams, sketches, plans, surveys, design calculations, working drawings and any other materials created or otherwise prepared by the Consultant as part of his performance of this Agreement (the "Work Products") shall be owned by and become the property of the City, and may be used by the City for any purpose beneficial to the City.
10. **RECORDS INSPECTION AND AUDIT:** All compensation payments shall be subject to the adjustments for any amounts found upon audit or otherwise to have been improperly invoiced, and all records and books of accounts pertaining to any work performed under this Agreement shall be subject to inspection and audit by the City for a period of up to three (3) years from the final payment for work performed under this Agreement.
11. **CONTINUANCE OF PERFORMANCE:** In the event that any dispute or conflict arises between the parties while this Contract is in effect, the Consultant agrees that, notwithstanding such dispute or conflict, the Consultant shall continue to make a good faith effort to cooperate and continue work toward successful completion of assigned duties and responsibilities.
12. **CONTRACT ADMINISTRATION:** This Agreement shall be administered by Paul Fuesal, on behalf of the Consultant, and by the City Manager of the City, or designee, on behalf of the City. Any written notices required by the terms of this Agreement shall be served on or mailed to the following addresses:

**IF TO THE CITY:**  
 City of Lakewood  
 Lakewood City Hall  
 6000 Main Street SW  
 Lakewood, WA 98499-5027

**IF TO THE CONTRACTOR:**  
 KPG, Inc.  
 753 9<sup>th</sup> Avenue N  
 Seattle, WA 98109

13. **NOTICES:** All notices or communications permitted or required to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person or deposited in the United States mail, postage prepaid, for mailing by certified mail, return receipt requested, and addressed, if to a party of this Agreement, to the address set forth next to such party's signature at the end of this Agreement, or if to a person not a party to this Agreement, to the address designated by a party to this Agreement in the foregoing manner. Any party may change his or its address by giving notice in writing, stating his or its new address, to any other party, all pursuant to the procedure set forth in this section of the Agreement.

14. **INSURANCE:** The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

**No Limitation.** Consultant's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

**A. Minimum Scope of Insurance**

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named as an insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

**B. Minimum Amounts of Insurance**

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

### **C. Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance.

1. The Consultant's insurance coverage shall be primary insurance as respect to City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

### **D. Acceptability of Insurers**

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

### **E. Verification of Coverage**

Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

15. **INDEMNIFICATION/HOLD HARMLESS:** The Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.
16. **ASSIGNMENT:** Neither party to this Agreement shall assign any right or obligation hereunder in whole or in part, without the prior written consent of the other party hereto. No assignment or transfer of any interest under this Agreement shall be deemed to release the assignor from any liability or obligation under this Agreement, or to cause any such liability or obligation to be reduced to a secondary liability or obligation.
17. **CONTRACTOR'S EMPLOYEES – EMPLOYMENT ELIGIBILITY REQUIREMENTS:** The Contractor and any subcontractors shall comply with E-Verify as set forth in Lakewood Municipal Code Chapter 1.42. E-Verify is an Internet-based system operated by United States Citizenship and Immigration Services in partnership with the Social Security Administration. E-Verify is free to employers and is available in all 50 states. E-Verify provides an automated link to federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security

numbers. The Contractor shall enroll in, participate in and document use of E-Verify as a condition of the award of this contract. The Contractor shall continue participation in E-Verify throughout the course of the Contractor's contractual relationship with the City. If the Contractor uses or employs any subcontractor in the performance of work under this contract, or any subsequent renewals, modifications or extension of this contract, the subcontractor shall register in and participate in E-Verify and certify such participation to the Contractor. The Contractor shall show proof of compliance with this section, and/or proof of subcontractor compliance with this section, within three (3) working days of the date of the City's request for such proof.

18. **AMENDMENT, MODIFICATION OR WAIVER:** No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing, signed by the party or parties to be bound, or such party's or parties' duly authorized representative(s) and specifying with particularity the nature and extent of such amendment, modification or waiver. Any waiver by any party of any default of the other party shall not effect or impair any right arising from any subsequent default. Nothing herein shall limit the remedies or rights of the parties hereto under and pursuant to this Agreement.
  
19. **TERMINATION AND SUSPENSION:** Either party may terminate this Agreement upon written notice to the other party if the other party fails substantially to perform in accordance with the terms of this Agreement through no fault of the party terminating the Agreement.  
  
The City may terminate this Agreement upon not less than seven (7) days written notice to the Consultant if, in the discretion of the City Manager, the services provided for herein are no longer needed from the Consultant. If this Agreement is terminated through no fault of the Consultant, the Consultant shall be compensated for services performed prior to termination in accordance with the rate of compensation provided in Exhibit "B" hereof.
  
20. **PARTIES IN INTEREST:** This Agreement shall be binding upon, and the benefits and obligations provided for herein shall inure to and bind, the parties hereto and their respective successors and assigns, provided that this section shall not be deemed to permit any transfer or assignment otherwise prohibited by this Agreement. This Agreement is for the exclusive benefit of the parties hereto and it does not create a contractual relationship with or exist for the benefit of any third party, including contractors, sub-contractors and their sureties.
  
21. **COSTS OF PREVAILING PARTY:** In the event of such litigation or other legal action, to enforce any rights, responsibilities or obligations under this Agreement, the prevailing party shall be entitled to receive its reasonable costs and attorney's fees.
  
22. **APPLICABLE LAW:** This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Washington and venue for any action hereunder shall be Pierce County, State of Washington; provided,

however, that it is agreed and understood that any applicable statute of limitation shall commence no later than the substantial completion by the Consultant of the services.

- 23. **CAPTIONS, HEADINGS AND TITLES:** All captions, headings or titles in the paragraphs or sections of this Agreement are inserted for convenience of reference only and shall not constitute a part of this Agreement or act as a limitation of the scope of the particular paragraph or sections to which they apply. As used herein, where appropriate, the singular shall include the plural and vice versa and masculine, feminine and neuter expressions shall be interchangeable. Interpretation or construction of this Agreement shall not be affected by any determination as to who is the drafter of this Agreement, this Agreement having been drafted by mutual agreement of the parties.
- 24. **SEVERABLE PROVISIONS:** Each provision of this Agreement is intended to be severable. If any provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.
- 25. **ENTIRE AGREEMENT:** This Agreement contains the entire understanding of the parties hereto in respect to the transactions contemplated hereby and supersedes all prior agreements and understandings between the parties with respect to such subject matter.
- 26. **COUNTERPARTS:** This Agreement may be executed in multiple counterparts, each of which shall be one and the same Agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

**IN WITNESS WHEREOF**, the parties hereto have caused this Contract to be executed effective the day and year first set forth above.

KPG, Inc.  
  
Paul Fuesel  
Urban Design Principal

Date: 9.15.15

CITY OF LAKEWOOD  
  
\_\_\_\_\_  
John J. Caulfield, City Manager

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

Attest:

\_\_\_\_\_  
Alice Bush, MMC, City Clerk  
Date: \_\_\_\_\_

Approved as to Form:

---

Heidi Wachter, City Attorney

## Exhibit A

### SCOPE OF SERVICES

#### **City of Lakewood Motor Avenue Urban Design Plan**

KPG Inc. P.S.

September 21, 2015

#### **A. PROJECT DESCRIPTION/BACKGROUND**

The City of Lakewood desires to develop a new urban design/street corridor plan for Motor Avenue SW between Whitman Avenue SW and the intersection of Gravelly Lake Drive SW and Bridgeport Way SW.

#### Project Goals and Specific Areas of Emphasis

It is the City's goal to provide vibrant, welcoming public spaces that encourages community building and accommodates persons of all ages and demographics throughout the City's Central Business District (CBD). In recent years, this theme has become a central focus of the entire Lakewood City Council. A frequent subject is the establishment of a "Town Green" or other type of public gathering place. However, the City does not currently own any real property within the confines of the CBD, excepting for City Hall, existing roads, and public access easements. Some of the roads within the CBD contain underutilized rights-of-way, such as Motor Avenue SW. Motor Avenue SW was recently identified as a possible location for a public space concept.

The overall goal of the project is to create an urban design/streetscape plan in a manner that helps achieve a vision for Project stakeholders and provides the following:

- Attractive, welcoming and increasingly accessible public spaces that serve as public gathering spaces and complement the diversity of surrounding land uses;
- Streetscape and public space design that fosters an active pedestrian environment and serves a diversity of uses, including possible retail, office, entertainment, dining, nightlife, and/or public parks;
- A functional streetscape that preserves and highlights Lakewood's history;
- Streetscape designs and amenities, including simplicity of associated materials that can easily be kept clean and like-new in appearance through routine maintenance practices;

- Sustainable design methods and practices that reflect a commitment to principles of environmental stewardship; and
- A plan that can be implemented cost-effectively and in phases.

In addition to a broad review of streetscape conditions and associated plans, the City is keenly interested in several areas of emphasis that will be addressed through the Project. Those areas include:

- The redesign of Motor Avenue SW into a flexible gathering space on evenings and weekends, including considering the site as an alternate location for a farmer's market;
- Inclusion of an existing Oak grove located on adjoining private property into the Project design;
- Related impacts regarding vehicle access to adjoining businesses and traffic movements should the Motor Avenue SW right-of-way be used, in whole or in part, as a public gathering space;
- Community informational signage, including banners;
- Trees and tree wells, including stormwater management features;
- Improved lighting design/light poles;
- Sidewalk improvements, including improvements in both aesthetics and stormwater management features; and
- Amenities such as benches, garbage and recycling receptacles.

## **B. Project ASSUMPTIONS**

The following assumptions are identified for this work:

- ❑ The products will include planning diagrams, illustrations and written material to present the concepts for the plan, design and strategy for development and implementation. No construction plans, details and specifications will be provided.
- ❑ 5 month project duration.
- ❑ Invoicing between specific tasks will allow for actual hours expended. The overall budget will not be exceeded for the tasks identified in this scope. New tasks and budget may be identified at the City's discretion.

## **C. KPG DELIVERABLES**

Deliverables prepared by the Consultant are identified at the end of each task in the scope of work.

## **D. CITY PROVIDED ITEMS:**

The City will provide/prepare the following:

- City will provide coordination with stakeholders.
- Identify and invite Advisory Group members.
- Mailing and postage for public notices.
- Meeting room arrangements.
- Preparation of press releases.
- Available existing street as-builts, GIS or other basemap information for conceptual design.
- Digital comprehensive plan map.
- Digital zoning map.
- Aerial photographs.
- Property line delineation maps.
- Engineering ROW drawings of Motor Avenue SW.
- Traffic reports/data.

## **E. SCOPE OF WORK**

### **TASK 1 – PROJECT PLANNING, COORDINATION AND MANAGEMENT**

Sub tasks will include:

- The Consultant shall attend Kickoff Meeting.
- The Consultant shall assist the City in identifying stakeholders and assemble charrette team.
- The Consultant shall coordinate with the City the charrette schedule.

- The Consultant shall collect and prepare local information and prepare basemap information.
- The Consultant shall participate in a one-day pre-charrette visit to coincide with first Advisory Group meeting.
- The Consultant shall coordinate with City and prepare basemap information.
- The Consultant shall project ongoing coordination and project management.
- The Consultant shall prepare monthly progress reports and invoices identifying work in progress, upcoming work elements, and reporting of any delays, problems, or additional information needs. The monthly progress reports shall be submitted with invoices. Monthly invoices for work completed to date shall be submitted to the City. The invoices shall summarize budget, expenditures and percent expended for deliverable tasks during the billing period, and percent expended of overall project elements.

Task 1 Deliverables:

- *Schedule for design charrette.*
- *Base map for charrette and design activities.*
- *Minutes for each meeting.*
- *Monthly progress reports 5 months.*

**TASK 2 – PUBLIC OUTREACH**

Subtasks will include:

- The Consultant shall meet with Advisory Group (1 meeting).
- The Consultant shall produce media pieces in consultation with City.

Task 2 Deliverables:

- *Agenda, participant list and participation plan.*
- *News releases and flyers with graphics.*
- *Minutes for each meeting*

**TASK 3 – CHARRETTE EVENTS**

The Consultant shall facilitate and coordinate Charrette events:

- 2 or 3, one-hour stakeholder focus meetings;

- 1 evening opening community presentation with input activities (approximately 2 hours);
- 1 Saturday community workshop with facilitated site walks, training presentation and small group table map activity (4 to 6 hours);
- 2 days of on-site production with open studio hours in work space provided by the City;
- 1 evening closing presentation of preliminary recommendations and design concepts (approximately 2 hours);
- Consultant will participate in all events and develop recommendations and design concepts during the production days for presentation at the closing evening community meeting.

Task 3 Deliverables:

- *List of participants, summary of process and results, photos documentation, copies of presentations.*

**TASK 4 – DRAFT AND FINAL REPORT FOR MOTOR AVENUE URBAN DESIGN**

- The Consultant shall prepare Draft and Final Reports for Motor Avenue Urban Design. Approximately two weeks after the charrette, the Consultant will prepare an outline of the report and questions, concerns or critical or controversial issues that might have emerged during or post charrette for direction/guidance in advance of preparing the draft document. The outline will be circulated to the City and the Advisory Group for comment.
- The Consultant shall meet with the City and Advisory Group, after circulating the outline and list of pending issues, to discuss the outline, resolve any issues that might still be pending and review proposed concepts developed during and after the charrette.
- The Consultant shall prepare and circulate an administrative draft report and conceptual plans for review by the City and members of the Advisory Group. The report will include recommendations to make Motor Avenue SW more complete, that is; roadways that better accommodate all users including pedestrians, bicyclists, and motor vehicles. The report will include:
  - Drawings that could be used for grant applications to identify the permitting required for environmental work, and provide the basic layout for engineering design;
  - Recommendations and possible development standards for a flexible gathering space on evenings and weekends, including considering the site as an alternate location for a farmer’s market;
  - 
  - Improved road safety and operations, pedestrian, bicycle and transit facilities, enhanced streetscapes; and
  - Community entry features and focal points.

- The report will also contain a record of the charrette process, proposed timing and prioritization for implementation of the recommendations, and potential funding sources.
- The Consultant will circulate the draft report to City staff and the Advisory Group for feedback.
- The Consultant will make a presentation to the Planning Commission, or a joint meeting of the Planning Commission and Parks Advisory Board (yet to be determined), in order to receive public comments on the draft report. The consultant will make one round of revisions and present the final draft to the Lakewood City Council.
- Consultant team will present the report at a City Council study session and regular meeting to consider for adoption by reference or amendment to other policy documents, land use or transportation regulations, and for incorporation into work programs.

Task 4 Deliverables:

- *Agenda, participant list and participation plan.*
- *Report outline, draft design, list of pending issues.*
- *Refine design & meeting notes.*
- *Comments received.*
- *Final report and concept drawings and illustrations.*

**HOOR AND FEE ESTIMATE**

Project: City of Lakewood  
4-Sep-15

Motor Avenue Urban Design Project



Task	Description	Labor Hour Estimate							Total Fee	
		Project Manager Engineer \$150.00	Design Staff UD/LA Staff \$125.00	CAD Technician \$90.00	Berk Senior UD/F \$150.00	Berk Design Staff \$125.00	Framework Senior UD/A \$150.00	Framework Design Staff \$125.00	Office Admin \$70.00	Fee
<b>Task 1 - Project Planning and Coordination</b>										
	Reimbursables									\$ -
	<b>Task Totals</b>	<b>30</b>	<b>40</b>	<b>0</b>	<b>18</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>\$ 13,700.00</b>
<b>Task 2 - Public Outreach</b>										
	Reimbursables									\$ -
	<b>Task Totals</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>24</b>	<b>40</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>\$ 9,200.00</b>
<b>Task 3 - Charette Events</b>										
	Reimbursables									\$ 50.00
	<b>Task Totals</b>	<b>29</b>	<b>20</b>	<b>0</b>	<b>35</b>	<b>18</b>	<b>25</b>	<b>16</b>	<b>0</b>	<b>\$ 20,150.00</b>
<b>Task 4 - Draft and Final Report</b>										
	Reimbursables									\$ 50.00
	<b>Task Totals</b>	<b>10</b>	<b>14</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>48</b>	<b>42</b>	<b>0</b>	<b>\$ 16,950.00</b>

**Total Estimated Fee: \$ 60,000.00**

**HOURLY AND FEE ESTIMATE**

**EXHIBIT B**



**Project: City of Lakewood**

**Motor Avenue Urban Design Project**

<b>Reimbursable Breakdown</b>		<b>Cost</b>
<b>Task 1 - Project Planning and Coordination</b>		
Mileage	\$	-
Reproduction	\$	-
<b>Task 1 - Total</b>	<b>\$</b>	<b>-</b>
<b>0.0</b>		
Mileage	\$	-
Reproduction	\$	-
<b>Task 2 - Total</b>	<b>\$</b>	<b>-</b>
<b>Task 3 - Charette Events</b>		
Mileage	\$	-
Reproduction	\$	50.00
<b>Task 3 - Total</b>	<b>\$</b>	<b>50.00</b>
<b>#VALUE!</b>		
Mileage	\$	-
Reproduction	\$	50.00
<b>Task 4 - Total</b>	<b>\$</b>	<b>50.00</b>

**Total Reimbursable Costs: \$ 100.00**



Don Anderson  
Mayor

Jason Whalen  
Deputy Mayor

Mary Moss  
Councilmember

Michael D. Brandstetter  
Councilmember

John Simpson  
Councilmember

Marie Barth  
Councilmember

Paul Bocchi  
Councilmember

John J. Caulfield  
City Manager

September 9, 2015

## NOTICE OF PUBLIC HEARING

Notice is hereby given that on Monday, September 21, 2015, at 7:00 p.m., or soon thereafter, the City Council will hear public testimony on the City of Tacoma's Proposition No. 3 General Election ballot measure to be held on November 3, 2015, to levy an additional 1.5% Utility Company Earning Tax for Tacoma street improvements. The effect will be an increase to Tacoma's utility tax on the earnings of natural gas, electric and phone companies, including the City of Tacoma-owned Tacoma Power, which provides utility service to customers in Lakewood. Utility companies may choose to pass this cost on to their customers through their rates, though the Tacoma City Council could, by separate action, have to approve any Tacoma Power rate change to its customers.

If you have comments about this matter and want them to be known and considered, they must be presented at the hearing, or written comments can be submitted to the Lakewood City Council, 6000 Main Street SW, Lakewood, WA 98499, or via email at [info@cityoflakewood.us](mailto:info@cityoflakewood.us) prior to the hearing.

The public hearing will take place at City of Lakewood, Council Chambers, 6000 Main Street SW, Lakewood, Washington.

For further information, please contact Ms. Heidi Wachter, City Attorney, at (253) 983-7704.

Alice M. Bush, MMC  
City Clerk



## Notice of Public Hearing

The Lakewood City Council will conduct a Public Hearing to consider a Resolution expressing opposition to the City of Tacoma, Proposition No. 3.

If passed, Proposition No. 3 would include authorization for a 1.5% Utility Company Earning Tax for Tacoma street improvements. The effect will be an increase to Tacoma's utility tax on the earnings of natural gas, electric and phone companies, including the City of Tacoma-owned Tacoma Power, which provides utility service to customers in Lakewood. Utility companies may choose to pass this cost on to their customers through their rates, though the Tacoma City Council could, by separate action, have to approve any Tacoma Power rate change to its customers.

You are receiving this notice because your property is located in Tacoma's service area, and you could be subject to this tax if approved by Tacoma voters. The Lakewood City Council is opposed to any action which results in Lakewood residents paying an increased Tacoma utility tax to repair Tacoma streets, without the affirmative vote of a majority of Lakewood residents.

**Place of Meeting, Date & Time:** Lakewood City Hall Council Chambers, 6000 Main Street SW, Lakewood, WA 98499 on Monday, September 21, 2015 at 7:00 PM

Written comments may be submitted to the Lakewood City Council at the address listed in this notice or via email at [info@cityoflakewood.us](mailto:info@cityoflakewood.us).

City of Lakewood 6000 Main Street SW Lakewood WA 98499 Phone: 253-589-2489 Fax: 253-589-3774

## Alice Bush

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**From:** abuck17455@aol.com  
**Sent:** Monday, September 07, 2015 3:30 PM  
**To:** Info  
**Subject:** Proposition 3

To Whom It May Concern: The City of Lakewood is correct in presenting a Resolution in opposition to Proposition 3, an example of political overreach and poor coordination. Rather, the City of Lakewood should require that taxes levied on Tacoma Power by the City of Tacoma but obtained from its Lakewood customers be separated and used to maintain or provide Lakewood street improvements. No matter how convoluted or vague existing law may be, it was created by men and women and can be refined to be reasonable in the same fashion.

Alfred S. Buck  
7810 89th Avenue, SW  
Lakewood, WA 98498

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Disclaimer: Public documents and records are available to the public as required under the Washington State Public Records Act (RCW 42.56). The information contained in all correspondence with a government entity may be disclosable to third party requesters under the Public Records Act.

## Alice Bush

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**From:** Dennis Dearth <ddearth1@aol.com>  
**Sent:** Sunday, September 06, 2015 2:07 PM  
**To:** Info  
**Subject:** Proposition 3

Imposition of 1.5 percent tax on the City of Lakewood residents, for a project that does not impact the city directly, without authorization of the residents of the city, should warrant a resolution of opposition.

We would support any efforts to oppose this tax on Lakewood residents.

Dennis and Mary Dearth  
10908 Meadow Rd SW  
Lakewood, Wa 98499

Sent from my iPad

Disclaimer: Public documents and records are available to the public as required under the Washington State Public Records Act (RCW 42.56). The information contained in all correspondence with a government entity may be disclosable to third party requesters under the Public Records Act.

## Alice Bush

---

**From:** Alex Misiewicz <alexmisiewicz@gmail.com>  
**Sent:** Monday, September 07, 2015 9:04 PM  
**To:** Info; Misiewicz, Alexander K MAJ USARMY (US)  
**Subject:** public hearing of proposition no. 3

Dear Sir(s),

I am unable to attend the Town Hall Meeting of Public Hearing to consider a resolution expressing opposition to the City of Tacoma, Proposition No. 3.

I too am opposed to Proposition No 3, authorizing a 1.5% utility company earning tax.

We pay far too many taxes already. there exists enough funding to pay for the services and upkeep which Tacoma (and Lakewood by extension) require. I feel that it has become all too easy to just "tax, tax, tax" for anything that is wanted. Better management of our funds may be a better proposition to present.

It seems frivolous that a new multimillion dollar building is trying to be pushed through when we should much more responsibly find another avenue to steward the Publics funds.

Does anybody remember the tax for the Sounder? Did I forget, or was the tax raised over 3% to complete the tracks from Seattle to Tacoma. If memory serves me, it was stated that once the Sounder tracks were complete, the tax would go away. The tracks are complete, but I seem to continue paying on this tax. Could this existing tax be used to upkeep our roads? We are already paying it and the work it was allocated for is completed.

Please register my desire to oppose the city of Tacoma's Proposition No. 3 to authorize a 1.5% Utility Company Earning Tax for Tacoma street improvements. The taxes I pay on utilities are already too high.

Thank you.

Sincerely,

Alexander and Irene Misiewicz  
Turquoise dr SW  
Lakewood, Wa  
706-580-8696

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Disclaimer: Public documents and records are available to the public as required under the Washington State Public Records Act (RCW 42.56). The information contained in all correspondence with a government entity may be disclosable to third party requesters under the Public Records Act.

## Alice Bush

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**From:** carltontl@comcast.net  
**Sent:** Monday, September 07, 2015 9:30 AM  
**To:** Info  
**Subject:** Proposition 3

Lakewood City Council,

Tacoma voters absolutely have the right to tax themselves at any rate for any purpose they choose. That said however, the City of Tacoma has absolutely NO right to tax the citizens of Lakewood for anything. How can the City of Lakewood not stop this from affecting it's citizens?

If the proposed tax is imposed on the citizens of Lakewood, it is taxation without representation. The voters of Lakewood should be able to vote on this proposition and if rejected within Lakewood, it should not be imposed on Lakewood citizens even if the electric service we receive is provided by the city of Tacoma. The very idea that Tacoma could impose a tax of this nature on Lakewood residences is absolutely outrageous. Imposing this tax on Lakewood citizens should be illegal.

Terry L. Carlton

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## Alice Bush

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**From:** Lauren M Mitchell <lauren73@comcast.net>  
**Sent:** Sunday, September 06, 2015 2:51 AM  
**To:** Info  
**Subject:** Tacoma Proposition No. 3

To Whom It May Concern:

I am vehemently opposed to the paying an increased Tacoma utility tax. Taxing me without using the collected revenue to benefit me within my city of residence is taxation without representation. When I consider the strict and narrow limits Tacoma Power offers its customers with respect to energy savings rebates for such things as heat pumps, it makes me angry that I only sense greed and a serious lack of concern for the average electric power customer.

It is my opinion the city of Tacoma officials need to reign in the exorbitant salaries of the executive and senior management of Tacoma Power. They also need to forfeit the programmed regular raises of city officials and stop moving toward becoming full time politicians. They are losing sight of their residents' needs and are not practicing wise stewardship of revenue. Doing so would enable them to have the funds to address the need for road and street repair.

Thank you for the opportunity to present and share my position and views.

Warm regards,  
Lauren Mitchell

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## Alice Bush

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**From:** Edith Van Evera <rckitty@comcast.net>  
**Sent:** Monday, September 07, 2015 5:54 PM  
**To:** Info  
**Subject:** City of Tacoma Proposition No. 3

Dear Lakewood City Council Members,

Because I am unable to attend your Public hearing on 21 September 2015 @ 19:00 hrs, I am instead sending you this communication.

