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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

December 10, 2015

NOTICE
LAKWOOD CITY COUNCIL SPECIAL MEETING
AND
LAKWOOD CITY COUNCIL STUDY SESSION

Notice is hereby given that the Lakewood City Council will hold a Special Meeting on Monday, December 14, 2015, at 7:00 p.m, in the City Council Chambers, Lakewood City Hall, 6000 Main Street SW, Lakewood, Washington.

The purpose of the special meeting is to consider a Transportation Improvement Board grant agreement, in the amount of \$320,000, for Gravelly Lake Drive sidewalk improvements from 59th Avenue to Steilacoom Boulevard.

Following the City Council Special Meeting, the City Council Study Session will be held at the same location.

Alice M. Bush, MMC
City Clerk



**LAKWOOD CITY COUNCIL
SPECIAL MEETING
AGENDA**

Monday, December 14, 2015
7:00 P.M.
City of Lakewood
Council Chambers
6000 Main Street SW
Lakewood, WA 98499

Page No.

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

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

NEW BUSINESS

(3) Motion No. 2015-87

Authorizing the execution of a grant agreement with the Transportation Improvement Board, in the amount of \$320,000, for Gravelly Lake Drive sidewalk improvements from 59th Avenue to Steilacoom Boulevard. -*Public Works Director*

ADJOURNMENT

The Council Chambers is accessible to persons with disabilities. Persons requesting special accommodations or language interpreters should contact the City Clerk's Office, 589-2489, as soon as possible in advance of the Council meeting so that an attempt to provide the special accommodations can be made.

<http://www.cityoflakewood.us>

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

REQUEST FOR COUNCIL ACTION

DATE ACTION IS REQUESTED: December 14, 2015	TITLE: Transportation Improvement Board Grant Agreement for Gravelly Lake Dr. Sidewalk Improvements, 59 th Ave to Steilacoom Blvd, TIB Project Number P-P-199(P07)-1	TYPE OF ACTION: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input checked="" type="checkbox"/> MOTION 2015-87 <input type="checkbox"/> OTHER
REVIEW:	ATTACHMENTS: Grant Agreement & Location Map	

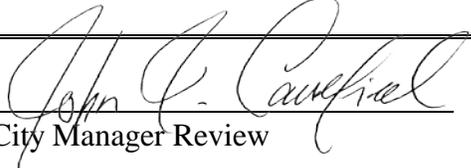
SUBMITTED BY: Don E. Wickstrom, Public Works Director

RECOMMENDATION: It is recommended that the City Council authorize the City Manager to execute the Transportation Improvement Board Grant Agreement P-P-199(P07)-1 which sets the terms and conditions of the \$320,000 grant for the City’s Gravelly Lake Dr. Sidewalk Improvements (59th Ave to Steilacoom Blvd.) Project.

DISCUSSION: Earlier in the year the City applied for a Transportation Improvement Board (TIB) grant to complete the sidewalks (both sides) on Gravelly Lake Drive from 59th Ave to Steilacoom Blvd. (Continued on Page 2).

ALTERNATIVE(S): An alternative would be to decline executing this grant agreement and therefore not complete the sidewalk improvements. This grant award provides 80% of the project funding and there is no known alternative funding available at this time.

FISCAL IMPACT: The City of Lakewood is required to provide 20% match funding for this project which equals \$80,000. Most of said matching funds (\$60,000) are anticipated to come from the City’s Surface Water Management Fund (401 Fund) due to the storm drainage improvements that are included in the project. The balance (\$20,000) is anticipated to come from the City’s Street Capital Fund (302 Fund) via a 2016 budget adjustment. According to TIB’s transmittal letter by November 20, 2016 the City is required to commit to full project funding or the grant may be terminated; however, as per the project schedule the project should be completed or nearly so that commitment should be a non-issue.