In regard to your Public Hearing to consider a Resolution expressing opposition to the City of Tacoma Proposition No. 3, I am providing my opinion and input. It follows:

- I oppose being required to pay a 1.5% Utility Company Earning Tax to benefit only Tacoma street improvement; that I will pay this tax is an inevitable outcome of Tacoma passing such a tax, as the Utility companies would surely pass on the expense in the form of more Fees to all the customer/consumers to include those who live outside of Tacoma.
- The City of Tacoma Public Utilities provide my electricity. I really have no other alternative for electricity outside of Tacoma that I know of and so I believe it is wrong for Tacoma to cause increased expenses due to increased taxes for those customers outside of the benefit area (Tacoma streets) who have no other choice of Utility and will reap little to no benefit. I do not travel on Tacoma streets very often and certainly much less than those who work in Tacoma but who live outside of Tacoma and do not use any Tacoma Utilities services.
- I already pay plenty of extra fees over the actual cost of the energy used; the breakdown of my most current bill ending 08/28/2015 is as shown below:
  - Energy Use: 850 @ \$0.039710/KWH = \$33.75
  - Delivery Charge Fee: 850 @ \$0.034435/KWH = \$29.27
  - Customer Charge Fee: 2 mons @ \$10.50/month = \$21.00
- So you can see my bill is already heavy with Fee charges over and above what the energy actually costs me.
  - \$50.27 of fees compared to \$33.75 for actual Electricity
  - What's wrong with this picture?

- As a senior citizen, living on a fixed-income makes it problematic paying more Utility Fees for no benefit to my community of Lakewood.
- I believe Tacoma Utilities could somehow avoid passing on the expense to customers who do not live in Tacoma.
- If Lakewood received some direct benefit from such a Tacoma Utility Tax then I would be less opposed, but I'm doubtful that would happen.

Respectfully submitted,

Edith Van Evera

9721 Onyx Dr. SW, Lakewood Wa 98498

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## Alice Bush

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**From:** Bob J <bobjeffrey@comcast.net>  
**Sent:** Monday, September 07, 2015 9:20 AM  
**To:** Info  
**Subject:** Tacoma Proposition 3  
  
**Importance:** High

Hi Board members,

I am against the Tacoma City Councils approval of their proposed Proposition 3.

During the last power outage, the Lakewood area's power seemed to stay on, whereas the location serviced by Tacoma (our area) the power went off. I understand the the power is one separate grids but this is bad since our residence is a stones throw away from were power stayed on. They need to get their act together and run the company on what they already receive. Taxes keep going up which is terrible for people on fixed incomes.

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## Alice Bush

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**From:** Info

**Sent:** Wednesday, September 09, 2015 9:55 AM

**To:** Alice Bush

**Subject:** FW: My Objection to having The City of Tacoma, WA impose its 1.5% Utility Tax on Lakewood Residents.

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**From:** James A Manning [<mailto:cjam1911@gmail.com>]

**Sent:** Tuesday, September 08, 2015 7:00 PM

**To:** Info

**Subject:** My Objection to having The City of Tacoma, WA impose its 1.5% Utility Tax on Lakewood Residents.

Greeting:

I have been reading in the local media of the desire of The City of Tacoma wanting to have its citizens vote in favor of a 1.5% Utility Tax on its customers for the sole purpose of repairing the city's crumbling roadways.

I am pleased that they wish to impose the tax on its residents but I and the many Lakewood residents who receive utility services from Tacoma Power should not have to be subject to that tax because we are not residents of The City of Tacoma.

I am unable to attend the scheduled Monday evening meeting due to medical reasons.

Kindly reject imposing the 1.5% tax on City of Lakewood residents.

Thank you

--

James A. Manning  
Colonel (Ret) AUS  
8101 48th Ave SW  
Lakewood, WA 98499  
253.474.5267

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## Alice Bush

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**From:** Briana Schumacher  
**Sent:** Tuesday, September 08, 2015 2:47 PM  
**To:** Alice Bush  
**Subject:** Prop. 3

Rebecca Chaplin  
7501 Agate Drive SW  
Lakewood, WA 98498  
#253-584-5135

Mrs. Chaplin called today, September 8, 2015 to express her opposition to the City of Tacoma's Proposition #3.

---

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**Alice Bush**

---

**Subject:** FW: Tac Prop 3

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**From:** dlw [<mailto:msdlw127@aol.com>]  
**Sent:** Wednesday, September 09, 2015 2:59 PM  
**To:** Info  
**Subject:** Tac Prop 3

Please...it is unreasonable for the City of Lakewood and Lakewood residents to be taxed to repair Tacoma streets. Would they be willing to be taxed to repair our streets? Tacoma Power should look elsewhere for their funding.

Respectfully,  
Ray & Dorothy Werner  
127 Candlewyck Dr. W  
Lakewood, WA 98499

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## Alice Bush

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**From:** Briana Schumacher  
**Sent:** Thursday, September 10, 2015 2:32 PM  
**To:** Alice Bush  
**Subject:** Prop. 3

Doris Dearth  
8018 75<sup>th</sup> Street SW  
Lakewood, WA  
#253-584-5582

I am against Prop. 3 and I think that Lakewood should stay just the way it is.

Thanks!

---

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**Alice Bush**

---

**Subject:** FW: City of Tacoma Proposition No. 3

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**From:** Info  
**Sent:** Sunday, September 13, 2015 7:03 AM  
**To:** Alice Bush  
**Subject:** Fwd: City of Tacoma Proposition No. 3

**From:** afbret <[af-b-ret@comcast.net](mailto:af-b-ret@comcast.net)>  
**Date:** September 13, 2015 at 6:24:15 AM PDT  
**To:** Info <[info@cityoflakewood.us](mailto:info@cityoflakewood.us)>  
**Subject:** City of Tacoma Proposition No. 3

I am opposed to this proposition. I do not want my tax dollars going to improve Tacoma's streets.

I do not know how many homes in Lakewood are powered by Tacoma Power, but it is not fair or ethical to charge Lakewood residents just because we get our electrical power from Tacoma Power.

We need to work on getting another company to provide electrical power to all of the Lakewood residents.

Thank you,

Marvin Warner

9209 81<sup>st</sup> St SW

Lakewood, WA 98498

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**Alice Bush**

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**Subject:** FW: Prop No 3

**From:** CenturyLink Customer <[ggesh@q.com](mailto:ggesh@q.com)>

**Date:** September 13, 2015 at 2:27:55 PM PDT

**To:** Info <[info@cityoflakewood.us](mailto:info@cityoflakewood.us)>

**Subject:** Prop No 3

To City Council: Thank you for considering opposition to City of Tacoma Prop No 3. I support all efforts to have all residents of the city being exempt from the Utility Tax. Virginia Eshelman 8817 69 St. CT. SW

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**Alice Bush**

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**Subject:** FW: Tacoma, Proposition No 3

-----Original Message-----

From: Info

Sent: Monday, September 14, 2015 3:52 PM

To: Alice Bush

Subject: Tacoma, Proposition No 3

As a loyal Lakewood resident, this classic case of taxation without representation proposal is NOT supported by my family.

If this prop is authorized, then what? Do we as a city proceed with legal action against Tacoma? If Prop 3 is passed, would/could Lakeview Power pick us up?

Not too many years ago, there was a big hoopla about PSE, and the whole Lakewood City Council was up in arms for what turned out to be much about nothing. But the city was unified and PSE hierarchy was at city hall to defend itself. Side note--since then, PSE response to my concerns has been the difference between day and night. Very pleased.

What are our options post Prop 3 approval?

Concerned,  
David L. Pessemier

Sent from my iPad

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**Alice Bush**

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**Subject:** FW: Westside Story – Tacoma Taxation Without Representation via Instant Joe

**From:** Joseph Boyle [<mailto:jgb263@comcast.net>]

**Sent:** Wednesday, September 16, 2015 9:21 PM

**To:** Info

**Subject:** Fwd: Westside Story – Tacoma Taxation Without Representation via Instant Joe

I wish to use my recently published article from The Suburban Times to communicate how I feel about the Tacoma Utility tax issue. My article is attached below.

Thanks,

jgb

Joseph Boyle - Lakewood Resident 1969

11537 Clovercrest Dr SW  
Lakewood, WA 98499

T: 253-582-0066

E: [jgb263@comcast.net](mailto:jgb263@comcast.net)

Musings from the mind of Joe...

[View this email in your browser](#)

Name Dennis Otto  
Email [debeotto@msn.com](mailto:debeotto@msn.com)  
Phone (253) 588-3054

This is not a request, it is a comment re the City of Tacoma, Proposition 3 for a 1.5% Utility Company Earning Tax that may be passed on to Lakewood residents. My wife Beate Otto and I would like to go on record that we strongly object to and reject the notion that repairs of Tacoma streets be passed on to Lakewood residents, no matter in which form. If nothing else, Lakewood residents have a right to vote on this.

9 Sep 15

To: Lakewood City Counsel  
6000 Main Street SW  
Lakewood, WA 98499

Subject: Utility Tax of Tacoma, WA.

I am apposed to paying  
a tax to improve Tacoma's  
streets.

That Proposition should be  
applied to Tacoma city  
residents only. We have  
our own taxes to pay for  
the city of Lakewood's street  
repair.

Germaine V. Dart

Dart  
10220 Whitman Ave SW  
Lakewood, WA 98499

RECEIVED

SEP 09 2015

CITY OF LAKEWOOD

8025 Mullen St. SW  
Lake wood WA 98409. 1015  
September 7, 2015

City of Lakewood  
6000 Main St. SW.  
Lake wood WA 98499

I do not want Lake wood customers  
to be subject to Proposition Number 3,  
City of Tacoma.

Tacoma should be responsible for  
their own Streets.

Alice Jean Olson, Trustee  
Alice Jean Olson, Trustee

**RECEIVED**

SEP 10 2015

**CITY COUNCIL  
CITY MANAGER**



RECEIVED

SEP 17 2015

CITY COUNCIL  
CITY MANAGER

September 15, 2015

Mr. John Caulfield, City Manager  
City of Lakewood  
6000 Main Street  
Lakewood, Washington 98499

Re: City of Tacoma Utility Earning Tax

Dear Mr. Caulfield:

The Clover Park School District supports the City of Lakewood in opposition to the City of Tacoma, Special Election, Proposition No. 1, 2% utility company earnings tax for Tacoma street improvements.

The school district has eleven schools/facilities that are served by Tacoma Power, which are not located within the boundaries of the City of Tacoma. The financial impact of the increase would be significant to the District with no benefit to the students and community that we serve. We understand the proposition would be utilized for street maintenance of Tacoma streets, resulting in a benefit to the residents of Tacoma only.

If the ballot measure is presented to the resident voters of Tacoma, Lakewood residents and other entities will have "no voice" in the special election process.

Sincerely,

Deborah L. LeBeau  
Superintendent

*The mission of Clover Park School District is to teach each child what he or she needs to know to succeed and contribute to the community.*

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED:</b> September 21, 2015	<b>TITLE: Lakewood Promise Program Update</b>	<b>TYPE OF ACTION:</b> <input checked="" type="checkbox"/> ORDINANCE NO. 619 <input type="checkbox"/> RESOLUTION NO. <input type="checkbox"/> MOTION NO. <input type="checkbox"/> OTHER
<b>REVIEW:</b> June 8, 2015 June 15, 2015 August 3, 2015 September 14, 2015 (Reports by City Manager)	<b>ATTACHMENTS:</b> Lakewood Promise MOA Ordinance No. 619	

**SUBMITTED BY:** Mary Dodsworth, Parks, Recreation and Community Services Director

**RECOMMENDATION:** It is recommended that the City Council update the Lakewood Promise program with updated Municipal Code language and a Memorandum of Agreement. The objective is provide through the Code a legislative framework and authority that creates Lakewood’s Promise and ensure stakeholder commitment through a Memorandum of Agreement (MOA). This action relates to the ordinance. The MOA will be brought forward as Motion No. 2015-50.

**DISCUSSION:** In 2012 the City modified the structure of the Lakewood’s Promise program. A three year interlocal agreement (ILA) was developed to provide oversight and support and to outline the responsibilities of the various partners to ensure that the five promises were available to Lakewood youth. At this time the City also created by ordinance an eleven person Lakewood’s Promise Advisory Board. The ILA expired in May, 2015 and the Advisory Board recommended updating the document and creating a MOA to be more inclusive and to define, encourage and allow local partners to collaborate and participate in the Lakewood Promise work program. The MOA outlines the purpose of Lakewood’s Promise and the responsibility of being a partner, which are to:

- Enhance awareness of, and interest in, Lakewood's Promise which may be in cooperation with any appropriate private, civic or public agency of the City, county, state or of the federal government;
- Provide agency resources (such as staffing, supplies, equipment, facilities, marketing, volunteers)to support Lakewood Promise programs and projects;
- Recommend ways and means of obtaining funds for the promotion of Lakewood's Promise programs and projects within the City;
- Represent the community and the City to address Lakewood's Promise related issues;
- Serve as a catalyst to encourage collaboration among Lakewood’s businesses, organizations and agencies;
- Serve as a clearing house for community youth programs and events.

A copy of the proposed MOA and proposed Ordinance amending the Code is attached.

**ALTERNATIVE(S):** City Council could choose not to pass the Ordinance or recommend additions/changes to the document.

**FISCAL IMPACT:** No fiscal impact on changes to the Ordinance.

_____ Prepared by	 _____ City Manager Review
_____ Department Director	104

ORDINANCE NO. 619

AN ORDINANCE of the City Council of the City of Lakewood, Washington amending Chapter 2.38 of the Lakewood Municipal Code relative to the Lakewood's Promise Advisory Board.

WHEREAS, the City of Lakewood has an established Lakewood's Promise Advisory Board; and,

WHEREAS, since incorporation the City of Lakewood, Washington, the City has advocated youth involvement wherever possible; and,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN as follows:

Section 1. Section 2.38.020 entitled "Membership" of the Lakewood Municipal Code is hereby amended, as follows:

There shall be up to eleven (11) members of the Lakewood's Promise Advisory Board who shall be appointed by the Mayor and confirmed by the City Council, and who shall serve at the pleasure of the City Council. The members shall be residents of the City, or by the nature of their work with youth, determined an asset to the Board. Four (4) members ~~representing the partner agencies~~ of the Board shall be comprised of representatives of the Clover Park School District, Pierce College, Clover Park Technical College, and City of Lakewood. Official representatives may shall be on the Lakewood's Promise Advisory Board, one of whom may assign a delegate or proxy to attend meetings and act on their behalf. One (1) Board member shall be a representative from the Youth Council. The remaining six (6) positions may be filled as deemed appropriate and necessary to the work of the Board.

Section 2. Section 2.38.040 entitled "Terms and Vacancies" of the Lakewood Municipal Code is hereby amended, as follows:

Subject to the provisions of 2.38.020 of this Ordinance and the pleasure of the City Council, members of the Lakewood's Promise Advisory Board, ~~with the exception of partner agencies,~~ shall serve for a term of three (3) years or until appointment of a successor member, whichever is later, unless otherwise replaced, except that the representatives of the Clover Park School District, Pierce College, Clover Park Technical College, and City of Lakewood shall not be subject to term limits and that the Youth Council member shall serve a term of one (1) year. ~~It is provided, however, that for the initial appointment, three (3) members shall be initially appointed for three (3) year terms, or until appointment of a successor member, whichever is later, unless~~

~~otherwise replaced; three (3) members shall be initially appointed for two (2) year terms, or until appointment of a successor member, whichever is later, unless otherwise replaced.~~ In case of any vacancies on the commission, vacancies shall be filled consistent with the procedures set forth in 2.38.020 of this Ordinance, for the unexpired terms for which such vacancies are filled.

Section 3. Section 2.38.050 entitled “Officers-Meetings” of the Lakewood Municipal Code is hereby amended, as follows:

- A. At its first meeting of each year, the Lakewood's Promise Advisory Board members shall elect a chairperson and a vice chairperson from among the members of the Lakewood's Promise Advisory Board. The Lakewood's Promise Advisory Board shall meet as needed to perform the duties of the Lakewood's Promise Advisory Board and to fulfill the role of being an advisory body to the City Council.
- B. It shall be the duty of the chairperson to preside over all meetings of the Lakewood's Promise Advisory Board. The vice chairperson shall preside at all meetings where the chairperson is absent. Minutes shall be kept and meeting agendas prepared in coordination between members of the Board and staff members. A majority of the members of the Board shall constitute a quorum for the transaction of business, and a majority vote of those present shall be necessary to carry any recommended action.
- C. ~~The City Manager or designee shall provide staff support for the Lakewood's Promise Advisory Board and shall constitute a non-voting ex-officio member of the Lakewood's Promise Advisory Board.~~

Section 4. Section 2.38.060 entitled “Role of the Advisory Board” of the Lakewood Municipal Code is hereby amended, as follows:

The Lakewood's Promise Advisory Board is created to assist the City Council in the following areas:

- A. The Lakewood's Promise Advisory Board shall advise the Mayor, the City Council and city staff regarding the availability and delivery of the five promises within the City.
- B. The Lakewood's Promise Advisory Board shall look for ways to develop ongoing relationships among Lakewood citizens and businesses to better deliver Promise activities to youth. To do this, the Lakewood’s Promise Advisory Board will recommend individuals to serve on task forces pertaining to each of the Five Promises.
- C. The Lakewood's Promise Advisory Board shall advise the City Council in connection with Lakewood's Promise issues as may be referred to the Lakewood's Promise Advisory Board by the City Council which may include, but is not limited to, the following:

1. Facilitate cooperation and coordination with ~~City staff~~the City, citizens' groups and other entities, agencies and organizations on Lakewood's Promise issues;
2. Recommend to the City Council strategies to enhance awareness of, and interest in, Lakewood's Promise which may be in cooperation with any appropriate private, civic or public agency of the City, county, state or of the federal government;
3. Recommend ways and means of obtaining private, local, county, state or federal funds for the promotion of Lakewood's Promise programs and projects within the City, and
4. Represent the community and the City of Lakewood as requested by the City Council to address Lakewood's Promise related issues.

Section 5. Severability. If any portion of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 6. Effective Date. That this Ordinance shall be in full force and effect thirty (30) days after publication of the Ordinance Summary.

ADOPTED by the City Council this 21st day of September, 2015.

CITY OF LAKEWOOD

---

Don Anderson, Mayor

Attest:

---

Alice M. Bush, MMC, City Clerk

Approved as to Form:

---

Heidi Ann Wachter, City Attorney

City of Lakewood  
Lakewood City Hall  
6000 Main Street SW  
Lakewood, WA 98499  
(253) 589-2489

**(Legal Notice)**

September 22, 2015

**NOTICE OF ORDINANCE PASSED  
BY LAKEWOOD CITY COUNCIL**

The following is a summary of an Ordinance passed by the City of Lakewood City Council on the 21st day of September, 2015.

**ORDINANCE NO. 619**

AN ORDINANCE of the City Council of the City of Lakewood, Washington amending Chapter 2.38 of the Lakewood Municipal Code relative to the Lakewood's Promise Advisory Board.

This ordinance shall take place thirty (30) days after its publication or publication of a summary of its intent and contents.

The full text of the Ordinance is available at the City Clerk's Office, Lakewood City Hall, 6000 Main Street SW, Lakewood, Washington 98499, (253) 589-2489. A copy will be mailed out upon request.

---

Alice M. Bush, City Clerk

LAKEWOOD'S PROMISE ~~ADVISORY BOARD~~  
~~AND COMMUNITY PARTNERS PROGRAM AGREEMENT~~  
MEMORANDUM OF AGREEMENT  
~~BETWEEN THE CITY OF LAKEWOOD, PIERCE COLLEGE, CLOVER PARK SCHOOL~~  
~~DISTRICT, AND CLOVER PARK TECHNICAL COLLEGE~~  
2012

THIS AGREEMENT is entered into by and between the City of Lakewood, Washington, a code city duly organized and existing pursuant to laws of the State of Washington, hereinafter referred to as the "City"; and the following agencies (hereinafter referred to collectively as "Agencies": Pierce College, Clover Park School District, ~~and~~ Clover Park Technical College, Boys and Girls Club of South Puget Sound, YMCA of Pierce and Kitsap Counties, Saint Clare Hospital, Communities in Schools of Lakewood, Pierce County Library, JBLM and others within their respective authority as authorized by the Interlocal Cooperation Act, Chapter 39.34 RCW. All entities in this Agreement are referred to collectively as the "Parties."

WHEREAS, the City is a ~~five~~six-time winner of the prestigious 100 Best Communities Serving Young People award by America's Promise – The Alliance for Youth; and

WHEREAS, the Parties agree that all children, regardless of their circumstances of their birth, should have the opportunity to make the most of their full potential; and

WHEREAS, the challenges of today, especially those that confront our children, require a special commitment of us all, and

WHEREAS, the Lakewood's Promise program seeks to provide youth access to the "Five Promises" (~~addressed in "Exhibit A"~~) that support the fundamental resources that young people need for success in life; and

WHEREAS, the Parties agree that working collaboratively as defined in this Agreement will continue to promote Lakewood youth access to the Five Promises; ~~and~~therefore,

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

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

1. Purpose. The purpose of this Agreement is to create an ~~three year interagency~~ agreement to formalize our collective intent to support the efforts of Lakewood's Promise pursuant to this Agreement. The mission of Lakewood's Promise (LP) is to provide the opportunity for the youth of Lakewood to have access to the "Five Promises" through the coordinated efforts of community service providers. ~~The Five Promises are to provide:~~

- Marketable skills through effective education
- Ongoing relationships with caring adults

- Safe places with structured activities during non-school hours
- Healthy start and future
- Opportunities to give back through community service

~~Examples of how LP Lakewood's Promise may chose to support the Five Promises, provided for illustrative purposes only, are attached hereto as Exhibit A and incorporated herein by this reference.~~

2. Responsibilities. Each Party's responsibilities under this Agreement shall be as follows:

- Enhance awareness of, and interest in, Lakewood's Promise which may be in cooperation with any appropriate private, civic or public agency of the City, county, state or of the federal government, and
- Provide agency resources (staffing, supplies, equipment, facilities, marketing, volunteers, etc) to support Lakewood Promise programs and projects, and
- Recommend ways and means of obtaining private, local, county, state or federal funds for the promotion of Lakewood's Promise programs and projects within the City, and
- Represent the community and the City to address Lakewood's Promise related issues.
- Serve as a catalyst to encourage collaboration among Lakewood's businesses, organizations and agencies and
- Serve as a clearing house for community youth programs and events.

~~LP seeks to serve as a catalyst to encourage collaboration among Lakewood's businesses, organizations and agencies and to serve as a clearing house for community youth programs and events.~~

3. Program Coordinator. The Parties agree that the position of Program Coordinator shall be established. ~~The Program Coordinator shall be an employee of Pierce College.~~ This position shall be funded in accordance with the Parties' Responsibilities and annual agency appropriations as needed, set forth herein. -The LP Coordinator will work directly with Parties City staff for guidance and support and develop an annual work program and performance measurements. - The LP Coordinator will manage day-to-day activities of LP and support the City's LP Board.

2.

~~3.~~ 4. Organizational Structure and Administration. The Lakewood's Promise organizational structure and administration shall be as specified in LMC Chapter 2.38, Lakewood's Promise Advisory Board. Advisory Board.

~~Established.~~ A LP Advisory Board with up to 11 members is established by City Code and will provide oversight and feedback to the City Council on the efforts of the LP Community Partnership. ~~The LP Board will operate as a City of Lakewood Advisory board, and be restructured for consistency with other City boards and commissions. The City Council will recruit and approve appoint Board members based on agency affiliation and LP work program and community need. Lakewood residency will be preferred for members but not required. Four (4) members representing the original partner agencies — Clover Park School District, Pierce College, Clover Park Technical College, and City of Lakewood shall be on the Lakewood's Promise Advisory Board. One (1) member shall be a representative of the Youth Council. The Board may also include representatives from the partner agencies including, along with St Clare~~

~~hospital, YMCA, Boys and Girls Club, Pierce County Library, the business community, faith community, military, youth service providers or other individuals that support the Five Promises.~~

~~A. — Responsibilities. The LP Board shall be responsible for advising the council regarding the undertaking that is Lakewood’s Promise.~~

~~4. — Responsibilities. Each Party’s responsibilities under this Agreement shall be as follows:~~

~~A. — City of Lakewood: fund a portion of the Program Coordinator’s salary (up to \$26,000 in 2012 (which is approximately .5 FTE costs for services provided pursuant to this Agreement), be the fiscal agent for donations and funding, provide technology and marketing support, provide guidance and support to the Program Coordinator and provide input on the Program Coordinators performance review, and provide support staff to implement LP’s mission, programs and services.~~

~~B. — Pierce College: fund balance of Program Coordinator’s costs including employee benefits, provide access to Computer Clubhouse equipment, programs and technology for LP’s efforts, supervise the Program Coordinator and provide input on performance review, provide support staff as needed for reporting Outcome Based Education and other grant/donation related requirements and/or to implement LP’s mission, programs and services.~~

~~C. — Clover Park School District: provide office and program space as needed, provide marketing support, provide access to staff, schools and programs as needed to implement LP’s mission, program and services.~~

~~D. — Clover Park Technical College: provide access to technology and support use of equipment and space for LP’s efforts, access to Americorp, service learning programs, student mentors and staff to support LP’s mission, programs and services.~~

5. Compliance with all Laws. In performing such responsibilities, the Parties shall at all times comply with all Federal, State, and local statutes, ordinances and rules applicable to the performance of such services and the handling of any funds used in connection therewith. An Agency that is a Party to this Agreement shall request, in writing, prior approval from the other Parties should that Agency desire to amend its responsibilities under this agreement. The amended responsibilities must be approved in writing by all Parties.

6. Identified Community Support. In order to recognize the participation and involvement of the parties in the support of this Agreement, and to ensure that those people who benefit from the activities and services of the Agencies are aware of the parties’ involvement, when possible, include the words *“funded in part by ~~the City of Lakewood, Clover Park School District, Clover Park Technical College and Pierce College~~ Lakewood Promise agencies”* or include the names or logos of involved LP agency — on flyers, pamphlets, brochures, advertisements, annual reports or other printed information prepared by or used in advertising or promoting the activities and services of the parties.

~~7. — Compensation and Methods of Payment for Program Coordinator. The City shall pay Pierce College for services rendered as set forth in “Exhibit A.” The total amount to be paid shall not exceed \$26,000.00 annually. Compensation shall be paid by the City following receipt of an invoice(s). All invoices for work ending each calendar year must be submitted by January 15 of the following year.~~

~~7~~8. Duration of Agreement. This Agreement shall be in full force and effect ~~for a period of three (3) years~~ commencing on the date of the last signature required to fully executive

the Agreement (if the Agreement is signed on different dates); unless sooner terminated pursuant to this Agreement. The Lakewood Promise Advisory Board will review and make recommendations for updates if needed every two years in accordance with the City's biennial budget process.

8.9. Independent Contractor. The parties agree that the Agencies are independent Contractors with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the Parties. Neither the Agencies nor any employees of the Agencies shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security payments or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to the Agencies, or any other employee of the Agencies.

9.10. Indemnification and Defense. The parties to this agreement shall defend, indemnify and hold the parties, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Agencies, their agents, servants, officers, employees, or volunteers, in performance of this Agreement, except for injuries and damages caused by the sole negligence of the party. In the event that a party shall elect to defend itself against any claim or suit arising from such injury, death or damage, the parties shall, in addition to indemnifying and holding the parties harmless from any liability, indemnify the party for any and all expense incurred by the party in defending such claim or suit, including attorney's fees. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Agencies and the City, its officers, officials, employees, and volunteers, the Agencies' liability hereunder shall be only to the extent of the Agencies' negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Agencies' waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

#### 11. Insurance.

~~A. The Agency shall procure and maintain in full force throughout the duration of the Contract commercial comprehensive general liability insurance with a minimum coverage of \$1,000,000.00 per occurrence combined single limit and \$2,000,000.00 in the aggregate for personal injury and property damage and non-owned automobile. The said policy shall name the City as an additional named insured on the insurance policies, and A COPY OF THE ENDORSEMENT NAMING THE CITY AS AN ADDITIONAL INSURED SHALL BE ATTACHED TO THE CERTIFICATE OF INSURANCE.~~

~~B. In addition to the insurance provided for in Paragraph A above, the Agency shall maintain or insure that its professional employees or contractors maintain professional liability insurance in the event that services delivered pursuant to this Contract, either directly or indirectly, involve providing professional services. Such professional liability insurance shall be maintained in an amount not less than \$500,000.00 combined single limit per claim and in the~~

~~aggregate. For the purposes of this paragraph "professional service" shall mean services provided by a physician, licensed psychologist, or other licensed professional.~~

~~C. Certificates of coverage as required by Paragraph A and B above shall be delivered to the City within fifteen (15) days of execution of this contract. Further, it is the responsibility of the Agency to ensure a valid certificate of insurance is in effect at all times throughout the course of this contract. Requests for reimbursement under this contract may be withheld until such time as a valid certificate of insurance is provided to the City.~~

~~11.12. Interlocal Cooperation Act Provisions. No special budget or funds are anticipated nor shall any be created. It is not intended that a separate legal entity be established to conduct this cooperative undertaking; nor is there any acquisition, holding or disposal of real or personal property other than as specifically provided within the terms of this Agreement.~~

1203. Record Keeping and Reporting.

~~A. The Agencies shall maintain their own accounts and records, including personnel, property, financial and programmatic records which sufficiently and properly reflect all direct and indirect costs of any nature expended and the services performed in the performance of this Agreement, and other such records as may be deemed necessary to the City to ensure proper accounting for all funds contributed by the City for the performance of this Agreement and compliance with this Agreement. The Agencies shall notify the City within ten (10) days of any change in program personnel.~~

~~B. These records shall be maintained for a period of seven (7) years after termination hereof or for the time period set forth in accordance with all applicable Washington State records retention laws, whichever is longer. If permission to destroy records is granted by the office of the archivist in accordance with Chapter 40.14 RCW, records that do not legally require retention may be destroyed prior to the seven (7) year time period.~~

~~C. The program staff shall provide monthly activity reports to the City containing program goals and outputs.~~

1314. Audits and Inspections. The records and documents for each Agency with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit during the performance of this Agreement.

~~1425. Termination. All parties may suspend or terminate this Agreement in whole or in part for convenience, upon thirty (30) days written notice to the parties. If funding is eliminated or limited for any reason, the parties shall have the right to terminate this Agreement immediately. In addition, this Agreement may be terminated by the parties if a party no longer provides services identified in Exhibit A.~~

1536. Discrimination Prohibited. The Agencies shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Agencies to be provided under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status or presence of any sensory, mental or physical handicap.

1647. Assignment and Subagreement. The Agencies shall not assign or enter into subagreements for any portion of the services contained or contemplated by this Agreement without prior written consent of the parties.

1758. Entire Agreement. This Agreement contains the entire agreement between the Parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the Parties hereto. The Parties may request changes in the Agreement. Proposed changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement.

1869. Notices. Notices required by terms of this Agreement shall be sent to the other Parties in writing.

19720. Applicable Law, Venue, Attorney's Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the Parties specifically understand and agree that venue shall be properly laid in Pierce County, Washington. The prevailing Party in any such action shall be entitled to its attorney's fees and costs of suit.

IN WITNESS WHEREOF THE PARTIES HERETO EXECUTED THIS AGREEMENT ARE REPRESENTATIVES OF THE PARTNER AGENCIES AS OF THE DATE AND YEAR FIRST ABOVE WRITTEN.

CITY OF LAKEWOOD

PIERCE COLLEGE

\_\_\_\_\_  
~~Andrew E. Neiditz~~ John J. Caulfield, City  
Manager

\_\_\_\_\_  
Dr. Michele Johnson, Chancellor

YMCA of PIERCE AND KITSAP  
COUNTIES

CLOVER PARK TECHNICAL COLLEGE

\_\_\_\_\_  
Clayton DeNault, Executive Director

\_\_\_\_\_  
~~John Walstrum~~ Dr. Lonnie Howard, President

SAINT CLARE HOSPITAL

CLOVER PARK SCHOOL DISTRICT

\_\_\_\_\_  
Kathy Bressler, President

\_\_\_\_\_  
Debbie LeBeau, Superintendent

COMMUNITIES IN SCHOOLS OF  
LAKEWOOD

BOYS AND GIRLS CLUB OF SOUTH  
PUGET SOUND

\_\_\_\_\_  
Dave O'Keeffe, Executive Director

\_\_\_\_\_  
Elvin Bucu, Executive Director

PIERCE COUNTY LIBRARY

ANOTHER GREAT AGENCY

\_\_\_\_\_ (date)

\_\_\_\_\_ (date)

Attest:

Approved as to Form:

\_\_\_\_\_ (date)

\_\_\_\_\_ (date)

Alice M. Bush, MMC, City Clerk

Heidi Ann Wachter, City Attorney

Attest:

\_\_\_\_\_ (date)

Alice M. Bush, MMC, City Cl

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED:</b> September 21, 2015	<b>TITLE: Designation of Historic Fort Steilacoom as a Community Landmark</b>	<b>TYPE OF ACTION:</b> ___ ORDINANCE NO. <u>XX</u> RESOLUTION NO. 2015-25 ___ MOTION NO. ___ OTHER
<b>REVIEW:</b> September 14, 2015	<b>ATTACHMENTS:</b> Draft Resolution	

**SUBMITTED BY:** Dan Catron, Planning Manager

**RECOMMENDATION:** It is recommended that the City Council adopt a resolution designating Historic Fort Steilacoom as a Community Landmark, and furnish a commemorative plaque honoring this designation.

**DISCUSSION:**

PROPOSED DESIGNATION

The four residential structures of Historic Fort Steilacoom have been nominated (together with their immediate surroundings and the Fort Steilacoom Settler cemetery located on the interior of the Western State Hospital campus) as a Community Landmark. These structures are some of the oldest buildings in the region and the state, originally constructed in 1857 as part of the establishment of Fort Steilacoom. The Fort buildings are currently on the Federal and State Registers of historic places.

The proposed Community Landmark designation acknowledges and celebrates the role of Fort Steilacoom in the settlement of the Washington Territory and the Puget Sound area by persons of European descent. The Fort played a key role in the eventual creation of the State of Washington, and, later, establishment of the Lakewood community. – (continued to page 2)

**ALTERNATIVE(S):** The City Council could choose not to grant the proposed designation.

**FISCAL IMPACT:** The proposed designation will not have any significant fiscal impact on the City. Designation will add to the list of recognized historic resources in Lakewood, which can contribute to interest in the City by tourists and other visitors.

_____ Prepared by	 _____ City Manager Review
_____ Department Director	

The Historic Fort Steilacoom buildings readily qualify for designation as a community landmark. Pursuant to the Lakewood Municipal Code (Section 02.48.040) an historic resource may be designated as a Lakewood landmark if it is more than fifty years old, “possesses integrity of location, design, setting, materials, workmanship, feeling and association”, and

1. Is associated with events that have made a significant contribution to the broad patterns of national, state or local history; or
2. Is associated with the lives of persons significant in national, state or local history; or
3. Embodies the distinctive characteristics of a type, period, style or method of design or construction, or that represents a significant and distinguishable entity whose components may lack individual distinction; or
4. Has yielded or may be likely to yield information important in prehistory or history; or
5. Is an outstanding work of a designer or builder who has made a substantial contribution to the art.

The Historic Fort Steilacoom buildings appear to fulfill both the intent and the letter of the code. The four nominated buildings were renovated and restored in the 1980s, but the restoration work was intended to be reflective of the original craftsmanship and materials, and to be protective of the historic character of the structures. Designation as a Community Landmark is honorary in nature and does not include any specific benefits or responsibilities on behalf of the property owner.

#### OTHER HISTORIC REGISTER LISTINGS

Fort Steilacoom is listed on the National Register of Historic Places as a National Historic District (NRHP Listing # 77001350). Listing on the National Register automatically places the site on the Washington State Heritage Register. The Washington State Department of Social and Health Services (DSHS) prepared a Cultural Resource Management Plan (CRMP) in 2011 for the entire District, including Western State Hospital, Pierce College, and Fort Steilacoom Park.

RESOLUTION NO. 2015- 25

A RESOLUTION of the City Council of the City of Lakewood, Washington, designating Historic Fort Steilacoom as the City's First Community Landmark.

WHEREAS, the City of Lakewood incorporated on February 28, 1996; and

WHEREAS, over one hundred and fifty years earlier, in 1844, Mr. Joseph Heath leased a plot of land from the Hudson Bay Company and established a farm; and,

WHEREAS, in 1849, shortly after Mr. Heath's death, the United States government leased the land from the Hudson Bay Company, and established Fort Steilacoom, serving early pioneers and establishing a foothold for United States interests in an area also subject to claim by the British; and

WHEREAS, in 1857 U.S. Army Colonel Silas Casey secured Federal funds to expand and modernize the Fort, and Lieutenant August Kautz supervised the removal of the original log buildings and the construction of new stick-frame and brick structures, including the four buildings now being recognized; and

WHEREAS, Fort Steilacoom was the first military post established in the Washington Territory, and endured as a formal military presence in the region until 1869, when it was closed to become what is now Western State Hospital; and

WHEREAS the City of Lakewood seeks to recognize Historic Fort Steilacoom and its' history as essential to the development of the Pacific Northwest, the State of Washington, and the City of Lakewood; and

WHEREAS, the Lakewood Landmarks and Heritage Advisory Board held a public hearing on July 30, 2015 and thereafter voted unanimously to recommend to the City Council that Historic Fort Steilacoom be designated as the City's first Community Landmark.

NOW, THEREFORE, BE IT RESOLVED, the Lakewood City Council pursuant to Chapter 2.48 Lakewood Municipal Code does hereby designate Historic Fort Steilacoom and its environs including the Fort Steilacoom Settler's Cemetery as a **Community Landmark**.

PASSED by the Lakewood City Council this 21st day of September, 2015.

CITY OF LAKEWOOD

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Don Anderson, Mayor

Attest:

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Alice M. Bush, CMC, City Clerk

Approved as to Form:

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Heidi Wachter, City Attorney

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED:</b> September 21, 2015  <b>REVIEW:</b>	<b>TITLE:</b> Establishing procedures for notifying the public of preliminary agendas, special meetings and public hearings of the City Council.  <b>ATTACHMENTS:</b> Resolution	<b>TYPE OF ACTION:</b> — ORDINANCE <u><b>X</b></u> RESOLUTION NO. 2015-26 — MOTION NO. — OTHER
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**SUBMITTED BY:** Heidi Wachter, City Attorney

**RECOMMENDATION:** It is recommended that the City Council approve the attached resolution establishing procedures for notifying the public of the preliminary agendas, special meetings and public hearings of the City Council to meet State statutes.

**DISCUSSION:** RCW 35A.12.160 requires code cities to establish a procedure for notifying the public of upcoming hearings and preliminary agendas of the City Council. RCW 42.30.080 provides for public notification of special meetings of the City Council and the posting of special meetings on the City’s website. The proposed resolution is to update the procedures for public notification of the City’s public meetings and hearings consistent with State law. This is consistent business practice followed by most cities.

**ALTERNATIVE(S):** The Council could choose not to not adopt the proposed procedures or amend the procedures provided that they follow State law.

**FISCAL IMPACT:** These procedures will create cost savings in delivering hard copy agenda packets that has been performed by a Community Service Officer, who can make more constructive use of his time.

_____ Prepared by  _____ Department Director	 _____ City Manager Review
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RESOLUTION NO. 2015-26

A RESOLUTION of the City Council of the City of Lakewood, Washington, establishing procedures for notifying the public of the upcoming preliminary agenda and special meetings of City Council meetings and upcoming public hearings for forthcoming Council meetings.

WHEREAS, Section 35A.12.160 of the Revised Code of Washington requires every code city to establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for forthcoming Council meetings; and

WHEREAS, the Open Public Meetings Act, RCW 42.30.080, provides for procedural requirements for noticing the public of special meetings; and

WHEREAS, the process for notifying the public has not changed since the adoption of the Resolution 1995-22 and it is necessary to update the existing procedures to meet State statutes.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON HEREBY RESOLVES as follows:

- Section 1. Repeal Resolution No. 1995-22 in its entirety.
- Section 2. Preliminary Agenda of City Council Meeting. The Public shall be notified of the preliminary agenda for the forthcoming City Council meeting at least twenty-four (24) hours in advance of the meeting by:
1. Providing written notification of the preliminary agenda to the City's official newspaper by mail, fax, or by email; and
  2. Posting the preliminary agenda of Council meetings on the City's official website and at Lakewood City Hall.
- Section 3. City Council Special Meeting Notice. The Public shall be notified of a Special Meeting of the City Council specifying the time, place and business to be transacted at least twenty-four (24) hours in advance of the meeting by:
1. Providing the Notice of the City Council Special meeting to the City's official newspaper and each local radio or television station that has filed a written request to be notified of special meetings by mail, fax, or by email; and
  2. Posting the Notice of the City Council Special Meeting on the City's official website; and
  3. Posting the Notice of the City Council Special Meeting at Lakewood City

Hall and at the meeting site if the meeting is not held at Lakewood City Hall.

Section 4. Public Hearing Notices. Except where a specific means of notifying the public of a public hearing is otherwise provided by law notice of upcoming public hearings before the City Council or any City Board, Committee or Commission shall be given by publication of a notice containing the time, place, date, subject, and body before whom the hearing is to be held in the City's official newspaper, posting of a notice on the City's official website and at Lakewood City Hall at least five (5) days before the date set for the hearing.

Section 4. The City Clerk or designee is directed to publish notices and post agendas as required by this Resolution.

Section 5. That this Resolution shall be in full force upon passage and signatures hereon.

PASSED by the City Council this 21st day of September, 2015.

CITY OF LAKEWOOD

Attest:

\_\_\_\_\_  
Don Anderson, Mayor

\_\_\_\_\_  
Alice M. Bush, MMC, City Clerk

Approved as to form:

\_\_\_\_\_  
Heidi Ann Wachter, City Attorney

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED:</b>  September 21, 2015	<b>TITLE:</b> Authorizing the Acquisition of Real Property at 4713 127 <sup>th</sup> Street, SW Lakewood, WA	<b>TYPE OF ACTION:</b>  — ORDINANCE NO. <input checked="" type="checkbox"/> RESOLUTION -2015-27  — MOTION  — OTHER
<b>REVIEW:</b> September 14, 2015	<b>ATTACHMENTS:</b> Resolution 2015-27 Purchase & Sale Agreement Addendum to Purchase & Sale Agreement	

**SUBMITTED BY:** Heidi Ann Wachter, City Attorney

**RECOMMENDATION:** It is recommended that the City Council accept the Pierce County Conservation Futures grant in the amount of \$275,000 and authorize the City Manager to execute the necessary documents relative to the purchase and sale of real property commonly known as 4713 127<sup>th</sup> Street SW, Lakewood, WA.

**DISCUSSION:** To date, the City has entered into a Purchase & Sale Agreement with Columbia Bank and has completed the feasibility period for the property located at 4713 127<sup>th</sup> Street SW (tax parcel #0219123015). Meanwhile, the City has obtained a grant from the Pierce County Conservation Futures Fund. The sale is on schedule to close by the end of the year. The environmental review is complete and termination of tenancies is a condition of the purchase and sale agreement. Pursuant to negotiations regarding the condition of the property, the City will contribute \$15,000 to facilitate completion of the work.

**ALTERNATIVE(S):** City Council could choose to not accept the grant and pay the entire amount of the property purchase (\$300,000). City Council could choose to not accept the grant and not purchase the property.

**FISCAL IMPACT:** An appraisal and an appraisal review were completed. Both appraisals support the purchase price of \$300,000 of which \$275,000 is from CF Funds and \$30,000 from City funds (SWM). The City will contribute an additional \$15,000 from general government towards the clean up.

_____ Prepared by	
_____ Department Director	_____ City Manager Review

RESOLUTION NO. 2015-27

A RESOLUTION of the City Council of the City of Lakewood, Washington, authorizing the acquisition of real property and accepting grant funds.

WHEREAS, Columbia State Bank and the City of Lakewood have entered into a tentative agreement for the acceptance of acquisition of land with grant funds from the Pierce County Conservation Futures Fund which will be will be used towards the acquisition and purchase of certain property in the city; and

WHEREAS, the acquisition of this property and classifying it as open space will ensure there will be public access to the site and proper stewardship of the land.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON HEREBY RESOLVES, as follows:

Section 1. The City Manager or designee is also authorized to execute appropriate documents accepting grant funds from the Pierce County Conservation Futures Fund which may be applied towards the acquisition of that real property commonly known as 4713 127<sup>th</sup> Street SW, Lakewood, WA.

Section 2: That the City Manager or designee is authorized to execute appropriate documents relative to the purchase and sale of that real property commonly known as 4713 127<sup>th</sup> Street SW, Lakewood, WA.

Section 3. Any actions taken by the City Manager or designees to-date in connection with the purchase and sale of the Subject Property be and hereby are ratified.

Section 4. That this Resolution shall be in full force and effect upon passage and signatures hereon.

PASSED by the City Council this 21st day of September, 2015.

CITY OF LAKEWOOD

\_\_\_\_\_  
Don Anderson, Mayor

Attest:

\_\_\_\_\_  
Alice M. Bush, MMC, City Clerk

Approved as to Form:

\_\_\_\_\_  
Heidi Ann Wachter, City Attorney

## REAL ESTATE PURCHASE AND SALE AGREEMENT

This Real Estate Purchase and Sale Agreement (this "Agreement") is made and entered by and between the City of Lakewood, Washington, a municipal corporation (the "City" or "Buyer") and Columbia State Bank (the "Seller") with regard to the following:

### RECITALS:

A. Seller owns that property in Lakewood, Pierce County, Washington, legally described on Exhibit "A", attached hereto and incorporated by this reference, and also known as 4713 127<sup>th</sup> Street SW, Lakewood; Pierce County Parcel Number 0219123015 (the "Property"). Seller and the City hereby authorize the insertion over their signatures of the correct legal description of the property if unavailable at the time of signing, or to correct the legal description previously entered if erroneous or incomplete.

B. Seller desires to sell to the City, and the City desires to purchase from Seller, the Property, subject to the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

### AGREEMENT:

1. Purchase and Sale Terms. The City shall purchase the Property from Seller and Seller shall sell the Property to the City on the following terms and conditions:

1.1 Purchase Price for Property. The Purchase Price to be paid by the City to Seller for the Property shall be as agreed to by the parties and based on the fair market value of the Property as supported by an appraisal.

1.2 Earnest Money. Twenty-five Thousand Dollars (\$25,000.00) earnest money in the form of a Check (hereinafter "Earnest Money") shall be placed in Escrow with Fidelity National Title Group (the "Title Company") upon the execution of the Purchase and Sale Agreement. Upon expiration of the Due Diligence Period and provided Buyer does not terminate the Purchase and Sale Agreement before expiration of the Due Diligence Period, the Earnest Money shall be converted to cash and become non-refundable to the Buyer except in the event of Seller's default. At Closing, the Earnest Money (and all interest earned thereon) shall be applied toward the Purchase Price.

1.3 Date of Closing and Extension. The transaction of purchase and sale as set forth in this Agreement shall be within seventy (70) days from the end of the Due Diligence Period and any extensions thereof which shall be mutually agreed upon by the parties; provided however that the closing shall be extended if and so long as necessary for the Seller to remove all tenants from the premises as required in Section 2.3; and provided further that the City may at its option extend the closing date until January 31, 2016 if park grant funds become available in exchange for an additional 2% of the agreed purchase price.

1.4 Agency Disclosure and Costs. It is agreed that each party shall bear its own legal, accounting, investment banking, and other expenses in connection with the negotiation, documentation, and closing of the acquisition, whether or not a closing occurs. Each party represents that it has not engaged any broker or finder in connection with the acquisition.

2. Contingencies. This Agreement and the City's obligations under this Agreement are conditioned upon the occurrence of each of the following to the City's reasonable satisfaction:

2.1 Condition of Title. Within fourteen (14) days of the mutual execution of this Agreement, Seller shall cause the Title Company to issue to the City a preliminary commitment for standard owner's policy of title insurance for the Property, together with full copies of any exceptions set forth therein (the "Preliminary Commitment"). The City shall have fourteen (14) days after delivery of the Preliminary Commitment within which to notify Seller, in writing, of the City's disapproval of any exceptions shown on the Preliminary Commitment; provided, that all monetary encumbrances and liens, if any, shall be deemed automatically disapproved and shall be paid by Seller at Closing.

If the City disapproves any of the exceptions or defects set forth in the Preliminary Commitment, Seller shall have ten (10) days from delivery of the City's notice to eliminate any disapproved exceptions from the policy of title insurance to be issued in favor of the City; provided, that, if such exceptions or defects cannot be eliminated within such ten (10) day period, Seller may notify the City in writing of Seller's agreement to remove such exceptions or defects, in which case such exceptions or defects shall be removed from title prior to Closing.

If disapproved exceptions are not eliminated within said ten (10) day period, or if Seller fails to notify the City within ten (10) days of Seller's willingness to remove such exceptions prior to Closing, or if Seller notifies the City in writing that Seller will not eliminate the same, then this Agreement shall terminate, and neither the City nor Seller shall have any further rights, duties or obligations hereunder, unless within five (5) days after the earlier of (a) the expiration of said ten (10) day period; or (b) the date that Seller notifies the City that Seller will not eliminate the disapproved exceptions, the City waives its prior disapproval and elects to proceed with Closing subject to the disapproved exceptions. The title exceptions approved as provided herein are referred to as the "Permitted Exceptions."

2.2 Due Diligence Period. From execution of this Agreement Buyer shall have thirty (30) days (the "Due Diligence Period") to review due diligence items and to enter upon the Property to inspect the physical condition of the same, as it shall deem necessary.

2.3 Termination of Tenancies Prior to Transfer. Buyer recognizes that Seller currently has the rental units on the Property leased on either a term or month to month basis. Buyer further recognizes that pursuant to RCW 61.24.146, Seller has an obligation to provide at least a sixty (60) day written notice prior to terminating these leases. Seller acknowledges that Buyer is not in the residential rental business and will be converting the Property and demolishing the structures immediately following transfer of title. Accordingly, Seller shall issue a sixty (60) day written notice terminating all tenancies at the Property within ten (10) days after expiration of the Due Diligence Period and provided Buyer does not terminate this Agreement prior to that date. Seller shall have all tenants removed from the premises prior to Closing.

2.4 Council / Board Approval. The purchase of the Property must be approved by the Lakewood City Council.

2.5 Survey. The Seller shall allow access to the Property prior to Closing to allow the City to conduct a boundary and topographical survey.

2.6 Environmental Study. The City intends to, at its sole cost and expense, obtain Phase 1 and 2 Environmental Site Assessments. Seller grants permission to the City and or its agents to go upon the Property to complete this work. Seller acknowledges that studies may include boring, drilling or other invasive testing techniques required to obtain water and soil samples, and hereby agrees to allow such invasive techniques. Any damage to the Property caused by such work shall be repaired by the City. Nothing in this Section shall be deemed to expand or alter in any manner the Seller's representations made in this Agreement or its liabilities.

2.7 Waiver of Contingencies. If the City notifies Seller in writing that the contingencies set forth herein have been waived, or if the contingencies otherwise are satisfied or expire on their own terms, the Closing of this transaction shall thereafter proceed in accordance with the terms hereof.

2.8 Failure of Contingency. The conditions contained in Subparagraphs 2.1 through 2.6 are intended solely for the benefit of the City. Except as otherwise expressly provided herein, if any of the foregoing conditions are not satisfied, and the City does not otherwise notify Seller in writing that the City has, in its sole discretion, elected to waive the condition in question and proceed with the transaction, then this Agreement shall automatically terminate and be of no further force or effect, whereupon, except as otherwise provided in this Agreement, neither party hereto will have any further rights, duties or obligations under this Agreement.

3. Conveyance of Title. On the date of Closing, the title to the Property shall be conveyed to the City by bargain and sale deed free and clear of any encumbrances, except those accepted by Buyer. Prior to or concurrent with the delivery of the bargain and sale deed, Seller shall also deliver or cause to be delivered to the City, for the City's benefit, a final ALTA Standard Coverage Owner's Policy of Title Insurance for the Property in the City's name and in the amount of the Purchase Price, containing only those Permitted Exceptions. The City may, in its discretion, elect to obtain an extended coverage owner's policy; provided that the City shall be responsible for the additional costs associated with such coverage.

4. Closing and Escrow.

4.1 Escrow Agent. The Title Company shall act as the Escrow Agent for this transaction (the "Escrow Agent"). Upon the mutual execution of this Agreement, the City shall deposit an executed counterpart with the Escrow Agent for consummation of the purchase and sale contemplated hereby. Seller and the City shall execute such additional and supplementary escrow instructions as may be reasonable or appropriate to enable the Escrow Agent to comply with the terms of this Agreement. In the event of a conflict between the provisions of this Agreement and any escrow instructions, the terms of this Agreement shall govern.