_____ Prepared by	 City Manager Review
_____ Department Director	

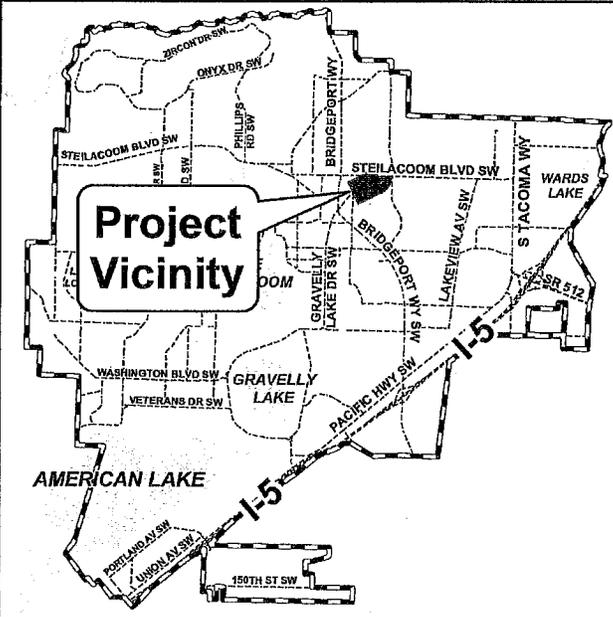
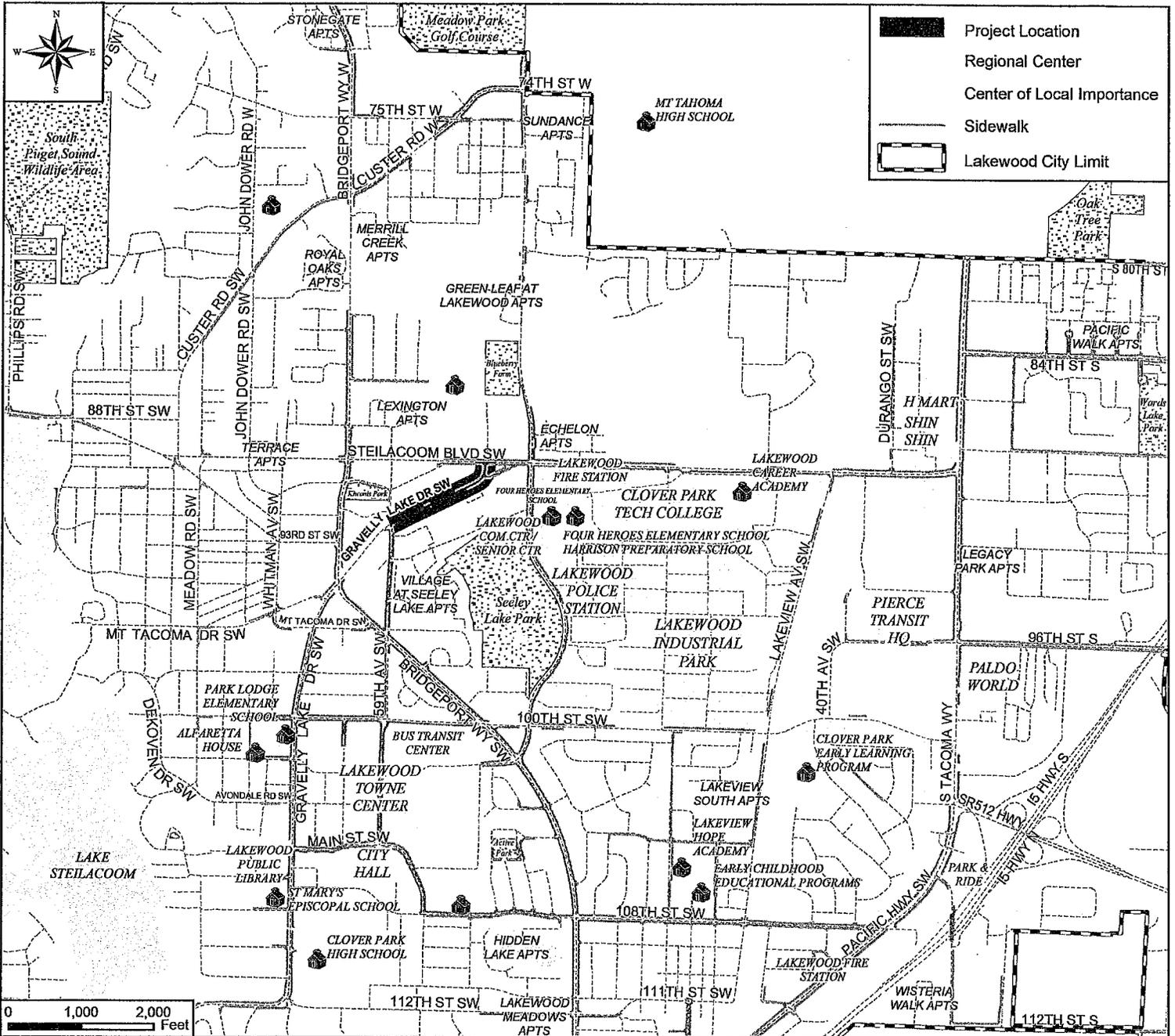
MOTION # 2015-87

Transportation Improvement Board Grant Agreement for Gravelly Lake Dr. Sidewalk Improvements, 59th Ave to Steilacoom Blvd, TIB Project Number P-P-199(P07)-1

Page 2 of 2

DISCUSSION Continued from Page 1: This section of Gravelly Lake Dr. presently has intermittent sidewalks throughout and because it is within the Lochburn Middle School service area, in the past Public Works has made several unsuccessful attempts to secure sidewalk funding via the State's "Safe Routes to School" grant program. With the construction of these sidewalks there will be a continuous link of concrete sidewalks tying Steilacoom Blvd. to the Lakewood Town Center. Also included in the project is concrete curb and gutter (both sides), drainage improvements and adjustments along with pavement patching that ties in the new curb and gutter to the existing pavement.

To secure this grant, Public Works committed to have the project under construction by June of 2016 and completed by November of 2016. To assure said schedule is met it is crucial that Council act on this grant offer as early as possible as once the grant agreement is fully executed all costs incurred towards implementing the project become reimbursable. All costs expended prior to the date of the fully executed grant agreement are solely the responsibility of the City.



City of Lakewood Public Works

Gravelly Lake Drive SW 59th Ave SW Steilacoom Blvd SW Relationship to Centers

This product was prepared with care by City of Lakewood GIS. City of Lakewood expressly disclaims any liability for any inaccuracies which may yet be present. This is not a survey. Datasets were collected at different accuracy levels by various sources. Data on this map may be shown at scales larger than its original compilation. Call 253-589-2489 for further information.



City of Lakewood
P-P-199(P07)-1
Gravelly Lake Drive
59th Avenue SW to Steilacoom Boulevard

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
City of Lakewood
AGREEMENT

THIS GRANT AGREEMENT (hereinafter "Agreement") for the Gravelly Lake Drive, 59th Avenue SW to Steilacoom Boulevard (hereinafter "Project") is entered into by the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (hereinafter "TIB") and City of Lakewood, a political subdivision of the State of Washington (hereinafter "RECIPIENT").

1.0 PURPOSE

TIB hereby grants funds in the amount of \$320,000 for the project specified above, pursuant to terms contained in the RECIPIENT'S Grant Application, supporting documentation, chapter 47.26 RCW, title 479 WAC, and the terms and conditions listed below.

2.0 SCOPE AND BUDGET

The Project Scope and Budget are initially described in RECIPIENT'S Grant Application and incorporated by reference into this Agreement. Scope and Budget will be further developed and refined, but not substantially altered during the Design, Bid Authorization and Construction Phases. Any material alterations to the original Project Scope or Budget as initially described in the Grant Application must be authorized by TIB in advance by written amendment.

3.0 PROJECT DOCUMENTATION

TIB requires RECIPIENT to make reasonable progress and submit timely Project documentation as applicable throughout the Project. Upon RECIPIENT'S submission of each Project document to TIB, the terms contained in the document will be incorporated by reference into the Agreement. Required documents include, but are not limited to the following:

- a) Project Funding Status Form
- b) Bid Authorization Form with plans and engineers estimate
- c) Award Updated Cost Estimate
- d) Bid Tabulations
- e) Contract Completion Updated Cost Estimate with final summary of quantities
- f) Project Accounting History

4.0 BILLING AND PAYMENT

The local agency shall submit progress billings as project costs are incurred to enable TIB to maintain accurate budgeting and fund management. Payment requests may be submitted as often as the RECIPIENT deems necessary, but shall be submitted at least quarterly if billable



amounts are greater than \$50,000. If progress billings are not submitted, large payments may be delayed or scheduled in a payment plan.

5.0 TERM OF AGREEMENT

This Agreement shall be effective upon execution by TIB and shall continue through closeout of the grant or until terminated as provided herein, but shall not exceed 10 years unless amended by the Parties.

6.0 AMENDMENTS

This Agreement may be amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

7.0 ASSIGNMENT

The RECIPIENT shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The RECIPIENT is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the RECIPIENT's other rights under this Agreement.

8.0 GOVERNANCE & VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington and venue of any action brought hereunder shall be in the Superior Court for Thurston County.

9.0 DEFAULT AND TERMINATION

9.1 NON-COMPLIANCE

- a) In the event TIB determines, in its sole discretion, the RECIPIENT has failed to comply with the terms and conditions of this Agreement, TIB shall notify the RECIPIENT, in writing, of the non-compliance.
- b) In response to the notice, RECIPIENT shall provide a written response within 10 business days of receipt of TIB's notice of non-compliance, which should include either a detailed plan to correct the non-compliance, a request to amend the Project, or a denial accompanied by supporting details.
- c) TIB will provide 30 days for RECIPIENT to make reasonable progress toward compliance pursuant to its plan to correct or implement its amendment to the Project.
- d) Should RECIPIENT dispute non-compliance, TIB will investigate the dispute and may withhold further payments or prohibit the RECIPIENT from incurring additional reimbursable costs during the investigation.