4.2 Prorations. All taxes and assessments for the Property shall be prorated as of the date of Closing.

4.3 Fees and Closing Costs. On Closing, the Seller shall pay the premium for the title insurance to be issued by the Title Company for the benefit of the City in the amount of the Purchase Price. The City shall pay the excess premium attributable to any extended coverage or endorsements requested by the City and the recording fees for the deed. The Seller and the City shall each pay one-half of the escrow fees charged by the Escrow Agent. Unless otherwise agreed, any other fees and closing cost shall be paid by the applicable party as is customary in such transactions.

4.4 Closing Obligations of Buyer. On or before Closing the City shall deliver to the Escrow Agent the following:

4.4.1 The Purchase Price, in all cash.

4.4.2 A Closing Statement in form and content reasonably satisfactory to the parties.

4.4.3 Any other documents necessary to effect the transaction contemplated in this Agreement.

4.5 Closing Obligations of Seller. At Closing, Seller shall deliver to the Escrow Agent the following duly executed and acknowledged documents (where appropriate):

4.5.1 A Bargain and Sale Deed sufficient to convey fee simple title to the Property, subject only to the Permitted Exceptions.

4.5.2 A Closing Statement in form and content reasonably satisfactory to the parties.

4.5.3 A FIRPTA certification.

4.5.4 A Real Estate Excise Tax Affidavit executed by Seller in form required by law.

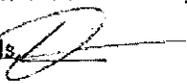
4.5.5 A release of the Property from any restriction on its use.

4.5.6 Any other documents necessary to effect the transaction contemplated in this Agreement.

4.6 Possession. The City shall be entitled to possession upon Closing. "Closing" means the date on which all documents are recorded and the sale proceeds are available for unconditional disbursement to Seller.

5. Default. In the event that Seller breaches this Agreement, the City shall, in its sole discretion, have the right to terminate this Agreement as the City's sole and exclusive remedy for

Seller's breach hereof. In the event that Buyer breaches this Agreement, the Seller shall, in its sole discretion, have the right to terminate this Agreement and keep as liquidated damages the earnest money as the Seller's sole and exclusive remedy for Buyer's breach hereof.

Seller's Initials 

The City's Initials HPAW

6. Seller's Representations and Warranties. Buyer acknowledges Seller's representations and warranties set forth in the attached Addendum to Purchase and Sale Agreement which is incorporated herein by reference. Seller further represents and warrants to the City as follows:

6.1 Ownership: Non-Foreign Status. Seller owns the Property and has the right to sell the Property and is not a foreign person as defined by the Foreign Investment in Real Property Tax Act, IRS Section 1445(b)(2), as amended.

7. Indemnification. Seller agrees to defend (with counsel approved by the City), fully indemnify and hold entirely free and harmless the City from and against all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) that are imposed on, paid by or asserted against the City or its successors or assigns, by reason or on account of, or in connection with, or arising out of (a) the presence or suspected presence of Hazardous Material in the soil, groundwater or soil vapor on or about the premises; (b) the migration of any Hazardous Material from or onto the premises; or (c) the violation of any Environmental Law, and, with respect to (a), (b) and (c), that existed as of or prior to the Closing Date and only if it did so in violation of Seller's representations. This indemnification of the City by Seller includes, without limitation, costs incurred in connection with any of the following:

7.1 Any investigative or remedial action involving the presence of Hazardous Material on or about the premises or releases of Hazardous Material from the premises;

7.2 Any allegations made by any governmental authority or any private citizen or entity or group of citizens or entities as to the violation of any Environmental Laws involving the premises or the operations conducted thereon; and/or

7.3 Any injury or harm of any type to any person or entity or damage to any property arising out of, in connection with or in any way relating to (a) the generation, manufacture, refinement, transportation, treatment, storage, recycling, disposal or release, or other handling of Hazardous Material on or about the premises or pursuant to the operations conducted thereon, and/or (b) the violation of any Environmental Laws; and/or (c) the contamination of the premises.

8. Miscellaneous.

8.1 City's Funds to Close. The City represents that it has sufficient funds to close this sale in accordance with this Agreement, and it is not relying on any contingent source of funds or gifts unless expressly set forth elsewhere in this Agreement.

8.2 Attorneys' Fees. In the event of any dispute, including arbitration or litigation concerning this Agreement or if this Agreement is otherwise placed with an attorney for action, then the prevailing party shall be awarded all costs and expenses, and reasonable attorney fees. In the event of trial, the amount of the attorney fees shall be fixed by the court. The venue of any such suit shall be Pierce County, Washington.

8.3 Entire Agreement. This Agreement constitutes the full and entire understanding between Seller and the City. There are no verbal agreements that modify or affect this Agreement.

8.4 Binding Effect. This Agreement applies to, inures to the benefit of, and is binding on not only the parties hereto, but on their heirs, devisees, legatees, administrators, executors and assigns.

8.5 Computation of Time. Any time limit in or applicable to a notice shall commence on the day following receipt of the notice and shall expire at midnight of the last calendar day of the specified period of time, unless the last day is Saturday, Sunday or legal holiday as defined in RCW 1.16.050, in which event the time limit shall expire at midnight of the next business day. Any specified period of five (5) days or less shall include business days only. Time is of the essence on this Agreement.

8.6 Notices. All notices, demands, consents, approvals and other communications which are required or desired to be given by either party to the other hereunder shall be in writing and shall be hand delivered or sent by United States regular mail, postage prepaid, return receipt requested, addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, and other communications shall be deemed given when delivered or three days after mailing to the following addresses:

To the City:                   Attn: John Caulfield, ICMA-CM  
City Manager  
City of Lakewood  
6000 Main Street SW  
Lakewood, Washington 98499  
Email: [JCaulfield@cityoflakewood.us](mailto:JCaulfield@cityoflakewood.us)

With a copy to:               Attn: Kinnon W. Williams  
Inslee, Best, Doezie and Ryder, PS  
10900 NE 4<sup>th</sup> Street, Suite 1500,  
Post Office Box 90016  
Bellevue, Washington 98009-9016  
Email: [kwilliams@insleebest.com](mailto:kwilliams@insleebest.com)

To Seller:                     Attn: Robert M.B. Draper  
SVP Manager – Special Credits  
Columbia Bank  
2228 South 78<sup>th</sup> Street  
Tacoma, Washington 98409  
Email: [RDraper@columbiabank.com](mailto:RDraper@columbiabank.com)

With a copy to:

Attn: Heather Burgess  
Phillips Burgess, PLLC  
724 Columbia Street NW, Suite 320  
Olympia, Washington 98501  
Email: [hburgess@phillipsburgessllc.com](mailto:hburgess@phillipsburgessllc.com)

8.7 Assignment. This Agreement shall not be assigned without the express written consent of the other party, which consent shall not be unreasonably withheld. Such assignment shall be contingent upon the assignee assuming all responsibilities, obligations and liabilities hereunder. Said assignment shall not relieve the assignor from liability hereunder and assignor shall remain jointly and severally liable with assignee in the event of any breach of this Agreement by assignee or assignor.

This Agreement is accepted without further change or counteroffer this 16<sup>th</sup> day of July, 2015, which shall be deemed the date of mutual acceptance of this Agreement.

**THE CITY:**

The City of Lakewood

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

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

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

**SELLER:**

Columbia State Bank

By: 

Name: ROBERT M B DITTICK

Its: SENIOR VICE PRESIDENT

Dated: 7/16/15

Exhibit "A"

LEGAL DESCRIPTION

BEGINNING AT A POINT 361 FEET NORTH AND 1037.40 FEET EAST OF THE SOUTHWEST CORNER OF SECTION 12, TOWNSHIP 19 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN; THENCE NORTH 00 DEGREES 12'28" EAST, 338.73 FEET; THENCE SOUTH 89 DEGREES 17'05" EAST, 20 FEET; THENCE NORTH 00 DEGREES 41'55" EAST 187.36 FEET; MORE OR LESS, TO THE CENTERLINE OF CLOVER CREEK; THENCE SOUTH 47 DEGREES 05'34" EAST, ALONG THE CENTERLINE OF CLOVER CREEK 137.53 FEET; THENCE SOUTH 07 DEGREES 42'49" WEST, 102.45 FEET, MORE OR LESS; THENCE SOUTH 02 DEGREES 18'14" WEST, 61.67 FEET; THENCE SOUTH 05 DEGREES 48'22" WEST, 11.03 FEET; THENCE SOUTH 18 DEGREES 05'08" WEST 20.04 FEET; THENCE SOUTH 54 DEGREES 31'49" EAST, 10.32 FEET; THENCE SOUTH 01 DEGREES 04'14" EAST, 233.90 FEET; THENCE NORTH 89 DEGREES 41'01" WEST, 113.50 FEET TO THE POINT OF BEGINNING.

SITUATE IN THE CITY OF LAKEWOOD, COUNTY OF PIERCE STATE OF WASHINGTON.

  
John Caulfield  
City Manager

Attest:

  
Alice M. Bush, MMC  
City Clerk 7-15-15

Approved by Form:  
  
Heidi Ann Wachter  
City Attorney  
*Heidi Ann Wachter, Asst. City Attorney*

PURCHASE & SALE AGREEMENT - 4713 127<sup>TH</sup> ST. SW, Lakewood

## ADDENDUM TO PURCHASE AND SALE AGREEMENT

This is an Addendum to that agreement ("Purchase Agreement") dated 7/15/15, by and between the City of Lakewood, Washington, a municipal corporation as "Buyer" and Columbia State Bank, a Washington state banking corporation as "Seller," for the purchase and sale of the real property (the "Property") with the following street address: 4713 127<sup>th</sup> Street SW, Lakewood, WA 98499. te

It is acknowledged and agreed by Buyer and Seller as follows:

1. Seller's acceptance of this Purchase Agreement is subject to final approval by Columbia State Bank's appropriate approval authorities. Unless written notice of such approval is provided by Seller to Buyer within seven (7) days of the mutual acceptance of the Purchase Agreement, the Purchase Agreement shall be deemed terminated, and the earnest money returned to Purchaser. The time periods in the Purchase Agreement shall commence on the date notice of approval is provided to Buyer.

2. Seller acquired the Property through foreclosure, deed-in-lieu of foreclosure, from the Federal Deposit Insurance Corporation as receiver for a failed bank, or some similar source. As such Seller has little or no knowledge regarding any aspect of the condition of the Property. Buyer acknowledges that the Purchase Price for the Property reflects the condition of the Property and Seller's inability to make representations regarding the condition of the Property.

3. In consideration for Seller's agreement to complete the transaction with Buyer, Seller and Buyer agree as follows:

a. The deed from Seller to Buyer shall be a Bargain and Sale Deed and the Property shall be subject only to the warranties of title provided in a standard form owner's policy of title insurance and Buyer shall look solely to the title company issuing said policy for any claim or damage in any way relating to the title to the Property, including, but not limited to, any liens, encumbrances, encroachments or assessments.

b. Prior to the Closing, Buyer will have had the opportunity to investigate all physical and economic aspects of the Property and to make all inspections and investigations of the Property which Buyer deems necessary or desirable to protect its interests in acquiring the Property. Neither Seller nor anyone acting for or on behalf of Seller has made any representation, warranty, promise or statement, of any kind or nature, either express or implied, to Buyer, or to anyone acting for or on behalf of Buyer, concerning the Property or the condition, use or development thereof, including but not limited to habitability, merchantability, fitness for Buyer's intended use, square footage, zoning, roof, foundation, stability or suitability of soils,

- 1 -

[Signature]  
Seller's Initials

HAW  
Buyers' Initials

building materials, siding, roofing, ceiling, insulation, drainage, leakage, pest, rot, mold problems, sewage, septic, plumbing, electrical, heating, furnace, hazardous substances, above, upon or below the subject property, lead paint, asbestos, and/or the quality or condition of the improvements thereon or other defects arising therefrom, including possible building defects or health hazards, encroachments, including fences, rockeries, buildings or otherwise. For purposes of this Addendum, hazardous substances includes any and all oil, or petrochemical products, PCB's, pesticides, asbestos, urea formaldehyde, flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including, without limitation, any substance now or hereafter defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" under any applicable federal, state or local law or regulations.

c. In entering into this Addendum, Buyer has not relied on any representation, warranty, promise or statement, express or implied, of Seller or anyone acting for or on behalf of Seller; all matters concerning the Property have been or shall be independently verified by Buyer prior to the Closing, and Buyer shall purchase the Property, or elect not to do so, based on Buyer's own prior investigation and examination of the Property (or Buyer's election not to do so).

d. AS A MATERIAL INDUCEMENT TO THE EXECUTION AND DELIVERY OF THIS ADDENDUM BY SELLER, BUYER IS PURCHASING THE PROPERTY "AS IS" AND "WHERE IS" AS TO THE PROPERTY'S TITLE AND PHYSICAL CONDITION AND IN AN "AS IS" STATE OF REPAIR, WITH ALL FAULTS, including, without limitation, any title defects, latent defects and other matters not detected in Buyer's inspections, without recourse to Seller. Except as provided herein, Buyer waives, and Seller disclaims, all warranties of any type or kind whatsoever with respect to the Property, whether express or implied, including, by way of description but not limitation, those of title, quality, merchantability or fitness for a particular purpose and use, including, without limitation, Buyer's intended uses or purposes. Upon the closing of the purchase and sale contemplated hereby, Buyer shall be deemed to have accepted the Property, and each and every portion thereof, unconditionally and without right (none being implied hereby) to rescind, set aside or avoid the transaction contemplated hereby or to seek a reduction, adjustment, offset or recovery of the Purchase Price.

e. Consistent with the foregoing, Buyer, for itself and its agents, affiliates, successors and assigns, hereby releases and forever discharges Seller, its agents, affiliates, employees, successors and assigns (collectively, the "Releasees") from any and all rights, claims and demands at law or in equity, whether known or unknown at the time of this Agreement, which Buyer has or may have in the future, arising out of the physical, environmental, economic or legal condition of the Property, including, without limitation, all claims in tort or contract and any claim for indemnification or contribution arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Section 9601, et.seq.) or any similar federal, state or local statute, rule or ordinance relating to liability of property owners for environmental matters. Without limiting the foregoing, Buyer, upon Closing, shall be deemed to

-2-

  
Seller's Initials

  
Buyer's Initials

have waived, relinquished and released Seller from and against any and all matters arising out of latent or patent defects or physical conditions, violations of applicable laws and any and all other acts, omissions, events, circumstances or matter affecting the Property. For the foregoing purposes, and in consideration of Seller's completion of this transaction, Buyer hereby specifically acknowledges that this release will extend to claims unknown at the time of executing this release, which if known by Buyer would have materially affected its decision to enter into this Addendum. Buyer hereby specifically acknowledges that Buyer has carefully reviewed this Addendum and discussed its import with legal counsel and that the provisions of this Addendum are a material part of the Purchase Agreement.

4. Buyer may not rely on Seller or Seller's agents or Buyer's agents as to the condition of the Property and no person acting on behalf of Seller is authorized to make any such representation, agreement, statement, warranty, guaranty or promise regarding the property or any aspect of the Property.

5. Regardless of terms to the contrary in the Purchase Agreement or any other documents between Buyer and Seller relating in any way to this transaction, in the event of Seller's default under the Agreement, for whatsoever reason and on whatsoever grounds, Buyer's sole and exclusive recourse is limited to return of the earnest money.

6. The Property subject to this sale consists of the real property identified above and unless specifically referenced in the Agreement, does not include any personal property. In the event the Property contains appliances, such as a stove/range, dishwasher, refrigerator, washer or dryer, said items will be included in the transfer for no consideration. Seller makes no warranties or representations as to the existence of such items.

7. Buyer and Seller agree that the terms of this Addendum supersede and control any and all conflicting terms in the Purchase Agreement or any other documents between Buyer and Seller relating in any way to this transaction. The terms of this Addendum shall survive the Closing of this transaction.

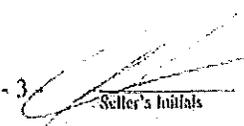
8. The Property and the grounds will not necessarily be maintained by Seller pending closing.

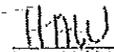
9. In the event Seller provides a Seller's Disclosure, a Real Property Disclosure Statement, Disclosure of Information on Lead Base Paint, Lead Based Paint Hazard Statement or any other similar or related notices, Seller has not occupied the Property and is not fully aware of the condition of the Property and provides said notices upon limited actual knowledge.

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\_\_\_\_\_  
Seller's Initials

  
\_\_\_\_\_  
Buyer's Initials

10. Regarding any inspection or similar addenda to the Purchase Agreement, Seller is under no obligation to make any repairs to the Property.

**SELLER:**

COLUMBIA STATE BANK

Dated: 7/16/15

By: [Signature]  
Title: Sp. Dir. Vice Pres. 02-13

**BUYER(S):**

THE CITY OF LAKEWOOD

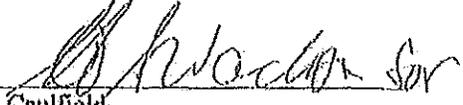
Dated: \_\_\_\_\_

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

Dated: \_\_\_\_\_

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

DATED this \_\_\_ day of July, 2015

  
\_\_\_\_\_  
John Caulfield  
City Manager

Attest:

  
\_\_\_\_\_  
Alice M. Bush, MMC  
City Clerk 7-15-15

Approved as to Form:  
  
\_\_\_\_\_  
Heidi Ann Wachter  
City Attorney  
M. L. Coe  
Asst. City Atty.

**SIXTH ADDENDUM TO  
REAL ESTATE PURCHASE AND SALE AGREEMENT**

This is a Sixth Addendum to the Purchase and Sale Agreement dated July 16, 2015, (“Agreement”), between the City of Lakewood, Washington, a municipal corporation (“Buyer”), and Columbia State Bank, a Washington state banking corporation (“Seller”), regarding the sale of the property known as 4713 127<sup>th</sup> Street SW, Lakewood, Washington 98499 (“Property”).

IT IS AGREED BETWEEN THE BUYER AND SELLER AS FOLLOWS:

1. The Purchase Price shall be \$300,000.00;
2. In addition to removing tenants prior to closing, Seller will agree to deliver premises with asbestos abated to Washington State Labor and Industries standards for demolition, at Seller’s expense, without any corresponding adjustment to purchase price; provided that at closing Buyer shall contribute \$15,000.00 toward asbestos abatement costs.
3. The City will increase earnest money from \$25,000.00 to \$60,000.00, within 14 days, which will be non-refundable at expiration unless Seller breaches.
4. The Agreement and all appraisal information may be forwarded to Pierce County for review.

ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT REMAIN UNCHANGED.

**SELLER:**  
COLUMBIA STATE BANK

Dated: \_\_\_\_\_

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

**BUYER:**  
CITY OF LAKEWOOD

Dated: \_\_\_\_\_

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

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED:</b>	<b>TITLE: Lakewood Promise ILA Update – 2015</b>	<b>TYPE OF ACTION:</b>
June 15, 2015		— ORDINANCE NO.
<u>August 3, 2015</u>		— RESOLUTION NO.
<u>September 21, 2015</u>	<b>ATTACHMENTS:</b>	— MOTION NO. 2015-31
<b>REVIEW:</b>	Lakewood Promise ILA Update – 2015	— OTHER
June 8, 2015		
June 15, 2015		
<u>August 3, 2015</u>		
<u>September 14, 2015</u>		

**SUBMITTED BY:** Mary Dodsworth, Parks, Recreation and Community Services Director

**RECOMMENDATION:** At the June 15, 2015 Council meeting, this Motion No. 2015-31, was continued to the August 3, 2015 and again to the September 21, 2015 meeting for Council action. Procedurally, the Council must vote on Motion No. 2015-31 (ie ILA). It is recommended that the Council vote against Motion No. 2015-31 (ILA), and instead approve a new subsequent Motion 2015-50 authorizing the City Manager to sign a new Lakewood’s Promise MOA to modify the structure of the Lakewood’s Promise Program to encourage youth related agencies to collaborate and actively participate in supporting Lakewood’s youth. The new Motion 2015-50 complies with the proposed Ordinance No. 619 that restructures the Lakewood’s Promise Program.

~~It is recommended that the City Council authorize the City Manager to sign the Lakewood Promise Interlocal Agreement (ILA) and encourage other youth related agencies to collaborate and actively participate in supporting Lakewood Youth by also signing the agreement.~~

**DISCUSSION:** In 2012 the City modified the structure of the Lakewood’s Promise program. A three year ILA was developed to provide oversight and support and to outline the responsibilities of the various partners to ensure that the five promises were available to Lakewood youth. At this time the City also created by ordinance an eleven person Lakewood Promise Advisory Board to support the Lakewood Promise mission. The ILA expired in May, 2015 and the Advisory Board recommended updating the agreement to be more inclusive and to define, encourage and allow local partners to participate in the Lakewood Promise movement.

Council reviewed the ILA at their June 8, 2015 study session. Based on Council feedback the following additions were made to the agreement: adding JBLM to the list of agencies, that agencies may make annual appropriations to fund the program coordinator position and the coordinator will develop an annual work program and performance measurements.

The Lakewood Promise Advisory Board reviewed the document at their May 14 and June 11, 2015 meetings. They appreciated the addition of JBLM to the contract, suggested adding a three year term to the duration section and then passed a recommendation to approve the updated ILA and forward to Council for approval.

**ALTERNATIVE(S):** Council could chose to not sign the ILA or recommend additions/changes to the document.

**FISCAL IMPACT:** No fiscal impact on changes to the ILA

Heidi Wachter  
 Prepared by \_\_\_\_\_  
 \_\_\_\_\_  
 Department Director

\_\_\_\_\_  
 City Manager Review

**LAKEWOOD’S PROMISE ADVISORY BOARD  
AND COMMUNITY PARTNERS PROGRAM AGREEMENT**

**THIS AGREEMENT** is entered into by and between the City of Lakewood, Washington, a code city duly organized and existing pursuant to laws of the State of Washington, hereinafter referred to as the “City”; and the following agencies (hereinafter referred to collectively as “Agencies”: Pierce College, Clover Park School District, Clover Park Technical College, Boys and Girls Club of South Puget Sound, YMCA of Pierce and Kitsap Counties, Saint Clare Hospital, Communities in Schools of Lakewood, Pierce County Library, JBLM and others as authorized by the Interlocal Cooperation Act, Chapter 39.34 RCW. All entities in this Agreement are referred to collectively as the “Parties.”

**WHEREAS**, the City is a six-time winner of the prestigious 100 Best Communities Serving Young People award by America’s Promise – The Alliance for Youth; and

**WHEREAS**, the Parties agree that all children, regardless of their circumstances of their birth, should have the opportunity to make the most of their full potential; and

**WHEREAS**, the challenges of today, especially those that confront our children, require a special commitment of us all, and

**WHEREAS**, the Lakewood’s Promise program seeks to provide youth access to the “Five Promises” that support the fundamental resources that young people need for success in life; and

**WHEREAS**, the Parties agree that working collaboratively as defined in this Agreement will continue to promote Lakewood youth access to the Five Promises; therefore, **IN CONSIDERATION OF** the mutual benefits and conditions hereinafter contained, the Parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to create an interagency agreement to formalize our collective intent to support the efforts of Lakewood’s Promise pursuant to this Agreement. The mission of Lakewood’s Promise (LP) is to provide the opportunity for the youth of Lakewood to have access to the “Five Promises” through the coordinated efforts of community service providers. The Five Promises are to provide:

- Marketable skills through effective education
- Ongoing relationships with caring adults
- Safe places with structured activities during non-school hours
- Healthy start and future
- Opportunities to give back through community service

2. Responsibilities: Each Party’s responsibilities under this Agreement shall be as follows:

- Enhance awareness of, and interest in, Lakewood's Promise which may be in cooperation with any appropriate private, civic or public agency of the City, county, state or of the federal government, and

- Provide agency resources (staffing, supplies, equipment, facilities, marketing, volunteers, etc...) to support Lakewood Promise programs and projects, and
- Recommend ways and means of obtaining private, local, county, state or federal funds for the promotion of Lakewood's Promise programs and projects within the City, and
- Represent the community and the City to address Lakewood's Promise related issues.
- Serve as a catalyst to encourage collaboration among Lakewood's businesses, organizations and agencies and
- Serve as a clearing house for community youth programs and events.

3. Program Coordinator. The Parties agree that the position of Program Coordinator shall be established. This position shall be funded in accordance with the Parties' Responsibilities and annual appropriations. The LP Coordinator will work directly with Parties for guidance and support and develop an annual work program and performance measurements. The LP Coordinator will manage day-to-day activities of LP and support the LP Board.

4. Advisory Board A LP Board with up to 11 members is established. The LP Board will operate as a City of Lakewood Advisory board. The City Council will appoint Board members based on agency affiliation, LP work program and community need. Lakewood residency will be preferred for members but not required. Four (4) members representing the original partner agencies - Clover Park School District, Pierce College, Clover Park Technical College, and City of Lakewood shall be on the Lakewood's Promise Advisory Board. One (1) member shall be a representative of the Youth Council. The Board may also include representatives from the partner agencies including, Saint Clare hospital, YMCA, Boys and Girls Club, Pierce County Library, the business community, faith community, military, youth service providers or other individuals that support the Five Promises.

5. Compliance with all Laws. In performing such responsibilities, the Parties shall at all times comply with all Federal, State, and local statutes, ordinances and rules applicable to the performance of such services and the handling of any funds used in connection therewith. An Agency that is a Party to this Agreement shall request, in writing, prior approval from the other Parties should that Agency desire to amend its responsibilities under this agreement. The amended responsibilities must be approved in writing by all Parties.

6. Identified Community Support. In order to recognize the participation and involvement of the parties in the support of this Agreement, and to ensure that those people who benefit from the activities and services of the Agencies are aware of the parties' involvement, when possible, include the words "*funded in part by Lakewood Promise agencies*" or include the names or logos of each LP agency. on flyers, pamphlets, brochures, advertisements, annual reports or other printed information prepared by or used in advertising or promoting the activities and services of the parties.

7. Duration of Agreement. This Agreement shall be in full force for three years and effect commencing on the date of the last signature required to fully executive the Agreement (if the Agreement is signed on different dates); unless sooner terminated pursuant to this Agreement.

8 Independent Contractor. The parties agree that the Agencies are independent Contractors with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the

Parties. Neither the Agencies nor any employees of the Agencies shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security payments or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to the Agencies, or any other employee of the Agencies.

9. Indemnification and Defense. The parties to this agreement shall defend, indemnify and hold the parties, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Agencies, their agents, servants, officers, employees, or volunteers, in performance of this Agreement, except for injuries and damages caused by the sole negligence of the party. In the event that a party shall elect to defend itself against any claim or suit arising from such injury, death or damage, the parties shall, in addition to indemnifying and holding the parties harmless from any liability, indemnify the party for any and all expense incurred by the party in defending such claim or suit, including attorney's fees. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Agencies and the City, its officers, officials, employees, and volunteers, the Agencies' liability hereunder shall be only to the extent of the Agencies' negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Agencies' waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

10. Insurance.

A. Each Agency shall procure and maintain in full force throughout the duration of the Contract commercial comprehensive general liability insurance with a minimum coverage of \$1,000,000.00 per occurrence combined single limit and \$2,000,000.00 in the aggregate for personal injury and property damage and non-owned automobile. The said policy shall name the City as an additional named insured on the insurance policies, and A COPY OF THE ENDORSEMENT NAMING THE CITY AS AN ADDITIONAL INSURED SHALL BE ATTACHED TO THE CERTIFICATE OF INSURANCE.

B. In addition to the insurance provided for in Paragraph A above, the Agency shall maintain or insure that its professional employees or contractors maintain professional liability insurance in the event that services delivered pursuant to this Contract, either directly or indirectly, involve providing professional services. Such professional liability insurance shall be maintained in an amount not less than \$500,000.00 combined single limit per claim and in the aggregate. For the purposes of this paragraph "professional service" shall mean services provided by a physician, licensed psychologist, or other licensed professional.

C. Certificates of coverage as required by Paragraph A and B above shall be delivered to the City within fifteen (15) days of execution of this contract. Further it is the responsibility of the Agency to ensure a valid certificate of insurance is in effect at all times throughout the course of this contract.

11. Interlocal Cooperation Act Provisions. No special budget or funds are anticipated nor shall any be created. It is not intended that a separate legal entity be established to conduct this cooperative undertaking; nor is there any acquisition, holding or disposal of real or personal property other than as specifically provided within the terms of this Agreement.

12. Record Keeping and Reporting.

A. The Agencies shall maintain their own accounts and records, including personnel, property, financial and programmatic records which sufficiently and properly reflect the services performed in the performance of this Agreement. B. These records shall be maintained for a period of seven (7) years after termination hereof or for the time period set forth in applicable Washington State records retention laws, whichever is longer. If permission to destroy records is granted by the office of the archivist in accordance with Chapter 40.14 RCW, records that do not legally require retention may be destroyed prior to the seven (7) year time period.

13. Audits and Inspections. The records and documents for each Agency with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit during the performance of this Agreement.

14. Termination. All parties may suspend or terminate this Agreement in whole or in part for convenience, upon thirty (30) days written notice to the parties.

15. Discrimination Prohibited. The Agencies shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Agencies to be provided under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status or presence of any sensory, mental or physical handicap.

16. Assignment and Subagreement. The Agencies shall not assign or enter into subagreements for any portion of the services contained or contemplated by this Agreement without prior written consent of the parties.

17. Entire Agreement. This Agreement contains the entire agreement between the Parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the Parties hereto. The Parties may request changes in the Agreement. Proposed changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement.

18. Notices. Notices required by terms of this Agreement shall be sent to the other Parties in writing.

19. Applicable Law, Venue, Attorney's Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the Parties specifically understand and agree that venue shall be properly laid in Pierce County, Washington. The prevailing Party in any such action shall be entitled to its attorney's fees and costs of suit.

IN WITNESS WHEREOF THE PARTIES HERETO EXECUTED THIS AGREEMENT AS OF THE DATE AND YEAR FIRST ABOVE WRITTEN.

CITY OF LAKEWOOD

PIERCE COLLEGE

\_\_\_\_\_  
John J Caulfield  
City Manager

\_\_\_\_\_  
Dr. Michele Johnson, Chancellor

YMCA of PIERCE AND KITSAP  
COUNTIES

CLOVER PARK TECHNICAL COLLEGE

\_\_\_\_\_  
Clayton DeNault, Executive Director

\_\_\_\_\_  
Dr. Lonnie Howard, President

SAINT CLARE HOSPITAL

CLOVER PARK SCHOOL DISTRICT

\_\_\_\_\_  
Kathy Bressler, President

\_\_\_\_\_  
Debbie LeBeau, Superintendent

COMMUNITIES IN SCHOOLS OF  
LAKEWOOD

BOYS AND GIRLS CLUB OF SOUTH  
PUGET SOUND

\_\_\_\_\_  
Dave O’Keeffe, Executive Director

\_\_\_\_\_  
Elvin Bucu, Executive Director

PIERCE COUNTY LIBRARY

JBLM

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(date)

Attest:

Approved as to Form:

\_\_\_\_\_  
Alice M. Bush, MMC, City Clerk

\_\_\_\_\_  
Heidi Ann Wachter, City Attorney

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED:</b> September 21, 2015	<b>TITLE: Lakewood Promise Program Update</b>	<b>TYPE OF ACTION:</b> — ORDINANCE NO. — RESOLUTION NO. <u>X</u> MOTION NO. 2015-50 — OTHER
<b>REVIEW:</b> June 8, 2015 June 15, 2015 August 3, 2015 September 14, 2015 (Reports by City Manager)	<b>ATTACHMENTS:</b> Lakewood Promise MOA	

**SUBMITTED BY:** Mary Dodsworth, Parks, Recreation and Community Services Director

**RECOMMENDATION:** It is recommended that the City Council update the Lakewood Promise program with updated Municipal Code language and a Memorandum of Agreement. The objective is provide through the Code a legislative framework and authority that creates Lakewood’s Promise and ensure stakeholder commitment through a Memorandum of Agreement (MOA).

**DISCUSSION:** In 2012 the City modified the structure of the Lakewood’s Promise program. A three year interlocal agreement (ILA) was developed to provide oversight and support and to outline the responsibilities of the various partners to ensure that the five promises were available to Lakewood youth. At this time the City also created by ordinance an eleven person Lakewood’s Promise Advisory Board. The ILA expired in May, 2015 and the Advisory Board recommended updating the document and creating a MOA to be more inclusive and to define, encourage and allow local partners to collaborate and participate in the Lakewood Promise work program. The MOA outlines the purpose of Lakewood’s Promise and the responsibility of being a partner, which are to:

- Enhance awareness of, and interest in, Lakewood's Promise which may be in cooperation with any appropriate private, civic or public agency of the City, county, state or of the federal government;
- Provide agency resources (such as staffing, supplies, equipment, facilities, marketing, volunteers)to support Lakewood Promise programs and projects;
- Recommend ways and means of obtaining funds for the promotion of Lakewood's Promise programs and projects within the City;
- Represent the community and the City to address Lakewood's Promise related issues;
- Serve as a catalyst to encourage collaboration among Lakewood’s businesses, organizations and agencies;
- Serve as a clearing house for community youth programs and events.

**ALTERNATIVE(S):** City Council could choose to not sign the MOA or recommend additions/changes to the document.

**FISCAL IMPACT:** No fiscal impact on changes to the MOA.

Prepared by _____  _____ Department Director	 _____ City Manager Review
---	--

LAKEWOOD'S PROMISE ~~ADVISORY BOARD~~  
~~AND COMMUNITY PARTNERS PROGRAM AGREEMENT~~  
MEMORANDUM OF AGREEMENT  
~~BETWEEN THE CITY OF LAKEWOOD, PIERCE COLLEGE, CLOVER PARK SCHOOL~~  
~~DISTRICT, AND CLOVER PARK TECHNICAL COLLEGE~~  
2012

THIS AGREEMENT is entered into by and between the City of Lakewood, Washington, a code city duly organized and existing pursuant to laws of the State of Washington, hereinafter referred to as the "City"; and the following agencies (hereinafter referred to collectively as "Agencies": Pierce College, Clover Park School District, ~~and~~ Clover Park Technical College, Boys and Girls Club of South Puget Sound, YMCA of Pierce and Kitsap Counties, Saint Clare Hospital, Communities in Schools of Lakewood, Pierce County Library, JBLM and others within their respective authority as authorized by the Interlocal Cooperation Act, Chapter 39.34 RCW. All entities in this Agreement are referred to collectively as the "Parties."

WHEREAS, the City is a ~~five~~six-time winner of the prestigious 100 Best Communities Serving Young People award by America's Promise – The Alliance for Youth; and

WHEREAS, the Parties agree that all children, regardless of their circumstances of their birth, should have the opportunity to make the most of their full potential; and

WHEREAS, the challenges of today, especially those that confront our children, require a special commitment of us all, and

WHEREAS, the Lakewood's Promise program seeks to provide youth access to the "Five Promises" (~~addressed in "Exhibit A"~~) that support the fundamental resources that young people need for success in life; and

WHEREAS, the Parties agree that working collaboratively as defined in this Agreement will continue to promote Lakewood youth access to the Five Promises; ~~and~~therefore,

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

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

1. Purpose. The purpose of this Agreement is to create ~~an~~ three year interagency agreement to formalize our collective intent to support the efforts of Lakewood's Promise pursuant to this Agreement. The mission of Lakewood's Promise (LP) is to provide the opportunity for the youth of Lakewood to have access to the "Five Promises" through the coordinated efforts of community service providers. ~~The Five Promises are to provide:~~

- Marketable skills through effective education
- Ongoing relationships with caring adults

- Safe places with structured activities during non-school hours
- Healthy start and future
- Opportunities to give back through community service

~~Examples of how LP Lakewood's Promise may chose to support the Five Promises, provided for illustrative purposes only, are attached hereto as Exhibit A and incorporated herein by this reference.~~

2. Responsibilities. Each Party's responsibilities under this Agreement shall be as follows:

- Enhance awareness of, and interest in, Lakewood's Promise which may be in cooperation with any appropriate private, civic or public agency of the City, county, state or of the federal government, and
- Provide agency resources (staffing, supplies, equipment, facilities, marketing, volunteers, etc) to support Lakewood Promise programs and projects, and
- Recommend ways and means of obtaining private, local, county, state or federal funds for the promotion of Lakewood's Promise programs and projects within the City, and
- Represent the community and the City to address Lakewood's Promise related issues.
- Serve as a catalyst to encourage collaboration among Lakewood's businesses, organizations and agencies and
- Serve as a clearing house for community youth programs and events.

~~LP seeks to serve as a catalyst to encourage collaboration among Lakewood's businesses, organizations and agencies and to serve as a clearing house for community youth programs and events.~~

3. Program Coordinator. The Parties agree that the position of Program Coordinator shall be established. ~~The Program Coordinator shall be an employee of Pierce College.~~ This position shall be funded in accordance with the Parties' Responsibilities and annual agency appropriations as needed, set forth herein. -The LP Coordinator will work directly with Parties City staff for guidance and support and develop an annual work program and performance measurements. - The LP Coordinator will manage day-to-day activities of LP and support the City's LP Board.

2.

~~3.~~ 4. Organizational Structure and Administration. The Lakewood's Promise organizational structure and administration shall be as specified in LMC Chapter 2.38, Lakewood's Promise Advisory Board. Advisory Board.

Established. A LP Advisory Board with up to 11 members is established by City Code and will provide oversight and feedback to the City Council on the efforts of the LP Community Partnership. The LP Board will operate as a City of Lakewood Advisory board, and be restructured for consistency with other City boards and commissions. The City Council will recruit and approve appoint Board members based on agency affiliation and LP work program and community need. Lakewood residency will be preferred for members but not required. Four (4) members representing the original partner agencies — Clover Park School District, Pierce College, Clover Park Technical College, and City of Lakewood shall be on the Lakewood's Promise Advisory Board. One (1) member shall be a representative of the Youth Council. The Board may also include representatives from the partner agencies including, along with St Clare

~~hospital, YMCA, Boys and Girls Club, Pierce County Library, the business community, faith community, military, youth service providers or other individuals that support the Five Promises.~~

~~A. Responsibilities. The LP Board shall be responsible for advising the council regarding the undertaking that is Lakewood's Promise.~~

~~4. Responsibilities. Each Party's responsibilities under this Agreement shall be as follows:~~

~~A. City of Lakewood: fund a portion of the Program Coordinator's salary (up to \$26,000 in 2012 (which is approximately .5 FTE costs for services provided pursuant to this Agreement), be the fiscal agent for donations and funding, provide technology and marketing support, provide guidance and support to the Program Coordinator and provide input on the Program Coordinators performance review, and provide support staff to implement LP's mission, programs and services.~~

~~B. Pierce College: fund balance of Program Coordinator's costs including employee benefits, provide access to Computer Clubhouse equipment, programs and technology for LP's efforts, supervise the Program Coordinator and provide input on performance review, provide support staff as needed for reporting Outcome Based Education and other grant/donation related requirements and/or to implement LP's mission, programs and services.~~

~~C. Clover Park School District: provide office and program space as needed, provide marketing support, provide access to staff, schools and programs as needed to implement LP's mission, program and services.~~

~~D. Clover Park Technical College: provide access to technology and support use of equipment and space for LP's efforts, access to Americorp, service learning programs, student mentors and staff to support LP's mission, programs and services.~~

5. Compliance with all Laws. In performing such responsibilities, the Parties shall at all times comply with all Federal, State, and local statutes, ordinances and rules applicable to the performance of such services and the handling of any funds used in connection therewith. An Agency that is a Party to this Agreement shall request, in writing, prior approval from the other Parties should that Agency desire to amend its responsibilities under this agreement. The amended responsibilities must be approved in writing by all Parties.

6. Identified Community Support. In order to recognize the participation and involvement of the parties in the support of this Agreement, and to ensure that those people who benefit from the activities and services of the Agencies are aware of the parties' involvement, when possible, include the words "~~funded in part by the City of Lakewood, Clover Park School District, Clover Park Technical College and Pierce College Lakewood Promise agencies~~" or include the names or logos of involved LP agency —" on flyers, pamphlets, brochures, advertisements, annual reports or other printed information prepared by or used in advertising or promoting the activities and services of the parties.

~~7. Compensation and Methods of Payment for Program Coordinator. The City shall pay Pierce College for services rendered as set forth in "Exhibit A." The total amount to be paid shall not exceed \$26,000.00 annually. Compensation shall be paid by the City following receipt of an invoice(s). All invoices for work ending each calendar year must be submitted by January 15 of the following year.~~

~~7~~8. Duration of Agreement. This Agreement shall be in full force and effect ~~for a period of three (3) years~~ commencing on the date of the last signature required to fully executive

the Agreement (if the Agreement is signed on different dates); unless sooner terminated pursuant to this Agreement. The Lakewood Promise Advisory Board will review and make recommendations for updates if needed every two years in accordance with the City's biennial budget process.

8.9. Independent Contractor. The parties agree that the Agencies are independent Contractors with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the Parties. Neither the Agencies nor any employees of the Agencies shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security payments or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to the Agencies, or any other employee of the Agencies.

9.10. Indemnification and Defense. The parties to this agreement shall defend, indemnify and hold the parties, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Agencies, their agents, servants, officers, employees, or volunteers, in performance of this Agreement, except for injuries and damages caused by the sole negligence of the party. In the event that a party shall elect to defend itself against any claim or suit arising from such injury, death or damage, the parties shall, in addition to indemnifying and holding the parties harmless from any liability, indemnify the party for any and all expense incurred by the party in defending such claim or suit, including attorney's fees. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Agencies and the City, its officers, officials, employees, and volunteers, the Agencies' liability hereunder shall be only to the extent of the Agencies' negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Agencies' waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

#### 11. Insurance.

~~A. The Agency shall procure and maintain in full force throughout the duration of the Contract commercial comprehensive general liability insurance with a minimum coverage of \$1,000,000.00 per occurrence combined single limit and \$2,000,000.00 in the aggregate for personal injury and property damage and non-owned automobile. The said policy shall name the City as an additional named insured on the insurance policies, and A COPY OF THE ENDORSEMENT NAMING THE CITY AS AN ADDITIONAL INSURED SHALL BE ATTACHED TO THE CERTIFICATE OF INSURANCE.~~

~~B. In addition to the insurance provided for in Paragraph A above, the Agency shall maintain or insure that its professional employees or contractors maintain professional liability insurance in the event that services delivered pursuant to this Contract, either directly or indirectly, involve providing professional services. Such professional liability insurance shall be maintained in an amount not less than \$500,000.00 combined single limit per claim and in the~~

~~aggregate. For the purposes of this paragraph "professional service" shall mean services provided by a physician, licensed psychologist, or other licensed professional.~~

~~C. Certificates of coverage as required by Paragraph A and B above shall be delivered to the City within fifteen (15) days of execution of this contract. Further, it is the responsibility of the Agency to ensure a valid certificate of insurance is in effect at all times throughout the course of this contract. Requests for reimbursement under this contract may be withheld until such time as a valid certificate of insurance is provided to the City.~~

~~11.12. Interlocal Cooperation Act Provisions. No special budget or funds are anticipated nor shall any be created. It is not intended that a separate legal entity be established to conduct this cooperative undertaking; nor is there any acquisition, holding or disposal of real or personal property other than as specifically provided within the terms of this Agreement.~~

1203. Record Keeping and Reporting.

~~A. The Agencies shall maintain their own accounts and records, including personnel, property, financial and programmatic records which sufficiently and properly reflect all direct and indirect costs of any nature expended and the services performed in the performance of this Agreement, and other such records as may be deemed necessary to the City to ensure proper accounting for all funds contributed by the City for the performance of this Agreement and compliance with this Agreement. The Agencies shall notify the City within ten (10) days of any change in program personnel.~~

~~B. These records shall be maintained for a period of seven (7) years after termination hereof or for the time period set forth in accordance with all applicable Washington State records retention laws, whichever is longer. If permission to destroy records is granted by the office of the archivist in accordance with Chapter 40.14 RCW, records that do not legally require retention may be destroyed prior to the seven (7) year time period.~~

~~C. The program staff shall provide monthly activity reports to the City containing program goals and outputs.~~

1314. Audits and Inspections. The records and documents for each Agency with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit during the performance of this Agreement.

~~1425. Termination. All parties may suspend or terminate this Agreement in whole or in part for convenience, upon thirty (30) days written notice to the parties. If funding is eliminated or limited for any reason, the parties shall have the right to terminate this Agreement immediately. In addition, this Agreement may be terminated by the parties if a party no longer provides services identified in Exhibit A.~~

1536. Discrimination Prohibited. The Agencies shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Agencies to be provided under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status or presence of any sensory, mental or physical handicap.

1647. Assignment and Subagreement. The Agencies shall not assign or enter into subagreements for any portion of the services contained or contemplated by this Agreement without prior written consent of the parties.

1758. Entire Agreement. This Agreement contains the entire agreement between the Parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the Parties hereto. The Parties may request changes in the Agreement. Proposed changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement.

1869. Notices. Notices required by terms of this Agreement shall be sent to the other Parties in writing.

19720. Applicable Law, Venue, Attorney's Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the Parties specifically understand and agree that venue shall be properly laid in Pierce County, Washington. The prevailing Party in any such action shall be entitled to its attorney's fees and costs of suit.

IN WITNESS WHEREOF THE PARTIES HERETO EXECUTED THIS AGREEMENT ARE REPRESENTATIVES OF THE PARTNER AGENCIES AS OF THE DATE AND YEAR FIRST ABOVE WRITTEN.

CITY OF LAKEWOOD

PIERCE COLLEGE

\_\_\_\_\_  
~~Andrew E. Neiditz~~ John J. Caulfield, City Dr. Michele Johnson, Chancellor  
Manager

YMCA of PIERCE AND KITSAP  
COUNTIES

CLOVER PARK TECHNICAL COLLEGE

\_\_\_\_\_  
Clayton DeNault, Executive Director

\_\_\_\_\_  
~~John Walstrum~~ Dr. Lonnie Howard, President

SAINT CLARE HOSPITAL

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\_\_\_\_\_  
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\_\_\_\_\_  
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COMMUNITIES IN SCHOOLS OF  
LAKEWOOD

BOYS AND GIRLS CLUB OF SOUTH  
PUGET SOUND

\_\_\_\_\_  
Dave O'Keeffe, Executive Director

\_\_\_\_\_  
Elvin Bucu, Executive Director

PIERCE COUNTY LIBRARY

ANOTHER GREAT AGENCY

\_\_\_\_\_ (date)

\_\_\_\_\_ (date)

Attest:

Approved as to Form:

\_\_\_\_\_ (date)

\_\_\_\_\_ (date)

Alice M. Bush, MMC, City Clerk

Heidi Ann Wachter, City Attorney

Attest:

\_\_\_\_\_ (date)

Alice M. Bush, MMC, City Cl

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED:</b>	<b>TITLE:</b> Authorize the City Manager to execute an Agreement with Intolight for the retrofit of 1,218 Puget Sound Energy (PSE) powered street lights in the City of Lakewood to LED fixtures for an amount not to exceed \$335,009.85.	<b>TYPE OF ACTION:</b>
September 21, 2015		— ORDINANCE
		— RESOLUTION
<b>REVIEW:</b>		<u>X</u> MOTION 2015-51
September 21, 2015		— OTHER
	<b>ATTACHMENTS:</b> Street Light Authorization Letter	

**SUBMITTED BY:** Don Wickstrom, P.E., Public Works Director/City Engineer.

**RECOMMENDATION:** It is recommended that the City Council Authorize the City Manager to execute an Agreement with Intolight for the retrofit of 1,218 Puget Sound Energy (PSE) powered street lights in the City of Lakewood to LED fixtures for an amount not to exceed \$335,009.85.

**DISCUSSION:** The City of Lakewood is in the process of converting its existing street lights to energy-saving LED fixtures. This Agreement provides the authorization to move forward with the conversion of all of the leased lights within the Puget Sound Energy territory. The original LED conversion project was limited to the Lakeview Light and Power (LL&P) and Tacoma Power (TPU) service areas for which the city secured the additional funding for via the State Department of Treasury LOCAL bonding.  
(continued on page 2)

**ALTERNATIVE(S):** There is no alternative except to not execute this Agreement which will prevent the city from converting the PSE-area street lights to LED.

**FISCAL IMPACT:** It is proposed that these LED conversion costs be paid for with the existing State Treasury LOCAL bond funds. Adding these lights is within the original cost estimate for the LED Street light conversion project. See page 2 of 2 for the updated project budget.

Prepared by	 <hr style="width: 80%; margin: 0 auto;"/>
Department Director	City Manager Review

**DISCUSSION (continued from page 1):**

Updated construction cost estimates for the LL&P and TPU LED conversions have come in significantly lower than the original estimated costs as follows:

Original Construction Estimate (LL&P and TPU) (~1900 lights) = \$1,700,000  
Updated Construction Estimate (LL&P and TPU) (~1900 lights) = \$1,200,000  
 Difference (savings) = \$500,000

The cost savings is primarily due to the fact that we were able to utilize smaller wattage LEDs without sacrificing quality of lighting levels.

It is proposed that the savings realized be used to convert all of the PSE-area lights at a cost of \$335,009.85.

The PSE light conversion costs are based on the Utilities and Transportation Commission (WTC) Schedule 53 Electric Tariff on charging the difference in material costs for the LED fixtures versus the current fixtures. In addition, since PSE “owns” the lights, they also recover costs via their monthly service charge to the City. City staff directed PSE to utilize similar LED wattage on their area lights as will be used in the other two purveyor service areas.

**FISCAL IMPACT (continued from page 1):**

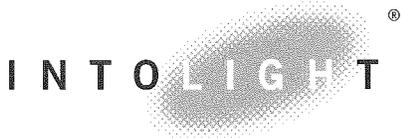
**LED Streetlighting Conversion –Project Budget**

Costs (to nearest \$5,000)	Revenue (to nearest \$10,000)
Dept of Enterprise Services PM: \$60,000	Dept. of Commerce Grant: \$500,000
Design and CM: \$490,000	LLP Utility Incentive: \$120,000
Construction (LL&P and TPU) \$1,200,000	Tacoma Power Utility Incentive: \$100,000
Construction (PSE) \$ 335,000	PSE Utility Incentive Estimate: \$ 80,000
<u>Contingency \$ 285,000</u>	<u>LOCAL (bonding) \$1,650,000</u>
<b>TOTAL: \$2,370,000</b>	<b>TOTAL: \$2,450,000</b>

Note: Total fixtures = TPU (740); LLP (1,200); PSE (1,218)

In addition, it is anticipated that the city will receive approximately \$80,000 in utility incentive rebates from PSE.

At the completion of the LED street light conversion in the PSE area, it is estimated the city will save approximately \$115,000 annually in energy and maintenance costs. This is immediate savings as the bonding is already being paid back from the LL&P and TPU annual savings.



3380 146th Place SE #310  
PO Box 97034, LEC-OFC  
Bellevue, Washington 98009-9734  
*Lighting Services from Puget Sound Energy*

T (425) 456-2496  
F (425) 462-3149

### STREET LIGHT AUTHORIZATION LETTER

September 15th, 2015

City of Lakewood  
6000 Main Street SW  
Lakewood, WA 98499-5027

Project Name: City of Lakewood LED conversion  
Change out existing HPS to LED cobraheads

Dear Desiree,

Thank you for your street lighting request to service the above locations. With your authorization, we will proceed with the conversion existing 100 & 150W HPS cobraheads to 676 52W, 200 & 250W to 490 102W, and 400W HPS to 52 133W LED Cobrahead on existing PSE poles and arms. The cost for this construction is \$335,009.85.