9.2 DEFAULT

RECIPIENT may be considered in default if TIB determines, in its sole discretion, that:



- a) RECIPIENT is not making reasonable progress toward correction and compliance.
- b) TIB denies the RECIPIENT's request to amend the Project.
- c) After investigation TIB confirms RECIPIENT'S non-compliance.

TIB reserves the right to order RECIPIENT to immediately stop work on the Project and TIB may stop Project payments until the requested corrections have been made or the Agreement has been terminated.

9.3 TERMINATION

- a) In the event of default by the RECIPIENT as determined pursuant to Section 9.2, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which shall be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop work and/or take such action as may be directed by TIB.
- b) In the event of default and/or termination by either PARTY, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of grant funds.
- c) The rights and remedies of TIB provided in the AGREEMENT are not exclusive and are in addition to any other rights and remedies provided by law.

9.4 TERMINATION FOR NECESSITY

TIB may, with ten (10) days written notice, terminate this Agreement, in whole or in part, because funds are no longer available for the purpose of meeting TIB's obligations. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for performance rendered or costs incurred prior to the effective date of termination.

10.0 USE OF TIB GRANT FUNDS

TIB grant funds come from Motor Vehicle Fuel Tax revenue. Any use of these funds for anything other than highway or roadway system improvements is prohibited and shall subject the RECIPIENT to the terms, conditions and remedies set forth in Section 9. If Right of Way is purchased using TIB funds, and some or all of the Right of Way is subsequently sold, proceeds from the sale must be deposited into the RECIPIENT's motor vehicle fund and used for a motor vehicle purpose.

11.0 INCREASE OR DECREASE IN TIB GRANT FUNDS

At Bid Award and Contract Completion, RECIPIENT may request an increase in the TIB funds for the specific project. Requests must be made in writing and will be considered by TIB and awarded at the sole discretion of TIB. All increase requests must be made pursuant to WAC 479-05-202 and/or WAC 479-01-060. If an increase is denied, the recipient shall be liable for costs incurred in excess of the grant amount. In the event that final costs related to the specific project are less than the initial grant award, TIB funds will be decreased and/or refunded to TIB in a manner that maintains the original ratio between TIB funds and total project costs.



12.0 INDEPENDENT CAPACITY

The RECIPIENT shall be deemed an independent contractor for all purposes and the employees of the RECIPIENT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TIB.

13.0 INDEMNIFICATION AND HOLD HARMLESS

The PARTIES agree to the following:

Each of the PARTIES, shall protect, defend, indemnify, and save harmless the other PARTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, that PARTY's own negligent acts or omissions which may arise in connection with its performance under this Agreement. No PARTY will be required to indemnify, defend, or save harmless the other PARTY if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other PARTY. Where such claims, suits, or actions result from the concurrent negligence of the PARTIES, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a PARTY's own negligence. Each of the PARTIES agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the PARTIES, by mutual negotiation, hereby waives, with respect to the other PARTY only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provision of Title 51 RCW. In any action to enforce the provisions of the Section, the prevailing PARTY shall be entitled to recover its reasonable attorney's fees and costs incurred from the other PARTY. The obligations of this Section shall survive termination of this Agreement.

14.0 DISPUTE RESOLUTION

- a) The PARTIES shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this AGREEMENT. The dispute resolution process outlined in this Section applies to disputes arising under or in connection with the terms of this AGREEMENT.
- b) Informal Resolution. The PARTIES shall use their best efforts to resolve disputes promptly and at the lowest organizational level.
- c) In the event that the PARTIES are unable to resolve the dispute, the PARTIES shall submit the matter to non-binding mediation facilitated by a mutually agreed upon mediator. The PARTIES shall share equally in the cost of the mediator.
- d) Each PARTY agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays or additional incurred cost to the Project.
- e) The PARTIES agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.



15.0 ENTIRE AGREEMENT

This Agreement, together with the RECIPIENT'S Grant Application, the provisions of chapter 47.26 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the PARTIES and supersedes all previous written or oral agreements between the PARTIES.

16.0 RECORDS MAINTENANCE

The RECIPIENT shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. RECIPIENT shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement shall be subject at all reasonable times to inspection, review or audit by TIB personnel duly authorized by TIB, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

Approved as to Form
Attorney General

By:

Signature on file

Guy Bowman
Assistant Attorney General

Lead Agency

Transportation Improvement Board

Chief Executive Officer

Date

Executive Director

Date

Print Name

Print Name