**Payment for installation will be requested after installation is completed.** This estimate is valid for 90 days.

The combined monthly energy/maintenance charge, per our Schedule 53 Electric Tariff G, will start once the lights are energized

The responsible billing party will be: City of Lakewood

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By signing this letter and returning it, you are stating that you authorize us to do the work and this order will be released to construction for scheduling. Upon receipt of the signed agreement, we will order materials, field check each location, and schedule the construction. **Quantity updates may be required post field check verification.**

If you have any questions, please call me at 425-456-2701

Sincerely,

Lars Larson  
Account Manager, Lighting Services from PSE

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The above is accepted and authorization is given:

By: John Caulfield; City Manager \_\_\_\_\_ Date: \_\_\_\_\_

Attest: Alice Bush; City Clerk \_\_\_\_\_ Date: \_\_\_\_\_

Approved as to form:  
Heidi A. Wachter, City Attorney \_\_\_\_\_ Date: \_\_\_\_\_

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED:</b> Sept. 21, 2015	<b>TITLE:</b> Copier Contract Approval between Sharp Electronics ® and the City of Lakewood	<b>TYPE OF ACTION:</b> — ORDINANCE NO. — RESOLUTION NO. <u>  X  </u> MOTION NO. 2015-52 — OTHER
<b>REVIEW:</b>	<b>ATTACHMENTS:</b>	

**SUBMITTED BY:** Kenneth D. White, Information Technology Manager

**RECOMMENDATION:** It is recommended that the City Council approve the proposed thirty six month contract between the City of Lakewood and Sharp Electronics for the replacement of existing Ricoh Copiers with new Sharp multi-function devices and the replacement of fifteen printers which have been identified throughout the city. Upon completion of the thirty six month contract the City will make two additional payments at the normal monthly rate which will allow the City to own free and clear all equipment provided under the proposed contract.

**DISCUSSION:** As of March 14, 2015, nine of the twelve copiers currently provided by Ricoh have gone off contract and are now on a month to month agreement along with three additional copiers which are set to expire in 2016 and 2018. Over the past several months the Information Technology division performed an inventory and analysis of existing copiers, printers, expenses and potential replacements with multiple vendors in order to find replacement solutions that fit current and future needs.

**ALTERNATIVE(S):** Maintain status quo. Aging printers will begin to accumulate additional costs due to service & repair needs. Copiers will not meet future technology requirements for both use & security.

**FISCAL IMPACT:** Initial monthly lease only costs will be reduced for the first 36 months followed by a yearly reduction of \$30,336 due to ownership transfer of the leased equipment. Additionally, there is potential savings using print management software to reduce the number of print jobs by eliminating the excessive random print jobs which are left behind on the multi-function devices. M&O costs will also be reduced by utilizing a set dollar amount for both copiers and printers on a cost per page model.

Prepared by _____  Department Director _____	 _____ City Manager Review
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**DISCUSSION (Continued):**

It was determined that a more robust copier fleet, replacement of several aging printers and enhanced accounting & reporting software be looked at. Numerous vendors to include Ricoh, Xerox, Sharp, Pacific Office Automation, Copiers Northwest and the Wide Format Company provided tours of their facility, cost comparisons and quotes to replace the City of Lakewood's fleet of copiers, printers and accounting packages. In the end it was determined that Sharp provided the best solution for the City of Lakewood based on cost, service, support, hardware and feature sets. Bids were provided which encompassed the entire solution for copiers, printers, accessories, software, service & maintenance.

Current monthly costs on the Ricoh contract before taxes are \$2770 which will be reduced to \$2528 for a period of 36 months. At the end of the lease agreement plus two additional payments the city will own the entire fleet of Sharp Copiers & Printers eliminating the monthly lease payment. The City will continue to utilize the Cost Per Page model after lease termination which will provide maintenance, support and supplies beyond the end of the lease. Estimated Copier lifecycle is 7 years. Projected annual savings of \$30336 with the elimination of the monthly lease obligation. The City will also receive a 50% discount during the first year of the maintenance agreement on the cost per page charges. Additional features are also provided in the new contract such as robust accounting services & reports, follow me printing, enhanced authentication using existing City Badges with Radio Frequency Identification (RFID) to authenticate at the copiers, print management, enhanced accounting and reporting functions and more. In addition to replacement of nine of the multi-function devices the city will be replacing fifteen aging HP printers currently in use in strategic areas which have been identified throughout the city. The city will continue to use a Cost Per Page model (CPP) paying only for pages printed or copied at a fixed rate of .0043 for black & white and .039 for color. Service & Supplies excluding paper are included in the proposal for the term of the contract for both the copiers and the printers. It is estimated that current printer toner costs will be reduced by 40% utilizing a cost per page model versus purchasing toner outright. Sharp ® will also provide at no cost to the City a staffed helpdesk which can assist the Information Technology Division and City staff with troubleshooting and Help Desk services for all multi-function devices. In addition, at no additional cost Sharp will provide two Sharp Aquos interactive display boards to the City.

<u>Multi-Function</u>								
<u>Vendor</u>	<u>Monthly Lease</u>	<u>M&amp;O (Average)</u>	<u>Total Monthly</u>	<u>Sharp Savings</u>	<u>Year 1 Expenses</u>	<u>Year 2 Expenses</u>	<u>Year 3 Expenses</u>	<u>Year 4 Expenses</u>
Ricoh	\$2,770	\$863	\$3,633		\$43,596	\$43,596	\$43,596	\$43,596
Sharp	\$2,528	\$587	\$3,115	\$518.00	\$37,380	\$37,380	\$37,380	\$7,044

<b>Current Cost per Page amounts</b>		
<u>Vendor</u>	<u>Multi-Function Model #</u>	<u>CPP</u>
RICOH	MP3351SP,4001SP,5001SP	0.0066
RICOH	MP6001,MP7001	0.0052
RICOH	MP8001	0.0041
RICOH	MPC2800 (Color)	0.065
RICOH	MP5002SP	0.0052
RICOH	MP4002SP	0.0068
<b>Proposed</b>		
SHARP	Fixed Rate	.0043 (B&W) 0.039 (Color)

<b>Average Monthly Volumes</b>						
<u>Device</u>		<u>Black &amp; White</u>	<u>Color</u>		<u>Ricoh Costs</u>	<u>Sharp Costs</u>
Copier #1	MP3351SP	3103	n/a	n/a	20.48	13.34
Copier #2	MP4001	5505	n/a	n/a	36.33	23.67
Copier #3	MP5001SP	9068	n/a	n/a	59.85	39.00
Copier #4	MP6001	27981	n/a	n/a	145.5	120.32
Copier #5	MP7001	49178	n/a	n/a	255.73	211.47
Copier #6	MP8001	9378	n/a	n/a	38.45	40.33
Copier #7	MPC2800	2634	3109		223.16	102.73
Copier #8	MP5002SP	4378	n/a	n/a	44.14	18.83
Copier #9	MP4002SP	2449	n/a	n/a	22.77	10.53

<u>Example Printer Expenses</u>			
<u>Printer Model</u>	<u>Toner Yield</u>	<u>Current Costs</u>	<u>Cost Per Page (CPP)</u>
HP4300	18000	\$255	\$77.40
HP5225	7000	\$110.21	\$30.10
HP5500 Color	12000	\$315.09	\$468
HP4015	1000	\$93.32	\$43
HPQ3962A	4000	\$111.50	\$17.20
<b>Total</b>		<b>885.12</b>	<b>635.7</b>

Example: Printer Toner Costs vs. CPP

	<b>Savings</b>
	<b>249.42</b>

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED</b> September 21, 2015	<b>TITLE:</b> Public Defender Contract - Primary	<b>TYPE OF ACTION:</b> — ORDINANCE NO. — RESOLUTION NO. <u>X</u> MOTION NO. 2015-53 — OTHER
<b>REVIEW:</b>	<b>ATTACHMENTS:</b> Contract	

**SUBMITTED BY:** Adam Lincoln, Management Analyst

**RECOMMENDATION:** It is recommended that the City Council authorize the approval of the contract for the primary public defender services.

**DISCUSSION:** Recent changes in State laws as well as revised public defense standards have led to increased costs and increased scrutiny on municipalities that provide public defense services. The City has made changes in the contract with the public defenders as the law has changed. The City has incurred increased costs for these services and closely monitors the regular reports that are received from both the primary and backup public defenders. The City decided that it was necessary to seek proposals from public defender firms in an effort to continue to be proactive as changes have occurred. Other cities in Washington have been seeking proposals for public defender services, including Puyallup, Olympia and Edmonds. The City has had the same contractors for many years. The current primary provider started with the City in 1997. The services have been provided well, but the City felt it was necessary to examine alternative options that may be available in an effort to ensure that the highest quality services are being provided.

Continued to page 2.

**ALTERNATIVE(S):** The City of Lakewood may choose to provide public defense services in-house. This would require the City to hire additional personnel.

Prepared by _____  Department Director _____	 _____ City Manager Review
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In June the City advertised a RFP for both a primary provider and backup provider of public defense services. The City received three responses for the primary contract and two proposals for the backup contract. Following a review of the proposals, all of the applicants were interviewed so that the City could obtain specific information about service delivery models, qualifications as a public defender, ability to maintain high quality records as required by changes in the law and defense standards, and their philosophies on customer service as it relates to both their clients and working with the City's internal stakeholders. The City determined the best candidates based on the content of their proposal and interview presentations.

The top candidate for the primary contract is Horwath Law. This firm displayed a great deal of knowledge of public defense and the new standards and laws. They showed a high level of ability to serve their clients and the desire for a strong professional working relationship with the City. The selection of this firm would be a positive result for the City.

**Fiscal Impact:**

Law Firm	2013 Actual	2014 Actual	2015 Revised Budget	2015 Year-End Estimate	2016 Revised Budget	2016 Contract Proposals
SMH (Current Public Defender)	\$222,422	\$358,131	\$365,000	\$365,000	\$365,000	\$440,000
Horwath Law (Full Defender Contract Applicant)	-	-	-	-	-	\$421,200
Martin Duenhoelter (Current Conflict Defender)	\$20,100	\$28,250	\$20,000	\$20,000	\$20,000	Did not Participate
J&S Law (Conflict Defender Contract Applicant)	-	-	-	-	-	\$30,000
			\$385,000	\$385,000	\$385,000	
*2016 proposed prices consider a caseload of 1,600 cases based on previous year estimates						
					W/ SMH =	\$470,000
					W/ Horwath =	\$451,200

The primary contract will cost the City \$34,000 per month for the first 1,600 cases at which point the contractor will be compensated \$255 per case over 1,600 and fewer than 2,000 cases. Additionally, the contract includes \$13,200 for investigator services. The City applied for a grant from the Office of Public Defense that if received will pay for investigator services. The term of the contract is for three years with the potential of an additional two year extension. The estimated annual cost for this contract is \$421,200, which is \$18,800 or 4.3% below the proposal submitted by our current contractor.

## PROFESSIONAL SERVICES AGREEMENT FOR PUBLIC DEFENSE SERVICES – PRIMARY

This Professional Services Agreement ("Agreement"), made and entered into this \_\_\_\_ day of \_\_\_\_, 2015, by and between the City of Lakewood, a Washington municipal corporation ("City"), and **Horwath Law PLLC** ("Contractor"). The City and Contractor (together "Parties") are located and do business at the below addresses which shall be valid for any notice required under this Agreement:

<b>Horwath Law PLLC:</b>  <b>Angela Horwath</b> 1115 Tacoma Ave South Tacoma, WA 98402  253.620.0033 (telephone) 253.507.4196 (facsimile) horwathlaw@gmail.com (email)	<b>CITY OF LAKEWOOD:</b>  Tho Kraus Assistant City Manager/Admin Services 6000 Main Street SW Lakewood, WA 98499 (253) 983-7706 (telephone) (253) 589-3774 (facsimile) <a href="mailto:tkraus@cityoflakewood.us">tkraus@cityoflakewood.us</a>
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The Parties agree as follows:

1. **TERM.** The term of this agreement shall be from the date of execution for the period February 1, 2016 through December 31, 2018, unless sooner terminated as provided herein. The agreement may be extended for an additional two (2) year term with the mutual agreement of the parties.
2. **SERVICES.** The Contractor shall perform the services more specifically described in Exhibit "A", attached hereto and incorporated by this reference ("Services"), in a manner consistent with the accepted professional practices for other similar services within Washington State in effect at the time those services are performed, performed to the City's satisfaction. The Contractor warrants that it has the requisite training, skill, and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services shall begin immediately upon the effective date of this Agreement. Services shall be subject, at all times, to inspection by and approval of the City, but the making (or failure or delay in making) such inspection or approval shall not relieve Contractor of responsibility for performance of the Services in accordance with this Agreement, notwithstanding the City's knowledge of defective or non-complying performance, its substantiality or the ease of its discovery.
3. **TERMINATION.** The City may terminate this Agreement immediately if the Contractor fails to maintain required insurance policies, breaches confidentiality, or materially violates Section 12; and such may result in ineligibility for further City agreements.

3.1 **For Cause.** This agreement may be terminated for good cause for violation of any material term of this agreement. "Material term" shall include any violation indicating a failure to provide representation in accordance with the rules of court, the ethical obligations established by the Washington State Bar Association, the willful disregard of the rights and best interests of the client, a willful violation of the Standards for Indigent Defense as adopted by the Washington State Supreme Court (hereinafter the "Standards") or the Wilbur, et al v. Mt. Vernon, et al (hereinafter the "Decision"), the provisions of Section 6 relating to insurance, conviction of a criminal charge, and/or a finding that the license of the Attorney or any Contractor providing service under this agreement has been suspended or revoked. Any violation of the other provisions of this Contract shall be subject to

cure. Written notice of contract violation shall be provided to the Contractor who shall have thirty (30) business days to cure the violation. Failure to correct the violation will give rise to termination for cause at the City's discretion. In lieu of terminating this contract, the City may agree in writing to alternative corrective measures.

3.2 Without Cause. Either party may terminate this Agreement at any time without cause upon giving the non-terminating party not less than one hundred twenty (120) days prior written notice. The parties may agree in writing to terminate this contract at any time. Unless otherwise agreed to in writing, termination or expiration of this contract does not affect any existing obligation or liability of either party.

3.3 Obligations survive Termination. In the event of termination of this agreement, the following obligations shall survive and continue:

3.3.1 Representation. The compensation established in this agreement compensates the Contractor for services relating to each and every assigned case. Therefore, in the event this agreement is terminated, the Contractor will continue to represent clients on assigned cases until a case is concluded at the trial court level or the defendant fails to appear and a warrant issues. For the purposes of this contract the term "concluded" is defined as "the Court has accepted a proposed resolution, including the entry of a plea, diversion agreement (PDA), stipulated order of continuance (SOC), veteran's court, deferred prosecution, and specifically excluding post-resolution status."

3.3.1.1 For those matters set for trial within sixty (60) calendar days of the final Agreement date, through trial of the failure or the defendant to appear (FTA) for trial, or

3.3.1.2 For all other matters, for a period of thirty (30) days, provided, however, that if the defendant fails to appear (FTA) for a court appearance, the Contractor may seek to withdraw following the FTA.

3.3.2 The provisions of Exhibit "A" and section 5 below, as well as this subsection 3.3 (Obligations survive Termination) survive termination as to the Contractor. The City shall remain bound by the provisions of section 2.3 of Exhibit "B" with respect to additional costs incurred with respect to cases concluded after the termination of this contract.

#### **4. COMPENSATION.**

4.1 Amount. The total compensation to be paid to the Contractor shall be detailed in Exhibit B. These fees include all labor, materials and expenses required for the completion of these services. Except as otherwise provided in Exhibit "B", the Contractor shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Agreement.

4.2 Payment. Payment to the Contractor by the City in accordance with the above shall be the total compensation for all work performed under this agreement and supporting documents hereto as well as all subcontractor's fees and expenses, supervision, labor supplies, materials, equipment or the use thereof, reimbursable expenses, and other necessary incidentals. If the Services do not meet the requirements of this Agreement, the Contractor will correct or modify the work to comply with the Agreement. The City may withhold payment for such work until the work meets the requirements of the Agreement. The Contractor shall be paid based on the proposed compensation. Unless otherwise specified in this Agreement, any payment shall be considered timely if a check is mailed or is available within 30

days of the date of actual receipt by the City of an invoice conforming in all respects to the terms of this agreement.

## **5. INDEMNIFICATION.**

5.1 Contractor Indemnification. The Contractor agrees to release, indemnify, defend, and hold the City, its elected officials, officers, employees, agents, representatives, insurers, attorneys, and volunteers harmless from any and all claims, demands, actions, suits, causes of action, arbitrations, mediations, proceedings, judgments, awards, injuries, damages, liabilities, taxes, losses, fines, fees, penalties expenses, attorney's fees, costs, and/or litigation expenses to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives; arising from, resulting from, or in connection with this Agreement or the acts, errors or omissions of the Contractor in performance of this Agreement, except for that portion of the claims caused by the City's sole negligence. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. Contractor shall ensure that each sub-contractor shall agree to defend and indemnify the City, its elected officials, officers, employees, agents, representatives, insurers, attorneys, and volunteers to the extent and on the same terms and conditions as the Contractor pursuant to this paragraph. The City's inspection or acceptance of any of Contractor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

5.2 Industrial Insurance Act Waiver. It is specifically and expressly understood that the Contractor waives any immunity that may be granted to it under the Washington State industrial Insurance Act, Title 51 RCW, solely for the purposes of this indemnification. Contractor's indemnification shall not be limited in any way by any limitation on the amount of damages, compensation or benefits payable to or by any third party under workers' compensation acts, disability benefit acts or any other benefits acts or programs. The Parties acknowledge that they have mutually negotiated this waiver.

5.3 City Indemnification. The City agrees to release, indemnify, defend and hold the Contractor, its officers, directors, shareholders, partners, employees, agents, representatives, and sub-contractors harmless from any and all claims, demands, actions, suits, causes of action, arbitrations, mediations, proceedings, judgments, awards, injuries, damages, liabilities, losses, fines, fees, penalties expenses, attorney's fees, costs, and/or litigation expenses to or by any and all persons or entities, including without limitation, their respective agents, licensees, or representatives, arising from, resulting from or connected with this Agreement to the extent solely caused by the negligent acts, errors, or omissions of the City.

5.4 Survival. The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

**6. INSURANCE.** The Contractor agrees to carry insurance for liability which may arise from or in connection with the performance of the services or work by the Contractor, their agents, representatives, employees or subcontractors for the duration of the Agreement and thereafter with respect to any event occurring prior to such expiration or termination as follows:

6.1. Minimum Limits. The Contractor agrees to carry as a minimum, the following insurance, in such forms and with such carriers who have a rating that is satisfactory to the City:

a. Commercial general liability insurance covering liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury, bodily injury, death, property damage, products liability, advertising injury, and liability assumed under an insured contract with limits no less than \$1,000,000 for each occurrence and \$1,000,000 general aggregate.

b. Workers' compensation and employer's liability insurance in amounts sufficient pursuant to the laws of the State of Washington;

c. Automobile liability insurance covering all owned, non-owned, hired and leased vehicles with a minimum combined single limits in the minimum amounts required to drive under Washington State law per accident for bodily injury, including personal injury or death, and property damage.

d. Professional liability insurance with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate for damages sustained by reason of or in the course of operation under this Agreement, whether occurring by reason of acts, errors or omissions of the Contractor.

6.2. No Limit of Liability. Contractor's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity. The Contractor's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

6.3. Additional Insured, Verification. The City shall be named as additional insured on all commercial general liability insurance policies. Concurrent with the execution of this Agreement, Contractor shall provide certificates of insurance for all commercial general liability policies attached hereto as Exhibit "C" and incorporated by this reference. At City's request, Contractor shall furnish the City with copies of all insurance policies and with evidence of payment of premiums or fees of such policies. If Contractor's insurance policies are "claims made," Contractor shall be required to maintain tail coverage for a minimum period of three (3) years from the date this Agreement is actually terminated or upon project completion and acceptance by the City.

6.4. Survival. The provisions of this Section shall survive the expiration or termination of this Agreement.

7. CONFIDENTIALITY. All information regarding the City obtained by Contractor in performance of this Agreement shall be considered confidential subject to applicable laws. Breach of confidentiality by the Contractor may be grounds for immediate termination. All records submitted by the City to the Contractor will be safeguarded by the Contractor. The Contractor will fully cooperate with the City in identifying, assembling, and providing records in case of any public records disclosure request.

8. BOOKS AND RECORDS. The Contractor agrees to maintain books, records, and documents which sufficiently and properly reflect all direct and indirect costs related to the performance of the Work and maintain such accounting procedures and practices as may be deemed necessary by the City to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject, at all reasonable times, to inspection, review or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

9. INDEPENDENT CONTRACTOR. The Parties intend that the Contractor shall be an independent contractor and that the Contractor has the ability to control and direct the performance and details of its work, the City being interested only in the results obtained under this Agreement. The City

shall be neither liable nor obligated to pay Contractor sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax which may arise as an incident of employment. Contractor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at Contractor's own risk, and Contractor shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work. The Contractor shall pay all income and other taxes due except as specifically provided in Section 4. Industrial or any other insurance that is purchased for the benefit of the City, regardless of whether such may provide a secondary or incidental benefit to the Contractor, shall not be deemed to convert this Agreement to an employment contract. If the Contractor is a sole proprietorship or if this Agreement is with an individual, the Contractor agrees to notify the City and complete any required form if the Contractor retired under a State of Washington retirement system and agrees to indemnify any losses the City may sustain through the Contractor's failure to do so.

**10. CONFLICT OF INTEREST.** It is recognized that Contractor may or will be performing professional services during the Term for other parties; however, such performance of other services shall not conflict with or interfere with Contractor's ability to perform the Services. Contractor agrees to resolve any such conflicts of interest in favor of the City. Contractor confirms that Contractor does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Contractor's selection, negotiation, drafting, signing, administration, or evaluating the Contractor's performance.

**11. EQUAL OPPORTUNITY EMPLOYER.** In all services, programs, activities, hiring, and employment made possible by or resulting from this Agreement or any subcontract, there shall be no discrimination by Contractor or its subcontractors of any level, or any of those entities' employees, agents, subcontractors, or representatives against any person because of sex, age (except minimum age and retirement provisions), race, color, religion, creed, national origin, marital status, or the presence of any disability, including sensory, mental or physical handicaps, unless based upon a bona fide occupational qualification in relationship to hiring and employment. This requirement shall apply, but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor shall comply with and shall not violate any of the terms of Chapter 49.60 RCW, Title VI of the Civil Rights Act of 1964, the Americans With Disabilities Act, Section 504 of the Rehabilitation Act of 1973, 49 CFR Part 21, 21.5 and 26, or any other applicable federal, state, or local law or regulation regarding non-discrimination.

**12. GENERAL PROVISIONS.**

12.1 Interpretation and Modification. This Agreement, together with any attached Exhibits, contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior statements or agreements, whether oral or written, shall be effective for any purpose. Should any language in any Exhibits to this Agreement conflict with any language in this Agreement, the terms of this Agreement shall prevail. The respective captions of the Sections of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect any of the provisions of this Agreement. Any provision of this Agreement that is declared invalid, inoperative, null and void, or illegal shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect. Any act done by either Party prior to the effective date of the Agreement that is consistent with the authority of the Agreement and compliant with the terms of the Agreement, is hereby ratified as having been performed under the Agreement. No provision of this Agreement, including this provision, may be amended, waived, or modified except by written agreement signed by duly authorized representatives of the Parties.

12.2 Assignment and Beneficiaries. Neither the Contractor nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party. If the non-assigning party gives its consent to any assignment, the terms of this Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent. Subject to the foregoing, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns. This Agreement is made and entered into for the sole protection and benefit of the Parties hereto. No other person or entity shall have any right of action or interest in this Agreement based on any provision set forth herein.

12.3 Compliance with Laws. The Contractor shall comply with and perform the Services in accordance with all applicable federal, state, local, and city laws including, without limitation, all City codes, ordinances, resolutions, regulations, rules, standards and policies, as now existing or hereafter amended, adopted, or made effective.

12.4 Contractor's Employees – Employment Eligibility Requirements. The Contractor and any subcontractors shall comply with E-Verify as set forth in Lakewood Municipal Code Chapter 1.42. E-Verify is an Internet-based system operated by United States Citizenship and Immigration Services in partnership with the Social Security Administration. E-Verify is free to employers and is available in all 50 states. E-Verify provides an automated link to federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security numbers. The Contractor shall enroll in, participate in and document use of E-Verify as a condition of the award of this contract. The Contractor shall continue participation in E-Verify throughout the course of the Contractor's contractual relationship with the City. If the Contractor uses or employs any subcontractor in the performance of work under this contract, or any subsequent renewals, modifications or extension of this contract, the subcontractor shall register in and participate in E-Verify and certify such participation to the Contractor. The Contractor shall show proof of compliance with this section, and/or proof of subcontractor compliance with this section, within three (3) working days of the date of the City's request for such proof.

12.5 Enforcement. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor. Adherence to completion dates set forth in the description of the Services is essential to the Contractor's performance of this Agreement. Any notices required to be given by the Parties shall be delivered at the addresses set forth at the beginning of this Agreement. Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the address set forth above. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the City at law, in equity or by statute. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Agreement, or to exercise any option conferred by this Agreement in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect. Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default. This Agreement shall be made in, governed by, and interpreted in accordance with the laws of the State of Washington. If the Parties are unable to settle any dispute, difference or claim arising from this Agreement, the exclusive means of resolving that dispute, difference, or claim, shall be by filing suit under the venue, rules and jurisdiction of the Pierce County Superior Court, Pierce County, Washington, unless the parties agree in writing to an alternative process. If the Pierce County Superior Court does not have jurisdiction over such a suit, then suit may be filed in

any other appropriate court in Pierce County, Washington. Each party consents to the personal jurisdiction of the state and federal courts in Pierce County, Washington and waives any objection that such courts are an inconvenient forum. If either Party brings any claim or lawsuit arising from this Agreement, each Party shall pay all its legal costs and attorney's fees and expenses incurred in defending or bringing such claim or lawsuit, including all appeals, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the Parties' rights to indemnification under Section 5 of this Agreement. Any complaint regarding any violation of the Standards or which relate in any manner whatsoever to trial strategy or an ongoing case, shall be referred to the Judge of the City's Municipal Court or to the Washington State Bar Association as appropriate. Nothing herein shall be construed to obligate, require or permit the City, its officers, agents, or employees to inquire into any privileged communication between the Contractor and any assigned client.

12.6 Execution. In consideration of the mutual benefits to be derived and the promises contained herein, the City of Lakewood, Washington, a municipal corporation ("City") and the individual Public Defender(s) who will perform services under this contract (the "Contractor") have entered into this Agreement.

Each individual executing this Agreement on behalf of the City and Contractor represents and warrants that such individual is duly authorized to execute and deliver this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and with the same effect as if all Parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart. The signature and acknowledgment pages from such counterparts may be assembled together to form a single instrument comprised of all pages of this Agreement and a complete set of all signature and acknowledgment pages. The date upon which the last of all of the Parties have executed a counterpart of this Agreement shall be the "date of mutual execution" hereof.

[Signature page follows]

IN WITNESS, the Parties hereto have caused this agreement to be executed the day and year first above written.

CITY OF LAKEWOOD

CONTRACTOR

\_\_\_\_\_  
John J. Caulfield, City Manager

\_\_\_\_\_  
Name & Title

ATTEST:

\_\_\_\_\_  
Alice M. Bush, MMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Heidi Ann Wachter, City Attorney

Agreed upon Exhibits will be added. They will include at least the following:

- Exhibit A --Services
- Exhibit B --Compensation and Contract Review
- Exhibit C -- Insurance Certificate

## EXHIBIT "A"

### SERVICES

1. Scope of Services, Standards and Warranties. The Contractor will provide indigent defense services in misdemeanor cases in accordance with the Washington State Supreme Court Standards for Indigent Defense as adopted by the City in Resolution 2014-20 as the same exists or is hereafter amended (hereinafter "Standards") and the Wilbur, et al v. Mt. Vernon, et al (hereinafter the "Decision"). The Public Defender individually warrants that he/she has read and is fully familiar with the provisions of the Standards adopted by the City and the Decision. Compliance with these Standards and the Decision goes to the essence of this Agreement.

1.1 The Contractor shall certify compliance with the Supreme Court Rule governing case load quarterly with the Lakewood Municipal Court on the form established for that purpose by court rule. A copy of each and every such certification shall be provided to the City contemporaneously with filing. The Contractor warrants that he/she shall conform to the case load limitations not only with respect to services under this Agreement but also with respect to his/her practice as a whole, including other contracts for public defense and/or private practice.

1.2 Contractor will maintain contemporaneous records on a daily basis documenting all work performed on each assigned case. The Contractor will maintain and provide to the City monthly reports detailing:

1.2.1 the number of cases assigned during the period, to include the number of cases assigned to each attorney, the monthly total and year-to-date total for cases per attorney, the charge(s) filed against each defendant, and the total number of cases by each jurisdiction represented within the Lakewood Municipal Court;

1.2.2 the disposition of cases assigned indicating the number of cases dismissed, the number of cases in which charges were reduced, the number of cases tried, and the number of cases disposed of by plea;

1.2.3 the number of cases in which a motion was brought with the Court as well as cases in which a motion was filed with the prosecutor and a reduced sentence or dismissal was negotiated;

1.2.4 the number of cases in which an investigator was utilized;

1.2.5 the number of cases which were set for trial including cases in which the defendant failed to appear;

1.2.6 the number and type of criminal cases handled outside of this contract (including cases assigned by another public entity); and

1.2.7 the percentage of the Contractor's practice spent on civil or non-criminal matters, and the year-to-date number of cases outside of this agreement

1.2.8 On a quarterly basis, the supervising attorney employed by the Contractor shall randomly select ten (10) files assigned to each attorney providing services under this contract during the preceding three months. For each of these ten files the Contractor will provide evidence to the Finance

& Administrative Services Department that the Contractor is in compliance with its duties in compliance with the Decision and/or the Standards.

1.3 The Contractor further warrants that the payment reflected in Exhibit “B”, Compensation, reflects all infrastructure, support, administrative services, to include training, and systems necessary to comply with the Decision and Standards except as provided in Section 2.4 of Exhibit “B”. In addition, the City shall pay the sum of thirteen thousand two hundred dollars (\$13,200) for investigator services beyond the Base Compensation.

1.4 The Contractor promises that she will promptly notify the City if any circumstance, including change in rule or law, renders it difficult or impossible to provide service in compliance with the Decision and/or the Standards.

1.5 Screening to determine eligibility for legal representation at public expense will be provided by the Court. Contractor shall be provided written notice of the name, address and phone number of each Defendant to whom the Contractor has been appointed as counsel, together with the charge and cause number within a reasonable time after determination of eligibility. Receipt of written notice shall constitute appointment as counsel to provide legal service to such appointed Defendants. In addition, The Lakewood Municipal Court Judge may offer direct appointments of defendants in open court.

## **MISCELLANEOUS PROVISIONS**

### **2. Notices**

2.1 Written Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in the Agreement or such other address as may be hereinafter specified in writing:

#### **CITY OF LAKEWOOD**

Attn: Administrative Services Department  
City of Lakewood 6000 Main St. SW  
Lakewood, WA 98499

#### **CONTRACTOR**

Horwath Law, PLLC  
1115 Tacoma Ave South  
Tacoma, WA 98402

**3. Transition of cases.** Should there be a need to transition cases to the Contractor prior to February 1, 2016 see Exhibit “D.”

**EXHIBIT “B”**

**Compensation and Contract Review**

2. Compensation. Effective February 1, 2016, the City shall pay to the Contractor for services rendered under this Contract the sum of four hundred and eight thousand dollars(\$408,000.00) annually paid at a rate of thirty four thousand dollars (\$34,000) per month for the first sixteen hundred (1,600) cases assigned in a twelve month period. If over 1,600 cases are assigned to the Contractor in a twelve month period, the contractor will charge the amount of two hundred and fifty five dollars (\$255) per case for every case over sixteen hundred (1,600).

To maintain compliance with the Supreme Court Standards there will be an annual increase to the cost of this contract. The annual increase is shown in Table 1 below:

Table 1:

<b>Year</b>	<b>Annual Cost</b>	<b>Cost per case over 1,600 cases</b>
2017	\$416,000	\$260
2018	\$424,000	\$265

The compensation amount represents the resources necessary to provide Public Defense services through the undersigned counsel as supplemented in Section 2.3 below, along with all infrastructure, support, and systems necessary to comply with the Standards and Decision including by way of illustration and not limitation, training, research, secretarial and office facilities. The parties believe that they have provided sufficient capacity through this contract as well as contracts with other counsel for backup and conflict public defense cases, to ensure that, in all respects and at all times, public defense service will comply with the Standards and Decision as identified in Exhibit “A.”

2.1 Case Counts. Based upon case counts maintained by Contractor and reviewed by the City, current estimates for annual case counts for all indigent cases filed by the City is approximately sixteen hundred (1,600) cases per year. The terms “case” and “credit” shall be defined in accordance with the Washington State Supreme Court rule and Washington Office of Public Defense guidelines. The City’s compliance is measured by an unweighted case count. Accordingly, each attorney providing services under the contract will be expected to provide representation on a maximum of four hundred cases (400) in a twelve month time period. Additionally, probation violations are counted as one case. However, when the probation violation is only the alleged commission of a of a new criminal offense, and that violation is tracked with the corresponding new offense and the probation violation does not per se trigger additional work, then both the probation violation and the criminal case may be counted as one case. As provided in the Standards, case counts may be revised upwards based upon a variety of factors. Upon the Contractor’s request, the City shall review any particular case with the Contractor to determine whether greater weighting should be assigned, and upward revisions shall not be unreasonably refused. The annual case load shall be reviewed on a quarterly basis.

2.2 Base Compensation. Except as expressly provided in Section 2.4, below, the cost of all infrastructure, administrative support and systems, as well as standard overhead services necessary to comply with the established standards, are included in the base payment provided in Section 2.1 above.

2.3 Payments in Addition to the Base Compensation. The City shall pay directly to the service provider or Contractor, as appropriate, for the following case expenses when reasonably incurred and approved by the Court or Contract Administrator from funds available for that purpose:

2.3.1 Discovery. Discovery shall be provided in accordance with law and court rule by the City Prosecutor.

2.3.2 Preauthorized Expenses. Case expenses may be requested by the Contractor and preauthorized by order of the Court. The additional amount will be paid to the Contractor as the City is billed for these services. Unless the services are performed by Contractor's staff or subcontractors, such expenses include, but are not limited to:

- (i) investigation expenses;
- (ii) medical and psychiatric evaluations;
- (iii) expert witness fees and expenses;
- (iv) polygraph, forensic and other scientific tests;
- (v) unusually extensive computerized legal research; and
- (vi) any other non-routine expenses the Court finds necessary and proper for the investigation, preparation, and presentation of a case. In the event any expense is found by the Court to be outside of its authority to approve, the Contractor may apply to the Contract Administrator for approval, such approval not to be unreasonably withheld.

2.3.3 Lay Witness Fees. Lay witness fees and mileage incurred in bringing defense witnesses to court, but not including salary or expenses of law enforcement officers required to accompany incarcerated witnesses;

2.3.4 Copying Clients' Files. The cost, if it exceeds \$15, of providing one copy of a client's or former client's case file upon client's or client's appellate, post-conviction relief or habeas corpus attorney's request, or at the request of counsel appointed to represent the client when the client has been granted a new trial;

2.3.5 Copies of direct appeal transcripts for representation in post-conviction relief cases. The cost, if it exceeds \$15, of making copies of direct appeal transcripts for representation in post-conviction relief cases. Contractor is limited to no more than two copies;

2.3.6 Records. To the extent such materials are not provided through discovery, medical, school, birth, DMV, and other similar records, and 911 and emergency communication recordings and logs, when the cost of an individual item does not exceed \$50; and

2.3.7 Process Service. The normal, reasonable cost for the service of a subpoena.

## 2.4 Review and Renegotiation.

2.4.1 Due to Increases or Decreases in Case Load. The City and the Contractor shall, at the option of either party, renegotiate this contract if there is a significant increase or decrease in the number of cases assigned. Significant "decrease" shall mean a change of more than twenty five percent (25%) in the number of cases assigned. If cases are estimated to approach or exceed two thousand (2,000) cases per year or one hundred (100) cases per quarter, the parties may renegotiate this contract to increase case coverage and compensation. At the request of either party, the City and Contractor will periodically review case assignment trends, requests for additional credits and any other matters needed to determine contract compliance or necessary contract modifications. Contractor shall promptly notify the City when quarterly caseloads require use of overflow or conflict counsel to assure

that cases assigned to Contractor remain within the limits adopted in this contract and comply with state and local standards.

2.4.2 Renegotiation Due to Change in Rule or Standard. This contract may be renegotiated at the option of either party if the Washington State Supreme Court, the Washington State Bar or the City significantly modifies the Standards for Indigent Defense adopted pursuant to the Court rule or resolution. If any aspect or language in the contract is in conflict with The Supreme Court Standard for Indigent Defense Services the Standards shall prevail.

**EXHIBIT "C"**

**Insurance Certificate**

## **EXHIBIT "D"**

### **Transitional Cases**

1. **Term.** The term for the Contractor to begin working on transitional work may be from January 1, 2016 to January 31, 2016.

2. **Transition of Cases.** Should there be a need to transfer cases to the Contractor prior to February 1, 2016 the Contractor may begin work as early as January 1, 2016.

3. **Compensation.** Should there be a need to transfer cases to the Contractor prior to February 1, 2016 the Contractor may begin work as early as January 1, 2016. The City shall pay to the contractor for services rendered under this Contract the sum of two hundred and fifty five dollars per case until January 31, 2016.

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED</b> September 21, 2015	<b>TITLE:</b> Public Defender Contract - Backup	<b>TYPE OF ACTION:</b> — ORDINANCE NO. — RESOLUTION NO. <u>X</u> MOTION NO.2015-54 — OTHER
<b>REVIEW:</b>	<b>ATTACHMENTS:</b> Contract	

**SUBMITTED BY:** Adam Lincoln, Management Analyst

**RECOMMENDATION:** It is recommended that the City Council authorize the approval of the contract for the backup public defender services.

**DISCUSSION:** Recent changes in State laws as well as revised public defense standards have led to increased costs and increased scrutiny on municipalities that provide public defense services. The City has made changes in the contract with the public defenders as the law has changed. The City has incurred increased costs for these services and closely monitors the regular reports that are received from both the primary and backup public defenders. The City decided that it was necessary to seek proposals from public defender firms in an effort to continue to be proactive as changes have occurred. Other cities in Washington have been seeking proposals for public defender services, including Puyallup, Olympia and Edmonds. The City has had the same contractors for many years. The current primary provider started with the City in 1997. The services have been provided well, but the City felt it was necessary to examine alternative options that may be available in an effort to ensure that the highest quality services are being provided.

Continued to page 2.

**ALTERNATIVE(S):** The City of Lakewood may choose to provide public defense services in-house. This would require the City to hire additional personnel.

Prepared by _____  Department Director _____	 _____ City Manager Review
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In June the City advertised a RFP for both a primary provider and backup provider of public defense services. The City received three responses for the primary contract and two proposals for the backup contract. Following a review of the proposals, all of the applicants were interviewed so that the City could obtain specific information about service delivery models, qualifications as a public defender, ability to maintain high quality records as required by changes in the law and defense standards, and their philosophies on customer service as it relates to both their clients and working with the City's internal stakeholders. The City determined the best candidates based on the content of their proposal and interview presentations.

The top candidate for backup contract is J&S Law Group. This firm displayed a great deal of knowledge of public defense and the new standards and laws. They showed a high level of ability to serve their clients and the desire for a strong professional working relationship with the City. The selection of this firm would be a positive result for the City.

**Fiscal Impact:**

Law Firm	2013 Actual	2014 Actual	2015 Revised Budget	2015 Year-End Estimate	2016 Revised Budget	2016 Contract Proposals
SMH (Current Public Defender)	\$222,422	\$358,131	\$365,000	\$365,000	\$365,000	\$440,000
Horwath Law (Full Defender Contract Applicant)	-	-	-	-	-	\$421,200
Martin Duenhoelter (Current Conflict Defender)	\$20,100	\$28,250	\$20,000	\$20,000	\$20,000	Did not Participate
J&S Law (Conflict Defender Contract Applicant)	-	-	-	-	-	\$30,000
			\$385,000	\$385,000	\$385,000	
*2016 proposed prices consider a caseload of 1,600 cases based on previous year estimates						
					W/ SMH =	\$470,000
					W/ Horwath =	\$451,200

The backup contract will cost the City \$250 per case. The caseload for this firm will likely be 120 cases. The term of the contract is for three years with the potential of an additional two year extension. The estimated annual cost for this contract is \$30,000.

## PROFESSIONAL SERVICES AGREEMENT FOR PUBLIC DEFENSE SERVICES – BACKUP

This Professional Services Agreement ("Agreement"), made and entered into this \_\_\_\_ day of \_\_\_\_, 2015, by and between the City of Lakewood, a Washington municipal corporation ("City"), and **J&S Law Group, PLLC** ("Contractor"). The City and Contractor (together "Parties") are located and do business at the below addresses which shall be valid for any notice required under this Agreement:

<p><b>J &amp; S Law Group, PLLC:</b></p> <p>Edward Jursek &amp; Harry Steinmetz 742 S. Yakima Ave #200 Tacoma, WA 98405</p> <p>(253) 272-4575 (telephone) (253) 383-2099 (facsimile) hsslaw@mac.com</p>	<p><b>CITY OF LAKEWOOD:</b></p> <p>Tho Kraus Assistant City Manager/Admin Services 6000 Main Street SW Lakewood, WA 98499 (253) 983-7706 (telephone) (253) 589-3774 (facsimile) <a href="mailto:tkraus@cityoflakewood.us">tkraus@cityoflakewood.us</a></p>
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The Parties agree as follows:

1. **TERM.** The term of this agreement shall be from the date of execution for the period January 1, 2016 through December 31, 2018, unless sooner terminated as provided herein. The agreement may be extended for an additional two (2) year term with the mutual agreement of the parties.
2. **SERVICES.** The Contractor shall perform the services more specifically described in Exhibit "A", attached hereto and incorporated by this reference ("Services"), in a manner consistent with the accepted professional practices for other similar services within Washington State in effect at the time those services are performed, performed to the City's satisfaction, within the time period prescribed by the City and pursuant to the direction of the City Manager or his or her designee. The Contractor warrants that it has the requisite training, skill, and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services shall begin immediately upon the effective date of this Agreement. Services shall be subject, at all times, to inspection by and approval of the City, but the making (or failure or delay in making) such inspection or approval shall not relieve Contractor of responsibility for performance of the Services in accordance with this Agreement, notwithstanding the City's knowledge of defective or non-complying performance, its substantiality or the ease of its discovery.
3. **TERMINATION.** The City may terminate this Agreement immediately if the Contractor fails to maintain required insurance policies, breaches confidentiality, or materially violates Section 12; and such may result in ineligibility for further City agreements.

3.1 **For Cause.** This agreement may be terminated for good cause for violation of any material term of this agreement. "Material term" shall include any violation indicating a failure to provide representation in accordance with the rules of court, the ethical obligations established by the Washington State Bar Association, the willful disregard of the rights and best interests of the client, a willful violation of the Standards for Indigent Defense as adopted by the Washington State Supreme Court (hereinafter the "Standards") or the Decision, the provisions of Section 6 relating to insurance, conviction of a criminal charge, and/or a finding that the license of the Attorney or any Contractor providing service under this agreement, has been suspended or revoked. Any violation of the other provisions of this Contract shall be

subject to cure. Written notice of contract violation shall be provided to the Contractor who shall have thirty (30) business days to cure the violation. Failure to correct the violation will give rise to termination for cause at the City's discretion. In lieu of terminating this contract, the City may agree in writing to alternative corrective measures.

3.2 Without Cause. Either party may terminate this Agreement at any time without cause upon giving the non-terminating party not less than one hundred twenty (120) days prior written notice. The parties may agree in writing to terminate this contract at any time. Unless otherwise agreed to in writing, termination or expiration of this contract does not affect any existing obligation or liability of either party.

3.3 Obligations survive Termination. In the event of termination of this agreement, the following obligations shall survive and continue:

3.3.1 Representation. The compensation established in this agreement compensates the Contractor for services relating to each and every assigned case. Therefore, in the event this agreement is terminated, the Contractor will continue to represent clients on assigned cases until a case is concluded at the trial court level or the defendant fails to appear and a warrant issues.

3.3.1.1 For those matters set for trial within sixty (60) calendar days of the final Agreement date, through trial or the failure of the defendant to appear (FTA) for trial, or

3.3.1.2 For all other matters, for a period of thirty (30) days, provided, however, that if the defendant fails to appear (FTA) for a court appearance, the Contractor may seek to withdraw following the FTA.

3.3.2

The provisions of Exhibit "A" and section 5 below, as well as this subsection 3.3 (Obligations survive Termination) survive termination as to the Contractor. The City shall remain bound by the provisions of section 2.3 of Exhibit "B" with respect to additional costs incurred with respect to cases concluded after the termination of this contract.

#### 4. COMPENSATION.

4.1 Amount. The total compensation to be paid to the Contractor shall be detailed in Exhibit B. These fees include all labor, materials and expenses required for the completion of these services. Except as otherwise provided in Exhibit "B", the Contractor shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Agreement.

4.2 Payment. Payment to the Contractor by the City in accordance with the above shall be the total compensation for all work performed under this agreement and supporting documents hereto as well as all subcontractor's fees and expenses, supervision, labor supplies, materials, equipment or the use thereof, reimbursable expenses, and other necessary incidentals. If the Services do not meet the requirements of this Agreement, the Contractor will correct or modify the work to comply with the Agreement. The City may withhold payment for such work until the work meets the requirements of the Agreement. The Contractor shall be paid based on the proposed compensation. Unless otherwise specified in this Agreement, any payment shall be considered timely if a check is mailed or is available within 30

days of the date of actual receipt by the City of an invoice conforming in all respects to the terms of this agreement.

## **5. INDEMNIFICATION.**

5.1 Contractor Indemnification. The Contractor agrees to release, indemnify, defend, and hold the City, its elected officials, officers, employees, agents, representatives, insurers, attorneys, and volunteers harmless from any and all claims, demands, actions, suits, causes of action, arbitrations, mediations, proceedings, judgments, awards, injuries, damages, liabilities, taxes, losses, fines, fees, penalties expenses, attorney's fees, costs, and/or litigation expenses to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives; arising from, resulting from, or in connection with this Agreement or the acts, errors or omissions of the Contractor in performance of this Agreement, except for that portion of the claims caused by the City's sole negligence. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. Contractor shall ensure that each sub-contractor shall agree to defend and indemnify the City, its elected officials, officers, employees, agents, representatives, insurers, attorneys, and volunteers to the extent and on the same terms and conditions as the Contractor pursuant to this paragraph. The City's inspection or acceptance of any of Contractor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

5.2 Industrial Insurance Act Waiver. It is specifically and expressly understood that the Contractor waives any immunity that may be granted to it under the Washington State industrial Insurance Act, Title 51 RCW, solely for the purposes of this indemnification. Contractor's indemnification shall not be limited in any way by any limitation on the amount of damages, compensation or benefits payable to or by any third party under workers' compensation acts, disability benefit acts or any other benefits acts or programs. The Parties acknowledge that they have mutually negotiated this waiver.

5.3 City Indemnification. The City agrees to release, indemnify, defend and hold the Contractor, its officers, directors, shareholders, partners, employees, agents, representatives, and sub-contractors harmless from any and all claims, demands, actions, suits, causes of action, arbitrations, mediations, proceedings, judgments, awards, injuries, damages, liabilities, losses, fines, fees, penalties expenses, attorney's fees, costs, and/or litigation expenses to or by any and all persons or entities, including without limitation, their respective agents, licensees, or representatives, arising from, resulting from or connected with this Agreement to the extent solely caused by the negligent acts, errors, or omissions of the City.

5.4 Survival. The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

**6. INSURANCE.** The Contractor agrees to carry insurance for liability which may arise from or in connection with the performance of the services or work by the Contractor, their agents, representatives, employees or subcontractors for the duration of the Agreement and thereafter with respect to any event occurring prior to such expiration or termination as follows:

6.1. Minimum Limits. The Contractor agrees to carry as a minimum, the following insurance, in such forms and with such carriers who have a rating that is satisfactory to the City:

a. Commercial general liability insurance covering liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury, bodily injury, death, property damage, products liability, advertising injury, and liability assumed under an insured contract with limits no less than \$1,000,000 for each occurrence and \$1,000,000 general aggregate.

b. Workers' compensation and employer's liability insurance in amounts sufficient pursuant to the laws of the State of Washington;

c. Automobile liability insurance covering all owned, non-owned, hired and leased vehicles with a minimum combined single limits in the minimum amounts required to drive under Washington State law per accident for bodily injury, including personal injury or death, and property damage.

d. Professional liability insurance with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate for damages sustained by reason of or in the course of operation under this Agreement, whether occurring by reason of acts, errors or omissions of the Contractor.

6.2. No Limit of Liability. Contractor's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity. The Contractor's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

6.3. Additional Insured, Verification. The City shall be named as additional insured on all commercial general liability insurance policies. Concurrent with the execution of this Agreement, Contractor shall provide certificates of insurance for all commercial general liability policies attached hereto as Exhibit "C" and incorporated by this reference. At City's request, Contractor shall furnish the City with copies of all insurance policies and with evidence of payment of premiums or fees of such policies. If Contractor's insurance policies are "claims made," Contractor shall be required to maintain tail coverage for a minimum period of three (3) years from the date this Agreement is actually terminated or upon project completion and acceptance by the City.

6.4. Survival. The provisions of this Section shall survive the expiration or termination of this Agreement.

7. CONFIDENTIALITY. All information regarding the City obtained by Contractor in performance of this Agreement shall be considered confidential subject to applicable laws. Breach of confidentiality by the Contractor may be grounds for immediate termination. All records submitted by the City to the Contractor will be safeguarded by the Contractor. The Contractor will fully cooperate with the City in identifying, assembling, and providing records in case of any public records disclosure request.

8. BOOKS AND RECORDS. The Contractor agrees to maintain books, records, and documents which sufficiently and properly reflect all direct and indirect costs related to the performance of the Work and maintain such accounting procedures and practices as may be deemed necessary by the City to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject, at all reasonable times, to inspection, review or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

9. INDEPENDENT CONTRACTOR. The Parties intend that the Contractor shall be an independent contractor and that the Contractor has the ability to control and direct the performance and details of its work, the City being interested only in the results obtained under this Agreement. The City shall be neither liable nor obligated to pay Contractor sick leave, vacation pay or any other benefit of

employment, nor to pay any social security or other tax which may arise as an incident of employment. Contractor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at Contractor's own risk, and Contractor shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work. The Contractor shall pay all income and other taxes due except as specifically provided in Section 4. Industrial or any other insurance that is purchased for the benefit of the City, regardless of whether such may provide a secondary or incidental benefit to the Contractor, shall not be deemed to convert this Agreement to an employment contract. If the Contractor is a sole proprietorship or if this Agreement is with an individual, the Contractor agrees to notify the City and complete any required form if the Contractor retired under a State of Washington retirement system and agrees to indemnify any losses the City may sustain through the Contractor's failure to do so.

**10. CONFLICT OF INTEREST.** It is recognized that Contractor may or will be performing professional services during the Term for other parties; however, such performance of other services shall not conflict with or interfere with Contractor's ability to perform the Services. Contractor agrees to resolve any such conflicts of interest in favor of the City. Contractor confirms that Contractor does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Contractor's selection, negotiation, drafting, signing, administration, or evaluating the Contractor's performance.

**11. EQUAL OPPORTUNITY EMPLOYER.** In all services, programs, activities, hiring, and employment made possible by or resulting from this Agreement or any subcontract, there shall be no discrimination by Contractor or its subcontractors of any level, or any of those entities' employees, agents, subcontractors, or representatives against any person because of sex, age (except minimum age and retirement provisions), race, color, religion, creed, national origin, marital status, or the presence of any disability, including sensory, mental or physical handicaps, unless based upon a bona fide occupational qualification in relationship to hiring and employment. This requirement shall apply, but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor shall comply with and shall not violate any of the terms of Chapter 49.60 RCW, Title VI of the Civil Rights Act of 1964, the Americans With Disabilities Act, Section 504 of the Rehabilitation Act of 1973, 49 CFR Part 21, 21.5 and 26, or any other applicable federal, state, or local law or regulation regarding non-discrimination.

**12. GENERAL PROVISIONS.**

12.1 Interpretation and Modification. This Agreement, together with any attached Exhibits, contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior statements or agreements, whether oral or written, shall be effective for any purpose. Should any language in any Exhibits to this Agreement conflict with any language in this Agreement, the terms of this Agreement shall prevail. The respective captions of the Sections of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect any of the provisions of this Agreement. Any provision of this Agreement that is declared invalid, inoperative, null and void, or illegal shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect. Any act done by either Party prior to the effective date of the Agreement that is consistent with the authority of the Agreement and compliant with the terms of the Agreement, is hereby ratified as having been performed under the Agreement. No provision of this Agreement, including this provision, may be amended, waived, or modified except by written agreement signed by duly authorized representatives of the Parties.

12.2 Assignment and Beneficiaries. Neither the Contractor nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party. If the non-assigning party gives its consent to any assignment, the terms of this Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent. Subject to the foregoing, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns. This Agreement is made and entered into for the sole protection and benefit of the Parties hereto. No other person or entity shall have any right of action or interest in this Agreement based on any provision set forth herein.

12.3 Compliance with Laws. The Contractor shall comply with and perform the Services in accordance with all applicable federal, state, local, and city laws including, without limitation, all City codes, ordinances, resolutions, regulations, rules, standards and policies, as now existing or hereafter amended, adopted, or made effective.

12.4 Contractor's Employees – Employment Eligibility Requirements. The Contractor and any subcontractors shall comply with E-Verify as set forth in Lakewood Municipal Code Chapter 1.42. E-Verify is an Internet-based system operated by United States Citizenship and Immigration Services in partnership with the Social Security Administration. E-Verify is free to employers and is available in all 50 states. E-Verify provides an automated link to federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security numbers. The Contractor shall enroll in, participate in and document use of E-Verify as a condition of the award of this contract. The Contractor shall continue participation in E-Verify throughout the course of the Contractor's contractual relationship with the City. If the Contractor uses or employs any subcontractor in the performance of work under this contract, or any subsequent renewals, modifications or extension of this contract, the subcontractor shall register in and participate in E-Verify and certify such participation to the Contractor. The Contractor shall show proof of compliance with this section, and/or proof of subcontractor compliance with this section, within three (3) working days of the date of the City's request for such proof.

12.5 Enforcement. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor. Adherence to completion dates set forth in the description of the Services is essential to the Contractor's performance of this Agreement. Any notices required to be given by the Parties shall be delivered at the addresses set forth at the beginning of this Agreement. Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the address set forth above. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the City at law, in equity or by statute. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Agreement, or to exercise any option conferred by this Agreement in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect. Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default. This Agreement shall be made in, governed by, and interpreted in accordance with the laws of the State of Washington. If the Parties are unable to settle any dispute, difference or claim arising from this Agreement, the exclusive means of resolving that dispute, difference, or claim, shall be by filing suit under the venue, rules and jurisdiction of the Pierce County Superior Court, Pierce County, Washington, unless the parties agree in writing to an alternative process. If the Pierce County Superior Court does not have jurisdiction over such a suit, then suit may be filed in any other appropriate court in Pierce County, Washington. Each party consents to the personal

jurisdiction of the state and federal courts in Pierce County, Washington and waives any objection that such courts are an inconvenient forum. If either Party brings any claim or lawsuit arising from this Agreement, each Party shall pay all its legal costs and attorney's fees and expenses incurred in defending or bringing such claim or lawsuit, including all appeals, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the Parties' rights to indemnification under Section 5 of this Agreement. Any complaint regarding any violation of the Standards or which relate in any manner whatsoever to trial strategy or an ongoing case, shall be referred to the Judge of the City's Municipal Court or to the Washington State Bar Association as appropriate. Nothing herein shall be construed to obligate, require or permit the City, its officers, agents, or employees to inquire into any privileged communication between the Contractor and any assigned client.

12.6 Execution. In consideration of the mutual benefits to be derived and the promises contained herein, the City of Lakewood, Washington, a municipal corporation ("City") and the individual Public Defender(s) who will perform services under this contract (the "Contractor") have entered into this Agreement.

Each individual executing this Agreement on behalf of the City and Contractor represents and warrants that such individual is duly authorized to execute and deliver this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and with the same effect as if all Parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart. The signature and acknowledgment pages from such counterparts may be assembled together to form a single instrument comprised of all pages of this Agreement and a complete set of all signature and acknowledgment pages. The date upon which the last of all of the Parties have executed a counterpart of this Agreement shall be the "date of mutual execution" hereof.

[Signature page follows]

IN WITNESS, the Parties hereto have caused this agreement to be executed the day and year first above written.

CITY OF LAKEWOOD

CONTRACTOR

\_\_\_\_\_  
John J. Caulfield, City Manager

\_\_\_\_\_  
Name & Title

ATTEST:

\_\_\_\_\_  
Alice M. Bush, MMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Heidi Ann Wachter, City Attorney

Agreed upon Exhibits will be added. They will include at least the following:

- Exhibit A --Services
- Exhibit B --Compensation and Contract Review
- Exhibit C -- Insurance Certificate

## EXHIBIT "A"

### SERVICES

1.

Scope of Services, Standards and Warranties. The Contractor will provide indigent defense services in misdemeanor cases in accordance with the Washington State Supreme Court Standards for Indigent Defense as adopted by the City in Resolution 2014-20 as the same exists or is hereafter amended (hereinafter "Standards") and the Wilbur, et al v. Mt. Vernon, et al (hereinafter the "Decision"). The Public Defender individually warrants that he/she has read and is fully familiar with the provisions of the Standards adopted by the City and the Decision. Compliance with these Standards and the Decision goes to the essence of this Agreement.

1.1 The Contractor shall certify compliance with the Supreme Court Rule governing case load quarterly with the Lakewood Municipal Court on the form established for that purpose by court rule. A copy of each and every such certification shall be provided to the City contemporaneously with filing. The Contractor warrants that he/she shall conform to the case load limitations not only with respect to services under this Agreement but also with respect to his/her practice as a whole, including other contracts for public defense and/or private practice.

1.2 Contractor will maintain contemporaneous records on a daily basis documenting all work performed on each assigned case. The Contractor will maintain and provide to the City monthly reports detailing:

1.2.1 the number of cases assigned during the period, to include the number of cases assigned to each attorney, the monthly total and year-to-date total for cases per attorney, the charge(s) filed against each defendant, and the total number of cases by each jurisdiction represented within the Lakewood Municipal Court;

1.2.2 the disposition of cases assigned indicating the number of cases dismissed, the number of cases in which charges were reduced, the number of cases tried, and the number of cases disposed of by plea;

1.2.3 the number of cases in which a motion was brought with the Court as well as cases in which a motion was filed with the prosecutor and a reduced sentence or dismissal was negotiated;

1.2.4 the number of cases in which an investigator was utilized;

1.2.5 the number of cases which were set for trial including cases in which the defendant failed to appear;

1.2.6 the number and type of criminal cases handled outside of this contract (including cases assigned by another public entity); and

1.2.7 the percentage of the Contractor's practice spent on civil or non-criminal matters, and the year-to-date number of cases outside of this agreement

1.2.8 On a quarterly basis, the Contractor shall randomly select ten (10%) percent of the files assigned to each attorney providing services under this contract during the preceding three months. For each of the ten percent of the files the Contractor will provide evidence to the Finance &

Administrative Services Department that the Contractor is in compliance with its duties in compliance with the Decision and/or the Standards.

1.3 The Contractor further warrants that the payment reflected in Exhibit “B”, Compensation, reflects all infrastructure, support, administrative services, to include training, and systems necessary to comply with the Decision and Standards except as provided in Exhibit “B”.

1.4 The Contractor promises that she will promptly notify the City if any circumstance, including change in rule or law, renders it difficult or impossible to provide service in compliance with the Decision and/or the Standards.

1.5 Screening to determine eligibility for legal representation at public expense will be provided by the Court. Contractor shall be provided written notice of the name, address and phone number of each Defendant to whom the Contractor has been appointed as counsel, together with the charge and cause number within a reasonable time after determination of eligibility. Receipt of written notice shall constitute appointment as counsel to provide legal service to such appointed Defendants. In addition, The Lakewood Municipal Court Judge may offer direct appointments of defendants in open court.

## **MISCELLANEOUS PROVISIONS**

### **2. Notices**

3.1 Written Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in the Agreement or such other address as may be hereinafter specified in writing:

#### **CITY OF LAKEWOOD**

Attn: Administrative Services Department  
City of Lakewood  
6000 Main St. SW  
Lakewood, WA 98499

#### **CONTRACTOR**

J & S Law Group, PLLC:  
Edward Jursek & Harry Steinmetz  
742 S. Yakima Ave  
#200  
Tacoma, WA 98405

**3. Transition of cases.** Should there be a need to transition cases to the Contractor prior to January 1, 2016 see Exhibit “D.”

## EXHIBIT "B"

### Compensation and Contract Review

2. Compensation. Effective upon execution of the Agreement, the City shall pay to the Contractor for services rendered under this Contract the sum of Thirty Thousand Dollars (\$30,000) annually paid at a rate of Two Thousand Five Hundred Dollars (\$2,500) per month for the first One Hundred Twenty (120) cases assigned in a twelve month period. If over 120 cases are assigned to the Contractor in a twelve month period, the contractor will charge the amount of Two Hundred Fifty Dollars (\$250.00) per case for conflict and overflow assignments. The Contractor will bill the City monthly for services rendered. The City will pay the Contractor upon assignment for assigned cases whether by the Court or the City. The Contractor will receive assignments from the court in the event of conflict. The Court may also assign cases in coordination with the primary Public Defender to assure compliance with case load standards.

The compensation amount represents the resources necessary to provide Public Defense services through the undersigned counsel as supplemented in Section 2.3 below, along with all infrastructure, support, and systems necessary to comply with the Standards and Decision including by way of illustration and not limitation, training, research, secretarial and office facilities. The parties believe that they have provided sufficient capacity through this contract as well as contracts with other counsel for backup and conflict public defense cases, to ensure that, in all respects and at all times, public defense service will comply with the Standards and Decision.

2.1 Case Counts. The terms "case" and "credit" shall be defined in accordance with the Washington State Supreme Court rule and Washington Office of Public Defense guidelines. The City's compliance is measured by an unweighted case count.

2.2 Base Compensation. Except as expressly provided in Section 2.3 below, the cost of all infrastructure, administrative, support and systems as well as standard overhead services necessary to comply with the established standards are included in the base payment provided in Section 2.1 above.

2.3 Payments in Addition to the Base Compensation. The City shall pay for the following case expenses when reasonably incurred and approved by the Court from funds available for that purpose:

2.3.1 Discovery. Discovery shall be provided in accordance with law and court rule by the City Prosecutor.

2.3.2 Preauthorized Non-Routine Expenses. Non-routine case expenses requested by the Contractor and preauthorized by order of the Court. Unless the services are performed by Contractor's staff or subcontractors, non-routine expenses include, but are not limited to:

- (i) investigation expenses;
- (ii) medical and psychiatric evaluations;
- (iii) expert witness fees and expenses;
- (iv) polygraph, forensic and other scientific tests;
- (v) unusually extensive computerized legal research;
- (vi) any other non-routine expenses the Court finds necessary and proper for the investigation, preparation, and presentation of a case. In the event any expense is found by the Court to be outside of its authority to approve, the Contractor may apply to the Contract Administrator

for approval, such approval not to be unreasonably withheld.

2.3.3 Lay Witness Fees. Lay witness fees and mileage incurred in bringing defense witnesses to court, but not including salary or expenses of law enforcement officers required to accompany incarcerated witnesses;

2.3.4 Copying Clients' Files. The cost, if it exceeds \$25, of providing one copy of a client's or former client's case file upon client's or client's appellate, post-conviction relief or habeas corpus attorney's request, or at the request of counsel appointed to represent the client when the client has been granted a new trial;

2.3.5 Copies of direct appeal transcripts for representation in post-conviction relief cases. The cost, if it exceeds \$15, of making copies of direct appeal transcripts for representation in post-conviction relief cases. Contractor is limited to no more than two copies;

2.3.6 Records. To the extent such materials are not provided through discovery, medical, school, birth, DMV, and other similar records, and 911 and emergency communication recordings and logs, when the cost of an individual item does not exceed \$75; and

2.3.7 Process Service. The normal, reasonable cost for the service of a subpoena.

## 2.4 Review and Renegotiation.

2.4.1 Due to Increases or Decreases in Case Load. The City and the Contractor shall, at the option of either party, renegotiate this contract if there is a significant increase or decrease in the number of cases assigned. The baseline for this is set at 120 cases. Significant "decrease" shall mean a change of more than twenty five percent (25%) in the number of cases assigned. At the request of either party, the City and Contractor will periodically review case assignment trends, requests for additional credits and any other matters needed to determine contract compliance or necessary contract modifications.

2.4.2 Renegotiation Due to Change in Rule or Standard. This contract may be renegotiated at the option of either party if the Washington State Supreme Court, the Washington State Bar or the City significantly modifies the Standards for Indigent Defense adopted pursuant to the Court rule or resolution.

**EXHIBIT "C"**

**Insurance Certificate**

## **EXHIBIT “D”**

### **Transitional Cases**

- 1. Term.** The term for the Contractor to begin working on transitional work may be from December 1, 2015 to December 31, 2016.
- 2. Transition of Cases.** Should there be a need to transfer cases to the Contractor prior to January 1, 2016 the Contractor may begin work as early as December 1, 2015.
- 3. Compensation.** Should there be a need to transfer cases to the Contractor prior to January 1, 2016 the Contractor may begin work as early as December 1, 2016. The City shall pay to the contractor for services rendered under this Contract the sum of two hundred and fifty five dollars per case until December 31, 2016.

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED:</b> September 21, 2015	<b>TITLE:</b> Adoption of Lodging Tax Funding Guidelines	<b>TYPE OF ACTION:</b> — ORDINANCE NO. — RESOLUTION NO. <u>X</u> MOTION NO. 2015-55 — OTHER
<b>REVIEW:</b> September 8, 2015	<b>ATTACHMENTS:</b> Proposed City of Lakewood Lodging Tax Funding Guidelines	

**SUBMITTED BY:** Heidi Ann Wachter, City Attorney

**RECOMMENDATION:** It is recommended that the City Council adopt the updated Lodging Tax Funding Guidelines.

**DISCUSSION:** On September 8, 2015, the City Council reviewed proposed changes to the Lodging Tax funding guidelines. The guidelines serve as the primary policy document reflecting the City Council’s intent for use of Hotel-Motel Lodging tax revenue. Although the recommendation must come from the Lodging Tax Advisory Committee, the City Council has final authority over whether a particular recommendation is funded with this revenue. The guidelines serve as the foundation for communication between the Lodging Tax Advisory Committee and the City Council to achieve the best use of the funds. Attached is a copy of the proposed guidelines.

**ALTERNATIVE(S):** The City Council can choose not approve the guidelines as proposed.

**FISCAL IMPACT:** The fiscal impact depends on continuing to collect the tax and the degree to which Council chooses to restrict the funds.

_____ Prepared by	 _____ City Manager Review
_____ Department Director	

# City of Lakewood

## Lodging Tax Funding Guidelines

### Background

The objective of the City of Lakewood Lodging Tax Advisory Committee process is to support projects, which encourage eligible tourism and cultural activities and support tourism facilities in Lakewood. The process is reviewed annually and the guidelines are updated in accordance with reported success of existing programs, potential for new programs and changes in state law. A calendar for the application process will be established but will allow for emerging opportunities as they arise.

### Objectives for Hotel/Motel Tax Funds:

- Generate increased tourism in Lakewood resulting in over-night stays at local hotels.
- Generate maximum economic benefit through overnight lodging, sale of meals and goods, and construction of tourism-related facilities.
- Increase recognition of Lakewood throughout the region as a destination for tourism.
- Increase opportunities for tourism by developing new visitor activities.

### Allocation Guidelines:

- The City shall seek proposals for funding on an annual basis from organizations seeking to use Hotel/Motel Tax funds for promoting tourism or for acquisition, construction or operation of tourism related facilities.
- Organizations seeking funding must complete an application form.
- The Lodging Tax Advisory Committee shall review the proposals and make recommendations to City Council as to which applications should receive funding.
- The final funding decision will be made by City Council in the form of approval or denial of the recommendation as recommended – no amendments to recommendations will be made by the City Council.
- Once approved for funding an organization must enter into a contract and funding will be provided in quarterly installments or on a reimbursable basis.
- Organizations receiving funding must submit a report at the end of the calendar year.
- \$101,850.00 will be paid annually to the Sharon McGavick Student Center through 2027 pursuant to the City's agreement with Clover Park Technical College.
- 4% - Can be used for tourism promotion, or the acquisition of tourism-related facilities, or operation of tourism-related facilities.
- 3%- Can only be used for the acquisition, construction, expansion, marketing, management, and financing of convention facilities, and facilities necessary to support major tourism destination attractions that serve a minimum of one million visitors per year.
- ~~The City shall maintain a reserve fund of at least 25% for future capital projects.~~



To: Mayor and City Councilmembers

From: Heidi Ann Wachter, City Attorney

Through: John J. Caulfield, City Manager

Date: September 21, 2015

Subject: Report on Title 5 Business License Implementation

This is to provide a brief overview of Title 5 business license implementation in advance of the full report to Council scheduled for October 12, 2015. On May 5, 2015 the City Council amended Title 5 of the Lakewood Municipal Code relative to business licenses and regulations. Title 5 had been in place largely unchanged since incorporation with the result of some unnecessary sections, some duplication of state law and some language which has been preempted by state law.

The new Title 5 brought about three significant changes for temporary businesses in the City:

1. Ambiguity between temporary and general businesses is alleviated by providing specific definitions of each and removing separate treatment for a variety of other types of business. Essentially, all businesses in the City are either temporary or general by definition, consistent with how most cities operate.
2. All businesses, both temporary and general in the City are now required to pay a licensing fee. This is a change from the previous practice of not charging a licensing fee to some temporary businesses.
3. Temporary businesses dealing in second hand merchandise are required to comply with state law regarding second hand sales, holding temporary businesses selling second hand merchandise to the same standard as general second hand businesses.

When Title 5 was amended, Council inquired into impact on existing businesses in two respects: First, whether temporary businesses would argue that the Code changes amount to a “taking” and second, what education and outreach would accompany implementation. While the accusation of a “taking” has not been made,<sup>1</sup> there has been concern voiced by the temporary businesses at one particular location about the revised Title 5.

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<sup>1</sup> An unpublished decision of the Washington Court of Appeals confirms that the denial of a business license is not a “taking,” under the state and federal constitutions. Melgin v. City of Issaquah, 1999 Wash. App. LEXIS 1597. The unpublished nature of the opinion confirms that the issue is sufficiently well-settled that further precedent addressing the issue is unnecessary.

To place these concerns into proper context, bear in mind that there are 11 businesses, excluding pawn shops, in the City of Lakewood which deal in second hand merchandise. Of those, three operate in the manner of letting space to businesses, one of which lets outdoor space to businesses.

- 1. Ambiguity between temporary and general businesses is alleviated by providing specific definitions of each and removing separate treatment for a variety of other types of business. Essentially, all businesses in the City are either temporary or general by definition, consistent with how most cities operate.**

The former Title 5 allowed for some temporary businesses to pay a license fee as a general licensee, others to receive free license and still others to be classified as a specific business type with tailored fees and requirements. The revised Title 5 provides a definition of “temporary business” and all other businesses are general:

“Temporary Business” means all business of a short term or transitory nature. In addition to those activities meeting this definition of a “temporary business,” the following business activities shall require a license issued under this chapter:

1. Any business which occupies a site or operates within the City for no more than seven days per occurrence twice within any 365-day period;
2. Roving mobile vendors involved in business such as door-to-door sales, sales from ice-cream trucks, or other businesses that do not have a fixed location.
3. Serving as a vendor at a flea market.
4. Operating a carnival or circus within the City.<sup>2</sup>

“Each and every” business in the City is subject to Title 5.<sup>3</sup> This language removed the former ambiguity which had allowed many temporary businesses to avoid paying any license fee whatsoever to conduct business in the City of Lakewood while other temporary and general businesses paid for a license.

- 2. All businesses, both temporary and general in the City are now required to pay a licensing fee. This is a change from the previous practice of not charging a licensing fee to some temporary businesses.**

Under the revised Title 5 businesses are all required to pay for a business license. The Council specifically considered what amount to charge temporary businesses and ultimately opted to treat all businesses equally despite the disproportionate impact of temporary businesses on City resources as represented by those departments responsible for licensing, inspection and enforcement. The Council authorized a sixty dollar licensing fee for all businesses in the City. A brief review of other cities suggests that this is a typical amount.<sup>4</sup>

One of the concerns expressed with regard to the sixty dollar fee is that a temporary license, by the nature of the business, is temporary in duration. Thus, if a temporary business license expires, the temporary business owner could be charged another license fee if the owner seeks another temporary business

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<sup>2</sup> LMC 05.02.010(H).

<sup>3</sup> LMC 05.02.015.

<sup>4</sup> Access Washington indicates the following business license fees: \$30.00 for Gig Harbor; \$40.00 for Sumner; \$50.00 for Tumwater and University Place; \$75.00 for Federal Way and Fircrest; \$80.00 for Tacoma; and a sliding scale from \$50.00 to \$500.00, depending on number of employees, for Puyallup and Steilacoom.

license within a year. It should be noted that it is the applicant, the temporary business owner, who requests a temporary license and specifies the desired duration. The decision on the duration of a temporary license is subject to the administrative determination of the Assistant City Manager, Community Development Director, subject to appeal by the City's Hearing Examiner. To date, no appeals of any kind have been filed with the Hearing Examiner relative to the temporary business licensing process.

**3. Temporary businesses dealing in second hand merchandise are required to comply with state law regarding second hand sales, holding temporary businesses selling second hand merchandise to the same standard as general second hand businesses.**

Compliance with state law regarding sales of second hand merchandise reinforces the state requirement that the business ensures that the merchandise they are selling is not stolen property by reporting certain information to law enforcement. Law enforcement screens this information when solving theft cases and the information provided by the vendor helps track the ownership of the merchandise. State law requires that temporary businesses including vendors at swap meets are subject to the same reporting requirements that pawn shops and other secondhand dealers. Before City Council amended Title 5 LMC, the City was effectively monitoring activity at Pawn Shops but was not able to do the same with temporary businesses dealing in second hand merchandise. Without the reporting element, legitimate vendors can unwittingly possess and sell stolen goods. More significantly, individuals selling stolen property are more likely to operate where enforcement is lax. The reporting element provides a documented chain of title to the item which dramatically decreases trafficking of stolen property.

**The City has provided education and outreach as a component of implementation.**

In terms of education and outreach, extensive staff training has occurred at the Permit Counter. Training occurred well before the Ordinance became effective. After the Ordinance was in place, Permit Counter staff met daily with managers to review the past day's operations. Changes in the City's licensing system were made to create new temporary license certificates. City staff went through an extensive process to develop a system to get clients "in and out" as quickly as possible.

Brochures and "Tip Sheets" have been prepared to help explain the process. A CED staff person regularly provides Spanish translations at the Permit Counter. Representatives of the City have met with the owner of the Star Lite Swap Meet and his attorney on two separate occasions.

Community & Economic Development staff (CED) has engaged in regular conversations with the managers at the B & I Public Market and the Tacoma Discount World. Relations have been congenial and fairly positive. However, CED staff relations with the Star Lite clients and management are strained. Star Lite management does not provide their clients with all of the necessary documents before coming to obtain a City business license, requiring the clients to make numerous trips back and forth between City Hall and the Star Lite. Further, there have been ongoing attempts to "game the system" in order to not have to pay the license fee.

When clients come into the office to obtain licenses, CED staff requests feedback from applicants. Two themes have emerged:

- Most clients are receptive to the Ordinance once it is explained.
- Most do not agree or like the fee associated with the Ordinance, but are willing to go through the process.

To keep this in perspective, CED went back and reviewed past license records at the Star Lite. In 2013 and 2014 the City issued 2,983 and 2,683 general business "no fee" licenses, respectively. These "no

fee” licenses are now classified as temporary licenses. For 2013 and 2014, the monthly average for issuing “no fee” licenses was 238. Since July 6, 2015, the Permit Counter has issued 93 temporary licenses. Most of the applications were received and processed on Thursdays and Fridays, and significantly impacted Permit Counter operations, often to the detriment of planning and building permitting clients. To-date, the City has collected \$5,760 in temporary license fees. The cost of training staff, modifying the automated permitting system, and general administration, far exceeds the revenue collections.

Administrative rules have been promulgated, the most significant being the length of a temporary license. If a business operates out-of-doors and/or with no permanent location, it is regarded as temporary with a few exceptions. The maximum length of the license is 90-days, but may be extended an additional period on a case-by-case basis, subject to the approval of the department director and/or designee.

CSRT has actively engaged in a public outreach program regarding business license at the Star Lite Swap Meet, the B & I Public Market, and the Tacoma Discount World. CSRT performed casual inspections at the Star Lite Swap Meet on four occasions: July 18, 2015; July 29, 2015; August 1, 2015 and September 12, 2015. Four inspections were required given the size of the operation. These inspections have focused primarily on educating merchants. During each inspection CSRT reviewed licenses of different businesses.

Approximately 100 businesses were inspected on July 18, 2015. Twenty five businesses (25%) received warning notices for having expired licenses, having a copy of the license rather than the original, and possessing one license for multiple locations.

Thirty five businesses were inspected on July 29, 2015. These were the “parking lot” vendors found adjacent to South Tacoma Way and 84<sup>th</sup> Street SW. Two businesses (6%) received warning notices for not having the license onsite, and possessing one license for multiple locations.

About 140 businesses were inspected on August 1, 2015. Thirteen businesses (9%) received warning notices for not having the licenses onsite, and possessing one license for multiple locations.

The B & I Public Market was inspected on August 18, 2015. Out of 73 businesses, three businesses received warning notices for not having licenses (4%).

The Tacoma Discount World was inspected on August 18, 2015 and August 28, 2015. Out of 22 businesses, three businesses received warning notices (18%).

On September 12, 2015 CSRT issued 19 citations at the Star Lite. Most of these citations deal with vendors failing to display their business license, or attempting to “share,” a license between multiple businesses or stands. Several have requested contested hearings which will be held before the Lakewood Municipal Court.

### **Next Steps**

A formal review of Title 5 business license code implementation is scheduled for the October 12, 2015 City Council Study Session. More detailed information and analysis will be provided at that time for City Council discussion.